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SENATE.

} REPORT
} No. 454.

AN ACT ENABLING THE PEOPLE OF NEW MEXICO AND ARIZONA TO
FORM A CONSTITUTION AND STATE GOVERNMENT, ETC.

MARCH 28, 1910.—Ordered to be printed.

Mr. BEVERIDGE, from the Committee on Territories, submitted the
following

REPORT.

[To accompany H. R. 18166.]

The Committee on Territories, to whom was referred the bill H. R. 18166, have examined the bill and report the same back with an amendment in the nature of a substitute, and as amended recommend that the bill do pass.

The amendment to the entire House bill which your committee has reported as a substitute therefor, makes many changes from the House bill. Several of these are of much importance; the minor ones are made for the sake of greater and more definite phraseology.

Concerning the important changes, the committee calls the attention of the Senate to the following:

The amendment to the House bill which the committee reported as a substitute for the same, which hereinafter will be referred to for the sake of brevity as the "Senate bill," provides that when the constitutions of the proposed new states have been ratified by the people the same shall be submitted to the President and to Congress for approval; and if the President and Congress approve of the same, or if the President approves of the same and Congress fails to approve of the same at the next regular session, the election of state officers, members of the legislatures, representatives in Congress, and all other officers provided for in the constitutions shall take place at the time named in the bill.

With reference to the time for such election of such officers, it is provided that the governors of the proposed states shall, within thirty days after the receipt of the certification of the President of his approval of the constitution and the approval of Congress, or of his approval and of the failure of Congress to act at the next regular session, issue proclamations for the election of such officers referred to above "on a day designated by him in said proclamation, not earlier than sixty days nor later than ninety days after such proclamation of the governor ordering the same."

CONSTITUTION TO BE APPROVED BY PRESIDENT AND CONGRESS.

There are two reasons for these provisions. The first, providing for the submitting of the constitutions to the President and to Congress, is disclosed in the language of the bill itself. It is that the President and Congress, representing the Nation, shall review the constitutions of the proposed new states which the Nation is about to admit as a portion of its governing and lawmaking elements.

It is plain that this is nothing more than just to the Nation which is creating the proposed new states, and can not be hurtful to the new states themselves. The Nation is interested as vitally in the form of government of the states which it creates as are the new states themselves.

It is not only a measure of justice, but a measure of safety. It will certainly prevent any unsound or harmful provisions in the constitutions of the proposed new states. This, of course, will be beneficial to the proposed new states as well as to the Nation.

RATIFICATION OF THE CONSTITUTIONS AND ELECTION OF STATE AND OTHER OFFICERS SEPARATED IN TIME.

The election of state and other officers under these constitutions is separated from the elections to ratify the constitutions by sufficient time to enable the people to act in each election with mind single to that particular election. In voting upon the ratification of the constitutions the people have before them, not only in theory but as a matter of fact, nothing but the proposed constitutions themselves. In voting they can have nothing else in mind. In this election the people are not confused by the conflicting consideration of voting for the constitutions and yet having in mind the various candidates for the various offices.

It is the same of course as to the election of the various officers provided for in these constitutions—at the latter elections the people have nothing else in mind except the candidates for the various offices.

Were the constitutions and the various officers provided for therein to be voted on at the same time, the provisions of the constitutions would be lost sight of or at least partially obscured by the strife of the different candidates for office. This would be true if the elections for the ratification of the constitutions and the elections for state and other officers were separated in fact and yet so near to each other that candidates for office would be in the field. So it is deemed wise by the committee that these two elections shall be separated by a sufficient period to have each election distinct from the other.

There are three instances in the history of the Republic of the insertion in an enabling act of a provision requiring the new state constitution to be submitted for the approval of Congress.

The first was in the case of Louisiana. The act of Congress of February 20, 1811, section 4 (2 Stat. L., 642), provided:

The said convention, as soon thereafter as may be, is hereby required to cause to be transmitted to Congress * * * a true and attested copy of such constitution or frame of state government, as shall be formed and provided by said convention, and if the same shall not be disapproved by Congress, at their next session after the receipt thereof, the said state shall be admitted into the Union; upon the same footing with the original states.

The next instance was in the case of Alabama. The act of Congress of March 2, 1819, section 9 (3 Stat. L., 492), provided:

That, in case the said convention shall form a constitution and state government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be formed or provided, to be transmitted to Congress for its approbation.

The third instance is in the case of Texas. The act of Congress of March 1, 1845, section 2 (5 Stat. L., 797), provided:

The constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action.

In all other cases prior to 1858 the constitution was submitted to Congress, and approval manifested in an act formally admitting the state to the Union, with the exception of Ohio, which seems to have been admitted by compliance with the enabling act without express approval of Congress. (See 2 Stat. L., 173, 201.)

In 1858, in the case of Kansas (11 Stat. L., 269), appears for the first time the provision authorizing the President by proclamation to declare the conditions of admission complied with. From this time on the practice became uniform, but the number of states admitted by express act of Congress is larger than the number of those admitted by force of a presidential proclamation.

There is also a precedent for the separation of the election of state officers from the election for the ratification of the Constitution. It is found in the act enabling the Territory of Colorado to form a constitution and be admitted into the Union. This provision is found in the eighteenth volume of the United States Statutes at Large, page 475, section 6, which reads as follows:

That until the next general census said state shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and state and other officers provided for in said constitution, shall be elected on a day subsequent to the adoption of the constitution, and to be fixed by said constitutional convention; and until said state officers are elected and qualified under the provisions of the constitution, the territorial officers shall continue to discharge the duties of their respective offices.

THE ELECTION LAWS OF ARIZONA.

The next considerable difference between the House and Senate bills is found in section 19 of the Senate bill.

The corresponding section of the House bill provides that—

Such election for delegates shall be conducted, the returns made, and the certificates of persons elected to such convention issued, as near as may be, in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature; and the penal provisions of said laws are hereby made applicable to the election herein provided for.

The Senate bill substitutes for this the following:

A qualified elector within the meaning of this section shall be any male citizen of the United States of the age of twenty-one years who shall have resided in the Territory at least twelve months next preceding the date fixed for the election of delegates to the constitutional convention, as herein provided for, and who shall possess in other respects the qualifications of an elector as provided by title twenty, Revised Statutes of Arizona, August second, nineteen hundred and one. Within ten days after the issuance of the governor's proclamation ordering the election of delegates to the constitutional convention, as herein provided, the board of supervisors of each county of the Territory shall meet and authorize and require a reregistration of the qualified electors

NEW MEXICO.

	Act of 1898.	House bill.	Senate bill.
	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>
Permanent reservoirs for irrigation purposes.....	500,000		
Improvement of Rio Grande in New Mexico.....	100,000		
Reform schools.....	50,000		
For university purposes.....	111,080	120,000	200,000
For public buildings.....	32,000	96,000	100,000
Insane asylum.....	50,000	100,000	100,000
Penitentiaries.....	50,000	100,000	
Schools and asylums for deaf, dumb, and blind.....	50,000	100,000	100,000
Miners' hospitals.....	50,000	50,000	50,000
Normal schools.....	100,000	200,000	200,000
Charitable, penal, and reformatory institutions.....		100,000	100,000
Agricultural and mechanical colleges.....		150,000	150,000
School of mines.....	50,000	150,000	150,000
Military institutes.....	50,000	100,000	100,000
Payment of debts of Territory and county assumed by Territory.....		3,000,000	
In payment of bonds and interest thereon issued by Grant and Santa Fe counties, validated by act of Congress January 16, 1897.....			1,000,000
Institution for blind.....	50,000		

ARIZONA.

University purposes.....		120,000	200,000
Public buildings.....		96,000	100,000
Insane asylum.....		100,000	100,000
Penitentiaries.....		100,000	
Schools and asylums for the deaf, dumb, and blind.....		100,000	100,000
Miners' hospitals.....		50,000	50,000
Normal schools.....		200,000	200,000
Charitable, penal, and reformatory institutions.....		100,000	100,000
Agricultural and mechanical colleges.....		150,000	150,000
School of mines.....		100,000	150,000
Military institutes.....		100,000	100,000
Irrigation and improvement of rivers.....		600,000	
Payment of Territory and county indebtedness.....		3,300,000	
Payment of bonds and interest thereon, issued by Maricopa, Pima, Yavapai, and Coconino counties, validated by act of Congress, June 6, 1896.....			1,000,000

The only grant heretofore made to Arizona is the one of 72 sections, equal to 4,680 acres, for university purposes, by act of February 18, 1881 (21 Stat., 326).

The foregoing statement shows, among other things, that the 100,000 acres granted by the House bill for penitentiary purposes in each of the States have been omitted from the bill as reported to the Senate; that the grant of 600,000 to Arizona for public reservoirs and irrigation of rivers has been eliminated, and that the grant of 3,000,000 to New Mexico to pay territorial and county indebtedness, and the grant of 3,300,000 for the same purpose to Arizona have been reduced to 1,000,000 in each case for the payment of certain bonds which were validated by act of Congress. There are also other changes of less importance shown by this statement.

The omission in the Senate bill to appropriate any lands for penitentiaries was a clerical error in reporting the bill, and your committee will offer a committee amendment appropriating 100,000 acres for the penitentiaries in each proposed State, as is provided in the House bill.

LANDS AND RIGHTS OF THE INDIANS.

A final difference in the bills to which your committee wishes to call attention refers to the more careful safeguarding of the rights of the Indians, and particularly to the Pueblo Indians.

Page 3, line 16, of the bill as it passed the House of Representatives contains the words "except as to Indians not taxed." These words have been omitted from section 2, page 45, of the Senate redraft.

ary, 1901, making all lands containing deposits of salt in any form subject to location and purchase the same as placer mining claims. There was no general demand for the passage of this act, and there are grounds for the belief that it may have been advocated by persons desiring to secure control of the saline lands in New Mexico, and especially upon the large and valuable salt deposits lying to the east of the line of railroad of the Santa Fe Central Railroad Company.

That railroad, which extends from Santa Fe to Torrance, a station on the Rock Island Railroad, a distance of 117 miles, had been projected and its line surveyed. It was generally known that these salt deposits constituted one of the most valuable resources of the region to be traversed by the railroad and would at some time furnish a large amount of freight business.

The act of 1901, however, was ineffectual so far as New Mexico was concerned, because Congress had already donated the saline lands to the Territory, and the governing board of the University of New Mexico, in order to avoid disputes, obtained from the General Land Office specific instructions to the local land offices not to receive any entries of such lands.

In 1901-2 persons interested in the Santa Fe Central Railroad Company purchased a small Texas grant which had been confirmed by a special act of Congress in 1888. This grant covered a small portion of the salt deposits referred to, and was considered perhaps the best of them.

In 1903 an attempt was made on behalf of the Santa Fe Central people to open negotiations with the board of regents of the University of New Mexico for the leasing of a salt lake called Laguna de Perro, the largest of the salt lakes of that region. It was stated on behalf of the Santa Fe Central people that it was the purpose of the company to develop these lakes and establish a market for the salt, provided the company could secure control of all the deposits in the vicinity. Nothing came of these negotiations, because the lands had never been surveyed, which made it impossible for the Territory to make selections thereof for the approval of the Secretary of the Interior.

The matter has remained in this condition to the present time, and in view of the potential value of the grants repealed, your committee has inserted section 18, on page 72 of the bill, which reads as follows:

That all saline lands in the proposed State of New Mexico are hereby reserved from entry, location, selection, or settlement until such time as Congress shall hereafter provide for their disposition.

QUANTITY LAND GRANTS.

The next difference worthy of note between the Senate and House bills is the amounts of land granted for various purposes. It is sufficient under this head to set out the grants heretofore made and the grants made by the House bill and by the Senate bill.

The quantity granted the proposed states for common-school purposes is the same in the bill as passed by the House and as reported to the Senate, namely, sections 2, 16, 32, and 36, or their equivalent, in every township in the proposed states.

Grants made by act of 1898 and changes made in the quantity granted for specific purposes are shown by the following table: