between J. W. Peglow and the Seneca Nation of New York Indians—to the Committee on Indian Affairs.

By Mr. WHEELER: A bill (H. R. 14270) to extend to the city of Paducah the operation of an act entitled "An act to amend an act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement"—to the Committee on Ways and Means.

By Mr. MEYER of Louisiana: A bill (H. R. 14277) to provide for celebrating the one hundredth anniversary of the purchase of the Louisiana territory, in the city of New Orleans, and so forth—to the Special Committee on Centennial of the Louisiana Purchase.

By Mr. McCLEARY: A resolution (H. Res. 432) authorizing the Clerk of the House to employ temporary help—to the Committee on Accounts.

By the SPEAKER: A testimonial of the legislature of Minnesota, urging the establishment of a national park and military cemetery at Fort Ridgely, Minn.—to the Committee on Military Affairs.

By Mr. BOWERSOCK: A resolution of the legislature of Kansas, favoring the passage of S. 1439—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. MERCER: A bill (H. R. 14271) for the relief of Rasmussen & Strehlow—to the Committee on Claims.

By Mr. MANN: A bill (H. R. 14272) granting a pension to F. J. Mead—to the Committee on Invalid Pensions.

By Mr. METCALF: A bill (H. R. 14273) for the relief of F. H. Driscoll—to the Committee on Claims.

Also, a bill (H. R. 14274) granting a pension to William McElroy—to the Committee on Invalid Pensions.

By Mr. SIBLEY: A bill (H. R. 14275) granting a pension to Susan J. Taylor—to the Committee on Invalid Pensions.

By Mr. JAMES R. WILLIAMS: A bill (H. R. 14276) granting a pension to Cynthia Martin—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BOWERSOCK: Petition of manufacturers of Kansas City, Mo., and other places, urging Congress to provide necessary legislation for creation of national park in northern Minnesota—to the Committee on the Public Lands.

Also, resolutions of Cigar Makers' Union No. 345, of Kansas City, Kans., advocating the holding of public lands in the West for the benefit of the people—to the Committee on the Public Lands.

By Mr. BRUNDIDGE: Paper to accompany House bill to correct the military record of John Patterson, of Stone County, Ark.—to the Committee on Military Affairs.

By Mr. KERR of Ohio: Petition of the Woman's Christian Temperance Union of Norwalk, Ohio, favoring anti-polygamy amendment to the Constitution—to the Committee on the Judiciary.

By Mr. MERCER: Petition of Woman's Christian Temperance Union of Omaha, Nebr., favoring the passage of the Gillett bill for the protection of the native races in our islands against intoxicants and opium—to the Committee on Alcoholic Liquor Traffic.

By Mr. NEEDHAM: Petition of the California Raisin Growers' Association and others, of Fresno, Cal., praying for the passage of a bill providing for a live water supply for irrigation purposes for the Papago and Pima Indians of Arizona—to the Committee on Indian Affairs.

By Mr. ROBINSON of Indiana: Petition of Journeymen Stonecutters' Association, Fort Wayne Branch, State of Indiana, for irrigation of arid lands, and Government to give title to none but actual settlers on any public lands—to the Committee on the Public Lands.

By Mr. SIBLEY: Petition of Julia M. Turner and other women of the Presbyterian Church in Pennsylvania, favoring the passage of the Gillett bill for the protection of native races in our islands against intoxicants and opium—to the Committee on Alcoholic Liquor Traffic.

By Mr. WANGER: Petition of the Missionary Society of the Ambler (Pa.) Presbyterian Church, for the enactment of legislation to prohibit the sale of firearms, opium, and intoxicating liquors to the inhabitants of the New Hebrides and other islands—to the Committee on Insular Affairs.

Also, resolutions adopted at a mass meeting of United Brethren Church, Salem Evangelical Church, First Baptist Church, Methodist Episcopal Church, Presbyterian Church, and Trinity Reformed Church, of Pottstown, Pa., in favor of an amendment to the Constitution against polygamy—to the Committee on the Judiciary.

By Mr. YOUNG: Petition of the philanthropic committee of Philadelphia Yearly Meeting of Friends, Philadelphia, Pa., for a cessation of the present war in the Philippine Islands—to the Committee on Military Affairs.

SENATE.

MONDAY, *February 25, 1901.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. CARTER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

PENAL CODES OF FOREIGN COUNTRIES.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of State, transmitting a letter from Mr. S. J. Barrows, United States commissioner on the International Prison Commission, transmitting monographs on the penal codes of France, Germany, Belgium, and Japan, together with a paper on the Japanese prison system. The communication will lie on the table, as the papers accompanying the communication have already been sent to the House.

COST OF CRIME.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting a letter from Mr. S. J. Barrows, United States commissioner on the International Prison Commission, transmitting a paper on the cost of crime, prepared by Mr. Eugene Smith, of New York, for the National Prison Association of the United States, and submitted for the use of the International Prison Commission; which, with the accompanying paper, was ordered to lie on the table.

STATIONERY FOR TREASURY DEPARTMENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the chief of the division of stationery, printing, and blanks, relative to an estimate of deficiency in the appropriation for stationery for the Treasury Department for the current fiscal year, $8,000; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

INDIAN DEPREDATION CLAIMS.

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney-General, transmitting, in response to the resolution of the 23d instant, the list of all judgments in favor of claimants in Indian depredation cases, etc.; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

NATIONAL RED CROSS ASSOCIATION.

The PRESIDENT pro tempore laid before the Senate the first annual report of the American National Red Cross Association; which was ordered to lie on the table, and be printed.

POST-OFFICE APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 13729) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1902, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WOLCOTT. I move that the Senate insist upon its amendments and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. WOLCOTT, Mr. CHANDLER, and Mr. BUTLER were appointed.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 13850) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1902, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HALE. I move that the Senate insist on its amendments and agree to the request of the House for a conference.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. HALE, Mr. CULLOM, and Mr. TELLER were appointed.

CREDENTIALS.

Mr. MONEY presented the credentials of Anselm Joseph McLaurin, chosen by the legislature of the State of Mississippi a Senator from that State for the term beginning March 4, 1901; which were read and ordered to be filed.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 13591) authorizing Calhoun County, State of Texas, to construct and maintain a free bridge across Lavaca Bay.

The message also announced that the House had agreed to the reports of the committees of conference on the amendments of the Senate to the following bills:

A bill (H. R. 11820) to ratify and confirm an agreement with the Cherokee tribe of Indians, and for other purposes; and

A bill (H. R. 11821) to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and for other purposes.

The message further transmitted the resolutions of the House, commemorative of the life and public services of Hon. Frank G. Clarke, late a Representative from the State of New Hampshire.

The message also transmitted the resolutions of the House commemorative of the life and public services of Hon. Albert Duane Shaw, late a Representative from the State of New York.

PETITIONS AND MEMORIALS.

Mr. PLATT of New York presented a petition of the East Auburn Woman's Christian Temperance Union, of Auburn, N. Y., praying that an appropriation be made to improve the rations furnished to soldiers; which was referred to the Committee on Military Affairs.

He also presented a petition of the East Auburn Woman's Christian Temperance Union, of Auburn, N. Y., praying that an appropriation be made to improve the rations furnished to soldiers, and also for the enactment of legislation to prohibit the sale of intoxicating liquors, opium, and firearms in the New Hebrides and other Pacific islands; which was ordered to lie on the table.

He also presented a petition of the Christian Endeavor Society of the First Congregational Church of Munnsville, N. Y., praying for the enactment of legislation to prohibit the sale of intoxicating liquors, opium, and firearms in the New Hebrides and other Pacific islands; which was ordered to lie on the table.

He also presented a petition of the New York Sabbath Committee of New York City, praying for the enactment of legislation providing for the closing of the St. Louis Fair on Sunday; which was ordered to lie on the table.

He also presented the petition of Smith Ordway and sundry other citizens of Sodus, N. Y., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

Mr. BATE presented a petition of the Ladies' Foreign Missionary Society of Chattanooga, Tenn., praying for the enactment of legislation to prohibit the sale of intoxicating liquors, opium, and firearms in the New Hebrides and other islands of the Pacific; which was ordered to lie on the table.

He also presented a memorial of the Chamber of Commerce of Chattanooga, Tenn., remonstrating against the enactment of legislation permitting the use of a part of the water of the Tennessee River near Muscle Shoals by private parties; which was referred to the Committee on Commerce.

Mr. CLAPP presented the following memorial of the legislature of Minnesota; which was referred to the Committee on Military Affairs, and ordered to be printed in the RECORD, as follows:

A memorial of the legislature of the State of Minnesota to the Congress of the United States for the establishment of a national park and military cemetery at Fort Ridgely.

Your memorialist respectfully represents that about the year 1853 the United States Government erected Fort Ridgely on the frontier of the Territory of Minnesota for the protection of the white settlers from the Sioux Indians; that in 1862 the said Indians broke out in open rebellion against the whites and the Government and massacred more than 1,000 persons before they were defeated and suppressed; that during such rebellion they attacked Fort Ridgely and besieged it for about nine days, during which time it contained many white refugees, and was successfully defended by volunteer troops and citizens; that Capt. John F. Marsh, of Company B of the Fifth Minnesota Volunteer Infantry, was in command of the fort when the war commenced, and with half of his company left for the Indian agency, a few miles distant, to protect the whites, and was, with 23 of his men, killed by the Indians, all of whom, with the United States interpreter and many other soldiers and citizens, are buried at the fort; that the State of Minnesota has erected a handsome and conspicuous monument in the center of what was the parade ground of the fort, and also an appropriate monument in the graveyard, to commemorate the siege of the fort and the death of the soldiers and citizens who fell in its defense: that the fort itself has become entirely demolished by neglect and abandonment by the United States; that the people of Minnesota, by reason of the events connected with the fort, have become much attached to the spot and believe that its successful defense by Capt. Timothy J. Sheehan, who commanded the fort during nine days of siege, was largely instrumental in saving the State from the horrors of savage invasion and confining the war to the border. They also believe that the graves of the soldiers and citizens who gave their lives to their country should be protected by the Government, and that measures should be taken to supply a decent and proper place to receive the remains of many of the surviving defenders, who desire to be interred with their comrades at the fort, and they have organized an association to promote those ends, called "The Fort Ridgely National Park and Historical Society," which has a large and influential membership. Your memorialist further represents that an act has been introduced in the Congress of the United States, and is now pending in that body, asking that the War Department be empowered to acquire a tract of land to include the site of the fort and the old burying ground, of adequate size for a small park and national cemetery, and to appropriate a sum sufficient to carry out such purpose, and your memorialist prays that your honorable body may speedily pass such act. And your memorialist, as in duty bound, will ever pray.

Approved February 15, 1901.

S. R. VAN SANT, *Governor.*

Mr. HALE presented a petition of Local Union No. 40, Cigar Makers' International Union, of Biddeford, Me., praying for the enactment of legislation providing that all the remaining public lands be held for the benefit of the whole people, and that no grants of title to the same be made to any but actual settlers and home builders thereon; which was referred to the Committee on Public Lands.

Mr. SPOONER presented the petition of E. H. Cross and 18 other citizens of Winneconne, Wis., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of Local Union No. 287, Cigar Makers' International Union, of Marinette, Wis., praying for the enactment of legislation providing that all the remaining public lands be held for the benefit of the whole people, and that no grant to the title of any of these lands be given to any but actual settlers and home builders thereon; which was referred to the Committee on Public Lands.

He also presented a petition of the Woman's Christian Temperance Union of Arizona, praying for the enactment of legislation to prohibit the sale of intoxicating liquors, opium, and firearms in the New Hebrides and other islands of the Pacific; which was ordered to lie on the table.

Mr. QUARLES presented a petition of sundry citizens of Winneconne, Wis., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

Mr. PENROSE presented a petition of 50 citizens of Nicholson; of the Woman's Christian Association of Philadelphia; the Epworth League of the Methodist Episcopal Church, the Baptist Young People's Union, the Woman's Christian Temperance Union, and the Christian Endeavor Society of the Presbyterian Church, all of Tunkhannock; of 23 citizens of Glenside, and of the Missionary Society of the Presbyterian Church of Ambler, all in the State of Pennsylvania, praying for the enactment of legislation to prohibit the sale of intoxicating liquors, opium, and firearms in the New Hebrides and other islands of the Pacific; which were ordered to lie on the table.

He also presented petitions of the Young Woman's Christian Association of Allentown; of 40 citizens of Philadelphia; of the congregations of the Second Presbyterian Church, the Grace Lutheran Church, the United Presbyterian Church, the German Reformed Church, and the Methodist Church, and sundry citizens, all of Butler; and of the Woman's Christian Temperance Union of Kennett Square, all in the State of Pennsylvania; and a petition of 40 citizens of Ocean City, N. J., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

PORT ROYAL (S. C.) NAVAL STATION.

Mr. HALE. I present certain memoranda, prepared by Rear-Admiral G. W. Sumner, United States Navy, a member of the board on removal of Port Royal Naval Station, concerning the expediency of changing the location of the naval station at Port Royal to some other point at or near Charleston, S. C. I move that the memoranda be printed as a document, and referred to the Committee on Naval Affairs.

The motion was agreed to.

TRANSPORTATION SERVICE TO MANILA.

Mr. PETTIGREW. I ask unanimous consent to have printed at the present time a list of the chartered vessels of the Pacific coast engaged in the transportation service to Manila, with the value of the vessels and the prices paid for the rental of the same. I ask that it be printed immediately for the use of the Senate, and lie on the table.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from South Dakota? The Chair hears none, and the request is granted.

ESTABLISHMENT OF THE DISTRICT GOVERNMENT.

Mr. GALLINGER. I submit an interesting document on the establishment of the government of the District of Columbia. I ask unanimous consent that it may be printed for the use of the Senate, and that 500 additional copies be printed for the use of the Committee on the District of Columbia.

The PRESIDENT pro tempore. Is there objection?

Mr. WOLCOTT. May I inquire who wrote that history?

Mr. GALLINGER. William Tindall, secretary of the Board of Commissioners of the District of Columbia.

Mr. WOLCOTT. Is he a man particularly qualified as a historian of the District of Columbia?

Mr. GALLINGER. It is hardly a historical sketch. It is a brief sketch relating to the establishment of the government of the District of Columbia, and there can be no objection to it.

Mr. WOLCOTT. Then I have no objection to the request.

The PRESIDENT pro tempore. In the absence of objection, the order asked for by the Senator from New Hampshire will be made.

EDUCATIONAL AND SANITARY CONDITIONS IN THE DISTRICT.

Mr. GALLINGER. I have another document, containing reports on educational and sanitary conditions in the District of Columbia, presented at the annual meeting of the Civic Center of Washington, held at the Columbian University January 8, 1901. These reports contain very important matter that will be of interest to the Senate; and I make the same request concerning these reports that I made in respect to the other, that they may be printed as a document for the use of the Senate, and that 500 additional copies be printed for the use of the Committee on the District of Columbia.

The PRESIDENT pro tempore. In the absence of objection, that order will be made.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Public Lands, to whom was referred the bill (S. 6048) to amend chapter 559 of the Revised Statutes of the United States, approved March 3, 1891, reported it without amendment.

Mr. GALLINGER, from the Committee on Pensions, to whom was referred the bill (H. R. 6776) granting a pension to Annie Chamberlain, reported it without amendment, and submitted a report thereon.

He also, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the amendment submitted by Mr. ELKINS on the 23d instant, providing for an appropriation for extra services of certain employees of the Senate and the House of Representatives, intended to be proposed to the general deficiency appropriation bill, reported favorably thereon, and moved that it be referred, with the accompanying papers, to the Committee on Appropriations.

Mr. TALIAFERRO, from the Committee on Pensions, to whom was referred the bill (H. R. 11453) granting a pension to Charles E. Binns, reported it without amendment, and submitted a report thereon.

Mr. VEST, from the Committee on Commerce, to whom was referred the bill (H. R. 13907) to revive and amend an act entitled "An act to authorize the Georgia Pine Railway of Georgia to construct a bridge across the Flint River, a navigable stream, in Decatur County, Ga.," reported it without amendment.

Mr. FAIRBANKS, from the Committee on Public Buildings and Grounds, to whom was referred the amendment submitted by Mr. CLAPP on the 20th instant, proposing to increase the limit of cost for the construction of the public building at St. Paul, Minn., etc., intended to be proposed to the sundry civil appropriation bill, reported it with an amendment, submitted a report thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. BURROWS, from the Committee on Revision of the Laws of the United States, to whom was referred the amendment submitted by Mr. FAIRBANKS on the 23d instant, providing for the revision and codification of the permanent laws of the United States, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

THE GEOLOGICAL SURVEY.

Mr. ELKINS. From the Committee on the Geological Survey I report back several amendments intended to be proposed to the sundry civil appropriation bill, which I ask be referred to the Committee on Appropriations.

Mr. WOLCOTT. I ask that the amendments be read. They are short, and I should like to be advised. We are all interested in the Geological Survey.

The PRESIDENT pro tempore. The amendments will be read.

The Secretary read as follows:

Amendment intended to be proposed by Mr. ELKINS to the bill (H. R. 14018) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes, viz: Line 4, page 69, strike out the word "forty" and insert the word "sixty;" so that the paragraph shall read:

"For topographic surveys in various portions of the United States, $260,000, to be immediately available."

Amendments intended to be proposed by Mr. ELKINS to the bill (H. R. 14018) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes, viz:

"Line 9, page 70, after the word "reserves," add "and for the survey and examination of the forested regions of the United States."

"Line 10, page 70, the word "thirty" to be changed to "eighty," so that the paragraph shall read:

"'For the continuation of the survey of the public lands that have been or may hereafter be designated as forest reserves, and for the survey and examination of the forested regions of the United States, $180,000, to be immediately available.'"

The PRESIDENT pro tempore. The amendments will be printed and referred to the Committee on Appropriations.

Mr. WOLCOTT. That is a proposed increase of only $70,000, Mr. President.

Mr. HALE. I suggest to the Senator that before the bill is brought before the Senate he accept these amendments at once. Otherwise, in the end the amounts would be doubled rather than what is asked for now given.

Mr. WOLCOTT. I have not a question of it. This report from the Committee on the Geological Survey is but the first step in the triumphal progress of the Geological Survey through the Senate. It will be added to by the Committee on Appropriations.

Mr. HALE. And by the Senate.

Mr. WOLCOTT. It will be increased by the Senate. It will be increased in Committee of the Whole.

Mr. HALE. And in conference.

Mr. WOLCOTT. And if the committee of conference can increase it they will do so.

Mr. ELKINS. Mr. President, is debate in order? I thought the amendments had been referred.

Mr. WOLCOTT. It is all right.

SURETIES FOR HENRY W. HOWGATE.

Mr. HOAR. I am directed by the Committee on the Judiciary to report favorably two bills which have passed the House, and one of which has already, in substance, passed the Senate. They are both House bills, and I ask that they both be put on their passage.

The PRESIDENT pro tempore. The Senator from Massachusetts, from the Committee on the Judiciary, reports favorably, without amendment, a bill, which will be read.

The Secretary read the bill (H. R. 6146) for the relief of the administrators of William B. Moses, deceased, and of Lebbeus H. Rogers, as follows:

Be it enacted, etc., That William H. Moses, Harry C. Moses, and Arthur C. Moses, administrators of William B. Moses, deceased, and Lebbeus H. Rogers, be, and are hereby, released from any and all liability to the United States by reason of the execution by said Rogers and William B. Moses of a bond in the penalty of $12,000, bearing date the —— day of March, 1878, and accepted by the Secretary of War on the 2d day of April, 1878, as sureties for Henry W. Howgate as property and disbursing officer of the Signal Corps of the United States Army; and that the said administrators of the said William B. Moses be, and they are hereby, released from all liability and lien of the judgment entered against the said administrators in behalf of the United States on said bond on the 1st day of April, 1893, in the supreme court of the District of Columbia for $12,000, with interest thereon from the 29th day of September, 1884, and costs; and that the said Lebbeus H. Rogers be, and is, hereby released from all liability and lien of the judgment entered against him in behalf of the United States on said bond on the 11th day of June, 1886, in the district court of the United States for the southern district of New York, for $13,476, with interest thereon from the —— day of April, 1887, and costs; and the Secretary of the Treasury is instructed to be satisfied of record of said judgments: *Provided, however*, That nothing herein contained shall be construed as affecting in any manner the liability of said Howgate to the United States on said bond or otherwise, civilly or criminally.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. STEWART. I should like to inquire if there is a written report?

Mr. HOAR. There is a written report made by the Senator from Kentucky [Mr. LINDSAY] and myself at the last session, and a report made in the House at the present session.

Mr. STEWART. That is what I want to know. There has been a similar case pending before the Committee on Claims.

Mr. HOAR. There is a written report.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MIDDLE JUDICIAL DISTRICT, PENNSYLVANIA.

Mr. HOAR. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. 4345) to create a new judicial district in Pennsylvania, to be called the middle district, to report it favorably without amendment, and I ask that it also be put on its passage.

The Secretary read the bill, and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NORTHERN JUDICIAL DISTRICT OF GEORGIA.

Mr. BACON. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. 6050) to create the eastern division of the northern Federal judicial district of Georgia, and for other purposes, to report it favorably without amendment, and to ask for the immediate consideration of the same.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GENERAL STAFF OF THE ARMY.

Mr. HAWLEY, from the Committee on Military Affairs, reported the following concurrent resolution; which, with the accompanying letters, was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate and House of Representatives 6,000 copies of the Legislative History of the General Staff of the Army of the United States, of which 1,500 copies shall be for the use of the Senate, 3,000 copies for

the use of the House of Representatives, and 1,500 copies for the use of the War Department.

SPECIAL PENSION LEGISLATION.

Mr. GALLINGER, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by him on the 1st instant, reported it favorably, and the resolution was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Pensions is hereby authorized and directed, by a subcommittee appointed for that purpose, to carefully examine, during the recess of Congress, all general laws on the statute books granting pensions to soldiers, their survivors, and dependents; also to make inquiry and investigation into the matter of special pension legislation, and to pursue such other inquiries on the general subject as may be deemed advisable, report to be made to the Senate, by bill or otherwise, at as early a day as practicable after the assembling of the first regular session of the Fifty-seventh Congress, the expense incurred to be paid from the contingent fund of the Senate.

HIRAM R. REVELS.

Mr. CHANDLER, from the Committee on Privileges and Elections, reported the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and hereby is, authorized and directed to pay to the legal representatives of Hiram R. Revels, late a Senator from the State of Mississippi, $4,847.05, due him as a Senator of the United States in the Forty-first Congress from the 4th of March, 1869, to the 23d of February, 1870, to be paid from the miscellaneous items of the contingent fund of the Senate.

JOSEPH C. ABBOTT.

Mr. CHANDLER, from the Committee on Privileges and Elections, reported the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and hereby is, authorized and directed to pay to the legal representatives of Joseph C. Abbott, late a Senator from the State of North Carolina, $6,543.38, due him as a Senator of the United States in the Fortieth Congress from the 4th of March, 1867, to the 24th of June, 1868, to be paid from the miscellaneous items of the contingent fund of the Senate.

OPENING OF LANDS IN OKLAHOMA.

Mr. HANSBROUGH. I am instructed by the Committee on Public Lands, to whom was referred the bill (H. R. 12901) to supplement the existing laws relating to the disposition of lands, etc., to report it favorably with certain amendments. I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. The Senator from North Dakota asks for the present consideration of the bill reported by him; which will be read in full for the information of the Senate, subject to objection.

The Secretary proceeded to read the bill.

Mr. CARTER. Is that bill being read for information with a view to securing unanimous consent for its present consideration?

The PRESIDENT pro tempore. It is.

Mr. CARTER. I feel constrained to object to the consideration of any other bill in the morning hour.

The PRESIDENT pro tempore. Objection being made, the bill goes to the Calendar.

Mr. BERRY. Mr. President, by unanimous consent I should like to say a word. I would say to the Senator from Montana that this is a most important bill, and that it is absolutely necessary to have some legislation on this subject. The committee put nothing new into the bill except to substitute the Secretary of the Interior for the President. It is a House bill, and there are no important amendments reported to it by the committee.

Thousands of people are waiting for the opening of that country, which is to take place in August, and this legislation is absolutely necessary in order that the opening may take place. I do not think there is or will be any objection to the bill, and I hope the Senator from Montana will allow the bill to be read through.

Mr. CARTER. Mr. President, my objection is based upon the fact that nearly every Senator who has reported a bill this morning has asked unanimous consent for its present consideration.

Mr. BERRY. I will repeat to the Senator that there are no important amendments offered to this bill. One amendment is to substitute the Secretary of the Interior for the President, and the other is to authorize the Secretary of the Interior to attach land to certain counties.

Mr. CARTER. I have no objection to the bill, the Senator will understand, but it is as to the matter of consideration at this time to which I am constrained to object.

Mr. BERRY. I hope the Senator will allow the bill to be read through, so that we can get it up after the Senator has concluded the consideration of the appropriation bill in his charge.

Mr. PETTIGREW. I think the bill had better go over.

Mr. CARTER. I will say to the Senator from Arkansas that later on I shall not object to the consideration of the bill.

Mr. HANSBROUGH. Mr. President, by unanimous consent, I desire to say to the Senator from Montana, if he will give me his attention, that these lands are to be opened up next August. This is a House bill, and it is extremely important that it should pass at this session. If it goes to the Calendar the Senator knows what will happen—the bill will not become a law at this session. I was instructed this morning by the Committee on Public Lands to ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. Objection being made, the bill goes to the Calendar.

Mr. HANSBROUGH. Then I will withdraw the report and will make it later.

Mr. CARTER. I will not object later in the day. There is an immense amount of morning business, and it is desirable that it should be concluded, in order that we may proceed with the consideration of the Army appropriation bill.

The PRESIDENT pro tempore. The Senator from North Dakota [Mr. HANSBROUGH] withdraws the report.

BILLS INTRODUCED.

Mr. WARREN introduced a bill (S. 6052) to amend the act providing for the opening of abandoned military reservations; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. TURLEY introduced a bill (S. 6053) for the relief of the estate of Alexander Field, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. McENERY introduced a bill (S. 6054) authorizing the Texas and Pacific Railway Company to construct a bridge across Red River, Louisiana; which was read twice by its title, and referred to the Committee on Commerce.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BAKER submitted an amendment proposing to appropriate $500 to compensate Edward D. Turnure, late a member of the Capitol police, for loss of time and expenses incurred while in the service of the Government by reason of injuries received while in the performance of his duty, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to appropriate $30,000 for the construction of a barracks at the National Home for Disabled Volunteer Soldiers at Leavenworth, Kans., intended to be proposed by him to the sundry civil appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. GALLINGER submitted an amendment directing the Secretary of the Interior to exchange 60 acres of land east of Nichols avenue for 60 acres adjoining the grounds of the Government Hospital for the Insane at Anacostia, D. C., and providing for a joint commission of three Senators and three Representatives to investigate the condition and needs of said hospital for the insane, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to appropriate $1,000 to pay John H. Walker and Daniel M. Kerr $500 each for extra services rendered to the Committee on Pensions, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Pensions, and ordered to be printed.

Mr. McMILLAN submitted an amendment proposing to appropriate $77,000 for the purchase of the land, not to exceed 25 acres, necessary to provide a park way connecting Rock Creek Park with Sixteenth street extended, in the District of Columbia, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. CARTER submitted an amendment proposing to appropriate $200 to enable the Secretary of the Senate to pay Charles S. Draper, a messenger, acting assistant doorkeeper of the Senate, a sum sufficient to make his salary for the fiscal year 1887 the same as that of the other messengers acting as assistant doorkeepers, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations.

Mr. HANSBROUGH submitted an amendment proposing to appropriate $7,500 for the purchase of a replica of the bronze statue of Rochambeau, by Ferdinand Hamar, and pedestal for the same, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. PETTUS submitted an amendment proposing to appropriate $4,000 to pay Frank Goodwin for work done and materials furnished in the construction of the buildings at Columbia Arsenal, Columbia, Tenn., intended to be proposed by him to the general deficiency appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. MORGAN submitted an amendment proposing to appropriate $10,476 to be paid to the heirs of Margaret Kennedy, widow and sole executrix of John Kennedy, deceased, as full compensation for all claim or demand of said Margaret Kennedy by reason of timber, fences, fruit trees, and other property taken and used by the Army of the United States during the late war of the rebellion, from the farm of said John Kennedy, in the District of Columbia, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. PENROSE submitted an amendment proposing to appropriate $5,000 to pay George Rushburger, of Johnstown, Pa., for discovering and capturing $11,791.19 of Santa Anna's money at Cerro Gordo, Mexico, in 1847, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. KEAN submitted an amendment proposing to appropriate $85,000 for the completion of the custom-house and post-office building at Newark, N. J., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MALLORY submitted an amendment proposing to appropriate $800 to pay B. W. Johnson, of Key West, Fla., or his legal representatives, in full satisfaction for his services in rescuing from loss a barge or lighter, which had broken adrift from the transport fleet of Major-General Shafter in the summer of 1898, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. QUARLES submitted an amendment proposing to appropriate $7,071 in settlement of the claim of H. B. Matteosian, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

POLITICAL REGISTER AND CONGRESSIONAL DIRECTORY.

Mr. LODGE. On the 21st instant I submitted an amendment proposing to appropriate $2,000 to purchase the copyright of the publication entitled The Political Register and Congressional Directory, by Ben: Perley Poore, intended to be proposed to the general deficiency appropriation bill, and had it referred to the Committee on Appropriations. I now move that that committee be discharged from the further consideration of the amendment and that it be referred to the Committee on Printing.

The motion was agreed to.

NATHAN S. JARVIS.

On motion of Mr. PETTUS it was

Ordered, That the papers in the case of Nathan S. Jarvis (S. 3270, first session Fifty-sixth Congress) be withdrawn from the files of the Senate, there having been no adverse report thereon.

THE NICARAGUA CANAL.

Mr. MORGAN submitted the following resolution, which was read:

Resolved, That House bill No. 2538, entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," which was made a special order of business for the 10th day of December, 1900, by the order of the Senate, is entitled to its place and privileges as a special order of the Senate, and shall be placed on the Calendar of the Senate as a special order, entitled to such privileges under the rules of the Senate.

The PRESIDENT pro tempore. Does the Senator from Alabama ask for the present consideration of the resolution?

Mr. CHANDLER. I understand that the resolution is in accordance with the ruling of the Chair, is it not?

The PRESIDENT pro tempore. It is not. It was ruled by the Chair that, while the Nicaragua Canal bill was a special order, it became the unfinished business when the pending unfinished business was disposed of. It so became the unfinished business, but it was displaced by the fortifications appropriation bill, which was taken up on motion, so that the Nicaragua Canal bill has now been placed on the Calendar.

Mr. CHANDLER. I have no objection to the resolution. Does the Senator from Alabama desire its immediate consideration?

Mr. MORGAN. I do not care to have the immediate consideration of the resolution, as there are other Senators pressing here, and so I am willing to have the resolution printed and go over until to-morrow.

The PRESIDENT pro tempore. The resolution will be printed and go over, under the rule, to come up to-morrow in the morning hour.

REPORT ON FIREPROOFED WOOD.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to transmit to the Senate copies of all papers accompanying the preliminary report of Naval Constructor Baxter on fireproofed wood, showing the chemicals that enter into the processes used or proposed for use for fireproofing wood required in constructing vessels of the Navy.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 23d instant approved and signed the following acts:

An act (S. 2991) confirming two locations of Chippewa half-breed scrip in the State (then Territory) of Utah; and

An act (S. 5814) to authorize the Louisville and Nashville Railroad Company to construct, maintain, and operate a bridge across the Choctawhatchee River at Geneva, Ala.

LETTERS OF JEFFERSON ON CUBAN ANNEXATION.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day; which will be read.

The Secretary read the resolution submitted by Mr. HANSBROUGH on the 18th instant, as follows:

Resolved, That the Secretary of State be, and he hereby is, directed to send to the Senate copies of letters written by Thomas Jefferson to President Madison and President Monroe concerning the annexation of Cuba.

Mr. HANSBROUGH. I ask that that resolution may go over, retaining its place.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota? The Chair hears none, and that order is made.

GOVERNMENT OF PORTO RICO.

The PRESIDENT pro tempore. If there be no further concurrent or other resolutions, the morning business is closed, and the Calendar under Rule VIII is in order.

Mr. FORAKER. I ask unanimous consent for the present consideration of the bill (H. R. 12396) to amend an act entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," approved April 12, 1900, and to increase the salary of the commissioner of education provided for by said act. I do not think there will be any discussion on the bill at all; at least, I do not think it will take any time.

Mr. SHOUP. I desire to ask the Senator from Ohio if the bill will lead to discussion?

Mr. FORAKER. I do not think it will.

Mr. SHOUP. If the bill shall lead to discussion I shall insist on calling up the Army appropriation bill.

Mr. MORGAN. The last section of the amendment, section 7, if insisted upon, will certainly lead to discussion.

Mr. FORAKER. I will withdraw that section, if necessary, because the other parts of the bill are so important that I will not insist on anything that will lead to protracted discussion.

Mr. MORGAN. I have no objection to any part of the bill except the last section.

Mr. FORAKER. In so far as I can ascertain, there is not any likelihood of any extended discussion, I think, even on that point. At any rate, I should like to have the bill read. I shall not insist upon its consideration to the prejudice of the appropriation bill the Senator from Idaho [Mr. SHOUP] has in charge.

Mr. SHOUP. I will yield later in the day, but I want to get the Army appropriation bill before the Senate. I move that the Senate proceed to the consideration of what is known as the Army appropriation bill.

The PRESIDENT pro tempore. The Senator from Idaho moves that the Senate proceed to the consideration of the Army appropriation bill. The question is on that motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14017) making appropriation for the support of the Army for the fiscal year ending June 30, 1902.

Mr. FORAKER. Now, I ask the Senator from Idaho to allow the bill to which I have referred to be considered.

Mr. SHOUP. With the understanding that it does not lead to discussion, I will yield to the Senator.

Mr. FORAKER. I understand it will not lead to discussion.

Mr. SHOUP. Then I yield.

Mr. FORAKER. Or if there should be discussion, it will be only for a very few minutes. I will say, in view of the statement by the Senator from Alabama [Mr. MORGAN], I will withdraw section 7 of the amendment, and then I do not think the bill will occupy any time, possibly not more than five minutes.

Mr. MORGAN. If that bill is to be passed at all, the seventh section of the amendment will have to be withdrawn; otherwise I shall feel obliged to discuss it.

Mr. FORAKER. Then I will not press it, but will withdraw that section, which has been objected to, as there are several sections in the bill which it is important should be passed.

Mr. BUTLER. I understand the Senator agrees to withdraw the seventh section of the amendment offered to the bill and to ask for the passage of the bill without it?

Mr. FORAKER. Yes, sir.

Mr. BUTLER. The present law reserves to Congress the right to modify or repeal all these franchises; and this bill seems to repeal that law.

Mr. FORAKER. I will not offer that amendment, but will withdraw it.

Mr. BUTLER. Very well. Then there is no objection to the bill, as far as I know.

The PRESIDENT pro tempore. Which section does the Senator from Ohio withdraw?

Mr. FORAKER. I withdraw section 7 of the amendment.

The PRESIDENT pro tempore. The amendment reported by the committee is a substitute for the House bill; and the Senator from Ohio withdraws the seventh section of the amendment. The amendment proposed by the committee will be read in full to the Senate for its information.

The SECRETARY. It is proposed to strike out all after the enacting clause of the bill and to insert:

That the salary of the commissioner of education for Porto Rico shall, from and after the 1st day of April, 1901, be $4,000 per annum, and in addition to the duties provided by section 36 of the act of April 12, 1900, the executive council shall, from time to time, determine the salaries of all officials and assistants, including a clerk and an interpreter appointed by the United States district court, as provided in section 34 of said act, which shall be paid out of the revenues of Porto Rico as other salaries and expenses of like character are paid under the provisions of said act.

SEC. 2. That such fees and expenses as are payable by the United States, if earned or incurred in connection with a circuit or district court of the United States, shall be paid from the revenues of Porto Rico, if earned or incurred in connection with the district court of the United States for Porto Rico. That all such fees, fines, costs, and forfeitures as would be deposited to the credit of the United States, if collected and paid into a circuit or district court of the United States, shall become revenues of Porto Rico, if collected and paid into the district court of the United States for Porto Rico. The commissioners appointed, as provided in section 34 of said act approved April 12, 1900, shall be entitled to the fees provided for United States commissioners: *Provided*, That payments of fees and expenses, heretofore made in good faith by the United States district marshal, either from funds advanced to him by the United States or by Porto Rico, may be allowed by the accounting officers of the United States or the accounting officers of Porto Rico, as the case may be, in the settlement of his accounts.

SEC. 3. That the jurisdiction of the district court of the United States for Porto Rico in civil cases shall, in addition to that conferred by the act of April 12, 1900, extend to and embrace controversies where the parties, or either of them, are citizens of the United States, or citizens or subjects of a foreign state or states, wherein the matter in dispute exceeds, exclusive of interest or costs, the sum or value of $1,000.

SEC. 4. That jurors and witnesses in the United States district court of Porto Rico shall be entitled to and receive 15 cents for each mile necessarily traveled over any stage line or by private conveyance and 10 cents for each mile over any railway in going to and returning from said courts: *Provided*, That no constructive or double mileage fees shall be allowed by reason of any person being summoned both as witness and juror, or as witness in two or more cases pending in the same court and triable at the same term thereof.

SEC. 5. That supervisory authority be, and hereby is, conferred on the Secretary of the Interior over all public lands in Porto Rico the title to which was granted or transferred from the Spanish Crown or Government by the treaty with Spain ceding Porto Rico to the United States; and he is hereby authorized and directed to ascertain the location and quantity of such lands, cause necessary surveys thereof to be made, and, if in his judgment it be advisable, to appoint a surveyor-general, with the necessary clerical assistance, in order to carry into effect this provision; for which purpose the sum of $16,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

SEC. 6. That this act shall take effect and be in force from and after its passage.

Mr. FORAKER. By the direction of the committee, I move to insert, as a new section, section 6.

The PRESIDENT pro tempore. The Chair will first ascertain whether there is unanimous consent for the consideration of the bill. Is there objection?

Mr. PETTIGREW. Mr. President, I do not know that I object to the consideration of the bill; but I reserve the right to object, for I wish to ask a question or two in regard to the bill.

The PRESIDENT pro tempore. The Chair hears no objection, and the bill is before the Senate as in Committee of the Whole. The question is on the amendment reported by the Senator from Ohio [Mr. FORAKER] from the Committee on Pacific Islands and Porto Rico, which has been read.

Mr. FORAKER. I offer as section 6 the following:

SEC. 6. That all customs and taxes collected under the act of April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," shall be paid into the treasury of Porto Rico, to be expended as required by law for the government and benefit of Porto Rico, instead of being paid in the Treasury of the United States, all laws and parts of laws to the contrary notwithstanding.

The PRESIDENT pro tempore. Is that to take the place of section 6 in the bill?

Mr. FORAKER. There is a mistake in the numbering of the sections, so that there was no section 6, and section 7, which has been withdrawn, should have been section 6.

The PRESIDENT pro tempore. The Senator from Ohio offers, as an amendment to the amendment, that which he has read.

Mr. MORGAN. May I ask the Senator from Ohio whether that includes the revenues collected under the tariff law?

Mr. FORAKER. It is intended to apply to that. It was the intention of the law, as originally enacted, that the 15 per cent of the Dingley rate collected here, as well as the 15 per cent of the Dingley rate collected in Porto Rico, should be paid into the treasury of Porto Rico for the benefit of Porto Rico; but under the rulings which have been made some doubt has arisen, and we want Porto Rico to have the benefit of all the revenues that are collected under that act.

Mr. MORGAN. That seems to raise a constitutional question. As I understand it, Congress may authorize the States, and of course that means the Territories, to collect tariff revenues; but they are to be paid into the Treasury of the United States by specific requirement of the Constitution. This bill proposes to pay the revenues into the treasury of Porto Rico. I merely want to call the Senator's attention to that fact. How are you going to get the revenues out of the Treasury of the United States and into the treasury of Porto Rico except by an appropriation?

Mr. FORAKER. Mr. President, the act of April 12, 1900, provides that whenever a civil government shall be established in Porto Rico and goes into full operation, and the President shall be so notified, he shall issue a proclamation to that effect. It has been claimed by some—and there is some doubt arising on account of that claim—that from and after the issuing of that proclamation the 15 per cent that is paid into the Treasury of the United States would be for the benefit of the United States and not for the benefit of Porto Rico. We want to fix it so that the United States will not be getting any benefit from that tariff, which was intended for the sole benefit of Porto Rico; and this amendment would accomplish that purpose.

Mr. MORGAN. I suggest to the Senator that he had better put it in the form of an appropriation out of the Treasury of the United States, so as not to raise the question of the right of Congress to divert funds which the Constitution says shall go into the Treasury of the United States into the treasury of Porto Rico as they accrue. If you simply make the appropriation out of the United States Treasury, I have no objection.

Mr. FORAKER. I do not think that is necessary. If, however, the Senator objects, under the promise I made that if there was any debate I would not insist on any provision of this bill, I will withdraw it.

Mr. MORGAN. I did not object. I merely wanted to call the Senator's attention to the constitutional question and to the fact that the bill, in my opinion, needs correction.

Mr. FORAKER. It does not change the general character of the provision; it simply makes it clear that the revenue is collected for Porto Rico instead of for the United States. I ask for the consideration of the bill.

The PRESIDENT pro tempore. The bill is before the Senate as in Committee of the Whole.

Mr. PETTIGREW. I wish to make an inquiry. On the 4th of February there was presented to the Senate a resolution of the people of Porto Rico protesting against the passage of a revenue law by the Porto Rican legislature and asking the Senate to nullify it. Has this bill any relation to that resolution?

Mr. FORAKER. None whatever. That bill has not been sent here yet. I have never seen it. Whenever it comes we will take it up for consideration, and we will have an opportunity to consider it.

Mr. PETTIGREW. I should like to know from the Senator whether this bill does not deal entirely with questions that can properly be dealt with by the legislature of Porto Rico?

Mr. FORAKER. No; not at all. This relates only to such customs and taxes—that is, the internal-revenue taxes—as may be collected under the law of April 12, 1900. The Senator will remember that by that law it was provided that 15 per cent of the Dingley rates of tariff should be collected by our customs officers on all importations from Porto Rico that were dutiable, and that there should be added internal taxes in that event equal to the amount that would be paid if those importations had been produced in this country. This simply provides that those revenues and taxes, the 15 per cent and the internal-revenue tax, shall be paid into the treasury of Porto Rico for their benefit instead of into our Treasury for our benefit. It has no reference to any legislation by the legislature of Porto Rico, and does not interfere in any way whatever with our rights to act upon that bill whenever it comes to us.

Mr. PETTIGREW. The reason of my inquiry was this: On February 2 the Senator from Ohio presented to the Senate a telegram from the governor of Porto Rico, which reads as follows:

Legislative session ended late last night; everything orderly and in good form; country members have left for their homes; 38 bills enacted, among them trial by jury, a first-rate tax bill on property and internal taxation, which will undoubtedly yield enough revenue for the economical needs of the government appropriation budget for next fiscal year; in fact, about everything we wanted; session has been great lesson to the people, and its results will be far-reaching; legislators have been honest, careful, and tried to do their best; the statute book will start without a bad law upon it.

ALLEN, *Governor*.

It seems to me if that is the fact, the people of Porto Rico are more fit for self-government than the people of Ohio, and therefore we ought not to interfere with any legislation that could be taken care of by a legislative body so eminently competent as that which the people of Porto Rico seem to have furnished for themselves. But if this legislation is purely one of tariff, I presume it may wait until the Supreme Court passes upon that question. It may hand down its decision to-day, and then we will see whether there is any necessity for this legislation. It is possible that the Supreme Court may decide, as they undoubtedly ought to decide,

that we can not enact tariff laws against Porto Rico or impose duties upon their products, and we are so near that decision that it hardly seems necessary to pass this legislation at the present time. So if it is not legislation that the people of Porto Rico can take care of, and is legislation which the Supreme Court is liable to say we can not take care of, the necessity for pushing the bill is not apparent.

Mr. FORAKER. The Senator from South Dakota I think misunderstands it, if he will allow me to say that in a proper spirit. This does not interfere, in any way whatever, with anything that is of a domestic nature. It does not interfere with anything the legislature of Porto Rico is charged with doing or has done. It does not create any new tax, and it does not involve any new principle. It simply provides that that which we have voted shall be collected shall, while it is being collected, go into the Porto Rican instead of our own Treasury. The report of Governor Allen that they had made proper provision was with reference to the fact that on the 1st of March of next year all this legislation will expire by limitation—I mean all this collection of revenues, the 15 per cent, and the internal-revenue taxes referred to—and the legislation which they have enacted will be in operation and yielding its results by that time. It is only a question whether until then, civil government being established there and needing these revenues, they shall be allowed to have them for the support of that government or whether they shall be put into our own Treasury, where they are not needed.

Mr. PETTIGREW. I understand these revenues are derived from customs duties?

Mr. FORAKER. Yes, sir; collected in this country.

Mr. PETTIGREW. By United States officers who are supported by this Government out of our own Treasury. I do not know that I care to object, but I want to emphasize the fact that here is a population more capable, according to the governor's statement, of self-government than that of any State of the American Union. It starts without a bad law upon its statute books. I wish to call attention to the further fact that it is unnecessary, it seems to me, to furnish legislation with regard to the customs taxes of this country until the Supreme Court passes upon the question. However, I am not going to object. I wish to call the attention of the Senate and the country to the fact that we have a colony, a crown colony at that, one body of whose legislature was selected by the people, who are able, according to our official reports, to manage their own affairs far better than the State of Ohio manages hers.

Mr. BACON. It possibly escaped me, but I did not hear any reply on the part of the Senator from Ohio to the constitutional objection suggested by the Senator from Alabama [Mr. MORGAN]. If it was my inadvertence, I would be obliged if the Senator from Ohio would repeat it.

Mr. FORAKER. I do not understand that there is any constitutional question involved in this beyond what was involved in the act of April 12, 1900.

Mr. BACON. That is no answer to it. The former act——

Mr. FORAKER. I would have to argue that matter all over again. We argued it very thoroughly at the time the bill was under consideration, and this is merely a provision to meet a doubt that has arisen as to where this money shall be paid when collected, as it must be under the law so long as the law stands; whether it shall be paid into the Treasury of the United States for our benefit, which never was intended by any member of Congress, I am sure, or whether it shall be put where it was intended to go—into the treasury of Porto Rico for the benefit of the people and government of that island. I did not suppose there would be any raising of a constitutional question.

Mr. BACON. I understood the Senator from Alabama to raise the constitutional point that the requirement was that all revenues raised in this way should go into the United States Treasury, even if thereafter devoted to some other purpose than that of the United States. I ask the Senator from Alabama whether I am correct in my understanding of the point he made?

Mr. MORGAN. My point was that the Constitution of the United States authorizes Congress to permit the States to levy tariffs and to collect revenues for the benefit of the States, if you please, but that they must go into the Treasury of the United States.

Mr. FORAKER. My understanding of that matter is that the Congress of the United States can provide for the raising of revenues and may direct how they shall be expended when collected.

Mr. BACON. I think it is a very serious and important question as to whether it is competent for us to legislate that any part of the revenues of the Government shall be devoted to any purpose without first going into the Treasury of the United States and be from that disbursed by proper appropriation. We may appropriate in advance, if you please, but is there any possible doubt about the fact—I may be utterly in error, and if I am, I am ready to recognize it when it is shown—that it is a fundamental proposition that all revenues collected must go into the Treasury and be thence disbursed? I understand this proposition to be that there shall be revenues collected, but that they shall never go into the Treasury of the United States.

Mr. SPOONER. The question which the Senator raises is one which arose under the Porto Rican act.

Mr. BACON. The Senator from Alabama raised the question. I did not raise it.

Mr. SPOONER. The Senator from Alabama raised it. I was not in the Chamber. It is in the law. Whatever vice there may be flowing from that point, if there is any vice, is now in the law. The Senator will remember that it was clearly provided in the law that the money collected—that is, of this 15 per cent both ways—

Shall not be covered into the general fund of the Treasury.

This was upon the theory that it was not collected for the United States, but was levied and collected for the benefit of Porto Rico. The law provided:

But shall be held as a separate fund, and shall be placed at the disposal of the President to be used for the government and benefit of Porto Rico until the government of Porto Rico herein provided for shall have been organized, when all moneys theretofore collected under the provisions hereof, then unexpended, shall be transferred to the local treasury of Porto Rico.

Then there is a proviso:

Provided, however, That as soon as a civil government for Porto Rico shall have been organized in accordance with the provisions of this act and notice thereof shall have been given to the President he shall make proclamation thereof, and thereafter all collections of duties and taxes, etc., in Porto Rico under the provisions of this act shall be paid into the treasury of Porto Rico, to be expended as required by law for the government and benefit thereof instead of being paid into the Treasury of the United States.

Under this it is claimed that the taxes collected at this end for Porto Rico, applicable to the support of that government, would be retained by the United States, but the taxes collected in Porto Rico alone would go into the local treasury. The mistake was in using the word "in" instead of "for." This provision was intended, obviously, to apply to all moneys collected for Porto Rico under the provisions of this act. So it leaves us in a position, because of a mere blunder in the act—the court will probably, I suppose, pass upon the validity of the act—of giving to Porto Rico only the moneys collected in Porto Rico, instead of giving to Porto Rico the moneys collected both ways for Porto Rico.

Mr. BACON. I am not speaking now of the ultimate disposition of the money. I am speaking of the machinery proposed. As I understand the proposition, the moneys are to be collected by the revenue officers of the United States and never paid over to the United States Government at all.

Mr. SPOONER. That is in the law as it stands now.

Mr. BACON. I understand the Senator.

Mr. SPOONER. This does not change that.

Mr. BACON. The Senator has stated that, and I understand it fully. I am just coming to this proposition, conceding that to be so: Suppose the original act violates the Constitution. Is that any reason why amendatory acts should perpetuate the violation? Is it not more important that the original violation should be corrected than that it should be perpetuated?

Mr. SPOONER. We are proceeding now upon the theory, until the court decides otherwise, that the original act does not violate the Constitution.

Mr. BACON. But I can not recognize that assumption. I should be very glad if the Senator from Wisconsin, who is a very learned constitutional lawyer, and to whose judgment I am frequently very glad to defer, would answer the question whether or not it is true that it is a fundamental constitutional proposition that all moneys collected by the United States Government must go into the Treasury and be thence disbursed by appropriation?

Mr. SPOONER. I think it is perfectly competent, where Congress is legislating for a Territory, as to which it sustains the relation to the Territory that a State legislature does to a State, or to a city or a county, where it is deemed wise that the money collected by Federal agencies under a law that is local in its application may be turned over to the local treasury without having been paid into the Treasury of the United States at all.

Mr. BACON. This is a proposition that moneys collected here out of imports from this island by the revenue officers of the United States Government shall be sent to the treasury of Porto Rico instead of being sent to the Treasury of the United States.

Mr. SPOONER. The theory of the law was that the United States acted as the mere agent in the collection here and was collecting for Porto Rico the taxes levied over there. That is the same doctrine that we debated and that the Senate passed upon. My point is that this does not change the law or its constitutionality. If the Senator is right that it is unconstitutional, it will be held to be unconstitutional. If the Senator is wrong, it will be held to be constitutional if the court agrees with us.

Mr. FORAKER. Will the Senator from Georgia allow me to make a suggestion?

Mr. BACON. One at a time, if you please. I want to reply to the Senator from Wisconsin.

Mr. FORAKER. I desire to make a suggestion in order to save time. Would it obviate the difficulty which the Senator from

Georgia has in mind if the amendment were changed so as to provide that the moneys thus paid into the Treasury of the United States should be hereby appropriated to the benefit of the government of Porto Rico?

Mr. BACON. Paid into the Treasury of the United States?

Mr. FORAKER. Yes; paid into the Treasury of the United States.

Mr. BACON. That is the sole question now; and the Senator speaks of the decision of the Supreme Court——

Mr. SHOUP. I shall have to insist that the Senate proceed with the consideration of the Army appropriation bill. I yielded with the understanding that there was to be no discussion.

Mr. FORAKER. I will withdraw the amendment. I feel bound to do so under the promise I made when the bill was allowed to be considered, with respect to its leading to any discussion, and there seems to be some discussion. I will withdraw it, and ask consideration for the other sections of the bill.

Mr. BACON. While I think the main purpose of the bill is obnoxious to the Constitution, that is a matter which we have already discussed, and so far as the particular point raised by the Senator from Alabama is concerned, it will be cured by the change proposed by the Senator from Ohio. I have no objection to that.

The PRESIDENT pro tempore. The amendment is withdrawn.

Mr. HARRIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Kansas?

Mr. SHOUP. I yield for morning business only.

Mr. HARRIS. I have a request to make which will not lead to any debate.

Mr. FORAKER. I wish to have my bill acted upon. I have the floor, and I want the bill acted upon.

Mr. SHOUP. I insist upon the regular order. The Senator from Ohio can be recognized later in the day.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill called up by the Senator from Ohio?

Mr. ALDRICH. Solely on condition that it leads to no discussion.

Mr. PETTUS. I merely desire to know if the Chair understands that the amendment has been withdrawn?

Mr. FORAKER. It has been so announced.

The PRESIDENT pro tempore. Which amendment?

Mr. FORAKER. The amendment which I have been discussing—section 6.

The PRESIDENT pro tempore. That has been withdrawn.

Mr. FORAKER. It is withdrawn.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT pro tempore. The committee report an amendment to the bill which has been read to the Senate. The question is on agreeing to the amendment.

Mr. PETTUS. Mr. President——

The PRESIDENT pro tempore. It is not the amendment which has been withdrawn. Is there objection to the amendment? The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. ALLISON. I wish to submit a conference report on the District of Columbia appropriation bill. It is a report of some length. I do not wish to occupy the time of the Senate in having it read, nor do I propose to have it considered at this time. I ask that the report may be printed in the RECORD, in order that Senators may have an opportunity of examining it, and I give notice that to-morrow morning at some suitable time I will ask that it be considered.

The PRESIDENT pro tempore. The Senator from Iowa asks that the report made by the conference committee be printed in the RECORD. Is there objection? The Chair hears none, and it is so ordered.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13575) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1902, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 9, 10, 51, 62, 64, 67, 68, 72, 74, 87, 88, 98, 117, 123, 124, 125, 126, 127, 130, 136, 144, 154, 156, 157, and 158.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 6, 7, 11, 16, 20, 21, 31, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 58, 60, 61, 65, 66, 78, 79, 80, 81, 82, 83, 84, 85, 86, 90, 93, 94, 95, 96, 99, 100, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 115, 116, 118, 119, 120, 121, 122, 131, 133, 137, 138, 139, 141, 148, 150, 155, 159, 161, 162, 163, and 164; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$63,988;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"To enable the assessor of the District of Columbia to complete the card records of his office by placing thereon, in addition to charges for general taxes already listed, all assessments for special improvements, these additions being rendered necessary by the recent consolidation of the special assessment office with the assessor's office, and also to prepare for the United States Treasury a list of balances of all general tax levies, $4,000, to be immediately available: *Provided*, That out of said amount such employees in the assessor's office as may be required for its successful prosecution may be paid for overtime work."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$2,100;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$21,300;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "stenographer, $720;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$11,320;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$2,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$13,800;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$24,250;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered 22 and 23, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following:

"For preparation of a plan or plans, specifications, and estimates of cost for a municipal hospital, $5,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$150,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$9,450;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$46,050;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$18,750;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$38,600;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$39,150;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: Strike out of the matter inserted by said amendment the following:

", and from Pennsylvania avenue south the name of said street shall be Fourth street SW."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$55,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: In lieu of the sum first named in said amendment insert "$375,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$60,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$10,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$146,800;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$80,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$185,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the

Senate numbered 71, and agree to the same with an amendment as follows. In lieu of the sum proposed insert "$65,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "*Provided further*, That the electric and gas light companies of the District of Columbia shall file with the Commissioners of the District of Columbia, on the 1st day of August, 1902, and annually thereafter, a statement showing their receipts and expenditures for the previous fiscal year;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$75,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: On page 23 of the bill, in line 2, after the word "therewith," insert the following: "including the preparation of plans, and for the purchase of such scientific books and periodicals as may be approved by the Secretary of War;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows: In lieu of the number proposed insert "1,256;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment as follows: In lieu of the number proposed insert "ninety-one;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$881,375;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$540;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$78,126;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$32,600;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with amendments, as follows: In line 4 of the matter inserted by said amendment, after the word "any" insert the word "number," and after the word "for" insert the words ", not exceeding three;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert "draftsman, $1,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$16,220; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows: In lieu of the number proposed insert "four;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$43,600;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$37,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "stenographer, $720;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "one inspector, $720;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$6,240;" and the Senate agree to the same.

That the House recede from its disagreement to the amenement of the Senate numbered 146, and agree to the same with an amendment as follows: In lieu of the number proposed insert "ten;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$22,993;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: On page 46 of the bill, in line 14, strike out the word "continuing" and insert in lieu thereof the words "completing the;" in line 7 of said amendment strike out the word "twenty" and insert in lieu thereof the word "ten;" and in line 8 of said amendment, after the word "sum," insert the words "herein and;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment as follows: Add at the end of said amendment the following: "*Provided*, That, if acceptable to the Commissioners of the District of Columbia, the Secretary of the Interior is hereby authorized to transfer to them for a site for said almshouse the tract of land, containing about 60 acres, belonging to the United States lying south of Congress Heights and east of Nichols avenue and detached from the present site of the Government Hospital for the Insane, and in the event of this acceptance and transfer the said sum of $25,000 shall be available for construction of the buildings for the said almshouse;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$4,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$8,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$47,300;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,400;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$30,666;" and the Senate agree to the same.

W. B. ALLISON,
W. J. SEWELL,
F. M. COCKRELL,
Managers on the part of the Senate.

WILLIAM W. GROUT,
HENRY H. BINGHAM,
JOHN M. ALLEN,
Managers on the part of the House.

CHURCH LANDS IN PHILIPPINE ISLANDS.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read:

To the Senate:

In response to the resolution of the Senate of January 26, 1901, as follows: "*Resolved*, That the President, so far as in his judgment may be not inconsistent with the public interest, be requested to communicate to the Senate all information in his power, or in that of any of the Executive Departments, in regard to the lands held in mortmain or otherwise for ecclesiastical or religious uses in the Philippine Islands, including the character of the title to such lands, the extent and value of the same, and the parts of the islands where they exist; and further, whether he has in behalf of the Government entered into any obligation, other than what is set forth in the late treaty with Spain, in regard to their disposition or the maintenance of any alleged titles thereto, or has announced or declared any policy to be pursued in dealing with such titles. Also to communicate to the Senate any map of the territory of the Philippine Islands or any part thereof in which these domains are laid down."

I transmit herewith a report of the Secretary of War, dated February 19, 1901, with accompanying papers.

I also transmit certified copies of the acts of the Philippine Commission, Nos. 56 to 68, inclusive.

WILLIAM McKINLEY.

EXECUTIVE MANSION, *February 25, 1901.*

Mr. HOAR. In listening to the communication from the Executive I do not find that the question is distinctly answered, whether he has declared any policy in dealing with these lands or whether any franchise therein or other obligation relating to the same has been already incurred. It may be that it will be found in the document after more careful examination.

The PRESIDENT pro tempore. The message and accompanying papers were referred to the Committee on the Philippines and ordered to be printed.

SOLDIERS AND SAILORS' HOMESTEADS.

Mr. HANSBROUGH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9140) providing that entrymen under the homestead laws, who have served in the United States Army, Navy, or Marine Corps, during the Spanish war or the Philippine insurrection, shall have certain service deducted from the time required to perfect title under homestead laws, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same with amendments, viz:

At the end of line 8, page 3, insert the word "*Provided*," and strike out the word and numeral "section 2" at the beginning of line 9, page 3.

Strike out all of section 3.

And the Senate agree to the same.

H. C. HANSBROUGH,
THOMAS H. CARTER,
JAMES H. BERRY,
Managers on the part of the Senate.

F. W. MONDELL,
W. L. JONES,
RUDOLPH KLEBERG,
Managers on the part of the House.

The report was agreed to.

OPENING OF LANDS IN OKLAHOMA.

Mr. HANSBROUGH. From the Committee on Public Lands, to whom was referred the bill (H. R. 12901) to supplement existing laws relating to the disposition of lands, etc., I report it with amendments. I desire to ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. SHOUP. I will yield if it does not lead to discussion.

Mr. BUTLER. That bill was objected to earlier in the day, and it might lead to some discussion. It had better go over under the rule.

The PRESIDENT pro tempore. The Senator from North Carolina objects.

Mr. HANSBROUGH. I desire to again withdraw the report. I will try again to secure unanimous consent for its consideration.

The PRESIDENT pro tempore. The report will be withdrawn, if there be no objection.

INTERNATIONAL EXPOSITION AT ST. LOUIS, MO., ETC.

Mr. PROCTOR. I ask to be excused from service on the conference committeee upon the amendments of the Senate to the

bill (H. R. 9829) to provide for celebrating the one hundredth anniversary of the purchase of the Louisiana territory by the United States by holding an international exhibition of arts, industries, manufactures, and the products of the soil, mine, forest, and sea in the city of St. Louis, in the State of Missouri.

The PRESIDENT pro tempore. The Senator from Vermont asks to be excused from service on the conference committee on the industrial exposition bill. Is there objection? The Chair hears none. The Chair will appoint in the the place made vacant the junior Senator from Massachusetts [Mr. LODGE].

EVENING SESSION.

Mr. SHOUP. I ask unanimous consent that at half past 5 o'clock to-day the Senate take a recess until 8 o'clock to-night.

The PRESIDENT pro tempore. The Senator from Idaho asks unanimous consent that at half past 5 o'clock to-day the Senate take a recess until 8 o'clock in the evening. Is there objection?

Mr. BACON. I do not know that any of us will object. But would it not be well to defer the request until some later hour to-day?

Mr. SHOUP. I ask it now.

Mr. BACON. Very well.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14017) making appropriation for the support of the Army for the fiscal year ending June 30, 1902.

Mr. PLATT of Connecticut. From the Committee on Relations with Cuba, I propose, as directed by the committee, an amendment to the Army appropriation bill, and ask that the same be printed and referred to the Committee on Military Affairs.

The PRESIDENT pro tempore. Is it reported favorably?

Mr. CHANDLER. I ask that the amendment be read.

Mr. CARTER. I suggest that the amendment lie on the table, if it is proposed to the pending bill.

Mr. STEWART. I should like to have it read.

Mr. PLATT of Connecticut. The rule requires that it shall be referred to the Committee on Military Affairs.

Mr. ALDRICH. The amendment contains no appropriation, and I think, so long as it does not, the rule does not apply to this kind of an amendment.

Mr. PLATT of Connecticut. Very well.

The PRESIDENT pro tempore. The Senator from Connecticut, from the Committee on Relations with Cuba, reports favorably an amendment to be proposed to the Army appropriation bill.

Mr. PLATT of Connecticut. I ask that it be read.

The PRESIDENT pro tempore. It will be read to the Senate.

The SECRETARY. On page 6, line 12, it is proposed to insert:

That in fulfillment of the declaration contained in the joint resolution approved April 20, 1898, entitled "For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect," the President is hereby authorized to "leave the government and control of the island of Cuba to its people" so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

I.

That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes or otherwise lodgment in or control over any portion of said island.

II.

That said government shall not assume or contract any public debt to pay the interest upon which and to make reasonable sinking-fund provision for the ultimate discharge of which the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

III.

That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

IV.

That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

V.

That the government of Cuba will execute, and as far as necessary extend, the plans already devised or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

VI.

That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty

VII.

That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points, to be agreed upon with the President of the United States.

VIII.

That by way of further assurance the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. MONEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Mississippi?

Mr. SHOUP. For what purpose?

Mr. MONEY. For the purpose of calling up and having passed a local bridge bill, to which there is no objection. It has already passed the House, and it will take only a moment.

Mr. SHOUP. I can not yield at this time for the passage of any bill. Later in the day the Senator from Mississippi will have an opportunity to secure consideration for the bill.

Mr. PETTUS. Mr. President, I make a point of order against the provision on the last page of the bill, that the amendment proposed by the Committee on Military Affairs to House bill 14017, which amendment is on page 39 and on the lines from 3 to 15, both inclusive, is not in order, for that said bill is a general appropriation bill and the said amendment proposes general legislation contrary to the third paragraph of the sixteenth standing rule of the Senate, which declares as follows:

No amendment which proposes general legislation shall be received to any general appropriation bill.

I ask the judgment of the President of the Senate upon my point of order.

The PRESIDENT pro tempore. The Chair declines to rule upon it until that amendment is reached.

Mr. CARTER. That is according to the understanding when the bill was taken up.

The PRESIDENT pro tempore. The reading of the bill will be continued.

The Secretary resumed the reading of the bill at line 21, page 30. The next amendment of the Committee on Military Affairs was, on page 31, line 22, after the word "construction," to strike out "until used" and insert:

Provided further, That the number of draft animals purchased from this appropriation, added to those now on hand, shall be limited to such numbers as are actually required for the service.

So as to read:

Provided, That the balance of the appropriation of $100,000 made by the act of May 26, 1900, for construction of military roads and bridges in Alaska remaining unexpended on June 30, 1901, is hereby reappropriated and made available for such construction: *Provided further*, That the number of draft animals purchased from this appropriation, added to those now on hand, shall be limited to such numbers as are actually required for the service.

The amendment was agreed to.

The next amendment was, on page 32, line 15, after the word "reasons," to strike out "prisoner who had been confined under a court-martial sentence involving dishonorable discharge;" so as to make the clause read:

Clothing and camp and garrison equipage: For cloth, woolens, materials, and for the manufacture of clothing for the Army, for issue and for sale at cost price according to the Army Regulations; for altering and fitting clothing and washing and cleaning, when necessary; for equipage, and for expenses of packing and handling, and similar necessaries; for a suit of citizen's outer clothing, to cost not exceeding $10, to be issued upon release from confinement to each prisoner who has been confined under a court-martial sentence involving dishonorable discharge, for indemnity to officers and men of the Army for clothing and bedding, etc., destroyed by order of medical officers of the Army for sanitary reasons, $8,000,000.

The amendment was agreed to.

The next amendment was, under the subhead "Medical Department," on page 33, after line 7, to strike out the following:

For the purchase of medical and hospital supplies and all other miscellaneous expenses of the hospital department of the Army, $2,000,000.

And insert:

For the purchase of medical and hospital supplies, including disinfectants for military posts, camps, hospitals, hospital ships, and transports; for the purchase, installation, operation, and maintenance of ice-making plants; for expenses of medical supply depots; for medical care and treatment of officers and enlisted men of the Army on duty, and of prisoners of war and other persons in military custody or confinement, at posts and stations for which no other provision is made, under such regulations as shall have been or shall be prescribed by the Secretary of War; for the proper care and treatment of epidemic and contagious diseases in the Army or at military posts or stations, including measures to prevent the spread thereof, and the payment of reasonable damages not otherwise provided for for bedding and clothing injured or destroyed in such prevention; for the pay of male and female nurses, not including the Nurse Corps (female), and of cooks and other civilians, employed for the proper care of sick officers and soldiers under such regulations fixing their number, qualifications, assignment, pay, and allowances as shall have been or shall be prescribed by the Secretary of War; for the pay of civilian physicians employed to examine physically applicants for enlistment and enlisted men, and to render other professional service from time to time under proper authority; for the pay of other employees of the Medical Department; for the payment of express companies and local transfers employed directly by the Medical Department for the transportation of medical and hospital supplies, including bidders' samples

and water for analysis; for supplies for use in teaching the art of cooking to the Hospital Corps; for the supply of the Army and Navy Hospital at Hot Springs, Ark.; for advertising, laundry, and all other necessary miscellaneous expenses of the Medical Department, $2,000,000.

The amendment was agreed to.

The next amendment was, under the subhead "Ordnance Department," on page 38, after line 16, to insert:

Provided further, That the Secretary of War is hereby authorized to appoint two additional members for the Board of Ordnance and Fortification, both of whom shall be selected from the Artillery Corps.

Mr. CARTER. I understand that that amendment has been inserted in the fortifications appropriation bill, and therefore I ask that it be disagreed to.

The amendment was rejected.

Mr. CARTER subsequently said: At the suggestion of a member of the committee, I move to reconsider, for the purpose of conference, the vote by which the amendment on page 38, inserting lines 17 to 20, inclusive, was rejected, so as to allow the matter to remain in the bill.

The PRESIDENT pro tempore. If there be no objection, the action of the Senate by which the amendment was disagreed to will be reconsidered, and if there be no objection the amendment will be agreed to. It is agreed to.

Mr. NELSON. I desire to offer an amendment to come in at the end of the paragraph, or at the end of line 16.

The PRESIDENT pro tempore. Under the unanimous-consent agreement the committee amendments were first to be acted upon.

Mr. NELSON. Very well; I will wait.

The PRESIDENT pro tempore. The bill will be open later on, of course, to any amendment.

Mr. NELSON. Very well.

The next amendment of the Committee on Military Affairs was, on page 38, after line 20, to insert:

The time for examination of monthly accounts, covering expenditures from appropriations for the Army, by the bureaus and offices of the War Department, after the date of actual receipt and before transmitting the same to the Auditor for the War Department, as limited by section 12, act approved July 31, 1894, is hereby extended from twenty to sixty days.

The amendment was agreed to.

The next amendment was, on page 39, after line 2, to insert:

All military, civil, and judicial powers necessary to govern the Philippine Islands, acquired from Spain by the treaties concluded at Paris on the 10th day of December, 1898, and at Washington on the 7th day of November, 1900, shall, until otherwise provided by Congress, be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct, for the establishment of civil government and for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion: *Provided*, That all franchises granted under the authority hereof shall contain a reservation of the right to alter, amend, or repeal the same.

Mr. PETTUS. Mr. President——

The PRESIDENT pro tempore. The Senator from Alabama raises the point of order that this amendment is general legislation. The Chair submits the question to the Senate for its decision. Is the amendment in order? Is the question before the Senate?

Mr. PETTUS. On that question I ask for a yea-and-nay vote.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. McMILLAN (when his name was called). I am paired with the Senator from Kentucky [Mr. LINDSAY]. I do not see him at present in the Chamber. I will transfer that pair to the Senator from Nevada [Mr. JONES] and vote. I vote "yea."

Mr. MONEY (when his name was called). I am paired with the senior Senator from Oregon [Mr. McBRIDE].

Mr. MORGAN (when his name was called). This seems to be a political division, and I am paired with the Senator from Pennsylvania [Mr. QUAY]. If he were present I should vote "nay."

Mr. PENROSE. I suggest to the Senator from Alabama that his pair be transferred to the Senator from Delaware [Mr. KENNEY], with whom I have a general pair, and then we can both vote.

Mr. MORGAN. All right. I vote "nay."

Mr. PETTUS (when his name was called). I am paired with the senior Senator from Massachusetts [Mr. HOAR], who is not present, and I withhold my vote. I should vote "nay" if I had the privilege of voting.

Mr. PRITCHARD (when his name was called). I have a general pair with the Senator from South Carolina [Mr. McLAURIN] and withhold my vote.

Mr. WARREN (when his name was called). I am paired with the Senator from Washington [Mr. TURNER]. I inquire if he has voted.

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. WARREN. Then I withhold my vote.

The roll call was concluded.

Mr. HALE. I have a general pair with the Senator from Arkansas [Mr. JONES]. If he were present I should vote "yea," and I think he would vote "nay."

Mr. BERRY. I will state that my colleague [Mr. JONES of Arkansas] would vote "nay" if he were here.

Mr. CHILTON (after having voted in the negative). I will ask if the Senator from West Virginia [Mr. ELKINS] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. CHILTON. I have a general pair with that Senator, and therefore withdraw my vote.

The result was announced—yeas 39, nays 23; as follows:

YEAS—39.

Aldrich,	Dillingham,	Lodge,	Quarles,
Allison,	Dolliver,	McComas,	Scott,
Baker,	Fairbanks,	McCumber,	Sewell,
Bard,	Foster,	McMillan,	Shoup,
Beveridge,	Gallinger,	Nelson,	Simon,
Burrows,	Hanna,	Penrose,	Spooner,
Carter,	Hansbrough,	Perkins,	Stewart,
Chandler,	Hawley,	Platt, Conn.	Thurston,
Cullom,	Kean,	Platt, N. Y.	Wolcott.
Deboe,	Kearns,	Proctor,	

NAYS—23.

Allen,	Clay,	McEnery,	Taliaferro,
Bacon,	Cockrell,	Mallory,	Teller,
Bate,	Culberson,	Martin,	Tillman,
Berry,	Daniel,	Morgan,	Turley,
Butler,	Harris,	Pettigrew,	Vest.
Caffery,	Heitfeld,	Rawlins,	

NOT VOTING—26.

Chilton,	Hale,	McBride,	Sullivan,
Clapp,	Hoar,	McLaurin,	Turner,
Clark,	Jones, Ark.	Mason,	Warren,
Depew,	Jones, Nev.	Money,	Wellington,
Elkins,	Kenney,	Pettus,	Wetmore.
Foraker,	Kyle,	Pritchard,	
Frye,	Lindsay,	Quay,	

So the Senate declared the amendment of the committee to be in order.

Mr. VEST. I offer an amendment to be inserted at the end of that portion of the bill which has just been declared to be in order.

Mr. PETTIGREW. Mr. President, I should like to know how the Chair voted on the proposition whether the amendment is in order or not?

The PRESIDENT pro tempore. Does the Senator rise to a question of order?

Mr. PETTIGREW. To a question of privilege, I think.

Mr. CARTER. The RECORD will show.

The PRESIDENT pro tempore. The Chair did not vote.

Mr. PETTIGREW. I think the Chair was very wise.

The PRESIDENT pro tempore. There is one more committee amendment.

Mr. VEST. I beg pardon.

The PRESIDENT pro tempore. The amendment embraced in the last few lines remains to be acted upon, and then the Senator's amendment to the amendment will be in order.

The next amendment of the Committee on Military Affairs was, on page 39, after line 15, to insert:

All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

The amendment was agreed to.

The PRESIDENT pro tempore. There was a committee amendment passed over on page 12.

Mr. TILLMAN. Mr. President——

Mr. CARTER. To that amendment I understand the Senator from South Dakota [Mr. PETTIGREW] made some objection. I presume the amendment might be recurred to now for the purpose of consideration.

Mr. PETTIGREW. The Senator from Vermont [Mr. PROCTOR] is not present, and I desire that he shall be here when the amendment is discussed. I wish to make some inquiry with regard to the facts in connection with the amendment. Therefore I desire it to go over.

The PRESIDENT pro tempore. To what amendment does the Senator from South Carolina [Mr. TILLMAN] rise?

Mr. TILLMAN. I desire to know the status of the amendment which was just declared to be in order.

The PRESIDENT pro tempore. The amendment was declared to be in order, and it is before the Senate for consideration.

Mr. TILLMAN. It has not been voted on?

The PRESIDENT pro tempore. It has been voted to be in order, but no action has been had on the amendment.

Mr. SPOONER. I offer an amendment to the amendment, to come in at the end of the clause.

The PRESIDENT pro tempore. The Senator from Missouri has also sent to the Chair an amendment, which will be considered after the amendment offered by the Senator from Wisconsin.

Mr. SPOONER. I ask that my amendment may be read.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. After the committee amendment on page 39, concluding with line 15, add the following:

Until a permanent government shall have been established in said archipelago full reports shall be made to Congress, on or before the first day of each regular session, of all legislative acts and proceedings of the temporary government instituted under the provisions hereof, and full reports of the acts and doings of said government and as to the condition of the archipelago and its people shall be made to the President, including all information which may be useful to the Congress in providing for a more permanent government.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

Mr. PETTIGREW. I suppose the amendment to the amendment is for the purpose of perfecting the amendment so that the whole matter will be before us.

Mr. SPOONER. That is all. It provides for reports.

Mr. PETTIGREW. By this course we are precipitated into a debate on this question upon amendments which are presented to-day, and it is hardly fair. Here is an amendment now of great importance, and an amendment in regard to Cuba of greater importance, that are not in print. I hope, therefore, the friends of these remarkable amendments will explain these matters to the Senate before we are compelled to debate them, at least, and thereby give us an opportunity to see what they offer.

Mr. SPOONER. Mr. President——

The PRESIDENT pro tempore. The amendment of the Senator from Wisconsin to the amendment will be agreed to, if there be no objection. It is agreed to.

Mr. RAWLINS. Mr. President——

The PRESIDENT pro tempore. The Senator from Missouri [Mr. VEST] has offered an amendment to the amendment.

Mr. RAWLINS. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Utah will state it.

Mr. RAWLINS. I gave notice of an amendment to this amendment several days ago, which is printed. I ask if the amendment which I have offered will be in order after the pending amendments have been acted on?

Mr. VEST. Of course it will.

The PRESIDENT pro tempore. There is no limit to the time when a Senator may offer an amendment. The Senator from Missouri offers an amendment to the amendment, which will be read.

The SECRETARY. Add at the end of the amendment just adopted the following proviso:

Provided, That no judgment, order, nor act by any of said officials so appointed shall conflict with the Constitution and laws of the United States.

Mr. ALDRICH. To what amendment is that an amendment?

The PRESIDENT pro tempore. It is an amendment offered by the Senator from Missouri [Mr. VEST] to the amendment of the committee as amended. The Chair is of the opinion that it should come in after line 15, after the word "same," instead of at the end of the amendment as amended.

Mr. McCOMAS. I ask that the amendment to the amendment may again be read.

The PRESIDENT pro tempore. The amendment to the amendment will again be read.

The SECRETARY. Add after the word "laws," at the end of line 15, page 39, the following proviso:

Provided, That no judgment, order, nor act by any of said officials so appointed shall conflict with the Constitution and laws of the United States.

Mr. SPOONER. Mr. President, I hope that amendment will not be adopted. It certainly is unnecessary in one aspect of the matter.

If the Supreme Court of the United States shall decide, as has been contended to be the law, that the Constitution ex proprio vigore extends over the Philippine Archipelago, no such provision is needed, because it is manifest that any order or any judgment in conflict with the Constitution would be as completely null and of no effect as any act of a State or of any Territorial legislature or of Congress in conflict with the Constitution of the United States is null and of no effect.

If the Supreme Court, however, should decide that the Constitution does not extend to the Philippine Archipelago, it is not wise, I take it, for Congress to do as to the Philippine Archipelago what it has not done as to the Territories of the United States situated upon the mainland and extend by act the provisions of the Constitution, and all of them, whether adapted or not, to that people.

There is in the Revised Statutes a provision extending to the Territories the provisions of the Constitution as far as applicable; and we may very well, I think, in the pending situation, allow that phase of the matter to rest. Certainly if the Democratic theory, if I may so speak of it without offense, for I do not mean to give offense, as a whole should be sustained, and the Constitution now is in effect there, it is unnecessary, and, if it is not in effect there, we can, with much better and fuller information, act upon this particular phase of the matter at the next session of Congress.

Mr. VEST. Mr. President, I am a little astonished to hear my friend from Wisconsin [Mr. SPOONER] assert that the doctrine that the Constitution extends proprio vigore to the Philippine Islands is a Democratic doctrine. He seems to have forgotten or overlooked the fact that the most eminent statesmen and lawyers of the Republican party, with national and historic reputations, have declared that the Constitution does so extend. Ex-Senator Edmunds, ex-President Harrison, Mr. Boutwell, ex-Senator Henderson, and a number of others agree with the large portion, if not all, of the Democratic party, that the Constitution proprio vigore, without resolution or act of Congress, extends to the Philippine Islands.

As to another point made by my friend from Wisconsin, that this question is now pending in the Supreme Court of the United States, and that if that high tribunal decides that the Constitution does apply proprio vigore to those islands, then this amendment is unnecessary; and if it does not so decide, then the matter should not be passed upon now, but left for future adjustment. I wish to say, Mr. President, that I do not know what will be the decision of the Supreme Court of the United States, and he would be a very bold man who would undertake, in view of the precedents in that court, to say what would be or will be the decision of the court, but it is rumored—and somehow these rumors seem to have come from some authoritative source; at least that has been my experience—it is rumored that the Supreme Court proposes not to decide that question at all; and every lawyer knows how easily it can evade any such decision. I say that it is rumored; and these rumors, from our former experience, seem always to be correct. I am authorized to make that statement, because all of us who were here when the Supreme Court reversed its decision upon the income tax, and without a single new argument declared that the income-tax law, which Congress had passed, was unconstitutional, those of us who were here know that for several days before that remarkable change was made in this high tribunal it was declared almost publicly in the corridors of the Capitol, and it was well known in Wall street, that the decision would be reversed, and millions of dollars passed hands in the speculative market of New York on account of this knowledge having been imparted by some mysterious process to the men engaged in those gambling transactions.

It is an open secret now, prophesied by the newspapers even, and heard now in this Capitol, that the Supreme Court does not intend to decide at all whether the Constitution applies to the Philippine Islands, but will simply evade the question by saying it is a political question entirely, and within the jurisdiction of Congress, and that Congress has the right to govern a question of revenue as it pleases wherever the jurisdiction of this country extends.

Mr. President, it is of the highest importance—higher than any other question that now is before Congress or can come before Congress—to know whether or not the Constitution of the United States applies wherever our jurisdiction extends. It is a fundamental question. If there is territory belonging to the people of the United States where the Constitution does not operate except by act or resolution of Congress, then it is of vital significance that the people of the United States should so understand, and here and now, above all times and above all places, the declaration should be made, and distinctly made, by this Senate, as to what we believe to be the proper construction of the Constitution, and whether or not it does extend proprio vigore to the Philippine Islands.

For that reason I have offered the amendment, and I ask for the yeas and nays upon it.

Mr. SPOONER. Mr. President, a single word. I have heard no rumors as to the decision of the Supreme Court, and if I had heard any I should be disposed to treat them as absolutely idle.

The Senator's criticism of the language which I used as applied to the division of opinion of to-day upon the constitutional question I think is somewhat justified. When I spoke I had in mind the original contest over the doctrine by Mr. Calhoun and his followers and the division at that time. Now, certainly, it is not necessary for Congress to pass an act declaring that some act in conflict with the Constitution is void. If the law be as my friend from Missouri thinks it is, that the Constitution is in force in the Philippines, I repeat that it is entirely unnecessary for Congress to insert in this proposition his amendment. If, on the other hand, that is not the law, I repeat that there is not only no occasion but there is no wisdom in the adoption of his amendment.

I never believed that the Constitution could be extended anywhere by an act of Congress, or that, having been extended, it could be withdrawn by an act of Congress. I do not think that the extension of the Constitution depends at all upon Congressional action; but it has been the custom of Congress in providing Territorial governments and otherwise organizing Territorial governments to enact applicable provisions of the Constitution, giving them, as I understand, in the Territories only the effect of a statute, as if the provisions had been embodied in the act itself.

Mr. BACON. Will the Senator permit me to ask him a question, as he is about passing away from the point?

Mr. SPOONER. Certainly.

Mr. BACON. The Senator speaks of the uselessness of this amendment in case the Constitution is in force in the Philippine Islands, and its equal futility in case it is not in force there. I want to recall his attention to the fact that the President of the United States took occasion to make a saving clause in the treaty with the Sulus that there should be no conflict with a certain provision of the Constitution of the United States. Now, if the Senator's argument is good, the President was really unwise in making that stipulation.

Mr. SPOONER. That was for the reason that an officer of the Government had entered into an agreement which was submitted to the President for his approval. That agreement contained, it is alleged, a provision in conflict with the Constitution of the United States, and the President declined to approve that provision of the agreement.

Mr. President, the particular clause of the Constitution involved in that matter was that slavery shall not exist in the United States or at any place within its jurisdiction. That is a self-executing provision. It requires no law to give it effect; it deals with a status, and destroys that status in the United States.

Mr. BACON. Theoretically. It did not do it practically there, I understand.

Mr. SPOONER. I am speaking of the legal proposition. That clause of the Constitution destroys that status in the United States and in all places outside of the United States—using the words in the sense they are used in the amendment—but within the jurisdiction of the Government of the United States. I find nothing in the Senator's suggestion which in the slightest degree impeaches the force of the argument which, in a word, I submit.

Mr. BACON. Will the Senator pardon me for just a moment?

Mr. SPOONER. Certainly, although I am anxious not to take much time.

Mr. BACON. I will not take much time.

Mr. SPOONER. I will yield to the Senator.

Mr. BACON. I only wish to reply to what the Senator says at that point.

The Senator says a certain proposition had been submitted to the President for his approval, a certain agreement which had been made by an officer of the Army, that a provision was contained in it which would be in conflict, if carried out literally, with a certain provision of the Constitution of the United States, and therefore it was with the President to explicitly negative it.

Now, applying the same reasoning, the committee, of which the Senator is an honored member, proposes that the Senate shall commit itself to a measure which we think is absolutely in conflict with the Constitution of the United States, and, therefore, as the President, under similar circumstances, felt called upon to negative it, it seems to me when the committee present here a proposition that there shall be committed into the hands of the President of the United States the unlimited power to organize, maintain, enforce, and administer a Government over 12,000,000 people, without any restraint or limitation whatsoever, I say when that proposition is submitted to us, believing it unconstitutional, as we do, that it is entirely in harmony and in parallel with the action of the President, when we say that we should negative the implied proposition that we should do this outside of the Constitution: that we should say, in the language of the amendment offered by the Senator from Missouri, that he must execute this power, if we confer it upon him, great and vast as it is, in consonance with the provisions of the Constitution of the United States.

Mr. SPOONER. Of course, no agreement or act which is to be submitted to the President which would be in conflict with the Constitution would be valid, whether he approved it or not. It was an entirely appropriate thing for the President to indicate that he did not approve that portion of the Sulu agreement, and so it was entirely appropriate for the Senator from Georgia [Mr. BACON] and all other Senators who regard this proposed amendment as unconstitutional to indicate by their voice and by their votes their disapproval of it. There is no question about that.

But that has nothing whatever to do, if I may say so without disrespect to the Senator, with the question which I was discussing for the moment. The Senator will agree with me that if the Constitution is in force in the Philippines any act in conflict with it would be invalid, and that no act of Congress is required to declare void an unconstitutional act.

Mr. BACON. As the Senator says that I will agree with him in that—but I will not interrupt him at this point.

Mr. SPOONER. Mr. President, to return to the point which I was discussing, Congress has sometimes and generally when organizing Territories extended applicable provisions of the Constitution to the Territory as a law and rule of action deriving its force from an act of Congress, not from the Constitution itself, as I understand it. But that has sometimes been denied. Sometimes Congress has refused in a given case as being not a needful regulation in that particular instance or an unwise regulation in that particular instance for some reason to make applicable to the Territory or to enact as to the Territory certain applicable provisions. Congress has never attempted to legislate constitutional provisions into an unorganized Territory—never; and if there ever was a case, Mr. President, where we should go slow upon that subject it seems to me this is one. So in any view of the matter I can see no justification for the amendment proposed by the Senator from Missouri.

Mr. TILLMAN. I hope the Senator from Wisconsin will not go out just as I get up.

Mr. SPOONER. I am only going for a drink of water.

Mr. TILLMAN. I beg pardon; I thought the Senator was leaving the room for some time.

Mr. President, during the last session of Congress we had upon our Calendar, and it stayed there for months, a bill introduced by the Senator from Wisconsin [Mr. SPOONER], which reads as follows:

Be it enacted, etc., That when all insurrection against the sovereignty and authority of the United States in the Philippine Islands, acquired from Spain by the treaty concluded at Paris on the 10th day of December, 1898, shall have been completely suppressed by the military and naval forces of the United States, all military, civil, and judicial powers necessary to govern the said islands shall, until otherwise provided by Congress, be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion.

Now we have an amendment submitted to the Army appropriation bill—not a separate act, not an independent proposition—but an amendment, which carries with it the obligation on the part of Congress to support the Army in the field along with a civil government in the Philippines, two entirely separate propositions, and two which ought not, in my judgment, to be linked together, because it does not allow Congress that liberty of action, even that liberty of debate, which is necessary for this great question to be settled in a judicial spirit and according to our ideas of government in the past.

The differences between the two propositions, as set forth in the amendment and in the proposed Spooner bill, are self-evident to any person who has listened to the reading. The present proposition is a bald, naked investment of power in the President. Although there may not be pacification of the Philippines and there may not be a condition helpful or productive of successful civil government, it is a proposition to vest in the President all the rights and powers to govern that territory in a civil way under civil law, and even objection is made to letting the Constitution of our country be his guiding star, leaving that as the only limitation on his power.

The Senator from Wisconsin [Mr. SPOONER] takes issue with the proposition involved in the amendment of the Senator from Missouri [Mr. VEST] that the President shall even be hampered by the Constitution, which he has sworn to support.

The milk in the cocoanut here, Mr. President, is very easy to be seen, and the reason why the original Spooner bill has been changed is apparent to anyone who will read the Taft Commission report. The original proposition involved as a condition precedent to civil government was:

That when all insurrection against the sovereignty and authority of the United States * * * shall have been absolutely suppressed.

In other words, the idea was to leave the islands under the control of the Army until peace reigned there. We have had so many conflicting and contradictory statements coming from the Philippines as to the situation there that we are to-day unable to determine just what the situation really is. The President last summer issued a proclamation declaring that the pacification of the islands was so far completed that he thought it worth while to offer amnesty to the few remaining ladrones, or rather guerrillas, a handful or so, who were scattered up and down the country firing occasionally upon our troops. Then when Congress meets, we are told that we need 100,000 men, a large standing army, in order to suppress the insurrection in the Philippines.

The Senator from New Jersey [Mr. SEWELL], of the Military Committee, rises in his seat and tells us in the plainest possible language that we have war in the Philippines, that our four hundred and odd posts are in a state of siege, and that we need a large army in order to complete the suppression of the insurrection; and Congress gives the 100,000 men. Right around we turn again, and here we are, inside of sixty days, face to face with the proposition involved in this scheme, that now we have peace there and we want a civil government. First we have peace, and then we have war, and now we have got peace again, until the people of the country can not really tell what is the situation. It appears that we have war or peace in the Philippines just as the political schemes of the Administration may require.

If we have a condition of pacification there which admits of the establishment of a civil government, why does not Congress take the question up in a calm and judicial spirit and legislate for this

territory like it has legislated for all our other territories; like it legislated last year for Alaska; like it has legislated in the past for every Territory which we have ever established, and which has since grown into a State, and like we legislated last year for Porto Rico, for instance? Why do we not either legislate for this country as though it were pacified, or let it alone to be governed by the Army? Why does the Senator from Wisconsin modify his original proposition that it is not necessary for the insurrection to be "completely suppressed" before civil government is established? I suppose he thinks that it would take possibly the rest of the century before we would get to that point where there would not be some insurrectos or rebellious Filipinos, so to speak, who were not willing to submit to our authority.

Mr. HOAR rose.

Mr. TILLMAN. Does the Senator from Massachusetts wish to ask me a question?

Mr. HOAR. I did not quite hear the Senator. I wish to ask him whether he said "the rest of the session" or "the rest of the century?"

Mr. TILLMAN. "The rest of the century." I said the Senator from Wisconsin [Mr. SPOONER] must be uneasy as to the duration of the condition of war there, and he is unwilling that the Army shall continue perpetually to govern those islands without any civil government whatever.

If we take the Taft report—the one which recently came to us—and examine it, we will see at once the reason for this change of base, this alteration of policy. I read from page 5 of that report a dispatch to the Secretary of War:

ROOT, *Secretary of War, Washington:*

If you approve, ask transmission to proper Senators and Representatives of following: Passage of Spooner bill at present session greatly needed to secure best result from improving conditions. Until its passage no purely central civil government can be established, no public franchises of any kind granted, and no substantial investment of private capital in internal improvements possible.

Then, on the next page we have this:

Sale of public lands and allowance of mining claims impossible until Spooner bill. Hundreds of American miners on ground awaiting law to perfect claims. More coming. Good element in pacification. Urgently recommend amendment Spooner bill so that its operation be not postponed until complete suppression of all insurrection, but only until in President's judgment civil government may be safely established.

Mr. BACON. What does the Senator read from?

Mr. TILLMAN. I am reading from the report of the Taft Commission, the latest information we have officially from the Philippines as to the situation there, and I am giving the reason why the original Spooner bill has been modified and brought in as an amendment to the Army appropriation bill.

Next we have, as a matter of vital moment, which Congress ought to deal with in an honest way, this:

The report shows that the islands are estimated to contain about 73,000,000 acres of land, of which less than 5,000,000 are held in private ownership, leaving in public lands over 68,000,000 acres.

Here we have a statement from our own commission in the Philippine Islands, with their ten or twelve million people, that the land tenure there is in the Government; that the inhabitants have no titles, or scarcely any, to but a modicum of their island; that we have this vast public domain, and we have the request from the commission that they be allowed to sell this land and to sell those mines. There is no limitation whatever upon them or upon any and every scheme that might be hatched by a carpetbag government to be set up there.

Mr. President, in the dark days of reconstruction in South Carolina, when carpetbaggers had full sway, after they had been in possession for seven years, when the people there had grown desperate and had decided that they would rather have no government than to have the kind they were then living under, a man who was sent here by bribed votes, which he bought, to represent that State burned his infamy in indelible lines upon the minds of the people of our State by saying there were "five years more of good stealing in South Carolina." John J. Patterson, a Senator in this body from South Carolina, as I said, by virtue of the votes which he bought, outlined his comprehension of the purposes for which civil government had been established in South Carolina under the reconstruction acts by saying there were "five years more of good stealing in South Carolina."

Mr. President, there can only be under the scheme of civil government which is authorized in this bill the establishment of a carpetbag government in the Philippines, to be appointed solely by the President. Let us grant, if you please—and I am ready to grant—that the President will exercise all due caution and precaution and endeavor, as far as he possibly can, to appoint only honest and decent men; but the appointments do not come to the Senate to be scrutinized and passed upon here. There are no limitations in the proposed law. You throw the Constitution under your feet and declare even that shall not bind him; and yet you expect to have good government there. Do you expect it? Can you expect it? Let the President, as I said, exercise all possible care and caution in making his appointments. Just consider for a moment what a vast machine it will require, protected by the Army, to inaugurate civil government in those islands—the number of judges, the executive officers, the taxgatherers, the tax assessors, everything connected with the machinery of civil government. At present we are protected by the honor of the Army; and even that is impeached. We have accusations of collusion and peculation on the part of our officers in gathering the customs. We have not any proof of it, and I do not know how to get it unless we send a committee to investigate it. But we are face to face, unless all history shall lie, with a scandal in connection with the Philippines in the near future that will pale into insignificance the direst period of carpetbaggery in the Southern States.

Yet you say even the Constitution shall not control. Here are 68,000,000 acres of land, title to which can be obtained by those who are the favorites of the governor and of the territorial or colonial legislature, or whatever other scheme of civil government shall be established, mines which the Senator from Indiana [Mr. BEVERIDGE] has stated are rich in gold and copper and all the other minerals, including coal. All these things under this scheme can be sold. The mere granting of franchises is a very small part of the power which is reserved here and which the Senator has undertaken to reserve by saying that they shall be subject to be revoked or altered or amended. The mere franchise is a bagatelle as compared with the public domain and the homes of these people whom we are subjugating at the point of the bayonet. How can Senators stand up and defend any such proposition?

If the Supreme Court should determine that the Constitution goes there ex proprio vigore, it will not need any act of Congress. If the Supreme Court shall declare that Congress must send it there, in the name of God and decency is it not time to send it there now, when you are beginning to deal with the lives, liberty, and fortunes of those people? When will it be time? When will your consciences be pricked into any condition of sensitiveness as to the rights of these people? Are we to go forward remorselessly in our scheme of spoliation; first steal their liberties or rob them of them, then turn around and make slaves of them or rob them of their homes, without leaving any rights whatever?

Why do we not provide for the sale of public lands in the Philippines like we provide for them in all our other Territories? Can anybody get title in Alaska without going through the form of entry and complying with the land laws?

I hope the Senator from Wisconsin, who is a fair man and a man whose love of his kind and whose patriotism no man can doubt, will turn his attention to this phase of the subject and see if he is not willing to offer some amendment which will protect those people from the carpet-bag scheme which is involved in this proposition.

Mr. DANIEL. Mr. President, I regret that we have been called upon on an appropriation bill, and at a time when it is not possible that we can give such attention to this matter as it deserves, to discuss a proposition in which are involved the rights and the laws that shall govern eight or ten million people. It is said by the propounder of this proposition that if the Supreme Court shall decide that the Constitution goes proprio vigore to the Philippine Islands there is no use for the amendment of the Senator from Missouri, but, on the other hand, that if the Supreme Court shall decide that the Constitution does not go proprio vigore to the Philippine Islands, then the proposition of the Senator from Missouri to carry it there is unnecessary or improvident or inexpedient.

It seems to me, Mr. President, that the distinguished Senator who propounds this amendment to the Army appropriation bill loses sight in his argument of the fact that there is a very large class and a most important class of legal enactments and of treaty engagements alike of which Congress in the one case is the supreme judge, and of which the Senate, in the other case, is the supreme judge, both the Congress and the Senate being, when they exercise their supreme judicial power, wholly uncontrolled and uncontrollable by any body in this country but themselves. This class of enactment and this class of treaties are matters which involve the distinctive political powers of Congress, when it is making a law, and the distinctive political powers of the Senate when it is making a treaty.

We have an illustration of the political power of the Senate in the very treaty with Spain from which have arisen the Philippine complications and the questions which are now being presented to us concerning them. The Supreme Court has said in well-considered cases, which command the respect of the bar and of the statesmanship and of the intelligent public thought of this country, that foreign territories can not be admitted into the Union or under the sovereign jurisdiction of the United States except for the purpose, with the view, and with the intent of transforming them in due and proper time into political bodies such as those that have always composed the Federal Union.

Now, the enactment of a law or the ordaining of a treaty is one thing. The ulterior motive, the secret connivance of the mental operation with which these things are conducted, are matters

which relate to the character of the bodies which enact or pass these statutes and treaties; and as in the very nature of things no man can pry successfully into the mental organization or ratiocination of another, so the courts have held that they can not undertake to try or to investigate or to pass upon the purposes and intent with which a coordinate branch of the Government is actuated in its pursuance of its particular functions under the Constitution. So, Mr. President, these judicial questions are questions of which Congress and the Senate, perforce of the independent coordinate relation of legislative, executive, and judicial bodies, are made the supreme judges. Congress may be regarded by the Supreme Court—we know not—as acting with respect to the Philippines in that political sense in which it does not feel itself warranted or justified in passing upon these enactments, and as Congress does not know and can not know beforehand what the Supreme Court will determine—it is obliged, it has no alternative, it must of necessity at this time and without the enlightening or guiding views of the Supreme Court as to these propositions—exercise these functions for itself. The amendment of the Senator from Missouri I have heard read only once, and I shall be obliged if it can be read again, that I may catch its particular phraseology.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The amendment will again be stated.

The Secretary read as follows:

Provided, That no judgment, order, nor act by any of said officials so appointed shall conflict with the Constitution and laws of the United States.

Mr. DANIEL. Where does it come in?

The PRESIDING OFFICER. After the word "same," in line 15, page 39.

Mr. DANIEL. It is provided by the amendment which the Senator from Missouri has offered and which applies to the acts and doings of the officials in the Philippine Islands who may thereunder be appointed by the President of the United States—

That no judgment, order, nor act by any of said officials so appointed shall conflict with the Constitution and laws of the United States.

I do not know, Mr. President, for what purpose the Senator from Missouri inserted the term "and laws of the United States" unless it be in prudence to reach, if there be such laws, such provisions of our statutes as might be construed to apply to the Philippines. But if there be provisions of law which are construed to apply to the Philippines, these words in the amendment "and laws of the United States" would be needed. Upon the spur of the moment, having had no opportunity to consider and weigh this matter until it was just presented here, it would seem to me that to require "that no judgment, order, nor act by any of said officials so appointed shall conflict with the Constitution of the United States" would be as broad as the nature of this case requires; and, in itself, is it not a wise and just provision? No one here proclaims, and I can not believe that anyone here desires, that we shall erect permanently in the Philippine Islands a monarchical or an autocratic government unrestrained by the principles to which this people have given their adherence and their constant and loyal devotion, as embodied in the Constitution of the United States. It ought not to be left to any court to consider the question whether or not the Constitution of the United States constrains the course of conduct of officials who were appointed under an act of Congress by the President of the United States, and who ought to be required as a precedent to the holding of their offices to take an oath to support the Constitution of the United States and to be guided by its restrictions and its limitations in their own conduct.

Mr. PETTUS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Alabama?

Mr. DANIEL. With pleasure.

Mr. PETTUS. I desire to suggest to the Senator from Virginia a matter which he has omitted. The Constitution of the United States itself requires all officers to take this oath.

Mr. DANIEL. I am just affirming that very proposition, that the officers of the United States should be required under this act to take the oath to support the Constitution of the United States, because they become officers of the United States, under an act of Congress and by the appointment of the Executive power.

Mr. VEST. Will the Senator from Virginia permit me for a moment?

Mr. DANIEL. Certainly.

Mr. VEST. I intended to make an explanation before, but I was interrupted for the moment. I put in this amendment the words "and all laws" in order to cover the laws of the United States in regard to public lands, wherever they might be, in order plainly to prevent the giving away of public lands by these officers, who have unlimited power under the terms of the provision which we are now considering as offered by the committee, and also as the Senator from Alabama [Mr. MORGAN] suggests to me, to cover the laws applicable to all territories or other property of the United States contained in the Revised Statutes, and also, which is equally important, the laws in regard to process in the courts for the protection of personal rights, especially the right of liberty.

I put in those words deliberately—as the Senator from Virginia expressed it, out of prudence, perhaps—in order to cover these different cases, because unless the words "all laws" are inserted in the amendment these officers, appointed by the President, with unlimited power, or such power as he chooses to give them, could enact any law they pleased, in violation of the general statutes of the United States which apply to all public lands and to the citizens of the United States in all the Territories.

Mr. DANIEL. Mr. President, I felt sure the Senator from Missouri had some good reason for the insertion of those words, and I shall not object to them, as they might have a very wholesome effect in the matters to which he refers, but I am glad that he has given the explanation which it did not occur to him to make in the few remarks he addressed to the Senate, as they are thereby better understood and appreciated.

Mr. President, we can not throw off upon the Supreme Court of the United States, or upon any other tribunal, the responsibility which rests upon us. The courts of this country are not the sole guardians of the Constitution. A very small percentage of the questions which affect the Constitution that arise in the important business of the people ever goes to a court for interpretation and construction. The great mass of matters are construed and dealt with under the sanction and under the guardianship of other responsible officers and agents of this Government, whose responsibility is just as great and whose duty is just as high to see to it that our Constitution is correctly applied as devolves upon the highest tribunal in the land.

Mr. President, I should like to inquire argumentatively—the Senator from Wisconsin, who is the patron of this amendment can answer my question in his own time; I simply ask it for the enlightenment of such a reply as I presume he can make to it—I should like to ask the question and to attract the attention of the Senate to the inquiry, whether or not this proposed clause in the Army appropriation bill is designed to be a definition of the military powers of the President of the United States as Commander in Chief of the Armies of the United States and a schedule of those powers, with intent to guide him and control him by act of Congress as a military officer in command of the Army of the United States, or whether it is designed and is in effect and fact an exercise of legislative functions and executive functions of the President of the United States, separate and apart from the definition and construction of his military power.

When a conquering army goes into a territory which comes under the jurisdiction of the conquering nation which it represents, the commanders of that army and of the detachments and divisions and corps of that army have certain powers devolved upon them by international law, by the habitual custom of nations, and by the construction of the Constitution of the United States by the Supreme Court, and by its accepted meaning and significance as all of us understand it. These military powers are to be exercised for military purposes and for the transient purpose of maintaining order and the ascendency of the arms of the nation which the military officers represent.

It is usual, Mr. President, and it is becoming; aye, more than that, it is generally customary for military officers under such conditions to recognize the de facto municipal governments of countries thus suddenly possessed—that is to say, as far as may be consistently and appropriately, having in view always the ascendency of the arms and the recognition of the authority of the nation which they represent. If they find that officials there can not be trusted, if they are doubtful, if they are suspicious, they have authority under the Constitution of the United States, in the wielding of the military arm provided by the Constitution of the United States, to remove such officials as impediments to this ascendency and to appoint officials to take their places in order that government may go on and that society may be preserved. But they are always under the Constitution of the United States. The military man who proclaims martial law under proper conditions is as much under the Constitution of the United States as the Chief Justice in his robes on the Supreme Bench of the United States. But the question is always whether or not the things done were the necessary and appropriate things for the effecting of the ascendency of the country and for the preservation of the society into which our arms have been interjected.

Now, if this statute is intended to be the definition and the detail of the military powers of the President of the United States it is one thing, and if it is the exercise of the civil powers of the Congress of the United States we intend to give the President, as chief executive of the United States, executive powers which relate to the civil government of a territory or land under the jurisdiction of the United States, it is another thing. All military orders are subject to immediate revocation. They are for the purpose of creating a modus vivendi, for dealing with transient things in a transient way, and the President may revoke as easily as he may write; he may alter and amend, change, suspend, or deal as he pleases

with military orders which are given forth and executed in virtue of his office as Commander in Chief.

But, Mr. President, if this is intended to be a basic code for the Philippine Islands, it must then be treated as a document of the civil law as contradistinguished from the military law, and if it is such, and I esteem it to be partly such, it is open, as I conceive, to just criticism.

For instance, Mr. President, this proposed statute gives authority to the President to grant franchises in those islands—

Provided, That all franchises granted under the authority hereof shall contain a reservation of the right to alter, amend, or repeal the same.

It seems to me that this provision is left in some obscurity. I believe that as Commander in Chief of the Army of the United States the President as the main and chief, and, I might say supreme, authority upon conquered territory, might grant a transient franchise if it was necessary, but it would expire with military authority. He could not give away the franchises of a people as a military officer. He could not grant them as the legislature of a State may grant them, with a power of eminent domain associated with the grant in a corporation organized under them, unless it were necessary. Whatever was necessary to be done under the principle that the public safety is the supreme law may be done by a conquering general; but the power to do it ceases with the necessity, and any franchise or any privilege or any extraordinary power exercised under the necessity of military law would die of itself with the conditions which created it.

Now, Mr. President, if this is intended to be simply the definition of the President's power as commander in chief, to avoid obscurity and to settle beforehand any question that might arise there, there should be an additional amendment put to that provision, and it should be stated that it shall expire by limitation when civil government is established in the Philippine Islands. I do not think that otherwise it would be right. I do not think that it would be in accordance with the genius of this Government. I do not think that anywhere in the history of this Government, as many Territories and annexed portions of land as it has dealt with, the President of the United States has ever been authorized, or that any one man of any kind has ever been authorized, to represent in himself the sovereignty over that piece of land to the extent of donating away or selling away or leasing away or in any manner disposing of the franchises of that land; and I do not think that it is a proper function for us to ask the President of the United States to exercise.

It is not a function that any President of the United States in more than the century of our constitutional history and during a period during which we have annexed to this country more than two-thirds of its original territory has ever been called upon to exercise. It is not a function germane to an executive office, and is not germane to any executive office in any republican form of government anywhere in the world. There is no Republican precedent for such a provision of law. There is no Democratic precedent for any such provision of law. There is no precedent of any kind in the world of republican institutions for any such provision of law. And when we come to analyze it and to consider its nature we find that its nature is totally hostile to all republican thought, whether that of America or of any other nation that is imbued with free principles. It is the intensification, the crystallization, the consummation of autocratic, monarchical thought, and it ought not to be put into any statute by authority of the Congress of the United States.

Mr. President, it is said that this amendment is modeled upon the act of Congress of October 31, 1803, which created Louisiana into two territories and is entitled "An act to enable the President of the United States to take possession of the territory ceded by France to the United States by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof." This statute provides:

That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territory ceded by France to the United States by the treaty concluded at Paris on the 30th day of April last between the two nations; and that he may, for that purpose and in order to maintain in the said territories the authority of the United States, employ any part of the Army and Navy of the United States and of the force authorized by an act passed the 3d day of March last, intituled "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," which he may deem necessary, and so much of the sum appropriated by the said act as may be necessary is hereby appropriated for the purpose of carrying this act into effect, to be applied under the direction of the President of the United States.

That is the first section. I see no objection to that section of the statute that dealt with Louisiana. I think that relates to the military authority of the President of the United States, and puts the Army and Navy at his service for the execution of a proper act on the part of the United States to take and maintain possession of land and territory which had been properly and justly acquired by the United States.

SEC. 2. *And be it further enacted*, That until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

Now, Mr. President, in this second clause of the Louisiana act there was done by statute what is usual, what is proper to be done by the conquering power in any territory which it enters for the purpose of annexation; that is to say, they recognized the existing officers. It was for the purpose of saving the society from anarchy and for leaving the government as it was found, temporarily, until Congress could legislate for it; and then it was provided that—

all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

In short, Mr. President, I do not think that anything will be found in this act or that there is any more of the act except that part which relates specifically to the Army and Navy of the United States that did not belong to the general canons of international law. Occupying a new territory by military authority, such powers as these, if that had been the case, would have devolved upon the President of the United States and been his by general construction and universal acceptation.

It is true, Mr. President, that Louisiana was not annexed by war. It is true that it was the largest territory that ever was added to a nation in all time by peaceful methods. But I am not sure that the President of the United States, in the absence of Congressional legislation, would not have had similiar powers if they had not been conferred by Congress, because the Supreme Court of the United States has predicated the authority of Congress to make laws and the authority of the President of the United States to execute laws in new territories which were brought under the jurisdiction of our Constitution upon the right of jurisdiction and ownership. Where ownership exists, there must be the power to control. The right to control grows out of ownership.

While I will express no opinion on the subject, I am not sure that the President of the United States, in the execution of a treaty which is the supreme law of the land and supremely a part of the law of the land which he is sworn faithfully to execute, would not be impliedly authorized, and would not be regarded by all enlightened men as necessarily authorized, to maintain the power by Executive authority which passed to all the branches of Government under a treaty until such time as Congress might provide for.

Mr. President, I have no disposition to be critical. I have no desire to find fault with things that are done with reference to the Philippine Islands. I recognize the fact that the treaty by which the United States annexed those islands is just as binding upon me as if I had voted for it, and I feel that it is becoming in me, whether I voted for the treaty or not, to realize and to govern myself as one comprehended by its terms and under obligations to support it as much as if I had been one of its advocates.

I am well aware, Mr. President, that the complicated condition of affairs in the Philippine Islands and around and about the Philippine Islands and in connection between the Philippine Islands and the other nations in respect to our own relations are so numerous, are so new, are so distant, are so confused and doubtful that it is almost impossible for any body of men here in the United States of America to comprehend them fully or to act with due and deliberate wisdom with regard to them. Regarding the situation as it is, I am slow to criticise and slow to find fault with those who have difficulty in any direction that they may endeavor to proceed. And yet, Mr. President, I am permeated also with another thought, and that is that we can not be too careful to guard ourselves against and to guard our country against the adoption of any autocratic method save such as may be indispensably necessary to sustain the action which it has taken; and to which until there be different action we are committed by the law of the land whether willing or no.

So far as any legislation which looks forward to the opening of the way to civil government may be involved to the softening of the conditions which exist, to the amelioration of the distresses which are upon the Philippine people, I would give most cheerful acquiescence. But because we desire to do these things in a good spirit, in a resolute and patriotic spirit, let us not permit the provocation of difficult conditions to lead us into enacting any kind of provision of law that is not necessary to these ends. Let us not undertake to give to the President of the United States any power of disposing of the permanent assets of the Philippine people; let us not put him in the attitude of being a franchise giver or a franchise seller or a franchise lessor. The franchises of those islands—their rivers, their ferries, their streets, their roads, the thousand and one privileges which are granted by public authority—are as important and as valuable to that people and as permanently associated with their happiness and their prosperity as are their fields or

their mines or their fisheries or anything else which belongs to their country. It is no part of a military government there temporarily, it is no part of a makeshift, temporizing government, civil in its character, to deal with and dispose of those matters of public possession and public concern which will affect the fortunes and the happiness of succeeding generations. I hope that if this provision as to franchises is put in the bill at all, it will be coupled with the limitation that they shall expire when civil government is established.

It is true there is the reservation of the right to alter, amend, or repeal, but while that is legally broad enough for any remedial legislation whatsoever to follow, we know that practically it is of very small consequence. If capital goes in and invests itself in improvements which are in themselves of a permanent nature, if railroads are constructed, telegraph lines run, telephones established, ferries built, steamers and boats, gas establishments, electrical establishments—if those things are disposed of, the man who once gets in will never be gotten out. In all such affairs possession is nine points of the law before they get into court, where it is generally made the tenth.

Mr. HOAR. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Virginia yield to the Senator from Massachusetts?

Mr. DANIEL. With pleasure.

Mr. HOAR. I desire to ask the Senator a question. He is a very experienced and well-read lawyer, and I wish to ask him is it not true that the courts have generally held, in expounding that reservation in the statutes for franchises, that the repeal could not destroy legal rights which had been acquired under the franchises?

Mr. DANIEL. Undoubtedly that is the modern view now taken; unquestionably that is true. Though not the original view, it is the view which has grown up from just such conditions as these. When a thing is granted and when an establishment is builded, a new jurisprudence has altered the old common law upon the subject, and vested right has come in with its collateral claims and built up a jurisprudence of its own, by which the power to alter, amend, and repeal has been whittled down to the little end of almost nothing.

Mr. President, I do not believe that this is a fitting time to discuss the Philippine question, and I have no views upon its broad and general aspects which the Senate has not already considered or which I deem at this moment and in reference to this bill worthy of its attention, but it seems to me it would be a mistake from all the standpoints of sound legislation to go at this time into doing anything more than to provide for temporary arrangements, which may be set aside and annulled, without having in the meantime generated a lot of claimants upon us.

I hope, therefore, that the clause will be stricken out of the bill, or, if the Senate thinks otherwise, that it may associate with it a limitation by which it will expire when civil government and stable government is established; but it were better, in my opinion, to strike it out, for if you associate with it a limitation that franchises shall expire when civil government is established, you immediately stimulate the desire upon the part of those who acquire valuable franchises that civil government shall not be established.

The experience of mankind teaches us, Mr. President, that those who seek honor and wealth in new lands, where they go with armies and banners, and where the population are helpless, are seldom nice about seizing and improving opportunities for their own benefit. My belief is that our American people, whether governmentally or in individual relation, will deal as liberally and as gently with those who may come under their sway as any other nation on earth; indeed, it is my belief that they will do better than any other nation on earth; but he who does his best under these conditions of constant temptation and relaxation, far remote from the seat of power, is apt to do bad, for the opportunity of the bad is so great that poor, weak human nature, whether it be American, European, or what not, is almost sure to yield to it and produce much oppression. All that we can do from this distant standpoint is to withhold all the opportunities of temptation that we can, and to hold our hands until we can see our way to put down the foot on firm ground and to guide our course with enlightenment.

Mr. CAFFERY obtained the floor.

Mr. PENROSE. I ask the Senator from Louisiana to yield to me for one moment.

The PRESIDENT pro tempore. Does the Senator from Louisiana yield?

Mr. CAFFERY. Yes, sir.

Mr. PENROSE. I ask unanimous consent of the Senate for the present consideration of the bill (S. 6012) to provide an American register for the steam yacht *May*. It is a short bill that will not take a minute. I am anxious to get it to the other House.

Mr. SHOUP. I will object to the calling up of any other bill until we get further along with the Army appropriation bill.

The PRESIDENT pro tempore. The Senator from Idaho objects.

Mr. CAFFERY. Mr. President, this amendment provides that "all military, civil, and judicial powers necessary to the government of the Philippine Islands" shall "be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct."

This looks to me to be a clear delegation of power to make laws granted by Congress to the President of the United States. There are no laws designated; there are no powers defined; but there is unlimited power given by this Congress to the President to invest in such persons as he may designate every particle of military or civil jurisdiction necessary to govern the Philippines.

When we make laws we define their purposes and their scope; we can not delegate over to others the power to make such laws; and this amendment is a clear delegation to the President of the United States to invest such persons as he may choose to designate with all the military and civil power that he may choose to clothe them with.

During the debate upon the treaty with Spain it was contended that Congress had unlimited jurisdiction and power under the Constitution to govern the Philippine Islands outside of the Constitution and beyond the Constitution, save only as to those personal rights which are guaranteed in the Bill of Rights. But this amendment goes a little further in the march of empire. It makes the President a virtual czar, unchecked and uncontrolled by any supervisory power of Congress, and the only provision limiting his power is that whatever regulations or rules he may make respecting franchises are subject to repeal by Congress.

I would ask, Mr. President, whether the power of legislation was ever granted by a Congress of the United States so broad and comprehensive as the grant in this amendment?

Mr. BERRY. Will the Senator yield to me for a question?

Mr. CAFFERY. Certainly.

Mr. BERRY. I want to ask the Senator from Louisiana if he construes this amendment to mean that the President would have the power to dispose of the public lands in the Philippine Islands? I believe it is stated in the Taft report that there are some 68,000,000 acres of land; I do not remember precisely if that is the correct amount, but it is a very large amount. Now, I want to ask the Senator from Louisiana if, under this amendment, the President could, upon such terms as he saw proper, finally dispose of and give title to all those public lands?

Mr. CAFFERY. I do not think there is any question that he can. He is not limited in any respect whatever by the amendment. He has got all military and all civil powers necessary for the establishment of a civil government; his scope of authority is defined nowhere; it is absolutely unlimited; he can adopt any law he pleases; he can vest in the person that he designates as administrator and executor of his power almost absolute despotism.

Mr. HOAR. Will the Senator from Louisiana allow me to call his attention to the fact that the report of the Taft Commission urges that power be given to sell the public lands at once, as it is necessary for their development, and a large amount of capital is there now clamoring to be invested? The commission do not use the word "clamoring," but "pressing." So that the request is that the precise thing suggested by the Senator from Arkansas [Mr. BERRY] may be accomplished.

While the President does not himself approve that in communicating the request of the commission to Congress, he says:

> I earnestly recommend legislation under which the government of the islands may have authority to assist in their peaceful industrial development in the directions indicated by the Secretary of War.

So I suppose that one of the chief purposes of this is that the public lands in the Philippine Islands may be sold before the people of the islands have any chance whatever to have a voice in their sale.

Mr. CAFFERY. Precisely. If the Philippine people ever come in possession of their own, they will discover that they have no public lands or any public franchises. They will all have been alienated.

Mr. FAIRBANKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Louisiana yield to the Senator from Indiana?

Mr. CAFFERY. Certainly.

Mr. FAIRBANKS. If the Senator from Louisiana will permit me, I should like to read from the report of the Taft Commission with respect to the disposition of the public lands.

Mr. HOAR. What page?

Mr. FAIRBANKS. Page 34. Did the Senator from Massachusetts read that?

Mr. HOAR. I stated the substance of it.

Mr. FAIRBANKS. I should like to put it in the RECORD. It is as follows:

> In view of the decision that the military government has no power to part with the public land belonging to the United States, and that that power rests alone in Congress, it becomes very essential, to assist the development

of these islands and their prosperity, that Congressional authority be vested in the government of the islands to adopt a proper public-land system and to sell the land upon proper terms. There should of course be restrictions preventing the acquisition of too large quantities by any individual or corporation; but those restrictions should only be imposed after giving due weight to the circumstances that capital can not be secured for the development of the islands unless the investment may be sufficiently great to justify the expenditure of large amounts for expensive machinery and equipment. Especially is this true in the cultivation of sugar land.

Mr. HOAR. If the Senator from Louisiana will allow me, I should like to read a few sentences from the report of the Taft Commission, which perhaps the Senator would like to have in his remarks.

Mr. CAFFERY. I should.

Mr. HOAR. After saying that to have the public land surveyed would be a work of great importance, the commission goes on to say, on page 34:

It is thought that a system of laws of public lands can be inaugurated without waiting until the survey is completed. The commission has received a sufficient number of applications for the purchase of public land to know that large amounts of American capital are only awaiting the opportunity to invest in the rich agricultural field which may here be developed. In view of the decision that the military government has no power to part with the public land belonging to the United States, and that the power rests alone in Congress, it becomes very essential, to assist the development of these islands and their prosperity, that Congressional authority be vested in the government of the islands to adopt a proper public-land system, and to sell the land upon proper terms. There should, of course, be restrictions preventing the acquisition of too large quantities by any individual or corporation, but those restrictions should only be imposed after giving due weight to the circumstances that capital can not be secured for the development of the islands unless the investment may be sufficiently great to justify the expenditure of large amounts for expensive machinery and equipments. Especially is this true in the cultivation of sugar land.

Then the commission goes on to say:

Restricted powers of a military government referred to in discussing the public lands are also painfully apparent in respect to mining claims and the organization of railroad, banking, and other corporations, and the granting of franchises generally. It is necessary that there be somebody or officer vested with legislative authority to pass laws which shall afford opportunity to capital to make investment here. This is the true and most lasting method of pacification.

In other words, if I may have one moment more, the leading, principal, bald proposal on which this amendment rests is that before those 10,000,000 people are allowed any share in their own government whatever their property is to be sold by Americans to Americans in large quantities, as on the whole the best means of pacification—that the best way to pacify a man is to have one foreign authority to sell his property and another to buy it.

Mr. TILLMAN. Will the Senator from Louisiana kindly let me add to what the Senator from Massachusetts has just quoted?

Mr. CAFFERY. Certainly.

Mr. TILLMAN. I read from page 54 of the report of the commission:

There is every reason, therefore, why a mining code should be enacted for these islands at the earliest practicable time and suitable provision made for determining the rights of all claimants to mining properties. It is believed that this whole matter should be dealt with here by the legislative body at present existing in the islands, but the commission has held that it can not determine questions arising as to existing claims nor consider applications for new concessions until duly authorized by Congress. In view of the importance of the interests involved, such authorization is urgently requested.

And as the Senator from Louisiana was saying at the beginning, unless these words "all military, civil, and judicial powers" are intended to convey that power to the Taft Commission, what do they mean?

Mr. HOAR. Mr. President, if the Senator from Louisiana will allow me one more sentence which I should like to bring out, I will not trouble him again.

Mr. CAFFERY. Certainly.

Mr. HOAR. This is the method by which we are asked to teach the Philippine Islanders the principles of liberty and civil government, which one eminent advocate of this policy in the Senate declared was going to be so perfect that undoubtedly when we contemplated that model we should act upon it here at home and pattern our own domestic arrangements accordingly.

Mr. CAFFERY. Mr. President, the method of pacification that is proposed by the Taft Commission reminds me somewhat of the method that a celebrated schoolmaster observed in treating his schoolboys. He starved them to death, did the learned Squeers, in order to pacify them, to keep them quiet, and to make them virtuous. Under the recommendations of this Taft Commission all the sugar property and all the mining interests will be absorbed by American exploiters.

Mr. TILLMAN. And what is to hinder the commission from granting franchises to sell the timber land, too?

Mr. CAFFERY. Certainly; everything that is valuable will be taken up.

Mr. LINDSAY. With the Senator's permission, I will ask if he understands this amendment to mean that the public lands may be sold and that mining privileges may be sold?

Mr. CAFFERY. I do so understand it, because all civil jurisdiction——

Mr. LINDSAY. With due respect to the Senator from Louisiana, that appears to me to be a very forced interpretation to put upon the language of the amendment.

Mr. CAFFERY. The amendment states that all military and civil powers are to be vested in such persons as the President chooses to nominate. As I said before, there is no definition limiting his powers, but all of them are granted en masse in this amendment.

Mr. MALLORY. There is a qualification necessary for the establishment of government?

Mr. CAFFERY. For the establishment of civil government. When this enlarged scope of power is left to the President, is there any guide indicated by Congress? He may establish any sort of rules, lying within the Constitution of the United States and not impinging the Bill of Rights, for the establishment of civil government. Therefore he may provide for the selling of the public lands. What is to prevent it? That is in the way of establishing civil government.

Mr. TILLMAN. I call the Senator's attention to the fact that the amendment offered by the Senator from Missouri [Mr. VEST] extends the Constitution and laws of the United States to these islands, and that is objected to as entirely unnecessary and, of course, as conflicting with the purposes involved.

Mr. CAFFERY. As suggested by the Senator from Massachusetts [Mr. HOAR], the very proviso in the amendment implies the authority which the Senator from Kentucky [Mr. LINDSAY] says does not exist, for the proviso would have had no meaning unless these franchises of land and mining are granted, and that itself is a definition of the amendment and a construction of the proviso.

Mr. President, I do not believe that the Senate of the United States is ready to give such power as is conveyed to the President in this amendment. Is there any limit upon the exercise of his discretion as to what kind of a civil government he should establish or as to civil rules he should ordain? Is there any limit to the military power that he has already and which he is exercising already? The complaint of the Taft commission is that, pending the exercise of this military authority, no civil franchises can be given.

They ask for Congressional legislation in order that these vast interests relating to sugar and to mining can be regulated and disposed of.

Mr. President, there is no precedent for this wide and comprehensive power granted to the President of the United States in this amendment. There is no precedent in the Louisiana case. In the act of 1803, providing for the government of Louisiana, it was carefully provided that the President of the United States should vest civil jurisdiction in such persons as he saw fit under the existing government of Louisiana, which was the government of France. Here the President of the United States is given broad and comprehensive power; and I contend that we have virtually delegated our lawmaking power to the President of the United States through this amendment.

However much it may be contended or with whatever force it may be contended that Congress has power to legislate for these new possessions, no one can seriously contend that the President of the United States can have that power as a delegated authority from Congress. I am very loath to see this march of empire going further and further and the rights of the Filipinos utterly disregarded and trampled under foot, for under such government as is provided for by this amendment every particle of their property can be swept out of existence. All the vast sugar estates, all the valuable mining property and franchises of every description, telegraph, telephone, bridge, and other franchises can be granted away and those poor people left with nothing but desolation and ruin. I do not believe, even had we the power so broadly given to the President as this amendment proposes to give it, it would be politic or wise or just to clothe a temporary government with the vast power that is contained in this amendment.

Mr. MALLORY. Before the Senator from Louisiana takes his seat, I should like to ask him if he thinks it better that things should be allowed to go on as they have been going on for the past two years in the Philippine Islands rather than to pass such legislation as this?

Mr. CAFFERY. I think that things had better go on forever as they are than for us voluntarily and deliberately to commit an injustice against the people of the Philippine Islands, and I think this amendment will do it. I think further than that, that it would afford a dangerous precedent for Congress now to delegate these extensive powers to the President of the United States.

Mr. President, as we do not make the laws and delegate them over to the President to make, is he not making the laws? What is there in the situation that prevents us now from making such laws as are necessary to govern those people preparatory to the establishment of a civil government, as stated in the amendment? Have we the right or the power to abdicate our functions of legislation and delegate them to the President of the United States? That is what the amendment amounts to. I say we have not, and no imperialist, however wild he was or however eager to grasp

the territory of another people, ever made contention that the President of the United States could virtually be the lawmaking power either in these foreign territories or in any other place within the jurisdiction of the United States.

Mr. TILLMAN. I call the Senator's attention, if he will kindly let me, to the fact that under the war power the President now has every power that he can possibly want, except the power of selling this land and granting these mining claims and franchises; and therefore the effort to give him that power is simply an excuse to validate the titles and to grant the franchises in a way that will stand in the courts, which the harpies who are over there waiting want.

Mr. CAFFERY. There is no other ground urged in the report of the Taft Commission for the establishment of a civil government by Congress and not by the President than the necessity of alienating these sugar lands and these mining rights to American capitalists who are already over there. Wherever the carcass is there will be found the eagles, with their pockets full of money.

Mr. FAIRBANKS. Will the Senator from Louisiana permit me to ask him a question?

Mr. CAFFERY. Certainly.

Mr. FAIRBANKS. What is the Senator's proposition? Is it that the development of the lands and the mineral resources of the islands should be practically suspended until the formation of a civil government?

Mr. CAFFERY. The development of the lands and the exploitation of mines are desired for the benefit of a lot of American capitalists. I say that that country belongs to the Filipinos, and the development of their lands and the exploitation of their mines are primarily to be given to them and they should enjoy the benefits of such development and exploitation.

Mr. FAIRBANKS. May I interrupt the Senator further?

Mr. CAFFERY. Certainly.

Mr. FAIRBANKS. Without authority to deal with the lands invested in the commission now in the islands, under some reasonable restrictions imposed by the Congress, is there any possibility that even the natives of the islands can occupy the public domain for the purpose of improving it for agricultural purposes or for the development of the mineral resources?

Mr. CAFFERY. We have not heard from the Filipinos on that point, and until we do hear I am not prepared to say; but I do know from reports that the Filipinos are by no means an ignorant or an unprogressive people. They have plantations and they are working mines; and the want of a civil government is urged in the report of the Taft commission not for the Filipinos, but for American capitalists. The Filipinos do not appear to be considered at all in this transaction.

Mr. President, I do hope the Senator from Wisconsin will amend his amendment so that whatever law is necessary for the government of the Filipinos shall have the investigation and be subject to the analysis and criticism of this lawmaking body.

Mr. TILLMAN. Will the Senator from Louisiana allow me?

Mr. CAFFERY. I am through.

Mr. TILLMAN. I wish to ask the Senator from Indiana what objection can he have to extending the land laws of the United States, homestead and everything else, to the Philippine Islands, rather than to allow the Taft Commission to legislate?

Mr. FAIRBANKS. In answer to that, I will say that the Taft Commission is composed of some of the ablest, best, most patriotic, and incorruptible men in the United States. They are on the ground. They are now in the Philippines, and they possess more information than we certainly can possess.

Mr. TILLMAN. Why do they not send it to us?

Mr. FAIRBANKS. Their recommendation is set forth in their report, which has been transmitted to the Congress. I would rather accept their judgment as to matters committed to them than that of those who have never been to the Philippines. Whether our land laws are suited to conditions as they exist in the Philippines I am not advised, and am therefore unable to enlighten the Senator.

Mr. TILLMAN. Why can not the Taft Commission send to this body, instead of a bald, naked, narrow proposition to give them power, a recommendation as to what power is necessary? Why have we never given anybody in Alaska the power to sell land? Why have we never given power to anybody in Arizona or in New Mexico to sell land? Why does Congress protect the future home seekers of this country in its public domain by providing how lands shall be obtained and how mining claims shall be entered in this country, and now turn over this whole system to five men in the Philippines, however incorruptible?

Mr. FAIRBANKS. I do not propose to enter into that field of discussion, no matter how inviting it may be.

Mr. TILLMAN. The truth of it is, how does the Senator know they are incorruptible? It is only his opinion. We supposed Neely and Rathbone were incorruptible.

Mr. FAIRBANKS. I never heard anybody impute anything improper to the commission. I personally know several of the gentlemen who compose it. I know no better men.

Mr. TILLMAN. I am not imputing anything improper to the commission, but I say that five men have no right to ask the power to deal with the liberties and the property of 10,000,000 people, and Congress has no right to give it to any five men alive. We have not any angels in this country or anywhere else.

Mr. CAFFERY. Except the Senator from South Carolina.

Mr. FAIRBANKS. It is impossible for us to be possessed, as I said before, of information as to the necessities in the Philippines in as full measure as the commission now there. They recommend that specific authority be given them to deal with the land question in a conservative manner, under restrictions. They say that it is necessary to advance pacification and assist development in the islands that they be given the authority requested, not absolute power.

Inferentially we are to believe that unless this authority is granted to them, and they are given the power to legislate as the necessities there require, the development of the industries of the islands must be suspended until when? Until a civil government is created, and nobody is wise enough to foretell when that will be.

Mr. TILLMAN. In other words, this country is to be taxed to supply an army of 75,000 men to go there to protect capitalists in buying sugar lands by the thousand, or twenty or fifty or a hundred or two hundred thousand acres. We are to furnish soldiers to guard the laborers who will exploit those lands for the benefit of rich men in this country, while the taxpayers here get no benefit. Suppose some one here wants to go there and get a home. He may want to get some of these sugar lands for himself. If we have 68,000,000 acres and there the inhabitants have only 5,000,000 all told, it looks like we ought not to fritter away the rights of our own people in that land, if we have any, to say nothing of the Filipinos.

Mr. RAWLINS. Mr. President, I do not rise for the purpose of entering into a general discussion of the Philippine question. This amendment proposed to the Army appropriation bill provides:

> All military, civil, and judicial powers necessary to govern the Philippine Islands * * * shall * * * be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct.

Now, what are the scope and meaning of this language? "All" is an indefinite, all-comprehending article. "Military, civil, and judicial powers" would seem to embrace every conceivable power. I have looked through this amendment to find any restriction, any limitation, upon their scope. I find the words "necessary to govern the Philippine Islands." But who is to determine whether the existence or exercise of a given power is necessary to govern the islands? Who is to pass upon the question of necessity? Unquestionably, "such person and persons" as directed by the President of the United States. If they, in their discretion, deem the exercise of any power, civil, military, or judicial, necessary to govern the islands, then they possess the power, and in that respect they are the judges of the scope of their own authority.

Mr. President, I find no other limitation, because those who propose this legislation declare that these powers are not circumscribed or limited by any of the provisions or limitations of the Constitution of the United States. Strenuous opposition is made to the amendment offered by the Senator from Missouri [Mr. VEST], the object of which is to make the exercise of these powers conformable to the provisions of that instrument. Not only are these powers uncircumscribed, undefined, and indefinable, boundless as the possibility of tyranny and oppression, but under this provision these powers of government are not distributed or apportioned among separate, independent, and coordinate departments of government, the one to operate as a check upon the other. They shall "be vested in such person and persons." I suppose that means one person or more persons, as directed by the President. Thus the person who may be the commander of the army may be also the governor-general of the islands. He may possess all the legislative authority to be exercised under these uncircumscribed and illimitable powers. He may be the judge who is to interpret the laws; and if in the progress of a trial or the determination of a given case which may be pending before him as a judge he finds that the law is inadequate, he may supplement it, and in the course of his decision he may enact the very law by which the case may be controlled, and promulgated for the first time in the judgment which he renders. The hand which prescribes the decree or edict, or whatever you may call it, may carry it into execution.

It is inconceivable that a proposition for this kind of legislation could be made; and of course I do not question the sincerity of purpose or the patriotic devotion of those who propose it. It embraces all authority, without limitation and without restriction. Under this power one and the same individual can be clothed with the military, the civil, the legislative, the judicial authority. If he acts as a legislator he may do anything. He may pass a bill of attainder; a law which is enacted may be prospective or it may be

retroactive; it may be ex post facto. An act which is innocent, or punishable in a certain degree when committed, may be made punishable, or the degree of punishment increased after the act has been committed and before the infliction of the punishment. An edict of legislation may be provided under the authority of this act by which the lives or the liberty or the property of the citizens or the people of those islands—one of them or all of them—may be taken away.

Within the scope and operation of this authority, if it shall be held valid in its entirety, I submit to the Senator from Wisconsin whether the persons designated here as "such person and persons," under the direction of the President, may not authorize a syndicate, a combination, or a trust—another East India Company, under the leadership of a Warren Hastings—and by legislative grant, embracing all power, turn over the islands in their entirety, and all their resources, all their lands, all their minerals, the lives and liberty of all their people, to the tender keeping and mercies and government of such syndicate and trust, to be exploited by them to their entire satisfaction and pleasure? Is it not within the power of "such person and persons," under the direction of the President, within the scope and meaning of this proposition upon a general appropriation bill, to sell the islands and all that they contain to another government for the syndicate, and for the syndicate to put the money in its own pocket? After all this has been done, under the reservation which is contained in the first proviso, it is true, we may repeal, alter, or amend the law, but the vested right still remains.

I said that this power, extraordinary and unlimited and illimitable as it is, is not divided into departments, so that the one operates as a check upon the other. The Taft commission, or whoever may be designated by the President to exercise this power, may sit as a judge in the trial of a case involving the very power in question, the right of the President to rule with an unrestricted power, and yet after the evidence has been submitted, the arguments made, and the judicial tribunal stands ready to make its decision, what do we find under the language of the proposed act? Not only is the judicial power to be exercised by such person and persons, but also in such manner as the President may direct. In other words, the judge, sitting upon the bench in the trial of a case, in some progress of the trial or the determination, may find the interposition of an edict of the President directing him how to decide the case.

All these powers are to be exercised to these ends:

For the establishment of civil government, and for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion.

The words "for the establishment of civil government" suggest the inquiry, the civil government by whom or for whom, or to provide for whose welfare? There is no description of this. Is it the autocratic form of government which is authorized in the previous part of this amendment? Is it to be a civil government by "such person and persons" and to be exercised "in such manner as the President of the United States shall direct?" Is it to be a civil government established by the people of the Philippine Islands—an independent self-government organized after the manner of the self-governing communities which ought to be established under republican form of government?

But, Mr. President, the remaining object of this legislation for "protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion" seems entirely grotesque when we view these ends with reference to the means which are provided for their accomplishment. The President is made an autocrat. He is clothed with unlimited authority of every conceivable kind and description. Without regard to the method by which he may exercise these powers, it is the installation of tyranny. It is the installation of tyranny for the protection of liberty, property, and religion, but the two, tyranny and liberty, are utterly inconsistent, irreconcilable one with the other. The existence of one implies the negation of the other; and unrestrained arbitrary power, to be exercised at the will of such person and persons as directed by the President, means not the preservation but the destruction of liberty, the annihilation of property, and in the end the extirpation of religion. It turns over the dominion of the islands, not to the military, not to the civil authorities, but it turns it over to anarchy, to bloodshed, and to desolation.

The primary object, as disclosed in the request from the Taft commission for this legislation, is that this unlimited, unusual power be conferred to the end that the lands, the mines, the forests, the material resources of the islands may be granted away to persons, to corporations, or to syndicates without restriction or limitation, because a valid grant having once been made, although the law authorizing it may be repealed, the vested right of the grant remains in those to whom the grant has been made.

Now, Mr. President, it has been the policy of the Government in dealing with the public lands and mineral resources to deal with them cautiously and carefully. Upon the organization of the territory acquired from Mexico and the organization of the Territories embraced within that territory it was nineteen years after a regular, stable Territorial government had been organized before the public-land laws of the United States were extended over that territory. Pending that time, although hundreds of thousands of American citizens established their homes within the boundaries of that territory, they could acquire no title to their farms or to the mines. It was not until 1869 that the land laws of the United States, including the mineral-land laws, were extended over this territory. It was a wise provision, because in the chaotic and disorganized state of society necessarily the new Territories are infested by speculators and people who have little regard for the rights of others or for the orderly processes of society, and corruption and plunder of the public resources will necessarily ensue.

This, it seems to me, would be an act as unwise as Congress could possibly commit. I am not questioning now the good judgment of the Taft Commission, but the Common experience and the history of this country disclose it to be true that it would be the most unsafe step that Congress could take to provide a distant tribunal and clothe it with power to dispose of the public lands and resources of those islands. It will not be in the interest of the people of the Philippine Islands if we are to turn those islands finally back to them. It will not be to the interest of the people of the United States if we retain those islands. It will not be in the interest of the public welfare or of any body of our people anywhere. It will be only for the interest in the end, as it will prove, of men who might properly, in my judgment, in advance be characterized as a band of public plunderers and thieves, because by undertaking at this distance to dispose of these rights a few adventurers will go there and seek to obtain them, and they will obtain them and hold them in such a manner as will be detrimental to the best interests of those people and detrimental to the best interests of the people of the United States.

Therefore, Mr. President, it is with no partisan view that I say at this juncture, when they are in a condition of chaos and anarchy and war there, and we are in ignorance, little understanding the true situation, we should not undertake to turn over these powers in all their plenitude and make a final disposition of these lands and these rights in those far-away islands. That seems to be the only urgency at the present time for the adoption of this measure upon this general appropriation bill. Certainly for that purpose it ought not to be enacted into law.

Now, Mr. President, but one word more. I do not think there has ever been any precedent for this kind of legislation. There is nothing in semblance of it in any part of the history of this country. I know it has been claimed that it has been framed after the analogy of the act of Congress of October 31, 1803; but upon a comparison of the two provisions it will be found that they are wholly different in their purpose and effect. The act of 1803 was to enable the President of the United States to take possession of the Louisiana territory ceded by France. The second section contains this language:

That until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers—

The language of the amendment here is "all military, civil, and judicial powers." "The" in the act of 1803 is definite. "All" is indefinite and uncertain—

all the military, civil, and judicial powers—

What powers? They are further defined in the act of 1803—

exercised by the officers of the existing government of the same—

That was a well-defined body of law, written statutory law, in the law books of the territory ceded to the United States—

exercised by the officers of the existing government of the same, shall be vested in such person and persons, and shall be exercised in such manner—

In other words, under the authority of this provision, limited as it was as to duration of time, the appointees of the President of the United States were simply to step in the shoes of those who had already their commissions from the Government of Spain or France, and they could exercise no power except the powers with which the officers holding commissions from France exercised. They were clothed with no legislative power. It was only that existing body of law which they could administer and execute. These persons appointed by the President of the United States were not clothed by this provision with any legislative authority. In other words, it was simply a continuance, temporarily, of the existence of the administration of the government and law as it was at the time when the cession was made.

Mr. HOAR. From what does the Senator read?

Mr. RAWLINS. I read from the Organic Acts of the Territories of the United States, published under the authority of Congress.

But, Mr. President, although the powers vested in the appointees of the President in that case were thus well defined and

restricted and embraced no power to legislate or to alter the existing body of law, see how restricted it was as to time:

That until the expiration of the present session of Congress—

Congress on that date, the 31st day of October, 1803, was in extraordinary session. This authority was expressly limited until the expiration of that Congress—

unless provision for the temporary government of the said territories be sooner made by Congress.

Now, as a matter of fact, under the authority itself what happened? President Jefferson appointed Governor Claiborne, of Mississippi Territory, and General Wilkinson as commissioners to take possession of the Louisiana territory. As such commissioners they received possession of the Louisiana territory on the 20th day of December following. I want to read President Jefferson's interpretation of the scope of that act. I have it here in his own language, under date of January 16, 1804, in a communication to the Senate and House of Representatives of the United States:

In execution of the act of the present session of Congress for taking possession of Louisiana, as ceded to us by France, and for the temporary government thereof—

That is, the act of October 31, 1803—

Governor Claiborne, of the Mississippi Territory, and General Wilkinson were appointed commissioners to receive possession. They proceeded with such regular troops as had been assembled at Fort Adams from the nearest posts and with some militia of the Mississippi Territory to New Orleans.

However, he says there was no occasion for using the troops. Then he proceeds with this language:

Our commissioners, on their arrival at New Orleans, found the province already delivered by the commissioners of Spain to that of France, who delivered it over to them on the 20th day of December, as appears by their declaratory act accompanying this. Governor Claiborne, being duly invested with the powers heretofore exercised by the governor and intendant of Louisiana, assumed the government on the same day, and for the maintenance of law and order immediately issued the proclamation and address now communicated.

In other words, Governor Claiborne only stepped into the shoes of the governor and the intendant. He was for the time being the executive officer, not clothed with legislative or judicial or other power, but only such power as the governor and the intendant then possessed. So with all the other officers.

But, Mr. President, with this unusual power, limited as it was in that case to the execution of existing law, the exercise of powers already construed and defined by those laws, Congress on the 26th day of March, 1804, passed an act for the government of this Territory, repealing the act of October 31, 1803. That act is entitled "An act erecting Louisiana into two Territories and providing for a temporary government there," passed March 26, 1804. This act went into effect in accordance with its terms on the 1st day of October, 1804, and the act of 1803 was thereupon superseded. As a matter of fact, the act of 1803 remained in force only for the temporary exigencies to which it refers for a period of eleven months. It was defined in every sense as transitory in the extreme; it was never contemplated to be a permanent system of government.

Mr. HOAR. May I ask the Senator a question?

Mr. RAWLINS. With pleasure.

Mr. HOAR. Was there ever a legislative act or a grant of property made under that authority, as far as the Senator is informed?

Mr. RAWLINS. I have carefully looked through the history pertaining to that transaction and all the reports made by the President to Congress in relation thereto, and I have not found any reference to a single grant or a single legislative act made under the authority of the act of 1803 to which I have made reference. Indeed, no legislation could take place under it because that was precluded by the very terms of the act itself, as I have already pointed out. The appointees of the President of the United States were to possess and exercise only "the powers exercised by the officers of the existing government of this territory." That is the language. They could exercise no power which the officers holding their commissions from Spain or France, the officers of the existing government, were not authorized to exercise. In other words, they were to step in the shoes of the existing officers—they were to be clothed with the authority which those officers possessed.

Mr. HOAR. I beg the Senator's pardon; but may I call his attention to another matter?

Mr. RAWLINS. I am glad to be interrupted by the Senator.

Mr. HOAR. I call his attention to the very limitation to which the Senator has alluded—that they are only to exercise the power for a particular purpose, in maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion. In other words, this civil authority granted by the Louisiana act is an authority, as the Senator has shown, not including legislative powers at all, and, so far as it does go, it is to be exercised in such manner as the President shall direct, not for the general purposes or powers of government, but only to maintain and protect the enjoyment of liberty, property, and religion, the purpose of this proposed act, to say nothing about religion, being to destroy the liberty and property of that people as we always understood it, and as Mr. Jefferson himself declared those words meant.

Mr. RAWLINS. Mr. President, the sole purpose of the act of 1803 was to enable the President to take possession of the new territory and to maintain the status quo there until Congress provided a regular and orderly civil government, which it did. The treaty of cession was signed on the 30th of April, 1803. Congress convened in extraordinary session on the 17th day of October following. The treaty was submitted to the Senate for ratification and was ratified on the 21st day of October, and on the 31st of October Congress passed this temporary law, and thereupon simply provided for a perpetuation of the existing government for the end specified, the protection of the inhabitants and the free enjoyment of their liberty, property, and religion.

Now, Mr. President, the provision under consideration in the Army appropriation bill differs in every respect from that from which it is claimed it has been patterned. In the act of 1803 the powers are limited. It conveyed no legislative authority. The officers were restricted to the enforcement of the duties and the exercise of the powers which were provided by the existing body of law in the ceded territory. Under the provision of the Army appropriation bill all military, civil, and judicial powers, without limitation or restriction, are conferred "upon such person and persons and shall be exercised in such manner as the President may direct."

It says "for the establishment of civil government." Well, Mr. President, what will be this government which the President himself will institute under the authority of this provision? Will it be a military government? If so, why pass this amendment to the bill? He already has authority and is now maintaining a military government. If it be not to set up a military government, then how would the Senator who proposes this amendment designate the government which will be authorized under the provisions of this law by the person or persons as directed by the President?

If it be not military, it must, in the nature of things, be civil. Then the very end of this provision is to establish civil government within these islands, clothed with all power of every description, legislative and otherwise, including the power to grant away the lands and part with the franchises and do whatsoever according to its pleasure, its caprice, and its discretion these persons may see fit to do under the direction of the President.

Then, the end is not to set up civil government. It is proposed by this amendment to set up a despotic, tyrannical civil government, having absolute sway, without regard to process of law, over the lives and the fortunes of the people of those islands—10,000,000 of people and 115,000 square miles.

I am not acquainted with the Taft Commission, but is it proposed that the gentlemen sent over there as commissioners are to be clothed with these autocratic and arbitrary powers? Would the Senator be willing in his State, would any people within the confines of the American Union be willing that their lives and their fortunes and their property and all that they hold dear should be turned over to the tender mercies of any man or any combination of men, however good, or great, or reputable they might be, holding all these things at their own disposition according to their own pleasure?

These men when once constituted with this authority, unlimited and unrestricted as it is, have not the Constitution of our country as their guide. They are shut out from that guidance. They are unrestrained by its limitations safeguarding human liberty. A man over there under this régime may be twice put in jeopardy of life and limb for the same offense. He may be expatriated forever for declaring by publication the truth in regard to the administration of the government of the men installed there and be remediless to seek redress. If under the exercise of this arbitrary power the life or the liberty of the individual may be imperiled and he appeals to one of these tribunals for release upon an application for a writ of habeas corpus, the President may interpose by his edict and direct that the application shall be denied, and the man is without redress.

Mr. President, are we to commit this act unprecedented, as I have pointed out? There is nothing in the semblance of it in all the history of our country. Are we to enact this law under this pressure and under these circumstances to accomplish these iniquitous and ulterior ends? It can not be for the preservation of life, but for its destruction, because liberty perishes the moment you install tyranny. It can not be for a republic and free government there, because the crown, the emperor, is destructive of free government. It can not be for the promotion of religion or the propagation of civilization in accordance with the conception of American institutions because the very exercise of their possession of autocratic and illimitable power is inconsistent with all these things.

Mr. President, it has been decreed that this legislation shall pass. At the proper time I shall propose an amendment so as to

limit the evil effects, so far as it may be possible, of the powers thus conferred. The amendment proposed by the Senator from Missouri [Mr. VEST] is to limit them by making them conform to the Constitution. I would change the ends of this legislation. According to the terms of this provision, if it be enacted, it will be permanent, it will be perpetual, it will be without limitation in the time of its duration, it will be a power which the Kingdom of Spain never dreamed of exercising. That will be readily seen by an examination of the laws enacted by the Kingdom of Spain in regard to the rights of those people. Indeed, I find here in this report of the Taft commission that Spain in her palmiest days never dreamed of turning over to her favorites the exploitation of the mines. They granted only leases or temporary licenses to work the mines in the Philippine Archipelago.

Mr. President, if the recommendations of the Taft Commission are to be carried out under the operations of this law, then God save those poor people. They will curse the day they ever raised their hand against their former masters. They struck for freedom and they found despotism at the hands of what they conceived to be the freest and most glorious Government and Republic upon the face of the earth.

Now, Senators, what are we proposing to do? To turn over to a few men 10,000 miles away all these powers, illimitable in scope, boundless in their possibilities of tyranny and oppression, to dispose of the heritage of those people, 10,000,000 of them, to take away their lands, to take away their mines, to take away all they possess, to annihilate their property and destroy their liberty, and turn it over to such syndicates or favorites as may meet the approving judgment of this band of tyrants whom we may thus constitute far away there, and who can not be responsible to anybody, who are not responsible to those people, who are not responsible to the Congress of the United States, who are not restricted by any of the limitations that are fixed by the free institutions of our country.

Mr. President, this is all I care to say upon this subject. It seems to me this provision ought not to be enacted.

Mr. BACON. I ask leave at this time to present an amendment which I will propose at the proper time to the bill. I present it now in order that it may be printed for the information of the Senate. I ask that it may be read.

I will state, as the reading will not correctly indicate it, that it is to come in at the end of the section with reference to the Philippine matter.

The PRESIDENT pro tempore. The amendment will be read.

The Secretary read as follows:

Amendment to be proposed by Mr. BACON to the bill making appropriation for the support of the Army for the fiscal year ending June 30, 1902.

Page 39, line 15, insert at the end thereof:

"*And provided further*, That all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature granted under the powers conferred by this act shall be reported to the Congress of the United States, which hereby reserves the power to annul or modify the same: *And provided further*, That all laws enacted by any governmental authority created under the powers conferred by this act shall be reported to the Congress of the United States, which hereby reserves the power and authority, if deemed advisable, to annul the same."

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. BACON. I simply wish to say that those two provisions are copied almost literally from the law we passed with reference to Porto Rico.

Mr. PETTUS. Mr. President——

Mr. HOAR. I desire to give notice of an amendment.

The PRESIDENT pro tempore. The Chair has recognized the junior Senator from Alabama.

Mr. PETTUS. I merely propose to offer an amendment, sir, which I ask be printed and lie on the table.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. HOAR. I have a brief amendment of which I wish to give notice and which I should like to have read and printed. It will come in at the end of the amendment proposed by the Senator from Wisconsin to the paragraph of the bill which is under discussion.

The PRESIDENT pro tempore. The proposed amendment will be read.

The SECRETARY. Following the amendment in line 15, page 39, insert the following proviso:

Provided, That no sale or lease of public property shall be made and no franchise granted which is not approved by the President of the United States and is not in his judgment clearly necessary for the immediate government of the islands and indispensable for the interest of the people thereof and which can not, without great public mischief, be postponed until the establishment of permanent civil government.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. PLATT of Connecticut. May I ask that the amendment intended to be proposed by the junior Senator from Alabama [Mr. PETTUS] may also be read?

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

Amendment proposed by Mr. PETTUS to bill H. R. No. 14017.

Insert on page 39, on and after line 15, and immediately after the words "or repeal the same:"

"*Provided further*, That every person in whom shall 'be vested' any power in or over the Philippine Islands before exercising any such power shall take an oath to support the Constitution of the United States."

Mr. MORGAN. Mr. President, since the discussion of this bill opened this morning various amendments have come in, one from the Committee on Relations with Cuba—a very important matter—another from the Senator who has advocated and presented this amendment, the Senator from Wisconsin [Mr. SPOONER]; and various amendments which have been brought to the attention of the Senate, and merely read without being printed; and a very important report from the Secretary of War, which contains a number of acts of the Philippine Commission that have not yet been printed. The acts of that commission which have been put in print and sent to the Senate number 55, as I understand this report to say. Several additional acts have been sent, to the number of 68, I am informed.

Inasmuch as it is very important for us to know the exact situation in the Philippine Islands created by the state of the law in those islands as it has been established by the authority that is now controlling and governing those islands, this debate ought not to proceed on the merits of this bill until we know what those facts are.

This, Mr. President, if it is considered aside from surrounding circumstances, is the most important, the most portentous, and the most dangerous movement that has been in the Senate of the United States since I have been here; and, since those measures which related to our own civil war, nothing has occurred in this body that so challenged the concern of Senators and was so in conflict with the direct provision of the Constitution of the United States, as a very large body of very able men on this side of the Chamber believe. What has occurred here to-day has been a mere skirmish on this bill. We have been attempting to get the bill in shape so that we could understand what it means; and the amendment to which we are now speaking—the amendment which is now before the Senate—is one, as I understand, that comes from the friends of the proposition, evidently leading up to some conclusions that are entirely different from the frame of the bill itself, and that would change the whole of its scope and purport in a very large degree.

Mr. PETTUS. If the Senator will allow me, the amendment under discussion and the amendment printed in the bill were reported by the Committee on Military Affairs.

Mr. MORGAN. This morning?

Mr. PETTUS. No, sir; with the bill.

Mr. MORGAN. That has been amended since that time. The Senator from Wisconsin [Mr. SPOONER] brought in an amendment, which was read at the desk and which I am unable to repeat, although I know the general substance of it. I understand that amendment is pending.

The PRESIDENT pro tempore. That amendment was agreed to, but there is another amendment pending.

Mr. MORGAN. One from the committee?

The PRESIDENT pro tempore. No; the amendment presented by the Senator from Missouri [Mr. VEST].

Mr. MORGAN. I remember very well the amendment of the Senator from Missouri.

The PRESIDENT pro tempore. That is the pending amendment.

Mr. MORGAN. On the 5th of March, 1900, the main amendment relating to the Philippines, that is now attempted to be put upon an appropriation bill, was reported to the Senate by the Senator from Massachusetts [Mr. LODGE]. Soon after that date it was the regular order of business, and was kept in front of everything else in this Senate for weeks and weeks together. The last session of the Senate adjourned leaving that bill as the regular order of business. I addressed the Senate on two occasions on that bill. The Senator from Wisconsin [Mr. SPOONER] addressed the Senate on one occasion, or maybe more, and the Senator from Massachusetts [Mr. LODGE] on one occasion upon it. I was very anxious that that bill should come to such shape that we could provide a government for the Philippines in some form; for I believed then, as I believe now, that it was the first duty that the Congress of the United States owed to those people to provide them with a regular Territorial form of government; but with all the pressure that could be brought to bear we could do nothing more with that bill than merely to keep it on the Calendar as the regular order, to obstruct any other business that might be offered to the Senate. It was a "hold up" of the Senate on this very important measure.

Time had worn on, and when this session first opened that bill was still the regular order of business before the Senate. It went on until the subsidy bill was found to be a more interesting measure to the majority of this Chamber than the bill to provide the government for the Philippine Islands, and that bill was set aside and the subsidy bill was thrust in and was the subject of

very extensive debate, until finally it expired in the presence of and at the hands of the oleomargarine bill. The oleomargarine bill has been voted out of its order of business by the Senate on various occasions since that time. Very suddenly, at the close of this session of Congress, when more important matters are pressing upon the attention of the Senate than I have ever known in the concluding days of a Congress, the Government brings forward this measure and puts it upon one of its own appropriation bills.

Mr. President, except in cases of extreme necessity, this has never been done, especially by the Government having the power, as it has on this occasion, of a majority in both Houses of Congress. It must strike the world with astonishment that the Republican party in charge of this measure should wait until the very last days of the session and then add to an appropriation bill, coming from the House of Representatives, an amendment for the purpose of providing a government, an absolute, perfect, and complete government, for the Philippine Islands.

Why has the Government been driven into this haste and expedition and this radical and stern demand for immediate action, so as to load down an Army appropriation bill with an amendment for the government of the Philippines, after having had a year to consider it upon the very same measure here upon the Calendar. The Senate, having the power all the time to have passed it, have let this matter go along until it gets into the last hours of the session, and then they plunge it headforemost into this body and demand its immediate passage.

Mr. President, that great body of statesmen, notwithstanding its cohesive powers, which have kept it together under almost all circumstances, finds in this particular measure some elements of disseverance and distraction which it is afraid to face upon an ordinary plan of legislation. Here is a bill to provide for the Army of the United States for the next two years; and without the passage of this bill by this Congress or in an extra session that Army would simply fade out of existence. Our Constitution requires of us that our appropriations shall not exceed two years for the support of the Army of the United States. Notwithstanding that requirement, this bill, at this late hour, is loaded with this tremendous amendment, and not only this, but another also, for some purpose, either of State or under some pressure of private demand, which this country will be most anxious to know wherefore it existed and why it existed. That the President of the United States or his Cabinet or his leaders on the floor of the Senate should come with an amendment like this to force it upon the Senate, leaving to them the alternative of voting down an appropriation for the Army if they do not choose to adopt this radical, strange, and peculiar measure, is a condition entirely unprecedented in this country. If there is a parallel to it in history, I do not know where you will find it.

Every member of the Senate on this side of the Chamber and on that has his sense of patriotic duty challenged by the Government, by the leaders of the Republican party, and they say, "If you adjourn without putting this amendment upon this bill we shall have no supplies for the Army." They set the whole existence of Government, so far as its military forces are concerned, upon the cast of a single die, and that die, Mr. President, is a government for the Philippines the like of which was never before put upon a statute book or even in a bill offered in the Senate—never.

Then, in the midst of the consideration of this bill, after it was called up on Saturday and was in due process of examination and consideration by the Senate, the Government, not satisfied with what had been done in respect to the Philippines, brings in here the great Cuban question, presents a programme that we must tender to Cuba on an appropriation bill, and demands of us, and of course demands of Cuba, that what is reported by this committee shall be adopted and shall be the iron rule of Cuban government. That great measure is loaded upon an appropriation bill in the last expiring days of this session, and when we have got only four or five days left in which to legislate, and it is expected that the Senate of the United States, in deference to their patriotic desire to do all that can be done for the honor and welfare of the United States and its people, they will smother their criticisms and their objections and vote for this bill with both of these vast wings of amendments swung to it.

That, sir, is a despotism in legislation that has never been paralleled in the history of this country. It puts the gentlemen who present this measure in a situation where they do not deserve to have any friendly consideration at the hands of this body, speaking in a parliamentary sense. It is the duty of this Senate to look into every feature of this case, both in respect of Cuba and in respect of the Philippines.

Let me ask you, sir, how far has this Government, that makes these rapid, eager, radical demands upon us, supplied the Senate with the means of knowing that upon which we are to act? Who knows about the Cuban constitution? What word has been uttered officially in this body to inform us that a constitution has been adopted by the convention in Cuba and what its terms are? Yet here is an amendment reported by the committee that, either as a part of that constitution or as an ordinance to accompany it of equal power and force, we shall demand of that convention that they shall put this programme into effect. I believe we do not say what we will do if they do not do it, but it is perfectly well understood that they will simply be held under military rule until they do do it.

Now, I complain of the other side of this Chamber who voted this amendment on this bill under an objection made as to a question of order when the Presiding Officer of the Senate did not vote upon it. He had a judgment that he was not willing to express upon the question of that amendment being in order upon this bill. That was done, sir, by a strict party vote, and the Republican party, both in the report made by the Senator from Massachusetts [Mr. LODGE] and in the conduct of that bill which I have been describing on the Calendar of the Senate, holding it continually before this body, and more emphatically and undeniably in the vote and debate upon the question of order, the party have espoused this bill with all that was in it as a party, as a political organization.

Under these circumstances, Mr. President, I have the right to hold that the President and his Cabinet and the Republican majority of this body are committed to every word of this amendment in respect to the Philippines, and are also committed to the demand upon us made by the Committee on Relations with Cuba that we shall consider a question touching the constitutional rights of those people and touching our relations to Cuba when we have not got, as I have said before, the slightest information as to what the constitution of Cuba as ordained by its convention may contain.

This makes it necessary in the discussion of this bill, Mr. President, for the Senate of the United States to decide what is the relation at present of the Philippine Islands to the United States and what are the relations of Cuba to the United States, because, until we have understood what the relations are and have settled them deliberately in our own minds, we can not possibly deal with them in this legislative sense or in this legislative way, which reaches to the profoundest depths of the rights of every person in the Philippine Islands and in Cuba, and also to the questions of power that are concerned in the dealings that we are now having with the Philippine Islands upon this bill.

The first proposition I advance in regard to the Philippines—and I expect to take time enough to go over this whole question so far as my strength will allow me to do it, for it is my duty to do it, and I shall not shrink from any duty because I am cramped for time or because the session of Congress is about to expire—this matter having been put upon a bill for which I expect to vote, a bill for the supply of the Army, I will not be crowded out of my duty. That is a question of responsibility to my own constituents, and I propose to take time for a deliberate consideration of these different and vast questions, which depend upon law—constitutional law, parliamentary law, the law of the United States for one hundred and twenty-odd years, the laws of nations in force in the Philippines, the laws of nations in force in Cuba, possibly modified by some provisions of our treaties with Spain. We must look to these things, Mr. President, and ascertain where we are standing and what our relations are, for great responsibilities are at this hour resting upon the Senate in connection with public legislation such as I have never felt before, and such as I doubt if any Senator in this body has ever felt since the great civil war.

What, then, Mr. President, is the legal condition, the legal status, in the Philippines? Is it a state of war? I deny it. How can a state of war be created in this country otherwise than by a declaration of war by Congress? The President can not create a state of war. No State can do it. No combination of States can create a state of war. It can be done only by the declaration of Congress. That point was settled in 2 Black in the Prize Cases. I will read just a few lines from the decision, which are, I think, clear and undeniable as law, and settle that basic proposition of the whole question that we are discussing here now:

By the Constitution—

Says the court—

Congress alone has the power to declare a national or foreign war. It can not declare war against a State, or any number of States, by virtue of any clause in the Constitution. The Constitution confers on the President the whole Executive power. He is bound to take care that the laws be faithfully executed. He is Commander in Chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States. He has no power to initiate or declare a war either against a foreign nation or a domestic State. But by the acts of Congress of February 28, 1795, and 3d of March, 1807, he is authorized to call out the militia and use the military and naval forces of the United States in case of invasion by foreign nations, and to suppress insurrection against the government of a State or of the United States.

Now we ascertain, Mr. President, there having been no declaration of war in the Philippines against the Philippine people, that there is no legal state of war existing in that country. There is insurrection; and the President has the right to use the Army and

the Navy for the repression of that insurrection for the reason that the Philippines are a part of the territory of the United States, and the antagonism there to the Government is an antagonism necessarily to the Government of the United States.

In that state of affairs, here comes up a very important question: In a state of insurrection in a State or a Territory, is the military power paramount to the civil power? No; the military power is never paramount to the civil power except when there is a state of war created by a declaration of Congress, and then it is paramount only so far as is absolutely necessary for the conduct of military operations. Our Government is upon a very different foundation from that. One of the great questions that was debated, and settled also, at the time of our Revolutionary struggle was that the civil power of the Government was supreme and superior over that of the military.

I may therefore, Mr. President, consider that proposition as being settled by the decision of the Supreme Court of the United States in the Prize Cases—that there is no public war existing in the Philippines to-day; no state of war. It is very true that hostilities are being conducted there, or were being conducted until a recent period of time, by organized forces on both sides; and the Government of the United States, in deference to the laws of nations, which apply there, and which are ordinarily called the laws of war, have granted to those people the privileges of Christian warfare, as it is called, if there can be anything in Christianity that can be called warfare, especially with people who are under our jurisdiction.

Who is it that we are dealing with in the Philippines? We are dealing with citizens of the United States, some of them in insurrection. I can feel, Mr. President, the breath of objection rising around me as I make this statement here. There are many gentlemen on this floor who revolt at the idea that the Tagalogs, the Negritos, and the other tribes of the Philippine Islands are citizens of the United States. They are just as much citizens of the United States as I am—just as much, every one of them. That is the law of this land, and it has been the law since 1866.

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

Mr. CULBERSON. May I ask the Senator from Alabama a question?

Mr. MORGAN. Certainly.

Mr. CULBERSON. I simply ask for information, and not especially to controvert the proposition the Senator is stating. I understand the treaty with Spain provides that the political status of the Filipinos shall be fixed by Congress.

Mr. MORGAN. That is right.

Mr. CULBERSON. If that be true, and Congress has not yet legislated, how can we say that they are citizens of the United States?

Mr. MORGAN. Because the political status or the political privileges—let us first get the language right. Let us see what it is:

The civil rights and political status—

"Civil rights and political status"—

of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

That is what it says. That is the treaty. In the fourteenth amendment to the Constitution that subject was taken up, and the act of 1866 was not broad enough to meet the demands that were then supposed to be in existence for the protection of certain people in the United States, and a constitutional amendment was submitted to the country and approved by the States—the fourteenth amendment—which contains this language changing the statute of 1866:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

Congress did not consider itself at liberty, in the enactment of the law of 1866, to declare that any part of the people of the United States were citizens of the State in which they resided, and the law on this subject was so amended as to include the citizens of the States and to give them citizenship in the States, and it was broadened so that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States."

The Filipinos are persons, and many of them have been born since the treaty of Paris, and they have been naturalized; that is to say, they have been adopted, and they have the rights of citizenship, even if all of them have not passed through the forms of law necessary to confer that citizenship as a declaration of law. In what respect, then, have I rights as a citizen superior to the Filipinos? His allegiance to this country was one of birth. It may have been of adoption. It makes no difference whether it was birth or adoption; it is equally clear and equally strong. What is that citizenship? I will define it, and I will ask any Senator on this floor to add something to the definition. A person born in the United States, therefore owing allegiance to the United States, not owing allegiance to any other government, is a citizen of the United States in consequence of that allegiance, and has a right to the protection of the Government of the United States, including the flag, about which we hear so much. Is there anything which can be added to that definition? What else would you add to it to make it complete? What additional right or privilege will you add to that definition in order to complete a man's title to citizenship?

He may have no additional rights. He may be like a citizen of the District of Columbia so far as voting is concerned. We can not vote here, and yet we are right around the base of the Capitol with our homes. He may be like citizens of Territories, who are given a qualified right to vote. He may be like the negroes of the South, whose rights to vote are not only given to them, but guaranteed in the Constitution. He may be like a blanket Indian out on a reservation, or any Eskimo in Alaska, and yet as he descends in grade in his privileges, his civil rights, according to the locality where he happens to be, which after all confers the civil rights, he loses more and more of these civil rights.

Start in the great city of New York, if you please. Take the majestic people who occupy that great commercial mart. They are clothed with all the rights of citizenship and decorated with many additional rights, including the right to vote, the right to hold office, and many rights of property, and many liberties, some of them peculiar in their character. But there is one great plane of the Constitution of the United States upon which every human being born in the United States rests with equal right. The poorest Indian in this country, or an Eskimo in Alaska, or any person within the limits of any Territory of the American Union, organized or unorganized, has the right to call forth all the powers of this great Government for the protection of his liberty and the security of his person and property.

If the Mexican Government should send a body of men across the border to arrest an Indian of the Ute tribe or of the Apaches or of the Seminoles or of any other tribe for a murder committed in Mexico, he having escaped, and should take him by force and without consulting this Government, and carry him off, that man would have the right to appeal to the Government of the United States and call forth all of its great powers for the protection of his rights. Why? Because he is a citizen of the United States, having been born in the United States, and being a human being, and owing allegiance to no other country. If Mexico were to come and take one of us and carry us there for trial or for any other reason, we would have the same right and no greater right than that man has to demand the intervention of this Government.

So, Mr. President, we are dealing with 10,000,000 citizens of the United States, and we are dealing with them in a country that belongs to the United States by treaty, the boundaries and all the rights of supreme sovereignty being defined and expressed in that instrument. That is what we are doing. Those are the people for whom we are legislating or against whom we are legislating, and we are the only tribunal in the world that can make new laws for them if we choose to exercise the power; that is to say, we are the paramount tribunal. There are many cases in the history of the Government of the United States where there are parallel powers to be exercised by the State where the Federal Government does not, or even by the Territories, perhaps, where the Federal Government does not intervene and where natural justice requires that some law should be instituted for the protection of life, liberty, and property.

A familiar illustration of that situation is found in the mining laws and regulations amongst the Western people, which have been recognized by the Government of the United States and by the Supreme Court of the United States as being valid law, where they had no organization and no authority to act from either a Territorial government or the Government of the United States, and yet they met together and they laid down laws and regulations for the disposal of property and for the protection of life and property, and those laws are valid for the reason that they needed the protection of laws, they instituted them by common consent, and having obtained them in that way, the laws stood for their protection.

That is precisely an analogous case to the government we find in a country. We find that a de facto government, one that is not de jure, one that has no actual right in law, can enact laws, dispose of property, protect or destroy life, and exercise all of the functions of government upon the sole ground that there must be some government present to which men can appeal. The rightful government not being present, being driven off, the government de facto takes charge of those people and provides for them by regulations which they are bound to obey, and protects them by judgments, laws, and decrees that furnish them absolute security. That rule runs through governmental action in all its forms, whether it applies to communities or whether it applies to citizens. We therefore owe to the people of the Philippines—these citizens

of the United States—the protection of established institutions of government in the United States.

Now, this leads to another proposition. They have a government in the Philippines, a valid, potent, well-equipped, thoroughly provided government; a government that has stood for nearly three centuries; that has been ripening up and additions to which by amendment have been made from time to time by the sovereign of Spain, through such legislative authority as he thought proper to enact, according to Spanish customs and constitution. Those people have that government over them to-day. It is a complete government. It is a government that will protect the community, as far as the laws are calculated to give protection, in all particulars and under all circumstances. It may not be in our estimation a good government, but in Spanish estimation it was a good government, and that was a great Empire, that had many such governments established about over the earth.

That government has undergone some changes through our instrumentality. The first change took place when Dewey entered the harbor of Manila and, with pure military power, attacked and broke down the Spanish military power, gained a victory, made a conquest, and obtained thereby an authority to institute and conduct military rules. That was a pure military government. That government continued in that form until August 2, 1898, when a protocol was entered into between the President of the United States and the Spanish authorities, represented by M. Cambon, the French ambassador to Washington, and in that protocol there was a provision that was entirely civil in its effects, but it was conducted, of course, by military authority:

The United States will keep and hold the city, bay, and harbor of Manila pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines.

There was a capitulation, there was a surrender of the bay and harbor and city of Manila into the custody of the United States, to be held by the United States in trust for whoever might succeed to the title upon the consummation of the treaty of peace. That was the first time the United States Government appeared in the Philippine Islands as a civil government. It made pledges there which extended not merely to the Spanish and to Spanish citizens, but to the whole world, to every part of the world whose citizens were in Manila and had any property there. It was a pledge on our part, made by the President of the United States, by this Government of ours, the civil government of the United States, that we would take possession of Manila and hold it until it should be determined by the final treaty of peace to whom it should belong or as to what disposition should be made of it. That was the second stage.

We held that government under that protocol and respected its obligations, and were bound to do it until the treaty of peace was signed. Who gave authority for signing that treaty of peace? Who constituted ambassadors or the commission? Under what law was that treaty of peace negotiated and concluded and ratified? The Constitution of the United States. No statute gave that authority. The President did not give it as the military commander. We were not indebted for that authority either to the Army or to the Navy. We were indebted for the whole of it to the Constitution of the United States, and in virtue of that Constitution our authorities of every kind gained their rights in the Philippine Islands. Did the Constitution go there? How could it keep out if the treaty went there—a treaty negotiated and concluded and ratified and the ratifications exchanged under the provisions of constitutional law? Whom did it go there to protect? Citizens of the United States, and also all other persons who might be peaceful occupants of the city of Manila or any part of the whole of the islands of the Philippines.

Now, we find that in the exercise of the power to put these troops in motion first of all the power to declare war against Spain; we went to the Constitution, and Congress had the power. It found it there and exercised it, and all through, down to this very hour, the Constitution of the United States has been the only support of any and every thing that has been done by the Government of the United States in those islands. Just the other day we passed a bill through the Senate—and I believe it has also passed the House, although I am not certain—to acquire, at an expense of a hundred thousand dollars, additional territory to tack onto the Philippine group. There was the Constitution at work; there was the power of Congress at work, and as far as Congress has chosen to exercise its constitutional power there it has been recognized as being the supreme law and is the supreme law. The power of Congress exercised through legislation and the Constitution of the United States are both at work in the Philippines, and no work has been done by this Government in those islands that is not predicated directly upon these two powers.

How, then, can a man say that the Constitution of the United States has not visited the Philippines at all because it has no self-executing power? Suppose you were to concede in the broadest possible terms (and yet the concession would be a solecism, it would be an absurdity) that the Constitution of the United States in none of its provisions is self-executing, and that therefore it requires an act of Congress to take it into a Territory of the United States. Concede it, if you please. What folly have we not been engaged in when under that Constitution we have been making treaties with Spain, protocols, and carrying the laws of the United States, together with its Army, into the Philippines and buying territory there, and all that?

Mr. President, an officer of the Government of the United States is an agent of the United States and nothing more. He may be a very high one or he may be an ordinary one, but he is an agent notwithstanding. All of the agents of the Government are sworn to support the Constitution, and some are made to give a bond for the faithful performance of the duties of their office, but when they rise to the office of Senators, President of the United States, and judges of the Federal and Supreme Court, we do not require any bond of them. There is a supposition afloat that they will perform their duties without any security that they will do so, but they are just as much the agents of the Government of the United States as a collector of internal revenue. They are as much bound by law, constitutional and legislative provisions, as a collector of internal revenue. What we have to secure us in respect of the faithful performance of the duties of these higher offices are two things—first, the oath of office, and second, the power of impeachment.

Let me ask a question right here, and let some astute lawyer, who may possibly reply to what I have to say, answer upon this. I will suppose—in making this supposition I make no sort of insinuation against the President of the United States—that the President of the United States in the Philippines has committed some high crime or misdemeanor in the conduct of his official affairs there, whether military or civil, which if the act had been done in the District of Columbia would subject him to impeachment. Will anybody deny that he is subject to impeachment for an act performed in the Philippines? If he is subject to impeachment, where does the authority come from? From the Constitution of the United States. How do you apply it to him? Through his oath of office and the commission he holds upon an election which charges him with the performance of his duty as an officer and the faithful execution of the laws and Constitution of the United States.

Now, sir, if you can impeach a President of the United States for what he may do in the Philippines it is because the Constitution was in the Philippines to create the offense and to ordain the limits and character of the punishment to be inflicted on him. If Admiral Dewey, when he was in the bay of Manila a triumphant conqueror, such as the world has perhaps rarely if ever seen, had turned his guns wantonly and wickedly upon churches and schoolhouses and the people of the city of Manila instead of upon the fleets and batteries of the opposing enemy, who here doubts that he would have been cashiered under the Constitution of the United States and the Articles of War. At what place is it in the United States or elsewhere that the President or any other official of the United States Government escapes from the responsibility that the Constitution puts upon him? Where is it? Name the case, and if you do not, forever hold your peace. There is no such case. There can not be. The power of the people of the United States, expressed through their Constitution in the offices which Congress and the Constitution both have created, rules over and controls the acts of all their agents and officers, high and low, bonded or unbonded, wherever that Constitution can possibly reach, and it certainly can reach to the uttermost boundaries of our own territory, if not a great deal farther.

Mr. President, we have to-day an army in China. How did that army get there? What has the Constitution to do with our army in China? Perhaps I am raising a question about which there may be some demur and some doubt and some difficulty in the minds of Senators—as to how the President of the United States found authority to send an army into China. There is in my mind no doubt about it. I resolve the question to my own satisfaction without hesitation at all. It was a duty imposed upon him by the Constitution of the United States to see that the laws of the Government of the United States were enforced. We had a legation there, and an official in the legation locked up in Pekin, assailed by all manner of outrageous power and force and cruelty. The President of the United States had the right to go with ships and men to the rescue of that officer of the United States, and he would have been delinquent in his constitutional duty if he had not done so. General Chaffee remains there with the legation guard under his care.

The President of the United States, as the diplomatic functionary of this Government, representing it in his own person and according to his own discretion, for the occasion at least, has entered into a treaty in which various European powers have joined, and on this very day and yesterday, in virtue of that treaty, Chinese dignitaries and men in high office were made to bend upon their knees and the sword of the executioner cut their heads from their bodies and sent them to death. We joined in such a demand. Our minister in China was required to join in such a demand.

China submitted to it, furnished the victims, and they have been executed.

It is the first time that an American treaty ever contained a decree of death against a human being. Is it lawful? Is it constitutional? It is not lawful, Mr. President, in the sense of having a law enacted by Congress to cover the case, but the President got his power to do that from the Constitution of the United States, which made him the Commander in Chief of the Army and the Navy, and also made him the repository of constitutional power to make negotiations, without putting a limit upon his powers, except that he shall obey the Constitution of the United States and he shall faithfully execute what he conceives to be the laws of the land.

Mr. DANIEL. Will it disturb the Senator if I ask him a question?

Mr. MORGAN. Not at all.

Mr. DANIEL. I should like to know from what clause in the Constitution of the United States the President gets authority to demand that the life of anybody shall be taken?

Mr. MORGAN. The President has the power under the Constitution to appoint diplomatic representatives or ministers to foreign countries. He has the duty of protecting the Constitution and the laws of the United States. He has power to execute that duty through the Army and the Navy. He may not have the power identified in the Constitution to demand the death of any man, but that is a part of the military operations with China, which were necessary to be conducted, in his judgment, in order to prevent the necessity of larger military demonstrations.

Mr. DANIEL. I should like to ask the Senator a further question. Suppose they refused to put anyone to death upon the demand of the President, would the only thing the President could do be to threaten war?

Mr. MORGAN. To conduct it; to make it.

Mr. DANIEL. Could he make war when there was not war against the United States?

Mr. MORGAN. He could make hostilities without war, and that has often been done.

Mr. DANIEL. Not where we have not been assailed, but after we have been assailed.

Mr. MORGAN. Yes; after we have been assailed; and we were assailed at Pekin.

Mr. DANIEL. I am asking the Senator for information. I am not contravening what he says. I wanted to get clearly what the Senator's idea is. I have been listening to him with a great deal of interest.

Mr. MORGAN. If the President of the United States had the power to do these things, where did he get the power? I say from the Constitution of the United States. Other Senators say they can not find it there, but they will agree with me——

Mr. DANIEL. I am not expressing an opinion about it.

Mr. MORGAN. I know; but Senators on both sides of this Chamber will agree with me that whatever power he exercised there he must have got from the Constitution, and he could not have got it from anywhere else, because there is no legislation on the subject.

Mr. BACON. Now, will the Senator permit me to ask him a question?

Mr. MORGAN. Certainly.

Mr. BACON. I understand the Senator to say that the negotiations which have been conducted in China have been by the President under his power to appoint diplomatic representatives and to conduct such negotiations, the treaty-making power, in other words.

Mr. MORGAN. And the laws of nations.

Mr. BACON. And the laws of nations. Now, what I wish to know is this: These negotiations have been conducted there not by the military power, but by our civil officer, the minister, Mr. Conger, representing the Government, and I presume the Senator will recognize that he has been proceeding under the treaty-making power, the President having a right to direct our minister to proceed with these negotiations. Am I correct in that, so far?

Mr. MORGAN. You know as much about it as I do.

Mr. BACON. I want to predicate a question upon it. I want to see if the Senator and I agree up to that point.

Mr. MORGAN. I do not know whether we do or not. I do not know what the facts are. I am guessing at it, and I suppose you are.

Mr. BACON. I am not guessing at the fact that negotiations are being conducted by our diplomatic representative in combination and concert with the diplomatic representatives of the other governments.

Mr. MORGAN. Now, will the Senator allow me a moment? Can he point me to any official paper to Congress which makes that statement?

Mr. BACON. No, sir; not to Congress.

Mr. MORGAN. Then neither of us has been informed officially about it.

Mr. BACON. But still we can for the purpose of this question assume it to be true, because it is stated by the press, in every newspaper, both in this country and in Europe, and it is well understood to be true.

Mr. MORGAN. I do not propose to answer anybody upon newspaper statements.

Mr. BACON. Very well. I will ask the Senator this question, then: If it is true, as stated, that Mr. Conger was conducting these negotiations as the diplomatic representative of this Government—we can certainly assume that for the purpose of the question—and if these executions have been accomplished, as the Senator undertook to say, not by virtue of any official communication to this body, but by virtue of newspaper publications which he now declines to credit or to receive as authority—if that is true, and it was being conducted by our diplomatic representative under the treaty-making power, if there was an agreement arrived at between the diplomats on one side and the Chinese on the other, by what right could that treaty be considered as concluded and a requirement made that it should be acted upon, even under the threat of war, until there had been a submission to this body of that treaty and a ratification of it?

Mr. MORGAN. Now, Mr. President, the question that I was arguing and the one that I intend to state again was that if there was any right to do that it was a right derived from the Constitution of the United States and not from any legislation that Congress had enacted.

Mr. BACON. I quite agree with the Senator that the President can not exercise any power anywhere except he gets that power under the Constitution. I am with him on that point.

Mr. MORGAN. What I am trying to establish is that the power of the President of the United States not only could be fully exercised within the limits of the United States, but beyond the limits of the United States, wherever an official duty was made incumbent upon him, and that without the authority of the Constitution of the United States he can not act anywhere inside of the Union or outside of it in his official character; in other words, that the Constitution of the United States follows the obligation which he took that he would see that the laws and the Constitution are faithfully executed in all of his official conduct, and wherever he has an official act to perform that, and that only, is his authority. It is not perhaps in every case.

Now, that is like the extraterritorial courts that are held in Egypt, perhaps in Constantinople, and that were formerly held in Japan and in China, where our judges go and have jurisdiction conferred upon them by the statutes of the United States to be exercised within the territory of foreign countries, those countries admitting the courts there. The President of the United States extends his pardoning power to a man convicted in Egypt or in China, not by a jury, not by a court of the United States, but a consular court created under a treaty. That is constitutional power. We can not justify that at all, except under the authority of the Constitution given to the President of the United States, not by but through an act of Congress enabling him to administer justice in favor of our own people even within the limits of foreign countries.

All of these powers, Mr. President, illustrate the main proposition which I am trying to discuss, which is that the oath of the President of the United States correlatively with the powers that are given him under the Constitution of the United States make every lawful public official act of his in any territory within the limits of the United States, or even in foreign countries, constitutional power, for he has no other. Therefore, I say that in every act which the President has done heretofore he has exercised constitutional power.

Now let us see what has been done in the Philippines. First, there was General Otis, to whom as a military commander there were given certain several functions, certain civil powers by the order of the President, which he proceeded to exercise under the direction of the Secretary of War. I think that was an unfortunate thing. I think it was a misconception of the actual legal situation that led to that misfortune. The real legal situation was this, that that country in contemplation of law was at peace. There had been no declaration of war there since the peace with Spain had been celebrated, and while there was insurrection there it was not war. An insurrection does not place the military power above the civil power. Instead of giving civil power to that commander there of military forces there should have been established in the Philippine Islands a civil government, in which the military power would have been defined by an act of Congress. I think it was a great misfortune that we did not do it.

Then came the government of General MacArthur. It is a most admirable one, according to all accounts, both in respect of its civil and its military measures. That continues now. But there has been a partition of the powers in the Philippine Islands by order of the President between MacArthur, who exercises all of the police functions as well as all the military power there, and some other powers of a civil sort that he thinks are contributory to his

success as a military commander. That is the situation there now. The Taft Commission is there with power from the President of the United States to organize and conduct civil government in the legislative, the executive, and the judicial departments.

So we have two governments to-day in the Philippines, and there is some doubt as to which is supreme. There is quite a doubt whether MacArthur, with his military authority and this addendum of civil authority, is supreme over the Taft Commission, or whether the Taft Commission, representing the civil side of the Government, is supreme over the military. There is a doubt that has not been solved. That is one of the doubts that they are trying to solve by this amendment. That is one of the reasons of the anxiety to pass this amendment. It is to correct and to remedy, if possible, some of the radical wrongs or mistakes that have been made in the course of affairs in the Philippines.

How do you propose to do it? By consolidating all power, civil and military, legislative and executive and judicial, in the hands of the President of the United States, and in that way to cure the difficulties that have hitherto occurred, and also to provide for the difficulties hereafter that would occur or might occur in this unfortunate division of the powers between the Taft Commission and General MacArthur? That is one of the leading purposes of this proposed act, and it was because of the strong, earnest convictions of the Government that there was danger in the situation that this act is forced upon an appropriation bill at the last hours of this session, and we are occupied in trying to relieve against the mistakes of the Administration. But, Mr. President, the remedy is a million times worse than the disease.

What is the state of the law in the Philippines? I have referred briefly to it. It is the Spanish law that has not as yet been repealed. We found it there. Whoever will read the dissertation of Chancellor Kent upon this question will see that there is not a plainer proposition stated in law than that the government which succeeds to the sovereignty of any country adopts the laws as they are found there at the time it succeeds as the laws that rule those people until the supreme legislative power in the successor State changes those laws or abolishes them.

How do those laws happen to be in force in the Philippines? Why was everybody connected with the Government of the United States in a civil character bound to respect and enforce those laws? Because that is the decree of the law of nations. It is the settled, fixed law of nations. How do the laws of nations happen to come to us and to give us authority to rule under statutes that were enacted or decrees that were made by the Spanish Crown? How did that ever happen? In this way: Our ancestors in England, Germany, France, and elsewhere, all of our European ancestors, have adopted this law of nations, containing the provisions to which I have just adverted. The various States of the American Union, while they were yet territories and subject to the British Crown, were also subject to the laws of nations. When we became States in the American Union and framed a Constitution, we put in an express provision that Congress should have power to punish offenses against the laws of nations, thereby making a distinct recognition of their authority.

Chancellor Kent and the other lawyers and the Supreme Court of the United States frequently have said that the laws of nations are a part of the law of the land. The laws of nations have been recognized in every supreme court of every State of the American Union, including the Supreme Court of the United States and all the Federal tribunals, as being a part of the law of the land. The common law of England is not any more in force in this country than the laws of nations.

Mr. PETTUS. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Alabama yield to his colleague?

Mr. MORGAN. Certainly.

Mr. PETTUS. I desire to ask the Senator from Alabama if that broad statement is not qualified, not only by the writers, but by the judges, with the idea that the law of nations is binding on us only so far as it is allowable by the Constitution of the United States?

Mr. MORGAN. Unquestionably. I have said nothing to the contrary, have I?

Mr. PETTUS. You did not, but you did not qualify it in that way.

Mr. MORGAN. I am not as rapid in my speech and in my action as my brother and colleague, so I do not keep up with the procession as closely as he does. I would have staggered upon that after a while, Mr. President.

The laws of nations, then, Mr. President, with that qualification, or any other you see proper to make—I have got an additional qualification to that—are in force in the Philippines; and those laws require the Government of the United States as the successor government to enforce those Spanish laws for the benefit of those people, and to control and govern those people until those laws are changed by authority of the United States.

So the President of the United States has gone on, and through the Taft Commission they have enacted 67 formal statutes relating to a great number of subjects; and before I get through with my discussion of this subject I propose to call attention to the substance, at least to the character, of each one of those statutes. They have covered that whole country with statutory provisions to supplement the Spanish law and to provide for the new conditions that were there, in the main consistently with the Spanish statutes themselves, but sometimes they have repealed them.

Now, the President of the United States, representing the sovereignty of this great Government, went there for the purpose of executing these laws of nations, and when he got there he found these Spanish statutes. Some of them were in the way of the people and of the progress of the country and of a Christian civilization, and he undertook to modify them and did modify them. The statutes enacted by the Taft Commission, under his authority, are, of course, perfectly valid laws unless they contravene the Constitution of the United States or some general law applicable to the territory of the United States. There, now, is the legal situation.

Now, Mr. President, I wish to remark in this connection——

Mr. SPOONER. Will it disturb the Senator if I ask him a question?

Mr. MORGAN. Not at all.

Mr. SPOONER. Does the Senator contend that the President of the United States, apart from his powers as Commander in Chief, can modify any Spanish law in the Philippines?

Mr. MORGAN. I contend that as Commander in Chief he can not do it, but as civil authority in the Philippines he can do it. That is my position. A mere military general can not do that thing unless it is while war is flagrant, while the declaration exists, and while the state of war is there.

Mr. HOAR. Does the Senator mean to say that the President has now the civil authority to do that thing?

Mr. MORGAN. Unquestionably.

Mr. HOAR. For the purposes of——

Mr. MORGAN. Unquestionably, for the reason that Congress, which has paramount authority in this country, has not intervened to do it, and until that intervention takes place the President of the United States executes, through the rights conferred upon him under the laws of nations, the administration of those laws, or if they do not suit him and he does not think they are conformable to the interests and welfare of the people, to amend them or to repeal them and put them out of the way, and proceed to govern them. There is no part of the government there to-day; there is no part of the government in which he is unrestrained by some conflicting provision of the Constitution of the United States or of the laws of the United States, that he may not exert upon those people and their property and their lives without any responsibility except a moral responsibility for the discharge of his duty, or, of course, the responsibility of impeachment for great misdemeanors or crimes that he might possibly commit. The Constitution gives him that authority, that liberty, that power, and he is perfectly justified in its execution.

Now, I was going to say this: I do not know that I have ever heard of a government in any country that was so constantly under surveillance and criticism that has been so little complained of as the government in the Philippines. I am speaking now of the civil government. I have not heard of any act of the Taft Commission called in question here as being unjust or improper or usurpatory. I have not heard that the Taft Commission or any other power there exercising civil authority has disturbed the people or has tyrannized over them, or has been guilty of excessive taxation or false imprisonment or cruel punishment or anything like that. On the contrary, according to my understanding of the history of our transactions in the Philippine Islands, a large part of which is derived from the fact that the world is silent about it, has no criticism to offer. I have not heard of a more successful government in any Territory of the United States, not even excepting Hawaii, which is one of the best governments in the world.

Now, Mr. President, having been so successful, and according to all the reports the progress of civilization and alleviation, so marked, so beneficial, so honorable to our men and our institutions, why is it that we wish Congress to intervene at this last moment of the session and confer upon the President power which he does not now possess and to enable him to do things that he does not now feel he has the authority to do? I would say, looking at the situation of affairs in the Philippines and the success of the administration down there, that the President has all the power that he needed, military and civil, and what the difficulty there may be is not a lack of power; perhaps it is not a lack of wisdom in the administration; the difficulties which exist in the nature of things, that he has to overcome by gradual processes, are obstacles to good government in that country which will not give way instantly. That is about the situation as I understand it, and it strikes me with astonishment that the President should be here now asking us to give him powers to control in that country

which are greater than the powers he now possesses. It can only mean that there is some policy, some purpose, some great design in respect to the Philippines where the President can not do what he wants to do or what is required of him unless Congress will surrender this power into his hands.

Under the powers that are conferred in this bill, Mr. President, the President of the United States can instantly repeal any act of Congress that stands in his way to do anything he wants to do, and he can disregard, if he chooses to disregard it, the plain mandatory injunctions of the Constitution. Of course, his acts in violation or in contravention of the Constitution of the United States would be caught up with by the courts in the outcome and would be set aside, but so far as the legislation of Congress is concerned, after we have conferred this power upon him he will find no statute on the book that will stand in his way a minute, because he can repeal any one of them.

The power to legislate, as one of its essential parts, includes the power to repeal laws. I do not know whether the power to repeal laws is not oftentimes a very much more important power than it is to enact them, for sometimes we say—and say correctly, too—that people are governed too much, and, in the absence of positive regulations of law, they will find ways in which to govern themselves that are perfectly legitimate, honest, and successful. But bad laws are enacted, unfortunate legislation sometimes takes place, and then the power to repeal is a power of more importance than the power to enact.

Now, on this bill we surrender to the President of the United States the power to repeal any statute we have got, for we give to him all legislative powers, and in doing that we give to him the power to repeal the statutes of the United States enacted by Congress that may stand in his way, for we give him all the power we have got, and surely we have got the power to repeal these laws. We give him the power also to enact laws, and while we will suppose that his power in that direction is under the control of the Constitution of the United States, and ultimately of the courts of high jurisdiction, he enacts a law. What kind of a law? A law for the sale of the public domain, which has been referred to to-day by the Senator from South Carolina [Mr. TILLMAN] and others, a law for the disposal of mines and mining interests, a law permitting the forests to be hewed down and carried into market, a law in respect of the collection of customs duties and upon imports of goods, internal-revenue laws, laws regulating banking and currency, for they are here.

The PRESIDING OFFICER (at 5 o'clock and 30 minutes p. m.). The Senator from Alabama will suspend. In accordance with the order heretofore made, the hour of 5.30 having arrived, the Senate takes a recess until 8 o'clock this evening.

The Senate thereupon took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m.

AMENDMENTS TO DEFICIENCY APPROPRIATION BILL.

Mr. CHANDLER submitted an amendment proposing to appropriate $21,700 for the operation of pneumatic tubes for public buildings for the service of the fiscal year ending June 30, 1901, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. CARTER submitted an amendment proposing to appropriate $1,173 to pay outstanding bills for preparing photographs, models, etc., sent to the International Exposition at Paris, 1900, as part of the exhibit of the public schools of the District of Columbia, etc., intended to be proposed to the general deficiency appropriation bill; which was referred to the Committee on Appropriations and ordered to be printed.

DEPARTMENTAL EMPLOYEES.

Mr. SEWELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Attorney-General, the Postmaster-General, the Secretary of the Navy, the Secretary of the Interior, the Secretary of Agriculture, the Interstate Commerce Commission, the Commissioner of Labor, the Civil Service Commission, the Public Printer, and the Commissioner of Fish and Fisheries are hereby directed to furnish the Senate with the following information, viz:

The age of each and every employee in their respective departments, bureaus, and offices in the District of Columbia and elsewhere receiving an annual salary or a per diem compensation and continuously employed, and the salary or compensation per annum or per diem of each employee; the number of employees that have been in service ten years or under, and the number in service for every period of years in excess thereof, as eleven, twelve, thirteen, etc., in numerical order.

CENSORSHIP OF TELEGRAMS FROM MANILA.

Mr. PETTIGREW. I offer the resolution which I send to the desk, and I ask that it may lie over until to-morrow and be printed.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read as follows:

Resolved, That the President be, and he is hereby, requested to inform the Senate, if not incompatible with the public interest, whether all telegrams from Manila were subject to censor prior to February 4, 1899; and if so, for how long prior to that date were all telegrams subjected to the examination of a censor.

The President is also requested to send to the Senate a copy of General Otis's first telegram informing the Administration that hostilities had commenced; also the hour at which said telegram was filed in the cable office at Manila.

The President is also requested to send to the Senate all instructions sent by the Administration or any of the officers of the Government to our officers in the Philippines between December 10, 1898, and February 5, 1899.

Mr. WOLCOTT. Let that resolution go over, Mr. President.

The PRESIDENT pro tempore. The resolution will lie over under the rule, and be printed.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14017) making appropriation for the support of the Army for the fiscal year ending June 30, 1902.

Mr. MORGAN. Mr. President, when I left the floor before the recess I was presenting some views on the subject of the power conferred upon the President by the pending amendment to repeal any act of the Congress of the United States that stood in his way or in the way of any policy he thought necessary or proper to introduce into the Philippine Islands. Unquestionably he has the power to repeal any act of Congress, because "all military, civil, and judicial powers necessary to govern the Philippine Islands, acquired, etc., are vested in such person and persons," to be named by the President of the United States and "to be exercised in such manner as the President" may direct. It is impossible to conceive of a broader spread of power than that conferred upon any person. Under that power the President has the authority unquestionably to repeal any act of Congress that antedates the conferring of this power upon him.

More than that, Mr. President, the President of the United States would have the right—it might be severely contested, but at the same time I think it is an indisputable right—to repeal so much of the treaty of Paris as annexed the Philippine Islands to the United States. If that was done, of course the title of Spain would be reinstated, because she ceded that country to the United States, not by a mutual agreement—of course it is mutual in one sense, but not upon mutual considerations passing from one to the other—but $20,000,000 is not named and mentioned in the treaty as being the consideration paid for the Philippines.

On the contrary, I understand it was not so admitted by the commissioners when that question was mooted, and therefore there would be no vested rights remaining in the way; and if Congress has the right to repeal any treaty at all—we must admit, of course, that it has the right to do so—it can repeal that part of the treaty annexing the Philippines, and let them float off into the sea and go where they will. That would be about the same thing as a declaration of sovereignty and independence and autonomy of the Philippine Islands, only it would be gotten at in a more rational and more direct way. But if that power exists—that is the point I make—if the power to dispense with that treaty exists at all, we confer that power upon the President of the United States by this act. There is no restraint upon him.

Now, there is a still more important matter connected with this repealing power——

Mr. BUTLER. If the Senator will pardon me, this is a very significant statement which is made by the distinguished Senator from Alabama. To emphasize it I wish to ask, Do I understand the Senator as saying that, in his opinion, in this amendment to the Army appropriation bill we confer upon the President of the United States the power to repeal, modify, amend, or set aside the Paris treaty?

Mr. MORGAN. I say if the Congress of the United States has that power, we confer it upon the President by this bill; but whether Congress has that power or not is a different question. If, however, it has got the power—and I think a great many persons would be inclined to contend that it exists—the people of the Philippine Islands having never yet been incorporated in a government created by Congress—if we have got the power, that would be the point. The only other way to do it would be to repeal the treaty, or that section of the treaty which relates to the Philippines, and let them float off into the abyss; but I do not suppose they would be very long at sea before they would be picked up. Spain would naturally claim that she was the residuary legatee, and all of Europe, I think, would be disposed to dispute her title.

Mr. BUTLER. As I understand the scope of power conferred upon the President by this amendment, it is that he is given all of these powers subject to the Constitution and laws of the United States and any treaties in existence, and that he could exercise those powers within the domain of the Philippines in view of and subject to the treaties and the Constitution and laws of the United

States, but that certainly he is not given the power to repeal a treaty in existence.

Mr. MORGAN. I say this, Mr. President, and I hope the Senator from North Carolina will not misunderstand me in his anxiety to draw me off——

Mr. BUTLER. I did not mean to interrupt the Senator, but it was a very remarkable statement he was making, and coming from such eminent authority as the Senator from Alabama, I desired to understand his views.

Mr. MORGAN. There is nothing remarkable in it. If Congress has the right and the power to repeal the clause of the treaty annexing the Philippines, that is the power that is proposed to be conferred in this act upon the President. That is what I mean to say, and I leave it to Senators to decide in their own minds whether anybody has got the power; but I think it would be a mighty close question if it was ever put to the Senate of the United States before the Philippines were incorporated into a Territorial government and before we had done that which was done in the act of 1803 in accepting the cession of Louisiana.

Mr. STEWART. Will the Senator allow me?

Mr. MORGAN. Yes.

Mr. STEWART. Admitting that the President already has the power to do anything and everything that he might do under this amendment, and that it adds nothing to his power to establish a government there, would not the amendment be valuable in other ways? There has been a contention continually in the Philippines and in this country that the Congress was not behind the President; that what was being done was the mere will of the Executive; that he did not have the moral force of the country behind him; and might it not have a very salutary effect in settling matters there if by this amendment we have a declaration that Congress and the country were behind the President, and that it was the determination of the United States to subdue the rebellion, to establish a government in the Philippines, and to maintain order, and that there was unity of purpose throughout all departments of the Government? If it confers no other additional power, certainly it would convey that declaration in an emphatic way; and would that not be likely to have a beneficial effect?

Mr. MORGAN. To all appearances that would be a very timely and a very benevolent act on the part of Senators to root out the friction which is evidently existing in this Chamber between the President and his friends. There is some difference in the Republican party in regard to these matters. and the adoption of this provision, I think, would be a very delightful thing for all concerned on that side of the Chamber.

Mr. STEWART. I do not mean on this side of the Chamber at all.

Mr. MORGAN. I am a Democrat and a Senator from Alabama, and I do not feel it incumbent upon myself to stay up at night and to speak in favor of or about a proposition the purpose of which is to reconcile differences and quarrels in the Republican party. So that part of the Senator's suggestion has not much weight with me.

Mr. STEWART. The Senator misunderstood me. It is not a question of reconciling differences in the Republican party, but the question is to satisfy the Filipinos that the people of this country are united in establishing a civil form of government there and putting down the rebellion.

Mr. MORGAN. Well, Mr. President, if the object is to satisfy the Filipinos that that is the great policy of this nation, it is a great pity that the Senator from Massachusetts [Mr. LODGE] and the Senator from Wisconsin [Mr. SPOONER], who had this same bill on the Calendar more than a year ago, did not urge upon the country and upon the Senate to pass it and not keep it dawdling along here as a rubber and a buffer to keep everything else off from consideration. Why did they not pass it then if the object was to placate the Filipinos?

Mr. STEWART. We do not do it to placate the Filipinos, but we do it to show that we are not on their side against the Government of the United States; that we are united in the belief that the laws should be enforced and that we are not on the side of Aguinaldo.

Mr. MORGAN. That is very right.

Mr. STEWART. It has been claimed that the country was taking sides with Aguinaldo. We want to show that the country is taking sides with the United States.

Mr. MORGAN. That is the right thing to show, that we are on the side of the Government against the Filipinos. So far as the Filipinos are wrong and wicked in their rebellion against the authority of the Government of the United States, that is the right thing for us to do, and all the new-comers and the old-comers in the Republican party feel that way, and so do I. We are in perfect harmony with each other upon that; but I submit to you, gentlemen, it is not exactly a fair thing to keep a measure on the Calendar for more than a year and then in the last week of the session and in the last few days to put it on an appropriation bill at the command of the Administration, and then claim that one of the high purposes of it is to reconcile the Filipinos or to reconcile somebody else in their irritation growing out of party affairs or party measures. You need no reconciliation, gentlemen. Whenever the wand of power is held over your head you quietly sit in your chairs and take whatever comes. You need not go into a legislative measure for the purpose of furnishing grounds for your submission to anything that your party demands. Everybody knows you will do it.

Speaking of this power of repeal, to which I adverted some time ago in my remarks, and upon which I dwell because of its immense importance, there is another view of this question to which I desire to apply it. Suppose Congress wants to repeal this act conferring these powers upon the President of the United States, and suppose that motion for repeal comes after certain eminent Republicans in the United States, greatly capitalized and powerfully lifted up by recent events, have gone there and acquired a very large holding in that vast and splendid area of public land, sugar land, coffee land, banana land, mineral land, forests, and everything else—have acquired great mining privileges and have also acquired great railroad privileges in that country; have acquired corporate rights of different kinds in which there was an enormous speculation; and suppose that these men had drawn themselves together in harmony and in unison, as was done recently in a certain famous bill that is no longer on the Calendar, and they should say to the President of the United States, "Do not let that bill be repealed; we will not suffer it at all, because if you do, that may sweep out these vast accumulations of power and property that we have got; do not you do it;" the President of the United States would have no power to resist.

Why do I say that? Because he has got no power to-day to resist. It is perfectly obvious that the President of the United States has wakened up to a new demand urged upon him very recently, and in such terms that he can not resist it, because if he had any use for these powers at all, or has ever had any use for them, he had as much use for them a year ago as he has got now; and this same measure, couched in the same terms, has been kept on the Calendar, not moved at all, though its movement has been challenged from this side of the Chamber for all this time, without the slightest excitement on the subject.

The matter rested until it was discovered that there were some men in the United States who might have a very great use for these powers in the hands of a President who was kindly in his feelings toward them. They have got, I will say, this largess; they have acquired these interests; they have combined them into one of those arrangements which recently has become entirely familiar to the world—an innocent arrangement of a trust—and they say to the President of the United States, "Do not permit this act to be repealed."

Now, I want to know what is the value of your repealing power? Suppose there is a majority in this Senate and in the other House to repeal these laws—because they have been the center around which these combinations and trusts and money affairs have crystallized—and the President of the United States says, "You can not do it unless you have got a two-thirds majority," we put into his hands the power to keep this statute perpetually on the books and to retain all this power in his own hands until the House and the Senate have developed power enough from the people to overturn his veto, which means a two-thirds vote. So you invest him with all of these enormous powers and then, under the Constitution, you point to him and say, "When the time comes that the country wants this act repealed, that can not be done except against the two-thirds vote of these two Houses."

Mr. President, if King Edward of Great Britain, who is to be crowned before long, having now the scepter in his hand, imperial and royal, would put upon his head a coronet in which should be inscribed the words that are in this amendment in regard to the government of the Boer country and the Orange Free State, in which those vast gold mines and diamond mines are found, the Parliament of Great Britain would sooner take his head off than permit him to crown himself with that emblem of authority, or that he should go to South Africa and enact laws there in respect to the gold mines and diamond mines, the fields and pastures, and the like of that, over the wide expanse of that country, and that he should have it in his power to enact laws there, and not only to enact them, but to become the judge in respect of their interpretation; and not only that, but to become the executive officer for their enforcement; and not only that, but in the language of this bill, that he should direct the manner in which all of these powers, legislative, executive, and judicial, should be exercised. If King Edward should make a claim of that sort against the Parliament of Great Britain he would not survive it.

They would find a way to have a different monarch from him upon their throne. Are we going to put this power under this act into the hands of the President of the United States and tell him that he is at liberty at least to hold it until two-thirds of the Senate

of the United States and of the House of Representatives shall overrule his veto when we repeal it? We have some idea now, sir, what the repealing power that we transfer to the President is worth. He has the determination as to when this statute shall end.

Some citations are made here, and are no doubt running through the minds of Senators who probably will reply to me—they are citations of three acts of the Eighth Congress, in 1803, and the act in a reference to Hawaii. Every one of those acts contained a fixed and determinate period when they should expire by their own terms. They differ from this act in other important particulars; but I want to call attention to this particular.

Every one of those acts expired at a fixed period by its own terms. They do not need to be repealed. The repealing power is dispensed with because the death of the act is incorporated in its body, and when the lapse of time brings up the event in each one of these acts upon which its power terminates as a law, then it goes into a nonexistent state. That being the case there, Mr. President, what a difference there is between those acts and this act, which has no time of life and no time of death, but depends entirely upon the repealing power of Congress, which, when it is exercised, if it ever is, must be exercised by a two-thirds vote of both Houses.

We not only confer this power upon the President indefinitely, but we fix it so that when we ask him to return it to us, to give it up, no matter what the abuse may be, he replies to us, "I do not choose to do it." Pass your bill, and let us see what the President of the United States is going to do with your bill to repeal this thing I have been talking about. When the time comes for the decision, backed by a party not one particle more subservient to him than the majority of this Senate on that side of the Chamber is subservient to-day, they will say, "We shall vote to sustain the President," and unless you have got a two-thirds vote to repeal this law, there it stands in perpetuam.

Mr. President, I am not imputing motives about this matter, but I say the hazard and rashness of this proceeding have been unequaled in any country in the world that pretends to have a parliamentary government. Will you tell me, sir, why it is that a country wants a parliamentary government? It is not to watch the people, nor is it so much to provide for the people. It is to watch the executive. Legislative parliaments have their origin in concessions from the king or from the monarch, whoever he may be, or these concessions have been wrung from him, according to the narrative of history, by bloody battles in war. A parliamentary government stands for the purpose of controlling the chief executive in the administration of the government and to prohibit him from snatching from the people, through the supremacy of his kingly power and prerogative, their liberties.

Here we are supposed to have a parliamentary government; not only that, but a government which has robbed the President of the United States or the Chief Executive of all prerogatives whatever. There is not one prerogative power that is left by the Constitution of the United States in the hands of the President of the United States. When our fathers got through with their British subjugation and got into the air and elements of liberty, the first great act on their part was to see that the Chief Executive of the United States should have no semblance of prerogative. He is guarded, watched, held down in every possible way.

There are three great countries in the world that I have heard of and been informed about that are not parliamentary countries. They are China, Russia, and Turkey. I do not think I want to give to the President of the United States the same independence of parliament—the United States Congress—that the Emperor or Empress, or both combined, have of the Tsung li Yamen, or any other establishment in China, or that the Sultan has of the Sublime Porte, or the Czar of Russia has of the council of state and the holy council and the senate.

They have a senate in Russia, but they have no written constitution, and the senators and this committee of religion—the council of ten, are all administrative officers; that is to say, they stand upon the same footing precisely with the men in this country whom we call members of the Cabinet, not mentioned in the Constitution. Their powers are not defined in the Constitution at all. They are not constitutional officers; they are administrative officers, and the President can turn them neck and heels out of doors at any time he pleases.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. MORGAN. Certainly.

Mr. SPOONER. I should like to ask the Senator whether, if this bill should pass, the President in his relation to the Philippines would be any more independent of Congress than he is to-day?

Mr. MORGAN. I have been trying for about an hour and a half to explain why he would be.

Mr. SPOONER. The Senator is speaking about its requiring a two-thirds vote if this bill is passed to take away from the President the powers which this bill would give him.

Mr. MORGAN. Yes; to repeal it.

Mr. SPOONER. Can an end be put to the President's power in the Philippines as it exists to-day except by Congressional legislation?

Mr. MORGAN. No.

Mr. SPOONER. Of course an act establishing a government in the Philippines would do it?

Mr. MORGAN. It would do it if it was a government under the Constitution.

Mr. SPOONER. Would not the President have the same power to veto such an act, and would it not require two-thirds to pass it over his veto?

Mr. MORGAN. It would.

Mr. SPOONER. Is he not now as independent of Congress as he would be if this bill should pass?

Mr. MORGAN. Under the circumstances he certainly is, but I want to get rid of that particular feature of it.

Mr. SPOONER. The Senator can not get rid of it without passing some act.

Mr. MORGAN. Yes, you can. We did it the other day when, with his approval, we annexed some territory down there. We will do it when, with his approval, we pass this act authorizing him to conduct belligerent operations against rebels in the Philippines.

Mr. SPOONER. The Senator does not answer my question.

Mr. MORGAN. The President of the United States can exercise and does exercise justly and rightfully the powers that have come to him through the laws of nations from the Government of Spain. There is no doubt of it; and he can go on and act under those laws and in virtue of that power in the administration of those islands until Congress sees proper to intervene and give them a government.

If it had been asserted that he would veto such a measure, this amendment would never have been introduced. As I understand it, he is moving this measure to a passage in order to get the consent of Congress that he may exercise the same power that he is now exercising there, only to a greater degree. That is the point in the case. He does not want to take the responsibility of it. He wants Congress to take the responsibility; but in taking the responsibility he does not want Congress to institute there the regular, ordinary, and constitutional Territorial government. He does not want that done. He wants a government such as he himself will choose to inaugurate.

In proof of that I want to read the language of the Constitution. I am almost ashamed, Mr. President, to pick up this volume and read it here, as it has been so much commented on, but the necessity for commenting on this book is not created by me or by this side of the Chamber. The necessity for bringing it into play and holding it up as a protection for the people and Government of the United States comes entirely from the other side. So whenever it comes, until it is thoroughly worn out and forgotten in the midst of the glorious prosperities of the era, I shall still claim the privilege, though it excites a smile, occasionally to quote it.

The legislative powers granted in this amendment are powers of the United States, I suppose. Is anybody going to deny that proposition? They come from the Government of the United States through the Congress of the United States, and in a bill submitted to both Houses and passed and approved by the President, and therefore it is a United States measure, and this will be a United States law. There is no unknown, unascertained, or mythical or supposititious source from which the powers come that are embraced in this proposed act. They come through the Government of the United States. Article I of the Constitution says:

> All legislative powers herein granted shall be vested in the Congress of the United States.

This bill says:

> All military, civil, and judicial powers necessary to govern the Philippine Islands, acquired from Spain, * * * shall * * * be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct.

Now, here is legislative power vested in Congress. This bill says that this same legislative power—all the legislative power necessary for the government of the Philippine Islands, containing ten million people or thereabouts—shall be vested not in the Congress, but in such person or persons as the President shall direct, and in such manner as he shall direct, for the establishment of civil government and for maintaining and protecting the inhabitants thereof in certain rights.

I should like to know from some grammarian, or some legislator, or some lawyer, or somebody else, and from any plain, commonsense man whether or not the Constitution shall stand, which says that these legislative powers shall be vested in Congress, or whether this bill shall stand, which says that they shall be vested in such persons as the President of the United States shall designate; that is, the legislative power. Of course, the executive power is

vested in the President of the United States by the Constitution. Now we come to the judicial power.

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

If you want to find the powers of the Federal courts you must go to an act of Congress, not to an act of a Territorial legislature, nor to the act of a State legislature, nor to the executive acts of the President. The power is especially conferred upon Congress to establish courts, that shall be the recipient of what? Of the judicial power that shall vest in them. We say the President of the United States is the officer who shall select the people in whom shall be vested the judicial power in the Philippines.

Then how shall that judicial power be exercised, and by whom? It shall be exercised of course by courts, to be established by his law. He is the legislative power. In what manner shall the judges perform their duties? In such manner as the President of the United States shall direct. A corps of United States judges in the Philippines, sitting in judgment upon the rights of those people and all other people in the world who may come in contact with them, must decide and execute the duties of their office in such manner as the President of the United States shall direct, for all civil, military, and judicial powers necessary to govern those people are vested in the men whom the President appoints, and must be exercised by them in such manner as he shall direct. I should like some lawyer to tell me why he can not institute a process of appeal in the Philippines which will bring the final decision of all cases to the Executive Mansion, and have them decided in such manner as he shall direct.

Mr. President, is the other side of that question so perfectly clear that we have no doubt about it? Is there a man on the other side of the Chamber who now can consult his own heart and say he has no doubt that the Congress of the United States has power to delegate its authority—whatever authority it has—and not only its authority, but the authority of the Constitution, for it is the direct authority of the Constitution that vests the legislative power in Congress for the whole United States and vests the judicial power in the courts to be established by act of Congress? Now, if we have doubts upon a question of that sort, to say the least of it, are we to run over this question in this way to make some convenience for the President or to reconcile difficulties on the other side of the Chamber and amongst his own partisans, or to reconcile the Filipinos to the rule that he is now exercising and would then exercise through a different line of authority? By no means.

I appeal to the old Democratic party, of which I speak to-day with the most profound reverence, and I always speak of it in its moments of depression with greater reverence and greater gratitude, for the reason that it has sometimes had these depressions that seemed absolutely beyond recovery, but it is guided by true principles and has the correct interpretation of the Constitution of the United States, and adheres to it always as the bulwark of the liberties of the country and the people; I appeal with pride to it even at the time when it is trodden under foot by arrogant, toplofty men; I appeal with pride to its record and to its principles to protect the Government of the United States against this outrage that is attempted to be perpetrated in this bill.

I desire to show another power that is placed by the treaty of Paris amongst the peculiar powers of Congress not conferred especially by the Constitution. I have gone through with only a partial list of the powers conferred directly and especially by the Constitution upon Congress. I want to show a power conferred upon Congress by this treaty. Let us see what we are doing with that when we are conferring upon the President of the United States all civil, military, and judicial powers in the Philippines. The last clause of Article IX of the treaty says:

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

Now, we are doing two things. We are instituting a government over those people without determining what their civil rights ought to be or are or what their political status is. But the most important transgression of duty is that which takes from Congress that power under this amendment and gives it to the President of the United States. Not only is it a power conferred, I will say, upon Congress as the special agent of both of the treaty powers to execute this agreement between them, but it is the exclusive agent, and we are creating another. We are creating first an agency in the President of the United States by a delegation of legislative, judicial, and other powers to him, and then he goes on and he has the right under this amendment to settle the political status and the civil rights of the inhabitants of that country.

How could we more flagrantly violate and break this treaty than to substitute a new power to establish the political status and civil rights? That is outside of the Constitution of the United States. That is a matter of treaty right; and in recent days the sensitiveness of the Senators of the United States on the subject of keeping their treaty obligations would satisfy an ordinary man that they need nothing in the world but a little wax to pin some wings on their shoulders to ascend at once to the upper glory. Their love of the propriety of diplomatic rectitude has all the manners that belong to that hollow and hypocritical department of human affairs that we call the diplomatic authority.

In all these things the gentlemen of this body have recently seemed to have grown excessively sensitive. Here is an opportunity for indulging their sensibility in the maintenance of their own contract, that the political status and the civil rights of the Filipinos shall be determined by the Congress and not by the legislature of the Philippines, appointed or selected or commissioned by the President of the United States. This act violates it, sets it aside, spurns it, scoffs it.

Speaking about citizenship and the rights secured by the treaty, how does this strike the Senate:

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

Who are the inhabitants? Are they the men to govern whom we succeeded to the right when we made this treaty? They are not called citizens in that clause, but in another clause they are called citizens of these islands. There is a right guaranteed by treaty that must be exercised, if at all, by the Congress of the United States and not by a territorial legislature or a legislature resembling a territorial legislature, created in the Philippines by the decree of the President. Not only have we provided for the citizens and inhabitants of the Philippines, but we have provided by express guaranty of the treaty for the church, the corporation that exists there.

Now, if the President of the United States chooses to violate this treaty, or if he makes a mistake about it and assumes to himself authorities that belong not to him, but to the Congress of the United States, and thereby he inflicts injury or supposed injury upon the people of the Philippine Islands, what redress have they? To whom can they appeal? Congress will say, We will wipe out this act. Can Congress repeal the laws the President enacts in the meantime?

If it can, the authority so to do is not in this proposed act. It is to be found elsewhere. It is to be found in one of the general laws that control the government of the Territories of this country, and the President and his Legislature can repeal those laws if they stand in his way. So nothing can be touched that the President has decreed antedating the time of the repeal of this act by Congress. His laws stand in force just as much as the laws of Spain are in force to-day in the Philippines, and we know that the laws of Spain are in force to-day in the Philippines and are being constantly administered in the courts and in every other department of that government.

Whatever acts this new legislature that the President may organize under this act may put into the form of statute laws stand there unrepealed when we cut off his authority, for this act contains no provision that while he is going on enacting these laws Congress has the right to repeal them as Congress has the right in every other Territorial establishment in this country to repeal them, and not only the right to repeal them, but to set them aside without repealing them because Congress does not adopt and approve them. That is the hold we have upon the people in the Territories, and we have never let it go in any of these Territorial governments. But in this case we abandon into the hands of the President the full, unqualified, unstinted power for making enactments without the power to repeal them reserved in the act, or, indeed, without the authority to repeal the act as against a two-thirds majority of the Houses.

What becomes of that various widespread and usurpatory class of rights that are created in public charters and that hold they have vested rights and privileges that the legislature can not touch unless the body of the act giving them their privileges and their charter rights contains a provision that the Congress has the right to repeal them? Ever since the Dartmouth College case the Congress of the United States and the legislatures of all the States, when they have conferred charters upon corporations of every kind that are connected with business transactions, the use of money or property, have always put in the reservation, the clause, that the legislature "shall have the right at any time to alter, amend, or repeal this act."

But it is left out here. It is left out ex industria. Why was it left out? Well, thereby hangs a tale, in my opinion. I do not profess to know the secret motives that lie at the bottom of this measure. I take it on its face, and I take the opportunity it bears, and I present them in the presence of frail humanity as a temptation to humanity, and I say it is most unsafe legislation. It violates the Lord's prayer—"lead us not into temptation"—and a law which does that ought never to go upon the statute book.

What are the temptations here? Well, Mr. President, they are in every part of the history of the country we are talking about now. To-day the Senator from Massachusetts [Mr. HOAR] and the Senator from South Carolina [Mr. TILLMAN] were engaged in

a discussion of a part of the report in regard to public lands, which is found on pages 33 and 34 of the report of the Philippine Commission, and they made that subject so perfectly clear that I must suppose that the Senators who are defending this amendment will find themselves constrained to make some statement if not some apology for having put in the law a provision which enables them and the President and his friends to carry out this recommendation. I will read just a few words from that report:

The commission has received a sufficient number of applications for the purchase of public land to know that large amounts of American capital are only awaiting the opportunity to invest in the rich agricultural field which may here be developed. In view of the decision that the military government has no power to part with the public land belonging to the United States, and that that power rests alone in Congress, it becomes very essential, to assist the development of these islands and their prosperity, that Congressional authority be vested in the government of the islands to adopt a proper public-land system and to sell the land upon proper terms.

These lands, Mr. President, by the treaty were given to the United States Government—the fee, the allodium, everything about it. Perfect sovereignty of the lands was given to the United States Government, just as lands in Texas, when we acquired that State by cession, were given to the State government of Texas. The Government of the United States is the proprietor of these lands. At the present time those lands are under a system of law that has not yet been repealed, but which this act proposes to repeal. It is the Spanish law. What was the Spanish law in respect to these Crown lands, for the lands I am talking about now are the Crown lands, public lands that have come to the United States Government, and the quantity is stated at 73,345,415 acres?

I need not dwell upon the value of that land. According to every account of every traveler who has been through that country it is the richest land in the world, taking it acre by acre, the most productive, and the productions are of the highest possible value in commerce. Over 73,000,000 acres belonging to the Crown of Spain were transferred from the Crown of Spain to the United States Government. The Crown of Spain had a system of laws for the disposal of these lands. What was that system? The Crown, the supreme executive authority, had the right to make the grant, and nobody else had the right to make the grant.

There had been times when "commissaries," as they were called, had been established in Spanish laws and under Spanish decrees for the purpose of passing the title of the public domain or the Crown lands into the hands of private owners. But there is no such establishment as that in the Philippines, as far as I am informed. Then it is the sovereign of the country that must dispose of these lands until the Congress of the United States otherwise directs.

Now, they come here and ask us what? Not that we shall do as we did in Texas—give all the public domain to the Government for the benefit of the people—but, reserving the title in the United States, to sell the lands or give them away, if you please, to dispose of them, and to apply the proceeds where they choose; send them to the Treasury of the United States, if you please, or send them into the treasury of the Philippine government, or expend them in public works, in the improvement of harbors and rivers and roads, or in building railroads, telegraphs, and telephones, or schoolhouses, or anything else.

Mr. President, is there a Senator here, particularly from the West, from a land State—I, sir, am from a land State and I know what I am talking about—who would be willing to see the public domain in any State of the West, though it might be a sand desert, put up and sold or donated to different corporations, railroad companies, etc., the proceeds to be applied according to the will of the legislature, and not a homestead reserved? What has the Republican party of the United States come to when it is willing to dispose of over 73,000,000 acres of land by sale, according to the recommendations of the Taft commission, and pass it out into the hands of great corporations and great trusts, reserving not a homestead in all that land?

Why, sir, when the white people in Hawaii acquired the power of government there and the kings intrusted them with authority to assist in government by making them prime ministers, judges, and the like, they met together, and the first thing that was done when the real foundations of civilization were laid, Alexander, the great engineer, went through those islands and mapped every tract of land that had a human being occupying it and put down upon a map the metes and bounds of every foot of land he claimed. Then all those lands belonged to the crown. There was not a man in Hawaii at the time that thing occurred who had a fee simple title to one foot of land except the king.

The king and the nobles met together and they divided the land into three parts; one for the crown, the same lands that we got in Hawaii; one for the noblemen, the lands that the sugar planters have licked up and absorbed in a large degree; the other third to the people themselves, upon which they were to have homestead rights and fee simple titles, every man having his deed duly signed, sealed, and delivered for his tract of land. That is the way they disposed of the public domain there, receiving it from the crown, and it belonged to the crown.

Look at the vast public domain reaching from the top of the Allegheny Mountains clear out to the Pacific Ocean, wherever the Government of the United States had the title to a foot of land. Then sweep your eye on down to the Gulf of Mexico through the land States that border that great estuary of waters, and through the whole length and breadth of the land, after you leave the borders of the old 13 States, the public lands have been subjected to entry by the people, to preemption rights by the people, to homestead rights by the people, and to other valuable rights by the people; and it has been the policy at least of the old crazy Democratic party of this country always to stand by the people and give them homes.

Here you bring in a bill to carry out the recommendations of the Taft commission in which this vast area of lands out in the Philippines is to be sold. To whom? Not 160 acres to the head of a family, but a million acres to a trust or a combination. That is what you are doing here. That is one of the motives of this bill, if I am to gather its motives from what appears on the face of the papers. I am not behind the scenes and I do not know a word about it, but I stand and I scan and scrutinize your act, and no honest man, it seems to me, with ordinary common sense can come to any other conclusion about it.

The great and curious political phrase "gobble" applies to these public lands, and the only reason why it is a misfit is that we can hardly conceive that one gobble should swallow 73,000,000 acres of land. But that is what is done. That is what your bill does. Mr. Taft, in his recommendations here, says "give us the power." What does that mean? Congress is to delegate it. I will come to the delegation feature presently. So about the mines; so about the forests, the fisheries, which are very valuable in that country, the fruit-bearing areas and the rice-bearing areas down about the coast, that are lying out, of enormous value when they are touched by the hand of industry and skill.

There is the great body of the heritage of the people, those 10,000,000 of people we have so contemptible an idea about that Senators revolt when you talk of their being citizens under the Constitution, and we are here farming out their rights, natural rights, God-given rights, if you please, and farming them out into the hands of a legislature in the Philippines which can dispose of them for the purposes of public improvements and railroads to vast corporations, public improvement enterprises, and the like of that.

Somebody said to-day something about a carpetbag government. Well, Mr. President, I have a perfectly familiar and experimental knowledge of carpetbag government, and if I had my choice to-day of going into Russian exile in Siberia, cold as it is, or to put up with five years of carpetbag government, I would hurry to Siberia as fast as I could go; and so would any other Southern man who ever had to try such a thing as that. With the alien and the foreigner and the enemy in power, and on the judicial bench, too, if you please, there is nothing but hard lines in a government that is beset with these carpetbaggers.

That government in the Philippines would not consist of 200 white men all put together, and yet they would control it just like a poor little feeble old woman in the South controls 500 negroes on a plantation with not a white man on the whole place—merely through the ascendancy of her moral force and her power.

We know the powers of this Anglo-Saxon race in government. We know the Anglo-Saxon's fondness for land. We know that he stops at nothing when a title paper is presented to him. We know how deft and how strong and courageous he is; how facile he is in holding the reins of authority over any number of inferior races that you put in contact with him under the appearance of power.

Mr. President, there is going to be, and it is provided in this amendment here, not the nucleus but the whole system of the worst form of carpetbag government that ever existed in the world; and that is what we are now here to-night bequeathing to those people, who are so ignorant, so poor, so wretched, so mean in the contemplation of Senators in this body that they are unwilling to admit that under the Constitution of the United States they are citizens of the country, or can be, or ever shall be.

Well, if there were no gain in it to our people and our race, there might be less reason for anticipating by way of criticism the result that we all more or less fear. But we know what will take place. We know that these lands are to be sacrificed and that the homes these people are entitled in God's name in His Providence to occupy will be licked up by corporations and trusts. Here is the provision made for it in this proposed act. All civil, legislative, judicial power is vested in such person or persons as the President of the United States may choose to vest it in, to be exercised in such manner as he shall direct.

Mr. ALLEN. Will the Senator permit me a question? How is it possible under the Constitution for Congress to confer on the President judicial power when the Constitution itself places that power in the Supreme Court and certain subordinate courts?

Mr. MORGAN. I have already gone over that and read the Constitution to the Senate on that proposition. It is not possible.

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