for the most numerous branch of the State Legislature In what sense, then, is the Government of the United States based upon the theory that there is a "people of the United States?" Not in regard to the executive, for the reason I have shown. The legislative department does not show it. Take the Senate of the United States; the people are there represented by States, Delaware having as much weight there as New York. The Senate of the United States is strictly confederate in its structure; there can be no mistake about that. So with the House of Representatives: the people are there represented by States, each State, by an arbitrary system, having so many representatives, all elected by the State. There is no power in this country, no agency, no authority which can tell the people of Maryland whom they shall elect to the Congress of the United States; or that can say to this imaginary "people of the United States" whom they shall elect President of the United States. There is no such political organism, there is no such political aggregation of persons, as "the people of the United States." There is no function performed by "the people of the United States;" there is no power granted to them; there is no duty which they can fulfil known either to fact or to law; there is no such people. It is simply the people of the several States.

No such thing is apparent in your judiciary. Who makes the judges? The President, who is elected by direct State action, nominates them to the Senate, which is the most remarkably confederate body on earth, and the Senate confirms them. The judiciary, therefore, is a notable instance of the federative character of our Government. Also in reference to the mode in which the Constitution is to be amended. Do the "people of the United States" amend the Constitution? We know the forms in which amendments are to be proposed: either by the States themselves, or by the votes of so many States in Congress. So that looking at the Constitution, as it stands adopted, independently of that logic which would put the States' rights construction upon it—as, in my judgment, can be properly done, from the fact of the existence of the colonies as independent States even before as well as after the adoption of the articles of confederation—apart from that, taken upon its own merits, taken upon what it says, I hold that in no portion of the Constitution, in reference to any department of the Government, is there a single grant or a single retention of power, or any circumstance, or any word, that can properly be construed as supporting the theory that our system of government was intended to be a consolidated, and not a federative system.

Now, in reference to another point which is cognate with this particular point: that there is a common court. Now, I need not detain the Convention to state, what must be very obvious from the tone of my remarks, that I hold that when we come to the question of last resort, these States are, in reference to the mere reserved question of political power between them and the Federal Government, the same as between them and Great Britain, and are necessarily the sole judges. The common argument is that the Supreme Court of the United States is the common arbiter—arbiter for what? For all questions which, under the Constitution, that Court is authorized to decide. Gentlemen argue that the Constitution itself does not restrict the Supreme Court. Now, there are certain cases stated to be within the purview of that court, and capable of decision by its authority. Now, what shall be said of cases which arise outside of that grant of power; for it has no power but that which is granted?

Now, the great argument which the States' rights men have stood upon in regard to the Supreme Court of the United States, and where, in my judgment, they are impregnable, is this: that it cannot be said, these States being sovereign before the formation of the Constitution, when they met together for the purpose of forming that Constitution, they ever intended to leave to the Federal Government the decision of the extent of the federal powers. That is, the Federal Government, or the Supreme Court of the United States, is not the last resort as to the question of political power between the confederation and the States. That is impossible. The Supreme Court is what? a common arbiter? It is a department of the National Government; it is one of the branches of the federal power, just as much as the executive, just as much as the Congress of the United States; just as the Court of Appeals in Maryland is a part of the system of government in Maryland. These States met together and said: "Here, we delegate the exercise of certain of our sovereign powers, for the time being, to a common agent; and we will establish this high court of judicature for the adjustment of certain questions between citizens residing in different States, questions over which no State court would properly have control, and in reference to which we would have to be thrown upon the common but inconvenient law of nations—in reference to these things we will establish a Supreme Court." But did any statesman of that day ever think that this Supreme Court so established was to have the power of defining the powers of the confederation as against the powers of the States that created that confederation? If so, then it was a total surrender of all the principles upon which the war of the Revolution was fought, upon which our liberties were won, upon which the States stood at the time they formed the confederation. Now, if the Federal Government, through any of its depart-