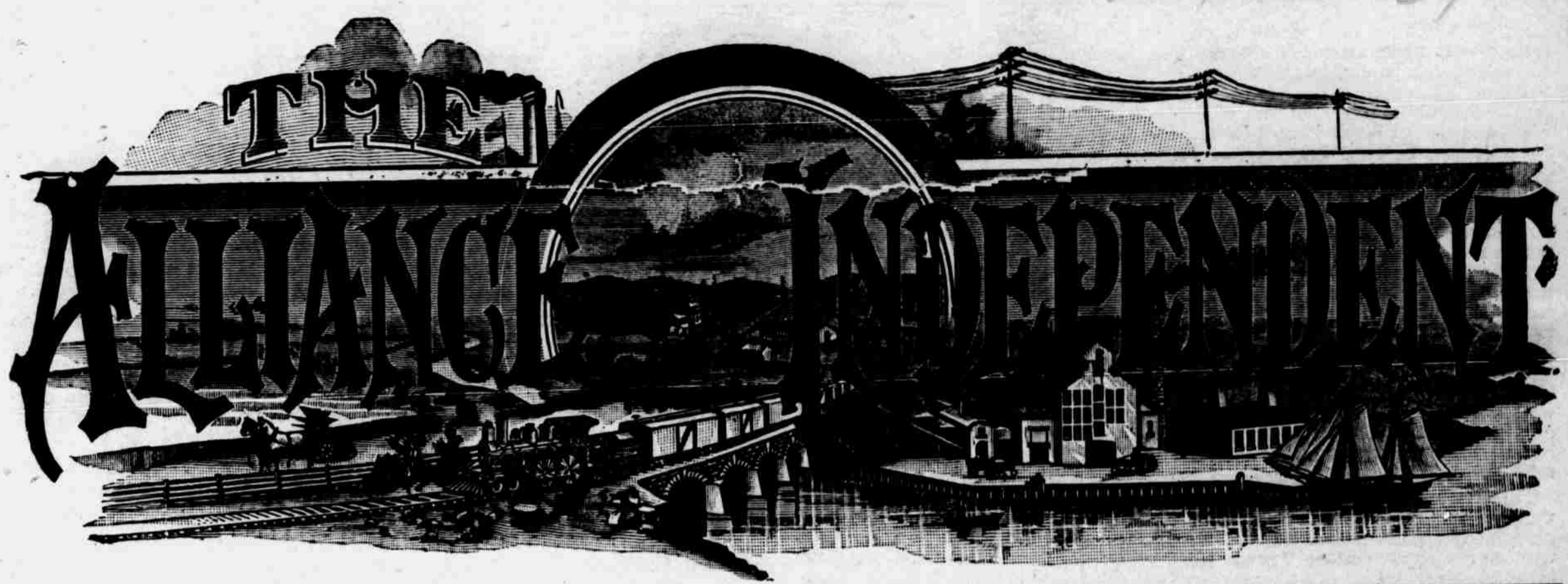


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SHALL THE PEOPLE RULE

Speech on the Election of United States Senators by the vote of the People.

Delivered in the House of Representatives July 12th, by Hon. O. M. Kern, of Nebraska.

Mr. Speaker, in speaking to the resolution that is before the house for its consideration at this time, I do not do so believing it a cure for all the evils complained of by the people. But I regard it as a step in the direction of popular government, in which the voice of the whole people will not only be heard but heeded. In it lies a principle of justice and equality that should be better established by the constitution—a principle that must be well established and maintained or we cannot hope to preserve that perfect liberty given by the Creator as the birthright of man.

If time has developed the fact, as I believe it has, that because of defects in its construction, the constitution no longer gives that protection it was designed to give, it is not only the privilege, but the absolute duty of every citizen who loves his country to use all honorable means to remedy those defects and make it as perfect an instrument of justice as it is possible to make. It goes without saying that the constitution, as constructed by the fathers, was the greatest instrument of civil government devised by man, and met perfectly perhaps the requirements of the day and date that brought it forth; but if it was sufficient unto the evils of that day it is no evidence that it is sufficient unto the evils of these degenerate days.

The fathers themselves saw the impossibility of a fixed organic law and wisely made provisions for its amendment from time to time as experience might show to be necessary. The first ten years after its adoption it was amended ten times, since which time more than a century has elapsed and it has been necessary to amend it but five times. And, in my opinion, Mr. Chairman, five other amendments will carry us safely through another century, provided they are of the right kind and properly observed. This idea of some sacredness that attaches to the organic law in the minds of some did not conform to the ideas of our fathers respecting that instrument. They not only held the right to alter and amend the constitution, but if necessary to abolish the government: for the proof of which I cite the Declaration of Independence as follows. After defining

they use the following remarkable and pertinent language:

That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles and organizing its power in such forms as to them shall seem most likely to effect their safety and happiness.

Thus the fathers expressed their ideas of true liberty, the natural rights of man, and the functions of government. Holding those rights as sacred, and the government simply as a machine created by the people to establish, protect and maintain them, and when it failed to accomplish its purpose to be altered and improved, by the power that made it, till it would do its work, they reasoned that nothing should stand between the people and the enjoyment of their rights. And, I think, no man will stand on this floor today and say this is not true.

This principle of liberty that was true of that day is none the less true of this; just as sacred, just as necessary, as it was then; and should be as jealously guarded and maintained as it was valiantly and stubbornly fought to establish. And the time has come, Mr. Chairman, in my opinion, when the constitution should be so amended as to conform more nearly to the principles set forth in the Declaration of Liberty and its own preamble.

It was this evil of concentrating the power to govern in the hands of the few that the fathers sought to guard against in framing the constitution, and while it was a most radical measure for that period, we find a spirit of conservatism cropping out here and there, showing most clearly that they were not certain in their own minds that the people were wholly able to govern themselves. This fear manifests itself perhaps with no greater force than in the provisions for electing the president of the United States, which has at different times in the history of our country resulted in defeating the popular will by placing in the executive chair a man whom the majority did not want and for whom they did not vote, thus defeating the very principles sought to be maintained.

In 1876 the people were brought to see the danger of an electoral system which made it necessary to provide an electoral commission in order to preserve the peace, and that placed the judges of the supreme court in a position that caused many people to feel that the decision rendered was not free from party prejudice. Mr. Chairman, if I had the power, I would go much farther than this resolution seeks to go; I would remedy this defect in the Constitution in order to guard the people against the dangers that threatened the peace and safety of the Republic during the continuation of the electoral contest referred to, by making the president elective by the popular vote. I would allow no middle man, as member of an electoral college, to stand between the people and the consummation of their

defeat the popular will, as they have done in the past. The evil of this defect is so apparent and the necessity for a remedy so plain that all sickly sentimentality should be thrust aside and a fair amount of American common sense applied to the blotting out of this remnant of British monarchical misrule.

Therefore I believe the time has fully come when the people should be allowed to say in the method provided for in the resolution whether the present manner of electing United States senators shall continue, or whether they shall be elected as the members of the House are elected, and compelled to give an account of their stewardship directly to the people whom they are supposed to serve. The only reason I know for the existence of a United States senator at all is that he was designed by the fathers as a kind of check upon the wild and dangerous ideas they feared would emanate in the shape of law from the House of Representatives, the only body that is from and responsible to the people; yet I will venture to say that as many wild and dangerous measures have emanated from that end of the hall as ever came from this.

As I have remarked, the fathers were so thoroughly imbued with the ideas of a monarchical government they could not quite believe that the interests of the people would be safe in their own hands, hence established the American house of lords, known as the United States senate, to act in the capacity of a guardian, and see that the representatives of the people do not go astray. We believe to say the least, that the present mode of electing senators is not only unnecessary, unwise, undemocratic, an un-American, but it is absolutely dangerous, the tendency being to centralize the power to govern in the hands of the few, a practice that if continued will destroy our government, and if the time ever existed when it was necessary, it has long since passed, and the time come when the evil should be remedied and the people allowed to rule themselves.

We believe the relation between the people and their legislators should be the same as that existing between employer and employes, on farm or in shop; that of a servant of the people, and no intervening body should be empowered to employ the one to act in that capacity but they should employ their own servants, and hold them directly responsible for their work. These views were held by a strong element of the Federal convention that adopted the constitution, and at one time threatened to disrupt it, and they continued to be advocated at intervals by leading statesmen up to 1850.

Mr. Benton held as a fundamental truth to which there was no exception, "that liberty would be ruined by providing any kind of substitute for popular election;" asserting that all elections would degenerate into fraud and violence as the result of intermediate elective bodies. He showed further that it was the law of the few to dis-

got power into their hands, and that liberty had been destroyed whenever intermediate bodies obtained the direction of the popular will; he reasoned from history, the philosophy of government, and the nature of man, and referred to the period of direct voting in Greece and Rome as the "grand and glorious periods of popular government," when the people were more prosperous than at any other period in the history of those governments, and would up with these words:

"I believe in the capacity of the people for self-government, but they must have fair play, fair play at the elections on which all depends."

Mr. Benton summed up the whole matter in the last few words, when he makes the ability of the people to govern themselves rest on a fair expression of their will. This is the secret of the whole matter, and unless we can secure and maintain free and fair elections that shall not only express the will of the whole people, but shall be respected as such, history will repeat itself, and this government is doomed just as every other one has been that failed to guard properly the franchise of its people. The ballot is the American's only safeguard, the only medium through which he may quietly and legally express his desires as a citizen, the only peaceable means by which necessary and harmless revolution may be brought, upon which rests the honor and life of the nation.

Therefore the franchise should be held sacred and jealously guarded by every device calculated to make it the medium that shall indeed register and maintain a freeman's will. Is this the result of the present mode of electing United States senators? History answers no; from all over this land, from this state and that, like foul reports blackening the fair name of virtue, comes the evidence of the subversion of the popular will, of fraud and intrigue, the result of concentrating the vote of the whole state in the hands of a few individuals comprising an intermediate body of which one or two may, and often do, hold the balance of power and actually elect.

Thus we see clearly the great danger arising from the present system in the opportunities offered the bribe-taker, who does not hesitate to sacrifice all honor or friendship for money or political position. To show further the danger of our present method of electing senators allow me to illustrate. In a legislative body composed of 100 members 51 votes will elect there are three candidates in the field; one has 49 or 50 votes, the balance is divided between the other two. Here we have the votes of millions of so-called freemen, in a land where it is said every man is a sovereign, concentrated into one or two ballots; the sovereign will of the millions gathered into the sovereign will of two individuals who are but human, governed perhaps, as often is the case, by selfish, sordid motives, holding the absolute power to make another man, who is equally human, United States senator for six years; the result, a dead-lock of