

STATEMENT OF THOMAS H. DOYLE Resumed

(Continued from March number)

The Chairman. You may proceed, Mr. Doyle.

Mr. Doyle. Mr. Chairman and gentlemen of the committee, to epitomize my remarks as made here on Tuesday, I take the position that every consideration of public policy in this nation demands that both Territories should be united as one State in order that the equilibrium of the states may be maintained in the Senate. The area of each, separate, is diminutive in comparison with the other States of that particular section of the Country. The other ground was that all legislation, both Congressional and legislative, in the Oklahoma part of the proposed State has been with that intent, anticipating the ultimate purpose of Congress to unite both as one State; that every geographical consideration demands that they both be united, as the river valleys and watersheds extend east and west and the division of both on the present line would be unnatural; that we are entirely different in every respect from the situation of New Mexico and Arizona, they being each on opposite sides of the Continental Divide, and all legislation for the past fifty years has been with the intent and purpose of creating them as separate Commonwealths.

As to the proposition advanced by the young man, Mr. Geissler, that it would be contrary to the intent and purpose of the treaties, he says the moral phase of the question is such that Congress cannot at this time unite both Territories. I say the Robinson bill and the Quay bill both by their provisions do not take effect until the expiration of the last remaining vestage of the five Indian tribal governments. The Curtis Act provides that they shall be determined for all time on the 4th day of March, 1906. I take the position that the time is now opportune to anticipate, with a million and a half of people, under the conditions existing in that Territory.

It is absolutely necessary to have a proper presentation

of the questions that will be submitted by the constitutional assembly that will convene under the provisions of this act, and at least five or six months is necessary, because all statehood bills provide that all State officers, including members of Congress and members of the first legislative assembly of the State and its judiciary, as provided for in the constitution, shall be elected at the time that the constitution, its provisions, and ordinances, are submitted to the people for their ratification. Five months is the usual time of the ordinary political campaign, and the provisions of the Robinson bill are, that immediately following the meeting of the next Territorial legislature the constitutional assembly shall convene. Then, holding the election a year from the next general election day gives only about four to five months for the proper presentation of these questions to the people.

On the question of the Indian treaties I want to say it is a very peculiar position these gentlemen take. The Indian treaties they refer to cover not only the present Indian Territory, but every portion of Oklahoma Territory with the exception of No Man's Land, now Beaver County, that was added in 1890. You all know the history of it. It was a part of Texas, and was left out under the provisions of the admission of Texas whereby the north line was fixed by the question of slavery or freedom. Texas waived its right under its compact to all part of the territory north of what now constitutes the south line of Beaver County, the line fixed by the Missouri compromise. It was called No Man's Land until organized and admitted as a part of Oklahoma Territory. It has only a trifle over 3,000 people, although it is almost 6,000 square miles, one-sixth of the entire Territory.

Mr. McGuire. You say it has only 3,000 people?

Mr. Doyle. A trifle over 3,000 people, according to the last census.

Mr. McGuire. It has quadrupled since that time?

Mr. Doyle. I hope so. It ought to. It is a good country, a good deal like New Mexico. It adjoins New Mexico.

A member. The land just opposite to that country, in

New Mexico, is turning out to be some of our finest farming land.

Mr. Doyle. Those treaties were abrogated by the opening up of the original Oklahoma, and prior to that time by establishing a United States court by act of Congress that year covering both Territories. The opening of original Oklahoma, amounting to 3,000,000 acres, being one-half of what constituted the Creek country, was an abrogation of those treaties. The opening of the Cherokee Strip in 1893 and all the other acts of reservation that have been mentioned by me in my preliminary remarks are in abrogation of those treaties.

The Curtis Act entirely abrogated every provision of those treaties. That was the act of 1898. It provided for the abolishing of the tribal governments; it provided for town sites within that country; it provided for courts within that country. Its provisions abolished the Indian courts then and there and for all time. They have had no courts since the passage of that act.

Mr. Howe. And since that time they have all made treaties with the Government ratifying those provisions?

Mr. Doyle. They have been ratified and accepted by those people, and the lands of the tribes that at that time were held in common, have been allotted to the various members of the tribe. The allotment has been completed entirely in the case of the Seminoles and Creeks and practically completed in the other three nations. It will be completed, according to the report of the Dawes Commission and their estimate, before any statehood bill could possibly take effect; and provisions for the alienation of those lands, all except a homestead to each Indian, are contained in those acts of Congress.

Gentlemen, I want to read to you on this question that seems to be controverted the attitude of our people, from the house journal, the veto message of Governor Barnes vetoing the bill providing for the organization of Oklahoma as a State Council, Bill No. 54, which was introduced and fathered by my friend, Senator Havens. I was a member of the assembly at that time and I distinctly remember it. I want to read this to show what Governor Barnes said at that time. He was a Republican, and I desire to say pre-

liminary to that, while the Democratic and Populist parties have stood for single statehood—that is, the union of both Territories as one State, the Republican party has never favored statehood for Oklahoma alone. It has simply straddled. Mr. McGuire will tell you, and I will read to you before I conclude my argument the paragraph contained in the Republican platform, that it simply has said, "We want statehood with such conditions and additions as Congress in its wisdom deems best and sees fit to give us." That is practically what it said.

Governor Barnes, in vetoing the bill of Mr. Havens, a gentleman who will appear before you asking for statehood for Oklahoma alone, said this, on page 1085 of the council journal for the Territory of Oklahoma, 1899:

Guthrie, Okla., March 9, 1899.

To the Honorable Council of the Fifth Legislative Assembly.

Gentlemen: I believe that the people of Oklahoma desire statehood in the American union, because it is the highest and best form of free government known to the children of men, and I am in hearty sympathy with this desire and purpose; but I do not believe, all things considered, that the enactment of this bill into a law would advance the interests of Oklahoma toward the fruition of our hopes one iota. No sincere man will for a moment contend the statement that a State government would be much more expensive to maintain than is our present Territorial government. The expenses of a State government must be borne by taxation of the property of the people, and the people of Oklahoma who pay the taxes are not in condition nor do they wish to assume any additional burdens of that character.

It is true that our people have been generally prosperous for the past few years, but it is as well for those who have in keeping the welfare of the State as it is for the individual to consider carefully the result of any proposed enterprise before taking a step that will incur any additional obligations. We should not forget that Oklahoma is in some respects as yet an experiment. We might have a recurrence of the dry seasons of 1894 and 1895. This bill provides for the holding of two special elections, the expense of which must be borne by the several counties. This,

added to the expense of the proposed constitutional convention, will amount in the aggregate to not less than \$40,000 and perhaps to as much as \$60,000. This expenditure should not be made unless we are sure of receiving therefor a corresponding benefit.

The recent action of Congress, refusing to ratify treaties with the Cherokees and Creeks, pledging the United States to a policy of continued separation of the two Territories, is significant to the thoughtful mind and indicates a settled and well determined purpose in the minds of Senators and Representatives never to admit Oklahoma and Indian Territory as two States, and I feel sure that the ultimate destiny of the two Territories is that of single statehood. This being true, to hold a constitutional convention at this time to form a constitution for Oklahoma upon the lines laid down in this bill would not advance the matter in the slightest degree, but on the contrary would retard and hinder the growth of a healthful political sentiment in the Indian Territory in favor of such a union. With the Indian Territory incorporated with Oklahoma as one single State we will place a star on the flag of our country whose luster would not be dimmed by the constellation of magnificent States by which we are surrounded.

Our various resources of timber, mineral, agricultural, and grazing lands would forever furnish the necessary supplies to pay the expenses of a first-class State government and enable us to build and maintain penal, reformatory, and eleemosynary institutions that would compare favorably with those of the most advanced and progressive people, and all without the people who must always pay the taxes for the support of the government feeling in the slightest degree the burden of excessive demand by the tax gatherers. On the other hand, Oklahoma with her resources restricted to agriculture and the raising of cattle, without the hope of even of the development of coal and other minerals in paying quantities or the development of manufacturing industries, would be but a weak and feeble commonwealth in the great sisterhood of States.

We have never yet raised a revenue in any one year sufficient to pay the running expenses of our Territorial government, and a casual deficit has been steadily increas-

ing year by year. By reason of the Federal limitations upon our debt-creating power and by reason of a careful and economical administration of Territorial laws, aided in no small degree by the General Government, which pays a large share now of our governmental expenses, we have been able to maintain the credit and good name of our Territory. Our taxable valuation, placed last year at about \$40,000,000, was the subject of much criticism by the people, and the very first bill passed by the honorable House of Representatives of your honorable body was to reduce said valuation to \$32,000,000. I assume, therefore, that the people do not wish to incur the expenses of these elections and holding a constitutional convention without better prospects of ameliorating the condition of affairs than this measure seems to offer. I therefore feel constrained to return Council Bill No. 47, being "An act providing for the formation of a constitution and State government for the State of Oklahoma" to the honorable council in which it originated without my approval.

Very respectfully,

C. M. Barnes, Governor.

Mr. McGuire. May I ask a question, Mr. Doyle?

Mr. Doyle. Yes, sir.

Mr. McGuire. Do you remember what the complexion of the legislature was at that time?

Mr. Doyle. Yes, sir; I was a member of it. The Republicans had six majority in the lower house. In the upper house the Democrats had one majority, and Senator Havens and Senator Clarke were both members of it.

Mr. McGuire. Notwithstanding that veto message, a bill looking to statehood for Oklahoma was passed by both those houses?

Mr. Doyle. It was, as amended.

Mr. McGuire. It was passed by Democrats and Republicans?

Mr. Doyle. Yes; I voted for that bill, and for one whole day I urged an amendment providing for the addition of the Indian Territory.

Mr. McGuire. But the bill passed looking to statehood for Oklahoma?

Mr. Doyle. With the Indian Territory to be added if Congress, in its wisdom, accepted an enabling act.

Mr. McGuire. Just in the line of this bill?

Mr. Doyle. Yes, sir; except that no State official should be elected until Congress fixed our boundaries.

Mr. Clark. Is the gentleman sure of that?

Mr. Doyle. That is my memory of it, sir. I distinctly remember it in every way.

The Chairman. Senator Clark, if you desire to submit any question to Mr. Doyle along that line I think the committee would be perfectly willing to have you do so.

Mr. Clark. I do not desire to enter into any brief discussion.

Mr. Doyle. I am going to read a bill that Mr. Clarke himself introduced. I was reading as to the fifth assembly. I want to read now as to the sixth. The views of the people of Oklahoma Territory were expressed in this matter in every way, so far as the public voice may be expressed, and not founded on partisan or sectional reasons in favor of a single State. I believe the assembly of Oklahoma Territory, when it convenes, is probably the most representative body that, under our conditions there, can convene; and I desire to read to you now from the Session Laws of 1901, two years later than the session that I have referred to, Joint Resolution No. 2, as I remember, introduced by Mr. Clarke.

Mr. Thayer. I do not know that I quite understand what you read from the veto of the Governor. He vetoed a bill making Oklahoma alone a State, and afterwards I understood you to say it was amended so as to unite the Indian Territory. What became of that bill?

Mr. Doyle. It was amended before it went to him.

Mr. Thayer. He vetoed it after it was amended?

Mr. Doyle. Yes; that is my memory of it. The bill was amended in the house.

Mr. Thayer. I thought his argument seemed to run toward the statehood of Oklahoma alone.

Mr. Doyle. Yes, sir; that is the sense of that argument as made there. The bill provided for the admission of Oklahoma alone.

Mr. Lilley. It passed over his veto, did it not?

Mr. Doyle. No, sir.

Mr. Lilley. Not as amended?

Mr. Doyle. No, sir.

Mr. Thayer. What I want to get at is this: That argument in the veto was to the effect that the Governor did not think they ought to have Oklahoma alone as a State. I understand Mr. Doyle to say that the position that was before him was not to make Oklahoma a State alone, but Oklahoma and Indian Territory. Therefore I fail to see the logic of the Governor's position.

Mr. Doyle. Mr. Chairman, before I proceed I desire to say, in answer to that proposition—that is, the provision of the McGuire bill—that Senator Clarke quoted in his argument to this committee, that it is known throughout our country as the piecemeal-absorption clause.

It provides that after Oklahoma Territory has been organized under its provisions, Congress may in its wisdom add the Indian Territory, as a whole or piecemeal. Mr. Chairman and gentlemen of the committee, that bill, in that particular provision and in one or two others to which I wish to call your attention, is absolutely and essentially vicious, both as a matter of law and as a matter of policy. As a matter of law it contravenes the provision of the Constitution of the United States which provides the manner in which the boundaries of a State may be changed. Section 3, Article IV, of the Constitution—the only provision of the Constitution for the change of boundaries of a State—provides that the boundaries of any State or States cannot be changed except by the express consent of Congress and by the legislative assembly of the State affected. It says nothing about a constitutional assembly. As a matter of law constitutional assembly and legislative assembly are not synonymous in any sense. The one is a gathering of the representatives of the people to formulate the organic law; the other is the regular law-making body as formed under the constitution of the State; and that provision as a matter of law contravenes the Constitution.

As a matter of policy it is absolutely unjust and unfair. It violates every principle of justice. It is an insult to the citizenship and to the manhood of the people of Oklahoma Territory. The people of that Territory, in appearing be-

fore the Congress of the United States demanding and asking and praying for their rights, do not want to be put in the position of a people who, in asking what is justly theirs, seek at the same time to ask and demand that an absolute injustice shall be perpetrated on a similar body of people, their neighbors, and connected with them by all ties. Every fraternal organization in both Territories is organized under one jurisdiction. Every church organization in those Territories is organized under one jurisdiction. All business and trade relations are interwoven to the same degree as that of the people of any one State; and to say that as a matter of policy the people of our Territory should ask and demand that the Indian Territory be denied its just rights, its sacred rights, so to speak, and be compelled to come and live within the boundaries of a State where they absolutely have had no voice in any way in the formation of its constituent law, where, according to the methods that control all people, probably our people would take advantage of the situation and locate the various institutions incidental to the creation of a State, does not meet the approval of the people of Oklahoma Territory. We have there not only a just people, but we have a generous people. We want to do right, and when we ask for our rights we do not propose to be put in the position of desiring that piecemeal clause provision of the McGuire bill.

The committee thereupon adjourned until Friday, January 29, 1904, at 10:30 o'clock a. m.

Committee on the Territories,
House of Representatives:

Washington, D. C., February 1, 1904.

The committee met this day at 10.30 o'clock a. m., the Hon. Edward L. Hamilton in the chair.

The Chairman. Gentlemen, let us proceed. Mr. Doyle will begin.

STATEMENT OF MR. THOMAS. H. DOYLE, OF PERRY,
OKLA.—Continued.

Mr. Doyle. Mr. Chairman and gentlemen of the committee, at the close of my remarks at the former session of the committee I was discussing a provision of Mr. McGuire's bill—the provision of section 3, which is commonly and

generally known throughout our region of country as the piecemeal-absorption plan. It is on page 2 of the McGuire bill, and reads as follows:

Provided, That the constitutional convention provided for herein shall, by ordinance irrevocable, express the consent of the State of Oklahoma that Congress may at any time, or from time to time, attach all or any part of the Indian Territory to the State of Oklahoma after the title to said lands in said Indian Territory is extinguished in the tribes now claiming the same, and the same assigned in severalty and subject to taxation.

Now, I do not agree with Governor Powers, or with the statement he makes in answer to the proposition I advance, as to the constitutionality of this particular proviso, in that the constitution makes no provision that a State must be admitted upon an equality with the other States. But I do say that, upon applying the principle I argued before this committee to this bill taken as a whole, it is in conflict with the Constitution, because under the provisions of this bill, all of its general provisions it seeks to create a State upon an absolute equality with the original States, and this piecemeal clause is a mere proviso that is incorporated in the bill.

I want to say further, calling your attention to the last sentence of this provision, which says "after the title to said lands in said Indian Territory is extinguished in the tribes now claiming the same, and the same assigned in severalty and subject to taxation," that every man upon this committee knows that the homestead legislation relating to the Indians of these Five Civilized Tribes under the act of Congress—in fact under all the acts—even under the Curtis Act—provides that the homestead shall be exempted from taxation for a period of twenty-five years, and under this particular provision of this bill this piecemeal-absorption clause would not become effective or operative for twenty-five years. That is the position in which they want to leave these two Territories at this time under this McGuire bill, leaving the Indian Territory up in the air, so to speak.

Now, Mr. Chairman, I would ask that the telegrams relating to statehood should be incorporated and be made

a part of the argument in support of the Robinson bill when they come from commercial bodies and clubs or municipal councils; and I will say to you, without any knowledge of what has come, that you will find that at least nine out of every ten are in favor of single statehood; that is, Oklahoma and Indian Territory admitted together as one State.

Mr. Robinson. What do they understand by single statehood out there? What are their terms?

Mr. Doyle. Single statehood, in the acceptance of the term throughout Oklahoma and Indian Territory, means one State composed both of Oklahoma and Indian Territory. That is the definition. I notice that gentlemen repeatedly and repeatedly confuse single statehood with the idea and theory that it means one State for each Territory. But in the acceptance of that term throughout the Indian Territory and Oklahoma it means simply the union of the two Territories as a single State.

Mr. Robinson. Does Mr. McGuire agree with that construction?

Mr. McGuire. I can say as to what is understood by the people of Oklahoma; I am not so well prepared to say what is the understanding of the people of the Indian Territory as to the precise meaning of that term; but single statehood actually means the union of the two Territories, and double statehood means Oklahoma at this time, regardless of the Indian Territory. But I want to say with reference to Mr. Doyle's statement that in his judgment nine out of ten people of Oklahoma favor the union of the two—that is, single statehood—I can say that there might be a way to have that matter submitted to a vote of the people of Oklahoma in the very near future, and I would be perfectly willing to make this statement, that if there are not two-thirds by actual count, of the people of Oklahoma who want the kind of statehood provided for in my bill, then I am perfectly willing to recede from my position and abide by their vote.

Mr. Doyle. Before proceeding further in the discussion of this feature of the McGuire bill I want to state to you gentlemen that I have offered you the veto message of the Governor, and I want now to read to you from the Session Laws of 1901 an expression of the legislative as-

sembly of Oklahoma Territory, wherein is embodied the only political power that the people of that Territory possess in any way; and I want to read that as against the statement of Mr. McGuire and his proposition. We want statehood; we want it at this time. I will read from page 232 of the Session Laws of Oklahoma for 1901, and I want to say to you that Mr. McGuire can produce no official action of our legislative assembly to the contrary.

Mr. McGuire. Is that the one you read there the other day?

Mr. Doyle. No, sir. I propose now to read from the Session Laws of two years later—page 232, Session Laws of Oklahoma, 1901. I may mention in passing that Mr. Clarke, the gentleman who is here supporting the McGuire bill, introduced it, and Mr. Havens, the gentleman who will follow me, was a member of that council. Here is what they said:

Council Joint Memorial No. 2.

We, the members of the council and the house of representatives of the sixth legislative assembly of the Territory of Oklahoma, do most respectfully and earnestly pray, petition, and memorialize you and your honorable bodies to grant to this Territory and its people at the earliest possible moment the high privileges of a sovereign State in the American Union.

We represent a constituency of nearly half a million people, increasing with unexampled rapidity, who inhabit nearly 40,000 square miles of fertile soil and who own \$150,000,000 of wealth produced in a single decade from the wild prairie and the wilderness. In all its possible lines they stand at the very front of modern civilization. They have built and are supporting more than 2,000 common schools, six great institutions of learning, and more churches according to population and wealth than elsewhere in the world. They are a law-abiding and a law-enforcing people.

In educational, moral, and religious life; in material resources; in population and wealth; in energy, enterprise, and accomplishment; in all the high ideals of honorable living, in patriotism and the staunch elements of America's best citizenship, they are as unsurpassed, as they have

proved themselves unrivaled in their capacities for self-government and in their culture and refinement.

We submit to the judgment of a candid world that such a people ought not to be longer held in political subjection, but are and of a right ought to be entitled to immediate admission into the American Union as a sovereign State. We would further call your respectful attention to the Indian Territory lying upon our eastern borders. Its natural resources are supplemental to those of Oklahoma.

The abnormal conditions there existing as to title and tenure of lands, of citizenship, and of social conditions are being rapidly composed to the American idea, and the law by slow and painful experience is learning to assert its power and to subserve public and individual rights. But 350,000 white and black American citizens are there existing without any political privileges, without local self-government, mere tenants at will and peasants of the soil to 70,000 persons of Indian extraction. They can build neither roads nor bridges, neither schools nor higher institutions of learning, neither asylums for the unfortunate nor refugees for the poor. The individual is all, the community is nothing. They cannot protect their cities against fire, nor themselves against public epidemic or contagion. Such conditions are so contrary to the very genius and vitality of the American standards that their continuance is not only unjust to the people immediately suffering them but menacing to their political neighbors and to the nation itself. We believe that immediate relief should be had by them; and if in your wisdom Oklahoma alone is not entitled to statehood, we urge the immediate admission into the Federal Union of both such Territories as one single State.

We are not unmindful of the treaty obligations of the United States to the Five Civilized Tribes, and would not seek their violation. Let them be sacredly observed. But we most solemnly assert that the various boards and agencies of the Federal Government can proceed after the political privileges of citizenship and the inestimable right of local self-government are secured to the American citizens resident there quite as well as if the present conditions of tenantry and political obliteration shall continue indefinitely.

From the foregoing considerations we therefore most solemnly pray, petition, and memorialize you and your respective bodies to grant to the people of Oklahoma and the Indian Territory, with one government, immediate statehood under such conditions as in your wisdom will best subserve the present and future welfare and prosperity of the State you shall thus create and admit into the Federal Union.

Approved this 8th day of March, 1901.

The Chairman. I beg pardon, Mr. Doyle, but from what body of people does this memorial come?

Mr. Doyle. This comes from the legislative assembly of Oklahoma.

The Chairman. Convened when?

Mr. Doyle. In 1901.

The Chairman. Where?

Mr. Doyle. The legislative assembly of Oklahoma Territory in session passed it unanimously, and under our law a joint memorial has the force and effect of law, although we have not the power to legislate. But this document is put in the form of a memorial to the Congress of the United States, and the Journal here shows that it asks for a single State—the kind provided for in the Robinson and Quay bills. Since that time the population has doubled. That memorial speaks of 300,000 people in the Indian Territory. The political conditions there have been relieved by certain acts of Congress, it is true—

Mr. Loyd. You say that was introduced by Mr. Clark?

Mr. Doyle. Yes, sir. He said so, and I do not deny it.

Mr. Thayer. One thing that I do not understand was referred to a number of times, and that is in reference to keeping the compact made with the Five Civilized Tribes, as though that was an objection. Will you tell us what that is? I do not quite comprehend it myself. Perhaps the others do. It is very indistinct in my mind as to what that is.

Mr. Doyle. What has been repeatedly urged here by gentlemen is the treaty whereby the Five Civilized Tribes were guaranteed that their country should never be in-

cluded within the borders of any State or Territory. That was the original treaty.

Mr. Thayer. Has that any existence to-day ?

Mr. Doyle. No; that has been abrogated by the act of Congress creating the Dawes Commission and under the act of Congress creating Oklahoma Territory. In fact it has never been enforced since the civil war. During the war the Five Tribes went with the South. In the reconstruction period new treaties were made, allowing them new privileges.

Mr. Thayer. It has never been abandoned has it?

Mr. Doyle. That treaty provided that the Five Tribes should have five petty governments of their own. Those existed from the year 1832 until the time of the civil war. Under those governments they had their own courts, their own law-making assemblies, their own executives, and their own administration of the law in every respect. They were self-governing bodies. They made no provision in their laws in any way for the white people whom they had invited to come and live among them. Then followed the Curtis Act and the opening up of this Territory.

Mr. Lloyd. Now explain the Curtis Act.

Mr. Doyle. The Curtis Act is substantially in the nature of a treaty, and carries out a treaty.

The Chairman. Does that Curtis Act abrogate in any way the treaty theretofore made with the Five Civilized Tribes?

Mr. Doyle. Yes, sir

Mr. McGuire. And provides that the boundaries of any States or Territories should be extended over the Five Civilized Tribes?

Mr. Doyle. That was not included in that treaty.

The Chairman. What provision did we make for the abrogation of the treaty?

Mr. Doyle. It provides that on the 4th day of March, 1906—that is, the act of June 28, 1898, so provides—that all tribal relations shall cease, and that by that time the allotment of lands in severalty shall be completed, and that at that time the members of the tribe shall be admitted to full citizenship in the United States.

Mr. Robinson. By the act of Congress and the nation-

al authority. The administration down there of their separate governments in the Five Civilized Tribes has been abrogated, except as to the executives and councils?

Mr. Doyle. Except as to the executives and the councils in acting for their tribes and settling up their land affairs. They have no law-making power any more. All of their members and tribal officials, even in that capacity, are subject to United States laws and subject to prosecution before United States courts.

The Chairman. That is under the Curtis law, is it?

Mr. Doyle. Under the Curtis law and previous acts, all those persons must be amenable to the laws of the United States for their official conduct, even when acting as tribal officers. One tribe government ends on January 1, 1898, and all others, it is provided, shall discontinue after March 4, 1906.

Mr. Thayer. Did they assent to that?

Mr. Doyle. Yes, sir.

Mr. McGuire. The Curtis act as the result of a treaty?

Mr. Doyle. Yes, sir; and it was in line with the modern policy of the Government; that policy is to govern Indians by acts of Congress and not by treaty.

Mr. McGuire. And that treaty did not in any way affect the boundaries of Indian Territory, so far as other States and Territories are concerned? Do I understand you to say that there is at this time any conflict as to treaty obligations between the Government of the United States and the individuals of the Five Civilized Tribes, providing that they shall not be encroached upon by the boundaries of any other State or Territory? Is that intact yet?

Mr. Doyle. No, sir; it will not be after January 1, 1906.

Mr. McGuire. What treaty modifies that?

Mr. Doyle. The treaty which the Curtis act is based upon. That provides for citizenship in the United States at that time.

Mr. McGuire. You say that that treaty upon which the Curtis act is based provides that they may be attached to or taken in by some other State or Territory?

Mr. Doyle. Yes, sir. And I claim further that they wived in that treaty, and under the Curtis act, the right

even to designate who their tribal citizens were. That is a matter which the United States courts has jurisdiction of, including the citizenship court created by the act of Congress. The Indian tribes have no say so any more as to who shall constitute their citizenship. This is done by the courts acting for the Government.

Mr. McGuire. Can you refer to the authority which provides for the rescinding of the original arrangement or contract that no new bounds of territory shall be extended over them without their consent?

Mr. Doyle. I will do that.

Mr. Thayer. How much of Indian Territory was included in the Five Civilized Tribes in 1832?

Mr. Doyle. Every part of the Indian Territory and Oklahoma Territory as now constituted.

Mr. McGuire. You mean to say that constituted the Five Tribes?

Mr. Doyle. Yes. And there were friendly tribes settled upon it by treaty—tribes such as the Osages in the Cherokee land, and the Tonkawas, Poncas, and Otoes, Pawnees and the Kiowas and Comanches. In the Lone Wolf case the treaties were construed in all their features.

Mr. Thayer. The Five Tribes have been gradually cut out from Oklahoma?

Mr. Doyle. Yes, sir; they have been.

Mr. Thayer. Do I understand that to-day they are all out of Oklahoma?

Mr. McGuire. Yes, sir; they are.

Mr. Thayer. What proportion of Indian Territory do they now cover—what percentage?

Mr. Doyle. On that map over there on the wall (indicating) they occupied all east of that red line.

Mr. Thayer. Half of the territory.

Mr. Lloyd. All of the territory is included.

Mr. Doyle. Mr. Chairman, I desire to say, for the benefit of my friend Mr. Thayer, that no autonomy of any kind has even been created in connection with the Indian Territory. We speak of it as a Territory merely in the common usage and acceptance of the term as applied to-day, but it has never had any government of its own, and it has never been clothed with one single attribute of sov-

ereignty—that particular part of the old Indian Territory, I mean. It has always been treated by statute as a part of Oklahoma.

I have read you the organic act which provides for the addition and opening of the Cherokee Outlet. Those eight counties have been added pursuant to that provision of the organic act, and the rest of Indian Territory is contemplated by that act to be made a part of Oklahoma Territory. It has no entity of its own.

I will say to you, Mr. Thayer, that for the past ten years Oklahoma Territory has been entitled, under the ordinary rule outside of area, to statehood; but its administration has been delayed, simply anticipating the fulfillment of the provision of the organic act that the Indian Territory should be added in with it. Mr. Dennis Flynn, the former delegate from Oklahoma, as you all know, was a man who accomplished things, and if Oklahoma alone was to be admitted as a State, we believe that Mr. Flynn would have secured statehood for Oklahoma alone. You can read the history of the admission of States, and no Territory with sufficient population was never denied admission as long as the Territory of Oklahoma has been. The question of boundary has delayed our admission, and the settlement of various questions in the Indian Territory has delayed it. They are settled by the Curtis Act, and by the subsequent acts of Congress in confirmation thereof, for all time, when the tribal relations shall have been abolished and the provisions of law regarding land allotments are carried out, before the 4th day of March, 1906.

Mr. McGuire. You speak of the laws. What laws?

Mr. Doyle. They have only the natural laws there, the Arkansas law, and a little divine law, I might add.

Mr. McGuire. Neither civil nor criminal procedure prevails in Oklahoma?

Mr. Doyle. We have the Kansas procedure—that is, outside of all the legislation affecting both Territories; and the extension of the Arkansas law is the only instance where all acts of Congress does not tend to unity. When that was adopted there was no Oklahoma act.

Mr. McGuire. Have not the Five Civilized Tribes been treated, so far as the criminal code is concerned, dif-

ferent from the tribes in Oklahoma? It not that a fact?

Mr. Doyle. No, sir.

Mr. McGuire. Do you mean to say that the same criminal Federal code which governs the Indian Territory and applies to crimes committed in Indian Territory applies also to the crimes committed in Oklahoma?

Mr. Doyle. You mean the same Federal code?

Mr. McGuire. Yes, sir.

Mr. Doyle. I would say yes; with the possible exception of laws relating to conditions in the coal mines.

Mr. McGuire. Is it not a fact that larceny in Oklahoma is not a felony?

Mr. Doyle. It is a misdemeanor in Oklahoma when committed on an Indian reservation, otherwise it is a felony.

Mr. McGuire. Do you say that is true of the Indian Territory?

Mr. Doyle. I do say that the general provisions of the Federal code apply to Oklahoma Territory as they do in all States and Territories. It is a misdemeanor. Larceny is a misdemeanor under the Federal code when committed on an Indian reservation.

Mr. McGuire. Did not the act of Congress treat the Five Civilized Tribes as separate and apart from any of the tribes in Oklahoma?

Mr. Doyle. There was possibly some special legislation in that respect.

Mr. McGuire. Larceny in Oklahoma is only a misdemeanor at this time. I have a bill pending, which I introduced, making it a felony. The last act of the United States treated the Five Civilized Tribes as separate.

Mr. Thayer. Do they try a man for stealing a horse there? I thought they shot them right down.

Mr. Robinson. Before you get away from the settlement by the friendly Indians in that Territory—I understand that was under a treaty made many years ago, when the Indians and the National Government made a treaty, a treaty between the Cherokees and Creeks and the United States Government, whereby their lands should be made available by the National Government for the settlement of other friendly Indians.

Mr. Chester Howe. That applies to lands west of the ninety-sixth meridian.

The Chairman. I would like Mr. Doyle, if he would, to incorporate in his remarks a reference to all the treaties affecting the Indians of Indian Territory, and also, so far as they may affect the Indian Tribes in Oklahoma, the decisions of the court bearing upon them.

Mr. Doyle. I will do so. Here are some references right here: The Cherokee tobacco case, given in 11th Wallace, p. 616; The Cherokee Nation v. The United States, 19 United States, pp. 1-27; the case of Thomas v. Gay, in 169 United States, pp. 264-270; the case of Stevens v. The Cherokee Nation, given in 174 United States, pp. 445-483, and the Lone Wolf case (Lone Wolf v. E. A. Hitchcock), decided by the Supreme Court of the United States on January 5, 1903; Cherokee Nation v. Hitchcock, 187 United States, p. 375. Those all bear upon these treaties. The moral phase of these treaties is this: Those Indians invited these white people to come in. At the time of the passage of the Curtis Act there were about 300,000 outsiders there. Now there are some 700,000.

And right in that connection I want to read a report of the Dawes Commission, which is contained in Senate Document 106, Fifty-eighth Congress, second session, entitled a "Memorial of Members of the Dawes Commission," with a letter from the Secretary of the Interior to the President pro tempore of the Senate, dated January 20, 1904. From it I will read one paragraph.

It is presuming profound ignorance to indicate that land, until a patent has been issued, or unless in an incorporated town or city, is or lawfully can be any appreciable factor in the business of this country. White people and their commerce chiefly support nearly 400 towns, ranging in population from a few hundred to more than 10,000 souls, 200 newspapers and periodicals, 675 post offices, nearly 3,000 miles of railroad, and 95 banks. The total population here is four times that of Idaho, double that of North Dakota, nearly twice that of Vermont, and fifteen as great as that of Nevada. There was organized in this Territory in the two years and seven months ending October 31, 1903, seventy-five national banks, or nearly four

times as many as were organized in all New England during the same period of time. Did land have anything to do with these?

I would cite that as the last official estimate that has been made. They estimate the population as 700,000.

Mr. Lloyd. You just stated that the indians had invited the whites in there.

Mr. Doyle. Yes; prior to the passage of the Curtis Act probably 300,000 white people had come in there; and since that time, at least according to this report, there have been 400,000 more who have come in. The result of that has been that the Indians of the Five Civilized Tribes have become rich in every respect. The white people have developed the resources of their country for them, and made it to-day one of the richest and most prosperous countries in the United States, outside of the matter of civil government.

Mr. Lloyd. I want to get at the question as to whether the Five Tribes desired the whites to come in or whether the whites encroached without the consent of the Indians.

Mr. Doyle. There is no doubt they did desire the whites to come in. They have intermarried until, as the Dawes Commission says, there is only five percent of them now who have any Indian blood in their veins. Perhaps I had better read that reference direct from this Dawes report. On page 4 of the memorial which I have just quoted the Dawes Commission says:

One would infer that there is no population in this country except Indians and no business except what comes under the Dawes Commission and is of the nature of unlawful and speculative dealings in Indian lands and leases. The grossest ignorance, ignorance not to be dreamed of, is apparently assumed as to the facts. Taking the census figures and the established rate of growth of population, there are now nearly 700,000 people in what is called Indian Territory, but little more than ten percent of whom are citizens of the so-called tribes, and not five percent are appreciably of Indian blood.

Now, the aunts and uncles, brothers, cousins, and other relatives of the first settlers and intermarried citizens moved

down there among their Indian relatives, and then came the leasing of mineral lands and the development of their resources, and later the passage of the Curtis bill, providing laws for both whites and Indians, and now the population has increased to 700,000 people.

Mr. Thayer. I notice in that that the expression is still put in, keeping the things still in doubt in my mind—the expression, “in what is called Indian Territory.” Do you not know on the face of the earth where the Indian Territory is?

Mr. Doyle. Yes, sir.

Mr. Thayer. Then why do they always say “what is termed, or “what is called Indian Territory,” as if there was doubt?

Mr. Doyle. Legally speaking, it has no legal entity about it. It is not a territory in the sense that other organized Territories are referred to; it is the country of the Five Civilized Indian Tribes.

The Chairman. It simply means a region of land where the Indians have settled?

Mr. Thayer. But there is a dividing line between it and Oklahoma, the same as between the States of Connecticut and Massachusetts.

Mr. Powers. Yes, sir; of course there is.

Mr. Doyle. It has no autonomy and has no entity. The intention was to add it to Oklahoma when that became a State. I will admit that it has been said down there, as it was said respecting the whites in the original Indian countries long before along the Eastern seaboard, with respect to their treatment of the Indians, that—

“First they fell upon their knees,
And then upon the aborigines.”

The Chairman. Mr. C. E. Foley desires to submit an inquiry.

Mr. Foley. The Indians are said to have gone south. They did not want to go either way, but they were forced into it. Some went south and some went north. That action was taken when the civil war was over.

Mr. Sterling. Mr. Doyle, if Oklahoma was made a State, what would be the status of Osage Indians?

Mr. Doyle. Mr. McGuire's bill does not give them citi-

zenship. The Quay bill and the Robinson bill do. Captain Palmer, a respected and honored member of the bar in Oklahoma, is here to-day. He is an eminent man in our country and was a soldier in the late war. He is a member of the Osage tribe. He will address the committee later as to the status of the Osage Indians and their desires upon this question.

Now, speaking of another feature of the McGuire bill, it does not regrant 100,000 acres of land that have been taken in lieu of sections 16 and 36 of the Osage part of the Oklahoma Territory.

Mr. Morgan has certainly the right to say he is for the McGuire bill. He tells you he is the attorney of the people who are seeking to deprive the people of Oklahoma of these lands. I will read from the Governor's report the status of these lands, so that you will understand it.

Mr. Powers. That is the same question that we inquired about of a man who preceded you?

Mr. Doyle. Yes, sir; that is also being argued before the Interior Department. We lose those lands if they are not re-granted by the enabling act. Those lands are worth at least \$2,000,000. I presume from Mr. Morgan's statement that his fee in the case is probably worth \$100,000. While he is a good man in every respect, he is a very zealous attorney, and the McGuire bill is in the interest of his clients, for that land under it will either go to his clients or to those claiming an interest adverse to the Territory. I will read from page 24 of the report of the Governor of Oklahoma for the year 1900:

By authority of an act of the third legislative assembly the school land board of the preceding administration made a contract with the Hon. D. A. Harvey, as Territorial agent, for the selection of indemnity lands for losses from fractional sections, reservations, and other causes. Under this contract 101,188.68 acres were selected in the Kickapoo Reservation and 21,840 acres were selected in a body in Woodward County, northeast of Camp Supply, for which services the agent received the sum of ten cents per acre, the cost to the Territory being \$12,302 fees to the agent, in addition to \$1,568 fees to the registrars and receivers of the land offices, which the Territory has been compelled to

pay upon these lands during the past year under departmental decision of April 19, 1898 (26 L. D. 536).

The indemnity lands in the Kickapoo country were selected in lieu of lands in the Osage Reservation, and those in Woodward County were taken in exchange for lands in the Ponca and Otoe Reservation, to which the Territory waived its right.

During the present administration indemnity lands have been selected as follows:

	Acres
Greer County, sections 13 and 33.....	21,416.56
Greer County, common school.....	20,713.
Common school, Custer and Dewey Counties....	9,297.28
	<hr/>
Total.....	51,426.84

The total expense in making these selections, preparing records, etc., in addition to the regular fees of the United States land office, has been \$223.85.

There are still due the Territory about 12,000 acres of indemnity lands, which will be selected in the near future.

Mr. Harvey, the gentleman referred to above, was the delegate from Oklahoma who preceded Mr. Flynn. He has been here frequently.

Now, in Mr. McGuire's bill the re-granting clause reads as follows:

Sec. 7. That upon the admission of said State into the Union sections numbered sixteen and thirty-six in every township of said proposed State, and where such sections, or any part thereof, have been sold or otherwise disposed of by or under virtue of any act of Congress, then lands equivalent thereto are hereby granted to said State for the support of common schools, and such indemnity land shall be selected in such manner as the Legislature of the State may provide, with the approval of the Secretary of the Interior. * * *

Every other enabling act that has been proposed and submitted to this Congress provides that sections sixteen and thirty-six heretofore granted, and indemnity lands heretofore taken in lieu thereof, shall be re-granted. There will never be any public domain in the Ponca and Otoe country.

All the treaties provide for the appointment of these when they are allotted in their entirety—not merely 160 acres each and the remainder to be thrown into the public domain—and for that very reason these indemnity lands have been selected.

These people have been tenants of Oklahoma Territory since 1895; but Mr. McGuire's bill absolutely fails in every respect to re-grant those lands to the State proposed to be created, and under the decisions of our courts construing the question as to the necessity of a re-grant to the new State created, they all hold that the enabling act must re-grant the land.

Mr. Thayer. I do not get that through my head, Mr. Doyle.

Mr. Doyle. These lands should be granted to the new State. All lands heretofore granted to the Territory are re-granted in this McGuire bill to the State, with the exception of these indemnity lands. They have been taken in lieu of sections sixteen and thirty-six in the Osage and Ponca and Otoe reservations. Those are the Indian tribes that failed to treat for the opening of their reservations.

Mr. Thayer. They were taken in lieu, you say?

Mr. Doyle. Yes, following out the principle that sections sixteen and thirty-six in every township shall be granted to the new State for educational purposes; but in this case it was not available by reason of the fact that it has been reserved in some other way, and the United States law requires that indemnity lands shall be taken in lieu thereof. But the McGuire bill fails to confirm the lands that have been taken in lieu thereof heretofore.

Mr. Powers. Mr. Thayer, were you here the other day when Mr. Morgan was here?

Mr. Thayer. No, sir.

Mr. Powers. It seems there was a great rush of settlers when that region was opened, and it is question whether the State shall have it or those who squatted or settled upon it.

Mr. Doyle. If they are not re-granted they simply revert to the public domain. It will mean interminable litigation down there about those lands, and the tenants of our Territory will not derive any benefit.

The next objection to the McGuire bill is the provision that is made for representation.

The Chairman. Right there, Mr. Doyle, let me ask you how long do you think you will talk?

Mr. Doyle. I think I can get through in half an hour.

On motion of Mr. Lloyd, seconded by Mr. Robinson, the committee decided to take a recess at 11:55 o'clock until 2 o'clock p. m.

The Chairman. Gentlemen, I will ask to be excused now, as I have occasion to go to the Supreme Court in relation to a certain matter.

(Hereupon the chairman retired, and Hon. Llwellyn Powers assumed the chair).

Mr. Doyle (resuming). That is the provision referring to delegates. The language of Mr. McGuire's bill on that point is as follows:

Section 2. * * * and the governor, the chief justice, and the secretary of the Territory shall apportion the Territory into seventy-five districts, as nearly equal in population as may be, and one delegate shall be elected from each of said districts; * * *

Gentlemen, we have twenty-six organized counties in Oklahoma Territory. Every man upon this committee knows it is absolutely necessary that each county, as a subdivision, a municipal division of the new State, ought to receive some recognition.

Mr. Thayer. Seventy-five districts of what?

Mr. McGuire. In the constitutional convention.

Mr. Doyle. In that respect the McGuire bill treats our Territory as though it was unorganized. Those seventy-five subdivisions are to be made regardless of county lines. We have twenty-six organized counties, and they should receive recognition in the enabling act. The representatives should be apportioned among the counties, and not by districts that might be created by the whim of some man; and every county should have at least one member of that constitutional assembly, because the organic laws for counties are there settled and constituted. The manner of providing for the creation of new counties and the changing of the boundaries of counties already existent are settled by all constitutions in the organic law.

Instead of that, the McGuire bill proposes to district the Territory into 75 districts, without following county lines. The question of county representatives has not been given a thought.

Each county should be entitled to representation according to the ratio of its population, and at least one member should be allowed for every county. The largest county we have, Beaver County, would not have a ratio sufficient for one member, although it is a county composed of one-sixth of the entire Territory. Yet it has rights, as every other county has, which ought to be recognized before that constitutional assembly and be provided for in the enabling act.

I just want to call the attention of the committee to these districts, or to what I believe, in my humble judgment, to be districts in the McGuire bill.

Mr. Thayer. How has that been arranged in other States, Mr. Doyle?

Mr. Doyle. By county representation, based upon representation giving every county at least one representative.

Mr. Thayer. And others two or three, or three or four, and so on?

Mr. Doyle. Yes, sir.

Mr. Spalding. At the time the four States in the Northwest were admitted in 1889 it was left to the governors, I think, and the secretaries of the Territories to district the Territories.

Mr. Doyle. Was not the rule laid down that they could fix the ratio for each county, and then they were elected by law?

Mr. Spalding. Yes, sir; they were elected by districts. I was a member of the constitutional convention of North Dakota at that time.

Mr. Doyle. We claim that it is absolutely necessary to give counties that have been organized for ten years, that are municipal bodies in every respect, at least one member in that constitutional assembly, and that those county lines should be followed in giving that recognition. Now, I would like to read a couple of editorials in the *Globe-Democrat*.

Mr. Thayer. Before you close, Mr. Doyle, I am thinking of this: The Indian Territory, as it is called—although there seems to be no such thing, but the Indian Territory with re-

gard to its territory and land—is now in the hands of these Five Civilized Tribes substantially, and if they are to be admitted as a State they are not to have any voice in the matter? They are not voters?

Mr. Doyle. Oh, yes; they are voters by the act of Congress, and the Robinson and Quay bills make them electors for all purposes, and are qualified as members of the constitutional assembly; and it provided that they are not to be deprived of citizenship.

Mr. Thayer. They can have the right to vote for or against coming in, the same as a white man,

Mr. Doyle. Yes, sir; the same in every respect.

Now I will read from the *Globe-Democrat*—the *St. Louis Globe-Democrat*, of November 20—no, it is from the *Globe-Democrat*, reprinted from the *Guthrie Leader* of November 30, 1903, and credited to the *Globe-Democrat*. It says:

OKLAHOMA'S RAPID GROWTH

According to the annual report of Governor Ferguson, of Oklahoma, that Territory's present population is 650,000, and the actual value of its taxable property is \$400,000,000, although only \$84,000,000 is returned by the assessor for 1903. The Territory's debt is \$462,000. This is a very good showing for our southwestern neighbor. The probability is that the population figures are placed a little too high here, but even putting it at 600,000 the total is very imposing. None of the Territories at the time of their admission to statehood had anything like this number of inhabitants.

As the Indian Territory is also growing with great rapidity, there is a strong probability that the two at this time have an aggregate population in the neighborhood of 1,100,000. United—and they will be united, of course, when admitted to statehood—they would stand pretty high in the population scale. They would rank twenty-sixth or twenty-seventh on the roll of the forty-five. Nebraska would be a little way above them, but at their present rate of growth they would soon overtake that State. The chances are that if the politicians are muzzled and the people of the two Territories are allowed to get union early, the consolidated State will rank ahead of Louisiana and South Carolina by the time the census of 1910 is taken, and be the twenty-third on the roll.

Oklahoma-Indian Territory has a brilliant future as a

community. Each section, the Indian Territory with its rich mineral lands and Oklahoma with its vast capabilities in all lines of agriculture, supplies something which the other lacks. Together they will make a symmetrically formed State superficially, and be physically nearly as large as the average of their neighbors. The separatists are blocking the way toward annexation, but their days of activity are nearly ended. A community with 600,000 alert, intelligent, progressive people is kept in subordination by the petty ambitions of a coterie of place seekers, but this condition cannot last much longer. The majority of the people of the twin Territories want union, and those who are now blocking the way toward it will be pushed off the track or be compelled to fall in line with the single State men just as soon as Congress once more makes it plain that union is an absolute preliminary to admission.

Now, I want to say that I would not like to utter those unkind words myself, so I quote them from the *Globe-Democrat*. You know that is one of the leading papers west of the Mississippi River—undoubtedly the leading Republican paper west of the Mississippi River. It is printed at St. Louis.

Mr. Robinson. How large is its circulation in these Territories?

Mr. Doyle. Its circulation is probably larger than that of any other paper down there. It is read there daily.

Then I will quote another editorial taken direct from the *Globe-Democrat* of November 30, 1903:

Congress is inalterably opposed to the admission of the two Territories as separate States. This is a fact which ought to be faced by the separatists. The persistence of the demand for the creation of two States in the case of Oklahoma and the Indian Territory will prevent both from being admitted. It is either union or nothing with Congress. This fact has been made so plain that there is no longer any excuse for denying or ignoring it. The way for the citizens of the two Territories to get admission is to demand union and to silence the separatists. In area, the new State would be about the same size as the average of its neighbors. Each section would supply something which the other lacks. United, the two Territories would make a symmetrical and powerful commonwealth, which would start out with five members of the pop-

ular branch of Congress. Oklahoma and the Indian Territory can, by agreeing to pool their issues, get admission before the present Congress ends.

Mr. Doyle (resuming). I do not think Mr. McGuire will deny the statement that the *Globe-Democrat* has a more general circulation throughout the Territories than any other paper.

Mr. McGuire. This is from the *Leader of Guthrie*, although it is credited to the *Globe-Democrat*.

Mr. Doyle. No, the other is reprinted in the *Leader*, but this is taken directly from the *Globe-Democrat*. I have the original of the other, and I will furnish it to you if you want it.

Now, we have people in our Territories who are against any form of admission as a State or States, although they would not express their views openly. But, as I say, there is a large class of men whose selfish interests is for the continuance of the present conditions there. Take, for instance, the Federal officials. There is about a million dollars appropriated for the Indian Territory by law, and about half of that for Oklahoma Territory. However, I will say to the credit of three out of the seven judges on our bench, that those three have openly come out in favor of a single State, and that, too, regardless of the effect that it might have on the positions they hold.

Mr. McGuire. They would not lose their positions any sooner, would they, Mr. Doyle, if they would break away from the Indian Territory?

Mr. Doyle. I do not say they would. But a man who asks for statehood for Oklahoma alone to my mind is opposed to statehood altogether, because I cannot see on what basis a man can base his hopes for statehood separately.

There is not one chance in a hundred of his getting it. For instance, I cannot see how I could expect Judge Russell here to base his action as a Congressman or Representative of the State of Texas if he favored two States, remembering the fact that in the Senate every State as a sovereignty can express its will by two votes on every law that passes Congress, on the ratification of all treaties, on every appropriation, and all impeachment trials; and I do not think he would be doing right by the State of Texas by assisting in giving to

Oklahoma and to Indian Territory separately two votes each in the Senate when his own State had only two, while that State, his own State of Texas, has eight times as much area as either and has a coast line that is simply immense. I say I do not see how he could be doing justice to his own State in seeking to create four new United States Senators down there on that limited area, when both united are only one-fourth of the area of his own State.

Mr. Powers. How would that line of reasoning apply to the admission of New Mexico and Arizona?

Mr. Doyle. The line of reasoning there would be absolutely different. The line of reasoning followed by Virginia when it made part of its territory into the State of Kentucky was simply that the Allegheny mountain range lay between her and the proposed Territory of Kentucky. It was the same in regard to North Canadian in her giving up the Territory of Franklin, which afterwards became the State of Tennessee. In that case also a range of mountains intervened, just as it did between Virginia and Kentucky. The same line of reasoning was advanced before the Civil War by the people who now constitute the State of West Virginia, who afterwards were created into a separate State by reason of the contingencies of the war. All these precedents suggest that New Mexico and Arizona should be separate States.

Mr. Powers. I do not think you understood my question. If I understood you correctly, it was this: That by creating two States, having four Senators to vote, Mr. Russell, of Texas, would be doing injury to his own State by permitting that situation to arise where there would not be a fair preponderance in the Senate.

Mr. Doyle. Yes. But when we remember that in the case of every confirmation that is made of a nomination; that in the ratification of every treaty formulated by this Government in its executive department he would be giving double the power to Oklahoma and Indian Territory to what his own state has got and can exercise now; and, further, when we remember that all impeachment matters are tried by the Senate, when by that act of his in assisting or advocating the erection of two separate States from Oklahoma and Indian Territory he would be giving double the power to that region, down near

to Texas, that his own State would have in the United States Senate.

Mr. Robinson. Governor Powers refers to the mountains as a continental divide, where there is no affinity between the people who live on the opposite sides.

Mr. Doyle. Yes; and the same rule will apply on the question of population to a certain extent; because, while they have a very limited population out there in that country, they have vast possibilities of futuré growth. But I am making an argument on the question of area.

(At this point, 11:55 a. m., according to arrangement, proceedings were suspended and the committee took a recess until 2 o'clock p. m.)

(Concluded in September number)