Also, resolution of Robert F. Lowe Post, No. 167, Grand Army of the Republic, Department of Iowa, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, papers to accompany bill granting an increase of pension to Charles W. Derby—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: Resolution of Brown Post, No. 84, of Bethel, Me., favoring the passage of a service-pension law—to the Committee on Invalid Pensions.

By Mr. McCLEARY of Minnesota: Petition of Jansen & Hansen and other merchants of Springfield, Minn., against the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of H. H. Edwards Post, No. 135, and John A. Dix Post, No. 96, Grand Army of the Republic, Department of Minnesota, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. McCARTHY: Resolution of the Fremont Commercial Club, of Fremont, Nebr., relative to the Brownlow good-roads bill—to the Committee on Agriculture.

By Mr. McMORRAN: Resolution of William Sanborn Post, No. 98, Grand Army of the Republic, Port Huron, Mich., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Papers to accompany bill H. R. 1064, for relief of Solomon Bell—to the Committee on Military Affairs.

By Mr. MURDOCK: Petition of citizens of Rice County, Kans., relating to the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petition of Western Retail Implement Dealers' Association, against certain features of Senate bill 1261—to the Committee on the Post-Office and Post-Roads.

Also, petition of members of the First Presbyterian Church of Newton, Kans., praying for the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petition of citizens of McPherson, Kans., in favor of the passage of the McCumber bill—to the Committee on Alcoholic Liquor Traffic.

Also, petitions of citizens of Ellinwood, Kans.; of the Southwestern Kansas and Oklahoma Implement and Hardware Dealers' Association; of the Wichita (Kans.) Wholesale and Retail Merchants' Association, and of citizens of St. John, Kans., against passage of a parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, resolution of Thomas Brennan Post, No. 380, Grand Army of the Republic, National Military Home, Leavenworth, Kans., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. PRINCE: Resolutions of L. P. Blair Post, No. 634, of Fairview, Ill.; Colonel Horney Post, No. 131, of Rushville, Ill., Thomas Layton Post, No. 621, of Lewistown, Ill., Grand Army of the Republic, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, resolution of the Retail Merchants' Association of Quincy, Ill., against parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, resolution of Tri-City Lodge, No. 617, Brotherhood of Railway Trainmen, relating to bills H. R. 7041 and 89—to the Committee on the Judiciary.

By Mr. RIDER: Resolution of the Philadelphia Maritime Exchange, relative to arbitration treaties between United States and foreign countries—to the Committee on Foreign Affairs.

Also, resolution of the New York Produce Exchange, relative to the inspection of grain by the Government at terminal markets—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Merchants and Manufacturers' Association of Baltimore, relative to deepening the main ship channel—to the Committee on Rivers and Harbors.

Also, resolution of the New York Produce Exchange, in favor of deepening the channel of Harlem (Bronx) Kills—to the Committee on Rivers and Harbors.

By Mr. ROBINSON of Indiana: Petition of O. C. Himes and others, of La Otto, Ind., in opposition to the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. RUPPERT: Paper to accompany bill providing for a public building at Denver—to the Committee on Public Buildings and Grounds.

By Mr. SHULL: Papers to accompany bill for the relief of John Conway—to the Committee on Military Affairs.

By Mr. SIBLEY: Petition of citizens of Mercer County, Pa., asking for reforms in the postal laws—to the Committee on the Post-Office and Post-Roads.

By Mr. SNOOK: Papers to accompany bill granting an increase of pension to Joseph Longberry—to the Committee on Invalid Pensions.

Also, resolutions of Walter A. Slaughter Post, No. 568, of Edgerton, Ohio, and of Choat Post, No. 66, of Napoleon, Ohio, Grand Army of the Republic, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. SPIGHT: Papers to accompany bill for the relief of the heirs of Hardin P. Franklin, deceased—to the Committee on Claims.

By Mr. SULLIVAN of New York: Petition of the Outdoor Art League of San Francisco, relative to the big trees of California—to the Committee on Agriculture.

Also, resolution of the New York Board of Trade and Transportation, against repeal of the national bankruptcy law—to the Committee on the Judiciary.

Also, resolution of the Merchants and Manufacturers' Association of Baltimore, relative to deepening the main ship channel—to the Committee on Rivers and Harbors.

By Mr. SULZER: Memorials of the Denver Chamber of Commerce and Commercial Club and the Denver Real Estate and Stock Exchange, relative to the purchase of a site and the erection of a public building—to the Committee on Public Buildings and Grounds.

By Mr. TATE: Paper to accompany bill for the relief of Canton Lodge, No. 77, Free and Accepted Masons, of Canton, Ga.—to the Committee on War Claims.

By Mr. THOMAS of Iowa: Paper to accompany bill H. R. 2846, to correct military record of Charles G. Chamberlain—to the Committee on Military Affairs.

Also, papers to accompany bill H. R. 1902, granting an increase of pension to Clark Robinson—to the Committee on Invalid Pensions.

By Mr. TIRRELL: Papers to accompany bill H. R. 1909, relative to relinquishment of a strip of land—to the Committee on Military Affairs.

By Mr. TOWNSEND: Resolutions of Woodbury Post, No. 45; George J. Leighton Post, No. 321, and Welch Post, No. 137, Grand Army of the Republic, Department of Michigan, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. WACHTER: Resolution of the Merchants and Manufacturers' Association of Baltimore, relative to deepening the main ship channel—to the Committee on Rivers and Harbors.

Also, petition of John J. Cornell and others, of Baltimore, relative to the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. WEEMS: Papers to accompany bill H. R. 8420, granting an increase of pension to John Patton—to the Committee on Invalid Pensions.

By Mr. WEISSE: Resolutions of Ben Sheldon Post, No. 136, of Brandon, Wis.; Andrew J. Fullerton Post, No. 193, of West Bend, Wis., and Hans C. Heg Post, No. 114, of Waupum, Wis., Grand Army of the Republic, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. WILEY of New Jersey: Resolution of Phil Kearny Post, No. 1, Grand Army of the Republic, of Newark, N. J., in favor of a service-pension bill—to the Committee on Invalid Pensions.

SENATE.

WEDNESDAY, *January 20, 1904.*

Prayer by the Chaplain, Rev. EDWARD EVERETT HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. TELLER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved, if there be no objection.

THE DAWES COMMISSION.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, in accordance with the request from the Commission to the Five Civilized Tribes, a memorial of members of the Dawes Commission to the Senate of the United States of America, together with a copy of the Commission's letter of transmittal; which, with the accompanying papers, was referred to the Select Committee on the Five Civilized Tribes of Indians, and ordered to be printed.

VESSEL BRIG WILLIAM.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel brig *William*, Thomas Farnham, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

ISAAC G. MOALE.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Isaac G. Moale, administrator of William N. Watmough, deceased, *v.* The United States; which, with the accom-

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panying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed a joint resolution (H. J. Res. 29) providing for the transfer of certain military rolls and records from the Interior and other Departments to the War Department; in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. TELLER presented petitions of Post No. 63, of Colorado; of Post No. 23, of Colorado; of George H. Thomas Post, No. 7, of Fort Collins; of Post No. 18, of Colorado; of Post No. 81, of Denver; of Post No. 88, of Colorado; of Anderson Post, No. 96, of Cripple Creek; of Post No. 106, of Colorado, and of Post No. 100, of Colorado, all of the Department of Colorado, Grand Army of the Republic, in the State of Colorado, praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

He also presented petitions of the congregation of the Simpson Methodist Episcopal Church, of Denver; of the congregation of the Highlands Methodist Episcopal Church, of Denver; of sundry citizens of Pueblo; of the congregation of the Christian Church of Grand Junction; of the congregation of the Methodist Episcopal Church of Durango; of the congregation of the Methodist Episcopal Church of Aspen; of sundry citizens of Frinto; of the congregation of the Reformed Presbyterian Church of Evans; of the Woman's Christian Temperance Union of Fountain; of the congregation of the First Avenue Presbyterian Church, of Denver; of the congregation of the Methodist Episcopal Church South, of Pueblo; of the Woman's Christian Temperance Union of Colorado Springs; of the Woman's Christian Temperance Union of Boulder; of the congregation of the Central Presbyterian Church, of Longmont; of the congregation of the Presbyterian Church of La Salle; of the congregation of the Westminster Presbyterian Church, of Denver; of the congregation of the Methodist Episcopal Church of Castle Rock; of sundry citizens of Cripple Creek; of the congregation of the Pilgrim Baptist Church, of Pueblo; of the Young People's Society of Christian Endeavor of the Central Presbyterian Church, of Longmont; of sundry citizens of Boulder; of the Woman's Christian Temperance Union of Colorado Springs; of the congregation of the Methodist Episcopal Church of Florence; of the Woman's Christian Temperance Union of Denver; of the Mesa Woman's Christian Temperance Union, of Pueblo; of the Woman's Missionary Society of the First Presbyterian Church of Canon City; of the congregation of the Christian Church of Loveland, and of the Woman's Christian Temperance Union of Loveland, all in the State of Colorado, and of the Woman's Home Missionary Society of the Methodist Episcopal Church of Cincinnati, Ohio, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. BARD presented a petition of the congregation of the Baptist Church of Salinas, Cal., and a petition of the congregation of the United Presbyterian Church of Salinas, Cal., praying for the enactment of legislation providing for the closing on Sunday of the Lewis and Clark Centennial Exposition; which were referred to the Select Committee on Industrial Expositions.

Mr. NELSON presented a petition of John A. Dix Post, No. 96, Department of Minnesota, Grand Army of the Republic, of Luverne, Minn., praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

Mr. MILLARD presented a petition of sundry citizens of Tecumseh, Nebr., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of the Ministers' Association of Lincoln, Nebr., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. QUAY presented a petition of sundry settlers on the Kiowa, Comanche, and Apache Indian Pasture Reserve No. 3, of Comanche County, Okla., praying that their lands be opened to settlement under the homestead laws, and remonstrating against the enactment of legislation providing for the sale of such land to the highest bidder; which was referred to the Committee on Indian Affairs.

Mr. WARREN presented a petition of John F. Reynolds Post, No. 33, Department of Wyoming, Grand Army of the Republic, of Cheyenne, Wyo., and a petition of O. O. Howard Post, No. 110, Department of Wyoming, Grand Army of the Republic, of Basin, Wyo., praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

He also presented a petition of the congregation of the First Methodist Episcopal Church of Cheyenne, Wyo., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. PENROSE presented a petition of Philadelphia Division No. 102, Order of Railroad Telegraphers, of Philadelphia, Pa., praying for the passage of the so-called eight-hour bill and also the anti-injunction bill; which was referred to the Committee on Education and Labor.

Mr. BURROWS presented a petition of Charles E. Wendell Post, No. 316, Department of Michigan, Grand Army of the Republic, of Minnesota, praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

Mr. GALLINGER presented a petition of the East Washington Heights Citizens' Association, of Washington, D. C., praying for the enactment of legislation to extend the time for completing the East Washington Heights Traction Railroad; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Christian Temperance Union of Epping, N. H., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented the petitions of Right Rev. W. W. Niles, Bishop of New Hampshire, of Concord; of Rev. J. H. Coit, of St. Paul's School, of Concord; of sundry ministers of Charlestown, all in the State of New Hampshire; of J. Cardinal Gibbons, of Baltimore, Md., and of Charles C. Pierce, chaplain, United States Army, of Fort Myer, Va., praying for the enactment of legislation to recognize and promote the efficiency of army chaplains; which were referred to the Committee on Military Affairs.

Mr. CULLOM. I present petitions of Post No. 296, of Carnie; of Edwin D. Lowe Post, No. 295, of Jerseyville; of George Kridler Post, No. 575, of Milledgeville; of Post No. 210, of Cerro Gordo; of Post No. 231, of Hennepin; of G. W. Trafton Post, No. 239, of Knoxville; of John A. Rawlins Post, No. 579, of Mulberry Grove; of E. C. Camp Post, No. 149, of Bement; of Post No. 620, of New Douglas; of Eli Bowyer Post, No. 92, of Olney, and of William Lawrence Post, No. 744, of New Burnside, all of the Department of Illinois, Grand Army of the Republic, in the State of Illinois, praying for the enactment of a service-pension law.

I desire to make one remark in connection with these petitions. It seems to me that almost every Grand Army post in Illinois is asking for the passage of a service-pension bill. Whether the posts in the rest of the country are similarly interested I do not know, but I wish to call the attention of the Committee on Pensions to the subject and ask that they give it serious consideration. I do not know what the cost would be arising from the passage of such a bill.

Mr. GALLINGER. Forty million dollars.

The PRESIDENT pro tempore. The petitions will be referred to the Committee on Pensions.

Mr. QUARLES presented a petition of the Marinette General Improvement Association, of Marinette, Wis., and a petition of the Marinette County Good Roads Association, of Marinette County, Wis., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Claims, to whom was referred the joint resolution (S. R. 11) to authorize certain officers of the Treasury Department to audit and certify claims of certain counties of Arizona, reported it without amendment, and submitted a report thereon.

Mr. STEWART, from the Committee on Claims, to whom was referred the bill (S. 905) for the relief of George F. Schild, reported it with an amendment, and submitted a report thereon.

Mr. BURNHAM, from the Committee on Claims, to whom was referred the bill (S. 1274) to authorize the readjustment of the accounts of army officers in certain cases, and for other purposes, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3127) for the relief of G. W. Ratleff, reported it with amendments, and submitted a report thereon.

Mr. OVERMAN, from the Committee on Claims, to whom was referred the bill (S. 623) for the relief of Henry O. Bassett, heir of Henry Opeman Bassett, deceased, reported it without amendment, and submitted a report thereon.

Mr. CLAPP, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 3199) for the relief of A. M. Short; and

A bill (S. 721) for the relief of Darwin S. Hall.

Mr. CLAPP, from the Committee on Claims, to whom was re-

ferred the bill (S. 735) for the relief of Jean Louis Legare, of the Dominion of Canada, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1787) for the relief of Jean Louis Legare, of the Dominion of Canada, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. KEAN, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 1327) authorizing the Secretary of the Treasury to adjust and settle the account of James M. Willbur with the United States, and to pay said Willbur such sum of money as he may be justly and equitably entitled to; and

A bill (S. 964) to grant jurisdiction and authority to the Court of Claims in the case of Southern Railway Lighter No. 10, her cargoes, and so forth.

Mr. ALLISON, from the Committee on Appropriations, to whom was referred the bill (S. 1546) to amend section 2745 of the Revised Statutes of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. WARREN, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2579) for the relief of the estate of Brig. Gen. Wager Swayne, in charge of the Bureau of Refugees, Freedmen, and Abandoned Lands;

A bill (S. 2888) for the relief of Priscilla R. Burns;

A bill (S. 1407) for the relief of John W. Gummo; and

A bill (S. 2233) for the relief of Hyland C. Kirk and others, assignees of Addison C. Fletcher.

HEARINGS BEFORE COMMITTEE ON INTERSTATE COMMERCE.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted yesterday by Mr. ELKINS, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Interstate Commerce be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee, and to have the hearings and bills printed for the use of the committee, and that such stenographer be paid out of the contingent fund of the Senate.

CLERK IN SENATE POST-OFFICE.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted yesterday by the Senator from Kansas [Mr. BURTON], to report it favorably without amendment, and I ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Sergeant-at-Arms of the Senate be authorized to employ one clerk in the Senate post-office at a compensation of $1,200 per annum, to be paid out of the contingent fund of the Senate until otherwise provided by law.

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

Mr. HALE. There is a great flood of proposed increases in the clerical force of the Senate, and we are from day to day providing for increases. I wish the Senator from New Jersey who reports this resolution would state to the Senate what is the present force in the post-office of the Senate, whether the officials who are there are insufficient to do the work, and whether they are engaged in the Senate post-office in the service of the Senate in the work for which they are paid. I do not know how many officials there are in the Senate post-office, but I am told that the work there is practically done by one man, that the employees of the Senate who are in the office do not attend to the duties, and that this is a supplemental man to increase the force and to aid the man who is doing the work but who is not drawing all the salary. I do not know about the matter, but I have been so told. I should like to have the Senator from New Jersey explain the situation. I do not even know who are employed in the office.

Mr. KEAN. I will say to the Senator from Maine that this resolution is for the purpose of retaining in the post-office the efficient man, the person to whom he referred, who does the work in the post-office.

Mr. HALE. What other officers are there besides this man who does the work?

Mr. KEAN. I believe there is a postmaster, but I am not advised as to how many other people there are in the post-office.

Mr. HALE. I do not rebuke the Senator, because he is very faithful in his duties, but ought he not, before he reports a resolution of this kind, to know what the force is in the post-office and whether the men who are there and who are paid for doing its work are doing it? Does the Senator know that that is the case?

Mr. KEAN. I am sorry to say that I can not inform the Senator as to the post-office employees.

Mr. HALE. I ask that the resolution may go over until the Senator can tell us about the transaction.

Mr. KEAN. I shall be glad to do so.

The PRESIDENT pro tempore. The resolution goes to the Calendar.

BILLS INTRODUCED.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 3627) granting an increase of pension to Elizabeth Osborn; and

A bill (S. 3628) granting an increase of pension to Daniel McCullough.

Mr. PENROSE introduced a bill (S. 3629) to restrict the unlimited transfer of merchandise in bonded warehouses; which was read twice by its title, and referred to the Committee on Finance.

Mr. STEWART introduced a bill (S. 3630) to amend an act entitled "An act to grant the right of way through the Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes;" which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

He also introduced a bill (S. 3631) to provide for the organization and maintenance of public schools in the Indian Territory; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. SCOTT introduced a bill (S. 3632) for the relief of the legal representatives of Lieut. Francis Ware, deceased, of the Revolutionary war; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Revolutionary Claims.

Mr. BURROWS introduced a bill (S. 3633) granting an increase of pension to Charles W. Barnes; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MARTIN introduced a bill (S. 3634) to restore Lieut. Kenneth McAlpine to the rank and number formerly held by him in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. FAIRBANKS introduced a bill (S. 3635) granting a pension to John M. Godown; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SMOOT introduced a bill (S. 3636) for the relief of Charles Hall; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Depredations.

Mr. PLATT of Connecticut introduced a bill (S. 3637) granting an increase of pension to Frederick Taylor; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HOPKINS introduced a bill (S. 3638) to relieve Orville B. Merrill, late captain Company I, Thirty-sixth Regiment Illinois Volunteers, of the charge of dishonorable dismissal; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. HEYBURN introduced a bill (S. 3639) making provision for the payment of certain sums of money found to be due to the Nez Percé Indians of Idaho; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. KEARNS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 3640) granting an increase of pension to John S. Stevens;

A bill (S. 3641) granting an increase of pension to William H. Kinsel; and

A bill (S. 3642) to extend the provisions, limitations, and benefits of the act of July 27, 1892, as amended by the act of June 27, 1902.

Mr. BERRY introduced a bill (S. 3643) for the relief of the trustees of the Baptist Church of Pine Bluff, Ark.; which was read twice by its title, and referred to the Committee on Claims.

Mr. GALLINGER introduced a bill (S. 3644) to regulate the issue of licenses for Turkish, Russian, or medicated baths in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 3645) granting an increase of pension to Francis Hall; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3646) granting a pension to Thomas C. Trumbull; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 3647) granting an increase of pension to Josephine S. Wainwright; which was read twice by

its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GIBSON introduced a bill (S. 3648) granting a pension to Adolph Roensch; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3649) granting an increase of pension to William Kelly; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BALL introduced a bill (S. 3650) for the relief of Thomas Watson; which was read twice by its title, and referred to the Committee on Claims.

Mr. HALE introduced a bill (S. 3651) granting an increase of pension to Mildred S. Ogden; which was read twice by its title.

Mr. HALE. I present a memorandum covering the case, which I ask may be printed with the bill and referred with it to the Committee on Pensions.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Pensions with the accompanying papers, which will be printed.

Mr. CLAY introduced a bill (S. 3652) granting a pension to James R. Ward; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MONEY. For my colleague [Mr. McLAURIN], who is necessarily absent, I introduce a bill.

The bill (S. 3653) authorizing the Secretary of the Interior to issue to Louis Trager a patent for certain lands situated in Wilkinson County, Miss., was read twice by its title, and referred to the Committee on Public Lands.

Mr. QUARLES introduced a bill (S. 3654) granting a pension to Hannah Hall; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. TELLER introduced a bill (S. 3655) for the relief of Ellen Sexton; which was read twice by its title, and referred to the Committee on Claims.

Mr. BARD introduced a bill (S. 3656) granting an increase of pension to William Turner; which was read twice by its title, and referred to the Committee on Pensions.

PANAMA AND THE PANAMA CANAL.

Mr. MORGAN. I introduce a bill, which I ask may be read in extenso, its first reading being at length.

The bill (S. 3657) to acknowledge the independence of the Republic of Panama and to provide for the construction of an isthmian ship canal, and for other purposes, was read the first time at length, as follows:

Many nations having recognized the secession of Panama from the Republic of Colombia and its independence as an accomplished fact:

And the President of the United States having approved and protected the secession of Panama with the naval forces of the United States:

And the President and the Senate having recognized the independent Government of Panama by appointing and accrediting an envoy extraordinary and minister plenipotentiary to the Republic of Panama:

And the people of Panama having chosen their delegates to a constituent assembly, now in session, to ordain a system, plan, and constitution for the Government of that Republic:

Whereby the independence of Panama has become an established fact.

Be it enacted, etc., That said Republic of Panama is annexed to the United States on the terms and conditions following:

That when this section of this act is adopted and ratified by the Government of the Republic of Panama, through the action of a constituent assembly or of the Legislature of the Republic of Panama thereunto empowered, the Republic of Panama, formerly known as the Department of Panama, with its boundaries and dependencies, shall become a part of the territory of the United States and subject to the sovereign dominion thereof, and all and singular the rights and property of said Republic of Panama, of every description, shall vest in the United States of America, without reserve, and shall be subject to their sovereign jurisdiction.

And thereupon the President of the United States shall issue his proclamation that the Republic of Panama is annexed to the United States under the provisions of this section of this act.

SEC. 2. The sum of $10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, subject to the warrant of the President, as compensation to the Republic and people of Panama for the cession of its territory and rights under and in accordance with the provisions of section 1 of this act. Three million dollars of said sum shall be immediately available to be used, in the discretion of the President, for the benefit of the Government of Panama, and the remaining $7,000,000 shall be reserved in the Treasury, subject to the further disposition of the Congress of the United States, for the benefit of the people of the Republic of Panama and their respective territorial and local municipal governments.

SEC. 3. The sum of $15,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be subject to the warrant of the President of the United States, when Congress shall have approved and ratified any agreement the President shall make with the Republic of Colombia, in respect of the secession of Panama from Colombia, including an agreement as to any public debts that Colombia may owe to other governments, which might otherwise be claimed as a debt, in whole or in part, that may be obligatory upon the Republic of Panama, and also including all rights and claims of every kind and character in favor of Colombia, in any manner or form, growing out of her relations to or dealings or connection with the Universal Panama Canal Company or the New Panama Canal Company.

SEC. 4. The sum of $40,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be applied as follows and upon the following conditions, namely:

"That the President of the United States is hereby authorized to acquire, for and on behalf of the United States, at a cost not exceeding $40,000,000, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than 68,863 shares of the Panama Railroad Company, owned by or held for the use of said canal company, provided a satisfactory title to all of said property can be obtained."

And after such contract or purchase is made it shall be submitted to Congress for its ratification and shall not be finally obligatory until it is so ratified; whereupon the President is authorized to draw his warrant on the Treasury of the United States for such sum, not to exceed $40,000,000, as Congress shall make available for such purchase.

The President shall report to Congress the terms and conditions of such purchase and the names of the persons or corporations that are lawfully authorized and empowered to make a sale and conveyance of such property, and to receive and give acquittance for the sums of money to be paid for the property and rights of said canal companies purchased under the provisions of this section of this act.

The President shall also report to Congress the facts he may ascertain as the basis of the right of either of said Panama Canal companies to make a sale and conveyance of their property and concessionary or other rights to the United States, and of the state and condition of those concessions and upon what laws or decrees of Colombia they rest for their validity.

SEC. 5. The appropriation of $10,000,000 for the construction of an isthmian canal in section 5 of the act approved June 28, 1902, entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," and the other provisions of said section shall apply to the construction of a canal at Panama, subject to the provisions of this act, and nothing contained in sections 2, 3, or 4 of this act shall in any manner retard or delay the construction of a canal on the Panama route or on the Nicaragua route, as described in said act of June 28, 1902.

Nothing in this act shall be so construed as to affect any right, power, or duty of the President under said act of June 28, 1902, in respect of the Nicaragua route, as therein provided, or as affecting any right of the United States under the agreements, respectively, between the Republics of Nicaragua and Costa Rica and the United States, signed, sealed, and interchanged on the 1st day of December, 1900. And if a canal is constructed or commenced to be constructed, subject to this act, at Panama, all the provisions of said act of June 28, 1902, shall apply to the same, except the first section thereof, as fully and completely as the same would have applied to a canal constructed in conformity thereto under atreaty with Colombia if such treaty had been made when it was the sovereign owner of the Department of Panama.

Mr. MORGAN. I ask that the bill may go over, and on its second reading to-morrow I shall ask the leave of the Senate to submit some observations upon it.

The PRESIDING OFFICER (Mr. KEAN in the chair). The bill will go over for a second reading.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. TALIAFERRO submitted an amendment proposing to appropriate $720 to pay balance due the Independent Line steamers, of Tampa, Fla., in settlement of all claims against the United States for damages to the steamer *Manatee*, due to a collision with the U. S. S. *Hillsboro*, in Tampa Bay, Florida, November 18, 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. NELSON submitted the following amendments, intended to be proposed by him to the diplomatic and consular appropriation bill; which were referred to the Committee on Foreign Relations, and ordered to be printed:

An amendment proposing to change the grade of the consulate at Stuttgart, Germany, from Class IV, Schedule B, to Class III of the same schedule;

An amendment proposing to change the grade of the consulate at Odessa, Russia, from Class IV, Schedule B, to Class III of the same schedule;

An amendment proposing to increase the salary of the consul-general at Christiania, Norway, from $2,000 to $2,500; and

An amendment proposing to change the grade of the consulate at Bergen, Norway, to Class VI, Schedule B.

Mr. NELSON submitted an amendment proposing to appropriate $4,926.67, in full compensation for damage to the owners of the Norwegian steamship *Nicaragua* by reason of the rescue of an American citizen, John McCafferty, and the consequent quarantine of said ship at Mobile, Ala., 1894, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Claims, and ordered to be printed.

Mr. QUARLES submitted an amendment proposing to appropriate $2,000 for chief of division of printing, in the Department of Commerce and Labor, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

PURE-FOOD BILL.

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

Ordered, That there be printed, for the use of the document room of the Senate, 500 extra copies of Senate bill 198 and of the report thereon, Senate Report No. 301.

HEARINGS BEFORE COMMITTEE ON APPROPRIATIONS.

Mr. ALLISON submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Appropriations be, and it is hereby, authorized to employ a stenographer from time to time, as may be necessary,

to report such testimony as may be taken by the committee or its subcommittees in connection with appropriation bills, and to have the same printed for its use, and that such stenographer be paid out of the contingent fund of the Senate.

RELATIONS WITH COLOMBIA..

Mr. HALE. The other day I introduced a resolution relating to the situation in Panama as a substitute to the resolution of the Senator from Georgia [Mr. BACON], and it went with his resolution. Those resolutions are on the table. I now introduce the same resolution, simply that it may be referred. The Senator from Georgia is not here. I ask that my resolution may be referred, not touching his resolution, to the Committee on Foreign Relations.

The PRESIDENT pro tempore. The proposition of the Senator is simply a reference of the resolution?

Mr. HALE. A reference of this resolution, not touching the other.

The PRESIDENT pro tempore. As it has been read before, it will not, unless the Senator desires, be read again. The resolution will be referred to the Committee on Foreign Relations.

The resolution submitted by Mr. HALE on the 13th instant was referred to the Committee on Foreign Relations, as follows:

Whereas the State of Panama, formerly a part of the Republic of Colombia, has seceded from that Republic and has set up a government, republican in form, under the name of the Republic of Panama; and

Whereas the independence of said Republic of Panama has been recognized by the United States and by many other nations; and

Whereas a treaty is now pending before the Senate between the United States and the Republic of Panama, the ratification of which will insure the speedy building of the interoceanic canal by the United States across the territory of said Republic of Panama: Therefore

Resolved, That in any claim which the Republic of Colombia, in any form, may make against the said Republic of Panama for indemnification or loss of territory or increased burden of the debt of said Republic of Colombia, the President is requested to tender his best offices toward the peaceful adjustment of all controversies that have arisen, or may arise, between said Republic of Colombia and the Republic of Panama.

NICARAGUAN CANAL.

Mr. MORGAN. I submit a resolution, which I ask may be printed and go over.

The concurrent resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That obedience to the act of June 28, 1902, known as the "Spooner law," and the preservation and execution of the agreements between Costa Rica, Nicaragua, and the United States entered into, sealed, and interchanged on December 1, 1900, requires that the President shall proceed to open negotiations with Nicaragua and Costa Rica for a treaty to further arrange and settle the terms in detail for the construction of a ship canal on the Nicaragua route.

The PRESIDENT pro tempore. The resolution will be printed and go over. It is not, however, an ordinary resolution, recognized as coming up in the morning hour. It is a concurrent resolution.

Mr. PLATT of Connecticut. It can go over.

The PRESIDENT pro tempore. In accordance with the request of the Senator from Alabama, the resolution will go over.

HOUSE RESOLUTION REFERRED.

The joint resolution (H. J. Res. 29) providing for the transfer of certain military rolls and records from the Interior and other Departments to the War Department was read twice by its title, and referred to the Committee on Military Affairs.

SIVEWRIGHT, BACON & CO.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a report from the Secretary of State, with accompanying papers, relating to the claim of Messrs. Sivewright, Bacon & Co., of Manchester, England, British subjects, for compensation for damages sustained by their vessel, the British steamship *Eastry*, in consequence of collisions, in June, 1901, at Manila, with certain coal hulks belonging to the United States Government.

I recommend that, as an act of equity and comity, provision be made by the Congress for reimbursement to the firm of the money expended by it in making the repairs to the ship which the collisions rendered necessary.

THEODORE ROOSEVELT.

WHITE HOUSE,
Washington, January 20, 1904.

RELATIONS WITH NEW GRANADA OR COLOMBIA.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution, which will be stated.

The SECRETARY. Senate resolution 73, by Mr. GORMAN, calling upon the President for certain information touching former negotiations of the United States with the Governments of New Granada or Colombia, etc.

The PRESIDENT pro tempore. The resolution is before the Senate, and the Senator from Colorado [Mr. PATTERSON] is entitled to the floor.

Mr. PATTERSON. Mr. President, when I suspended my remarks yesterday the Senator from Wisconsin [Mr. SPOONER] and I had reached a conclusion about what has been a controverted clause of article 35 of the treaty of 1846, namely, that it was a grant of a right of free passage and transit to the United States and citizens of the United States and their goods and merchandise, revocable at the expiration of twenty years if either party desired its revocation, or at any time after twenty years upon a year's notice of the party desiring the end or the amendment of the treaty. Further, that it was a grant to the United States of very important commercial privileges that the United States had been striving in vain for twenty years to secure. These commercial privileges, of course, were mutual, but the commercial advantages were all with the United States, for this was a country of great commercial enterprise. It desired the expansion of its commerce throughout South America. It was in competition with Great Britain in seeking the republics of South America as its markets, and through this treaty it was given much more advantageous ground than was held by its British competitor.

All the provisions of the treaty of 1846 that I have discussed were to the great advantage of the United States. I now come to the only part that could be claimed to be a burden upon the United States, and so much as gave the guaranty of the United States to maintain the sovereignty and property of Colombia in the Isthmus of Panama. I read:

And, in order to secure to themselves—

That is, the United States—

the tranquil and constant enjoyment of these advantages—

That is, the commercial advantages to which the treaty had before referred and that are epitomized in article 35—

and as an especial compensation for the said advantages and for the favors they have acquired by the fourth, fifth, and sixth articles of this treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned Isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists, and in consequence the United States also guarantee in the same manner the rights of sovereignty and property which New Granada has and possesses over the said territory.

Mr. President, in view of the strong and comprehensive language used in this clause of article 35, I was inclined to believe, when I first gave it my consideration, that the United States had not only guaranteed the neutrality and the property of Colombia in Panama as against foreign nations, but that it had also guaranteed them as against domestic insurrection. Reflection has satisfied me that such was not the case and that both the President and Secretary Hay are right when they concluded that the United States guaranteed the sovereignty of Colombia over Panama only as against foreign governments. So, in what I shall say upon this clause of article 35, I will be guided by the conclusion reached by the President and by Secretary Hay, and as is contended for by the Senators upon the other side.

But, Mr. President, when the United States guaranteed the sovereignty of Colombia over Panama and guaranteed the property of Colombia in Panama as against foreign nations, surely it also guaranteed that the United States would never participate, so long as the treaty lasted, in wresting that sovereignty over Panama or Colombia's property in Panama from Colombia. If it was not an obligation upon the United States resting in express words, it was an obligation commanded by every obligation of international morality—that when a nation guarantees the neutrality and the property of another nation in a part of its possessions as against foreign powers, it has effectually tied its own hands from conspiring with domestic traitors to destroy that sovereignty.

That this treaty provided as clearly as language could against anything like force or war being waged against Colombia for anything arising out of the treaty is manifest in every article and line of it. I call attention to article 3, because this article declares by what rules the subjects of one of the nations when in the territory of the other shall be governed:

ARTICLE 3.

The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside and trade there in all kinds of produce, manufactures, and merchandise, and that they shall enjoy all the rights, privileges, and exemptions in navigation and commerce which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected.

By this article citizens of the United States prosecuting commerce in Colombia and living there were to be bound by the laws, decrees, and usages of Colombia to the same extent as native citizens were. This is a consideration of no mean importance in the discussion.

When we consider article 8 of the treaty we find the fullest and most complete provisions made for the rectification of any violation of the treaty by either side. It provides that the citizens of either of the countries shall be liable to an embargo on Panama commerce. I read it for another purpose—to show that this treaty provides for interruptions in transit across the Isthmus. It pro-

vides for embargoes, for deliberate detention in transportation upon conditions, as will be seen from the reading of the article:

ARTICLE 8.

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects for any military expedition, nor for any public or private purpose whatever, without allowing to those interested an equitable and sufficient indemnification.

Here, then, is a clear provision by implication that embargoes might be placed upon commerce; that interruptions in the transit of persons, cargoes, merchandise, and effects might occur. For what nation can surely provide against the contingencies of internal troubles? And it is the necessary result that in such treaties as the one of forty-six, provisions must be made excusing the guaranteeing state from unforeseen contingencies.

Mr. MALLORY. Will the Senator permit me to ask him a question?

Mr. PATTERSON. Certainly.

Mr. MALLORY. The Senator is reading now from the eighth article of the treaty, which applies in general. I wish to call the Senator's attention to the thirty-fifth article, to the portion of it which refers to the Isthmus of Panama particularly, and to the right of transit across the Isthmus of Panama, and I ask him whether under approved rules of construction that would not be considered as an exception to the general rule laid down in the eighth article?

Mr. PATTERSON. I take it that the whole includes every part, and whenever this treaty provides for a course of conduct applicable to the whole of Colombia it includes Panama as well as every other of the nine Departments of which Colombia consists. Therefore, Mr. President, while there is another provision in article 35 which relates distinctly to Panama, there is no room to question that article 8 is also applicable.

I now call the attention of the Senate to the provision of article 35, to which the Senator from Florida [Mr. MALLORY] referred. It is the fifth subdivision:

Fifth. If, unfortunately, any of the articles contained in this treaty should be violated or infringed in any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws and of international right.

If there had been any violation of this treaty upon the part of Colombia, what was the bounden duty of the United States? If the President desired to observe the treaty that we all admit is yet in force, because neither nation has denounced it and the President rests his justification in part upon it, it was his solemn and bounden duty to pursue the course marked out by this clause of the treaty. Has it been done? There is no suggestion of the kind. Not a single charge of the violation of the treaty has been presented. If there had been, then the duty of the President was plain to pursue the course marked out by this section. But granting there was some nonobservance of the treaty by Colombia, which is not charged, and which did not occur, then the President ignored the treaty, and by intervention for the Panama junta made war his method for redress.

The fact that the President has not pursued the method prescribed in the treaty, for nonobservance of its terms is proof positive, since treaties are the supreme law of the land, as he is a law-abiding citizen and observes the obligation of his oath of office, that in his judgment there was no violation of the treaty and there was no necessity for him to proceed under article 35.

Now, let us see what the President says in his message about the action of Colombia with reference to the right of transit and the treaty. I read from his last annual message:

In the year 1846 this Government entered into a treaty with New Granada, the predecessor upon the Isthmus of the Republic of Colombia and of the present Republic of Panama, by which treaty it was provided that the Government and citizens of the United States should always have free and open right of way or transit across the Isthmus of Panama by any modes of communication that might be constructed.

If the President had been entirely frank, he would have said that the United States and the citizens of the United States were entitled to transit across the Isthmus of Panama so long as the treaty of 1846 was in existence. The treaty does not say that the right of transit shall always exist. Then he continues:

While in return our Government guaranteed the perfect neutrality of the above-mentioned Isthmus with the view that the free transit from the one to the other sea might not be interrupted or embarrassed. The treaty vested in the United States a substantial property right carved out of the rights of sovereignty and property which New Granada then had and possessed over the said territory.

Of course this latter is a conclusion reached by the President. But if when one nation grants to another by treaty, revocable at the will of either after a certain period, the right of transit upon means of communication in the territory of the granting nation, it carves out for the beneficiary some of the sovereignty and substantial property rights of the guaranteeing nation, then it is time for nations to revise the language of treaties and to adopt new terms for expressing their agreements. Certainly never until this exigency arose have the representatives of any nation exhibited sufficient temerity to claim that the treaty grant of the right of transit to its citizens across another country deprived the government of that country of any of its sovereignty and conferred that sovereignty upon another.

Mr. DOLLIVER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. PATTERSON. Certainly.

Mr. DOLLIVER. The Senator from Colorado refers to that passage of the President's message as a novelty. It does not occur to me to be entirely a novelty, as the same proposition in substance seems to have been made by President Pierce in his message on this subject in 1856. Will the Senator permit me to read a single passage from it?

Mr. PATTERSON. Certainly.

Mr. DOLLIVER. He does not say that any part of the sovereignty of Colombia was carved out, but he says that it was a material element of sovereignty; which I understand to be the proposition which the Senator has denied. President Pierce says:

It would be difficult to suggest a single object of interest, external or internal, more important to the United States than the maintenance of free communication, by land and sea, between the Atlantic and Pacific States and Territories of the Union. It is a material element of the national integrity and sovereignty.

Mr. PATTERSON. It is difficult to tell, Mr. President, as I hear the extract read, whether President Pierce refers to the national integrity and sovereignty of Colombia or of the United States in the clause which has been read by the junior Senator from Iowa [Mr. DOLLIVER]. But there is no pretense in what he has read that Colombia had carved out of its sovereignty over its own territory any portion of it and conferred it upon the United States or upon any other country. Most undeniably, Mr. President, communication between ocean and ocean through our own States and Territories is a material element of national sovereignty, but there is no suggestion that the United States has ever parted with any of it, through treaties or otherwise, although the citizens of all our treaty countries have free right of way across them. What the Senator has read is in no wise germane to the discussion.

Mr. President, if the claims of the Administration are true, then the following is the necessary logical result:

That article 35 of the treaty of 1846 was a burden which the United States assumed without consideration; that its true meaning was that for the great benefits that were to accrue to the United States and the civilized world New Granada granted to the United States the right—

To exclude New Granada from use of whatever kind of transportation might cross the Isthmus, however necessary its use might be to suppress rebellion or insurrection.

To deprive New Granada of the right to land troops or other munitions of war on the Isthmus for the purpose of overcoming rebellion or preventing secession.

This, the President holds, is upon the theory that such transportation or landing threatens the free and uninterrupted use of such means of transportation, to keep open and maintain which uninterrupted became the bounden duty of the United States.

As if it were possible that a nation could enter into a treaty upon the face of which its most cherished possession, state or department, was made secure to it as against foreign aggression, but which rendered it powerless to retain that possession against its own subjects or to struggle against domestic revolution, rebellion, or secession.

Mr. President, I shall not occupy longer time with the discussion of the terms of the treaty, but I desire to call attention to the views which have been taken of the treaty by different American Administrations. It has been up for construction not infrequently in the past. Cass, Seward, Bayard, and other Secretaries of State, with the approval, unquestionably, of the Presidents then in office, have had occasion to consider this treaty. They have done so in no uncertain words. I desire to read what President Roosevelt says, and then quote the language of the officials to which he referred, that we may determine whether he correctly interprets their language. He says, in his first message to the present session:

The duty of the United States in the premises was clear. In strict accordance with the principles laid down by Secretaries Cass and Seward in the official documents above quoted, the United States gave notice that it would permit the landing of no expeditionary force, the arrival of which would mean chaos and destruction along the line of the railroad and of the proposed canal, and an interruption of transit as an inevitable consequence. The de facto

government of Panama was recognized in the following telegram to Mr. Ehrman:

"The people of Panama have, by apparently unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence. When you are satisfied that a de facto government, republican in form and *without substantial opposition from its own people*, has been established in the State of Panama, you will enter into relations with it as the responsible government of the territory and look to it for all due action to protect the persons and property of citizens of the United States and to keep open the isthmian transit, in accordance with the obligations of existing treaties governing the relations of the United States to that territory."

The inference the President seeks to convey is that Secretaries Cass and Seward, and doubtless other heads of the State Department, have held that Colombia had no right to land an expeditionary force for the purpose of preserving its integrity and sovereignty over Panama. I assert, Mr. President, that nothing Secretary Cass or any other Secretary of State has said can be tortured into such a claim; and I shall endeavor, by recurring to the language of these Secretaries, to show that what I say is sustained by their language. I reread what Secretary Cass said:

While the rights of sovereignty of the states occupying this region (Central America) should always be respected—

He starts out with the proposition that the rights of sovereignty of the South American States should always—not a part of the time, but always—be respected. I commence the quotation again:

While the rights of sovereignty of the states occupying this region (Central America) should always be respected, we shall expect that these rights be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted in a spirit of eastern isolation to close the gates of intercourse on the great highways of the world and justify the act by the pretension that these avenues of trade and travel belong to them and that they choose to shut them. or, what is almost equivalent, to encumber them with such unjust relations as would prevent their general use.

Mr. President, so far from Colombia having, in a spirit of Eastern isolation, closed the gates of Panama to intercourse from ocean to ocean, it has religiously observed every day and hour of the treaty, so far as it could, the pledge which it gave to the United States. When Colombia granted the franchise for the construction of the Panama Railroad, in that grant of franchise it fully provided for the rights of transit it had guaranteed to the United States, and it is by virtue of the clauses it inserted in the Panama Railroad franchise that the railroad company has never undertaken to discriminate either in passengers or freight against citizens of the United States, and if there had been any other mode of transit constructed, there is no question but that we would have found Colombia again observing the obligations of the treaty by insisting that the transit privileges guaranteed to the United States by the treaty of 1846 should be strictly preserved for them.

It is an historical fact that there has been no closing of the Isthmus to transit of any kind, except occasionally for very short periods when domestic disturbances made it unavoidable. Indeed, Colombia, with the single exception of refusing to ratify the Hay-Herran treaty, which was its indisputable right, has been without offense against the United States ever since the treaty of 1846 was made. I call upon Senators on the other side to indicate, if such is not the truth, when and where and how Colombia failed to perform its duty. It is true that at times there have been insurrections upon the Isthmus of Panama which obstructed for the time being free transit across the Isthmus, but if Colombia was unable to speedily clear the way for the citizens and goods of the United States it has unhesitatingly called upon the United States to lend its aid in opening up the transit.

But supplemental to the utterance of Secretary Cass that I have just read, I call attention to another treaty, quite independently of that of 1846, that was entered into between the United States and Colombia in 1857, by Secretary Cass. There had been obstruction of the transit across the Isthmus, and this treaty was negotiated to enable citizens of the United States to collect damages from Colombia by reason of the obstruction, and the damages were demanded by the United States because it asserted what Colombia admitted that it was its duty and not that of the United States to keep the transit open. The first article of this treaty of 1857 reads:

All claims on the part of * * * citizens of the United States upon the Government of New Granada * * * and especially those for damages which were caused by the riot at Panama on the 15th of April, 1856, for which the said Government of New Granada acknowledges its liability *arising out of its privilege and obligation to preserve peace and order along the transit route.*

It seems to me that the President should revise his statement about General Cass's construction of the treaty of 1846. The latter maintains, in direct conflict with the claims of President Roosevelt and his Secretary of State, by a solemn treaty, solemnly negotiated between the two countries, and solemnly indorsed by the then President of the United States and the American Senate, that it was the duty of Colombia to preserve peace and order along the transit route; and because in this instance Colombia was unable to preserve it as it had guaranteed to do the United States had a claim for damages against it; and New Granada, in the most formal manner, acknowledged its responsibility.

Could there be a more solemn and binding recognition by any country of the duty of another country to keep open its own line of passage and transit? But yet this Administration takes the ground that it was the duty of the United States to keep the transit open, and that it was the right and duty of the United States to prevent the parent country from keeping open the line of transit and from suppressing a rebellion that threatened the transit, and that so much of the sovereignty of Colombia as imposed upon it the duty of keeping open the route had been abdicated and transferred to the United States under the treaty of 1846. I will now read what Secretary Seward said. I quote the extract from the President's message:

The United States have taken and will take no interest in any question of internal revolution in the State of Panama, or any State of the United States of Colombia—

Ah, Mr. President, this was when Mr. Lincoln was President of the United States, when Mr. Seward was his Secretary of State, when calmer heads and better judgment and more loyal observance of the law were the rule at the capital of the nation. Then Mr. Seward declared:

The United States have taken and will take no interest in any question of internal revolution in the State of Panama or any State of the United States of Colombia, but will maintain a perfect neutrality in connection with such domestic altercations.

If the United States had maintained neutrality would there be the Republic of Panama to-day? If the United States had not interposed its vessels of war and marines between the parent country and its revolting province, does any one doubt that Panama would be to-day, as it was before the 4th or 5th of November last, one of the Departments of the Republic of Panama?

Secretary Seward continues as follows:

The United States will, nevertheless, hold themselves ready to protect the transit trade across the Isthmus against invasion of either domestic or foreign disturbers of the peace of the State of Panama.

Who were the disturbers of the peace of Panama? The Government? Those in authority? Those whose duty it was to execute the law and punish offenders? No, Mr. President; but rather those who rose against the law and sought to overthrow the regular Government. Against those Secretary Seward declared the United States held themselves ready to protect the transit.

President Roosevelt and his Secretary of State declare that not only will the United States hold themselves ready to protect the transit across the Isthmus, but they will, to do so, make successful a revolution against Colombia—the country whose sovereignty over Panama we guaranteed in the most solemn and binding manner. It seems to me that the President and his Secretary might well be disturbed by the shades of Lincoln and Seward. They have reversed the honest and statesmanlike dealings of Lincoln and Seward with Colombia and have flown in the face of the recognized international law of the world to accomplish their ambitious ends.

Then Secretary Seward continues, and this extract is continued from the President's message:

* * * Neither the text nor the spirit of the stipulation in that article by which the United States engages to preserve the neutrality of the Isthmus of Panama imposes an obligation on this Government to comply with the requisition [of the President of the United States of Colombia for a force to protect the Isthmus of Panama from a body of insurgents of that country]. The purpose of the stipulation was to guarantee the Isthmus against seizure or invasion by a foreign power only.

Again, Secretary Seward wrote to our minister at Bogota on April 30, 1866, as follows:

The United States desire nothing else, nothing better, and nothing more in regard to the State of Colombia than the enjoyment on their part of complete and absolute sovereignty and independence. If those great interests shall ever be assailed by any power at home or abroad, the United States will be ready, cooperating with the Government and their ally, to maintain and defend them.

On October 27, 1873, Secretary Fish, President Grant's Secretary of State, said in an official dispatch to Mr. Keeler, referring to section 35 of the treaty of 1846, as follows:

This engagement—

That is, the engagement to protect Colombia in Panama as against domestic revolution or disturbance—

however, has never been acknowledged to embrace the duty of protecting the road across it from the violence of local factions. Although such protection was of late efficiently given by the force under the command of Admiral Almy, it appears to have been granted with the consent and at *the instance of the local authorities.* It is, however, regarded as the undoubted *duty of the Colombian Government to protect the road against attacks from local insurgents. The discharge of this duty will be insisted upon.*

That was the attitude of President Grant and Secretary Fish—not that the United States would interpose to prevent Colombia from suppressing disturbance on the line of transit in Panama, but that it was the undoubted duty of the Colombian Government

to protect the road against attacks from local insurgents, and that the United States would insist upon the discharge of that duty.

Secretary Bayard had something to say upon this proposition during the Administration of President Cleveland. He said:

On several occasions the Government of the United States, *at the instance and always with the assent of Colombia*, has, in times of civil tumult, sent its armed forces to the Isthmus of Panama to preserve American citizens and property along the transit from injuries which the Government of Colombia might at the time be unable to prevent. But, in taking such steps, *this Government has always recognized the sovereignty and superior right of Colombia in the premises.*

These are strenuous days, Mr. President, but the strenuosity that marks them is hardly a justification for the radical departure from the principles of sound statesmanship of our most recent and illustrious Presidents and their Cabinets, and they but followed in the footsteps of the Presidents who went before them.

The President of the United States admits that he has no right to recognize Panama under the law of nations—he deliberately admits it—and practically says in words: "What are you going to do about it?" Let us see what he says:

I have not denied, nor do I wish to deny, either the validity or the propriety of the general rule that a new state should not be recognized as independent till it has shown its ability to maintain its independence.

Let us reflect upon that language of the President. It has been the contention of Senators upon this side, whether they favor the treaty or not, and it is the admission of the calmer and the more deliberate of the Senators upon the other side, that under the well-settled law of nations the President was without authority to recognize Panama; more than that, he was forbidden to do so under the circumstances attending that act, and the President says this is true. He continues:

This rule is derived from the principle of nonintervention, and as a corollary of that principle has generally been observed by the United States.

I would ask the defenders of this Panama transaction to point out when and where it has not been observed; where and when in all the history of the United States in our dealings with revolutions in other countries has this country recognized a seceding section until it had demonstrated its power to maintain its independence without that recognition?

The President further says:

But, like the principle from which it is deduced, the rule is subject to exception; and there are in my opinion clear and imperative reasons why a departure from it was justified and even required in the present instance.

He admits a departure from the rule, but he says there were clear and imperative reasons justifying it, and then he gives the reasons:

These reasons embrace, first, our treaty rights; second, our national interests and safety; and third, the interests of collective civilization.

Mr. President, it is not necessary to refer again to the treaty of 1846 or to any other treaty for the purpose of showing that there was no right conferred upon the United States by any such treaty to interfere in any way with the sovereignty of the Republic of Colombia over every one of its nine Departments. The statement of the President that our treaty rights justify his departure from the general rule is wholly voluntary and absolutely baseless, and I think it will call into play the utmost ingenuity and the most reckless line of argument to maintain the shadow of the shadow of a pretense that the treaty warrants such a claim.

The next reason, which he says is imperative and clear, is that founded on our national interests and safety. I supposed that so far as Colombia was concerned our national interests were guarded by the treaty of 1846, a treaty which is yet in existence, which Colombia, notwithstanding the tremendous provocation, has not yet seen fit to denounce. Our national interests and safety. Who is threatening the safety of the United States? It is true that in case of war our fighting ships might go from the Pacific to the Atlantic and the reverse more speedily by way of an isthmian canal than by the Cape, but who ever before suggested that the mere matter of convenience was a justification for interfering with the sovereign rights of an independent republic?

It is an absurdity to suggest that our national safety is at this time imperiled to a greater degree than it has been in the one hundred and twenty years of national life. This country has grown great and strong; its Navy has been reenforced; its people are of the fighting type and character that makes them resistless on the field of battle. Who but the President will suggest that the safety of the United States is so imperiled from any quarter as to warrant his claim that the safety of our country justifies his total and aggressive disregard of the treaty and international rights of not only a sister republic, but our ally by treaty and common interests?

But what next does he say?

In the third place, I confidently maintain that the recognition of the Republic of Panama was an act justified by the interests of collective civilization. If ever a government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal.

* * * * * * *

That our position as the mandatary of civilization has been by no means misconceived is shown by the promptitude with which the powers have, one after another, followed our lead in recognizing Panama as an independent state.

The Senator from Wisconsin [Mr. QUARLES] properly said yesterday that "collective civilization" and the "mandatary of the collective civilization of the world" are new phrases. They are new phrases. The President, when he penned them, must have been in a state of mental exaltation; and there are such occasions in the lives of many men. There were Mohammed, Joe Smith, and Dowie, and others whose minds at times moved in the realms of space and led them when in that exalted atmosphere to imagine themselves the vicegerents of Jehovah. The President, when he advanced the claim, to justify despoiling Colombia of its most prized department, that the United States was "the mandatary of collective civilization," to do the job must have abandoned the field of treaty obligations, of international law and national morality to soar where imagination supplants reason and fiction is divorced from fact.

When we speak of "civilization" we mean the improved condition of man resulting from the establishment of social order, in place of individual independence and the lawlessness of savage or barbarous life. It may exist in various degrees. It is susceptible of continual progress. Such is the definition by Guizoz.

Mr. President, civilization means respect for law, regard for the obligations of duty, coveting neither a man's wife nor another country's territory; yet we find this Administration leading in an act admitted to be in violation of the rules of international law, that strips Colombia of a large section of its territory, while maintaining that it was compelled to do so by the mandates of collective civilization.

If the President had followed the mandates of collective civilization, he would have learned his duty from the treaty of 1846. He would have followed the paths hewn out by Lincoln and Seward, by Cass and Pierce, by Grant and Fish, and by Cleveland and Bayard, and he would have respected the sovereignty of our treaty neighbor.

Akin to this and in line with it, I may refer to an historical event which shows that other American statesmen have at other times, and in what they believed were other critical periods of the nation's history, appealed to something above the law and honest duty. The Senator from Rhode Island, in the controversy over the Cuban treaty, referred to the Ostend manifesto. In 1854 Messrs. Buchanan, Mason, and Soulé, the ministers of the United States at London, Paris, and Madrid, met at Ostend and issued a joint declaration advising the purchase of Cuba by the United States for $120,000,000, and having given this advice they proceeded to say in this manifesto:

If Spain, dead to the voice of her own interest and actuated by stubborn pride and a false sense of honor, should refuse to sell Cuba to the United States, then the question will arise, What ought to be the course of the United States under the circumstances?

And these three American ministers answered the question for themselves. They said:

After we shall have offered Spain a price for Cuba far beyond its present value, and this shall be refused, * * * then by every law, human and divine, we shall be justified in wresting it from Spain, if we have the power.

It is the same doctrine as that preached in the year 1904 by the President and his Cabinet. They propose to do lawless acts, sanctified, as they claim, by every law, human and divine, and, in responding to the commands of collective civilization. They unblushingly disregard the rights of nations, set up their own standard of right in dealing with them, and insist that they shall have what they want, though lawless force is the agency to acquire it.

Mr. President, the first Republican national convention, a convention over which one of my then townsmen in Indiana, the Hon. Henry S. Lane, presided, met not long after the Ostend manifesto, and expressed itself about it in a platform plank in the following language:

The highwayman's plea that "might makes right," embodied in the Ostend circular, was in every respect unworthy of American diplomacy, and would bring shame and dishonor upon any government and people that gave it their sanction.

It is true that in that day they wanted Cuba to help maintain the balance between the free and the slave States. In this day we want the Isthmus of Panama for a canal for the more convenient passage of steam vessels. That is the only difference. It is the same plea in effect. It is the higher law. It is the casting behind by those high in power of that which is declared to be the supreme law of the land.

I will now take up the question of the good faith of Colombia and of this country in dealing with the Panama question and what is known as the Hay-Herran treaty. The Spooner law was passed, and under it a treaty was framed between the diplomatic representatives of the two Governments for the building of the isthmian canal. But I take it that that treaty was nothing more

than a proposition until ratified by the ratifying power of both Governments. Under the Constitution of this country it had to be ratified by the Senate; under the constitution of Colombia it had to be ratified by the Colombian Congress; and until it was so ratified it could have no dignity beyond that of an instrument that was prepared for the consideration and ratification or rejection of the ratifying bodies of the contracting nations.

I recollect very well when that identical treaty came before this body for ratification. The controversy over it was long and fierce. A number of Senators believed it was their bounden duty to vote against its ratification, and they did. Suppose that number had been in the majority. That would have been the end of the treaty, and who will question the right of this body—no one will question its power to decline to ratify that or any other treaty presented to it?

Mr. President, I understand that there are treaties of amity and commerce between the United States and foreign nations, negotiated by our diplomatic representatives, that have been in the Committee on Foreign Relations for years and years, not ratified, and never will be ratified. Will anybody suggest that because the United States decline to ratify the pending treaty with France or a treaty with Germany or a treaty with Great Britain, there is a casus belli? The Congress of Colombia was and is as independent as the Senate of the United States. The duty resting upon the members of that body was just as solemn as the duty resting upon this body. It was their right to receive that treaty and discuss it, and if in their judgment it was not for the best interests of their country to ratify it, undeniably they had the power and it was their bounden duty to reject it.

Mr. FAIRBANKS. Will the Senator from Colorado allow me to interrupt him?

Mr. PATTERSON. Certainly.

Mr. FAIRBANKS. Do I understand that anybody has disputed the right of the Colombian Congress to deliberate on the treaty and amend it if they saw fit?

Mr. PATTERSON. Nobody in this Chamber has publicly denied their right, but the chief cause of offense to the President by Colombia is that the Congress of Colombia, in the exercise of its sovereign right, did not ratify the Hay-Herran treaty. This the President makes very plain in his messages.

Mr. FAIRBANKS. I do not understand that the Administration took the position that the Colombian Congress was obliged to ratify the treaty as it was sent to them, without deliberation or amendment, if they saw fit to amend it.

Mr. PATTERSON. I will show you from the official correspondence that the Administration did threaten Colombia with serious consequences in the event that it did not ratify the treaty.

Mr. CARMACK. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Colorado yield to the Senator from Tennessee?

Mr. PATTERSON. Certainly.

Mr. CARMACK. I think the President, in his message, characterized Colombia's rejection of the treaty as an unfriendly act toward the United States.

Mr. PATTERSON. We will see just what was done about it.

In the first place, while it is true that Colombia desired that a treaty for the construction of a canal should be entered into between it and the United States, it is also true that the treaty when framed was not in conformity with the expressed desires of the Colombian Government. One would imagine, reading the messages of the President, that the Government of Colombia had executed a perfected treaty almost in the very terms that Colombia desired, and that the Government itself, the treaty-making power, had subsequently rejected it. Such is not the case, as is practically admitted by the question of the Senator from Indiana. But I desire to call attention to the points wherein the treaty as framed was not in conformity with the desires of the Colombian Government. In a communication from Luis Carlos Rico, the Colombian secretary of state, to Minister Beaupré, he calls the attention of our minister to the differences between the wishes of Colombia and the provisions of the treaty. He says:

There is a very notable difference between some of the propositions presented by Colombia and the respective modifications introduced by the United States.

That difference is apparent comparing the memorandum presented by the Colombian legation on March 31, 1903, with the proposed bases by the Secretary of State, especially those referring to the sovereignty of the zone, judicial jurisdiction in same, and the price of compensation for the use of the same for the mere proprietorship of the Panama Railroad, and for the rent of $250,000 demanded for the same railroad, likewise as to the rights, privileges, and exemptions which she gave.

It is further to be observed that in the memorandum of the legation the establishment of tribunals in the zone was not mentioned, while the Secretary of State, in a project sent with his note of November 18, 1902, proposed it, and that they be divided into three classes, Colombians, Americans, and mixed; as also in the Colombian memorandum, a sum of $7,000,000 American gold was asked and an annual sum which was to be determined as a price for the enjoyment of the railroad and fee for use of the zone, and in attention to other circumstances. The Secretary of State only offered a sum of $7,000,000 and an annual rent of $100,000, or if preferred, a sum of $10,000,000 and an annual rent of $10,000. The Government ordered the legation to ask a sum of $10,000,000 and an annuity of $600,000.

And, by the way, that is the amount of revenue that Colombia, up to the very hour of the forceful wresting of Panama from it, had been receiving from the Panama Railroad.

The Seretary of State, in a note which had the form of an ultimatum, reduced the rent to $250,000. The diminution of $350,000 in a period of only one hundred years represents a difference of $35,000,000, and as the convention will probably last more than a century, it is clear that the difference is no light matter, but of much consideration.

Thus we see——

Mr. MORGAN. Will the Senator from Colorado allow me to submit one observation in connection with that?

Mr. PATTERSON. Certainly.

Mr. MORGAN. In April, 1902, Mr. Hay and Mr. Concha, minister from Colombia, agreed upon a treaty, and Mr. Hay informed Mr. Concha that the President had directed him to sign that treaty whenever the Congress authorized the President to make such a treaty—not that treaty, but such a treaty—and that treaty signed by Mr. Concha contains many provisions in favor of Panama which were stricken out by the Hay-Herran treaty after the passage of the Spooner law.

Mr. PATTERSON. Undoubtedly, Mr. President, the treaty is not what the Government of Colombia wanted, and yet its representative was willing to sign it, doubtless hoping that the Colombian Congress could be induced to ratify it. And the treaty thus framed was sent to Colombia.

What was the situation of the parties? The United States had its Senate, to which the treaty was sent; Colombia had its Congress elected for the purpose of considering the treaty. The Senator from Indiana does not deny the right of the Colombian Congress not only to consider a treaty, but to reject it; and I think he will be frank enough to say that such a rejection was no justification, not even an excuse, for the assumption of an unfriendly attitude toward that Government.

But I call the Senate's attention to this extraordinary condition of things. The Secretary of State, when the Colombian Congress met, when it was engaged in the consideration of this very treaty, deliberately, through the American minister, communicated the gravest insult he well could to that Congress. Let us take this situation: While we had the last Hay-Pauncefote treaty before the Senate, if Great Britain, through its minister at Washington, had caused to be communicated to the Senate that if the Senate did not ratify the treaty the friendly understanding between the two Governments would be so seriously compromised, that action might be taken by the British Parliament that every friend of the United States would regret, what would the Senate of the United States have done? It would have thrown the treaty out without further consideration. It would not have given another minute to its consideration. It would have resented such an insult in other ways than by failing to further consider the treaty.

I call your attention to the attitude of the Secretary of State toward Colombia. As early as June 9, Mr. Hay sent the following telegram to our minister at Bogota. The Colombian Congress was not proceeding according to the ideas of Mr. Hay nor, presumably, the ideas of the President. The President was not used to having a Congress of any kind thwart his wishes. He had been able, upon several occasions, to bring at least the Republican side of the Senate to any of his new-fledged views by a process of rough riding—for which he is entitled to the patent—and doubtless he felt that he could do the same thing with the Congress of a weak foreign country. Mr. Hay sent this communication to our minister at Bogota:

DEPARTMENT OF STATE,
Washington, June 9, 1903.

The Colombian Government apparently does not appreciate the gravity of the situation. The canal negotiations were initiated by Colombia, and were energetically pressed upon this Government for several years. The propositions presented by Colombia, with slight modifications, were finally accepted by us. In virtue of this agreement our Congress reversed its previous judgment and decided upon the Panama route. If Colombia should now reject the treaty or unduly delay its ratification, the friendly understanding between the two countries would be so seriously compromised that action might be taken by the Congress next winter which every friend of Colombia would regret.

Now, if that was intended to be communicated to the Colombian Congress, it was a threat open and direct.

Mr. MORGAN. It was communicated.

Mr. PATTERSON. I will come to that. It was a menace of some punishment of Colombia by the United States if the Colombian Congress refused to ratify the treaty. The Senator from Indiana [Mr. FAIRBANKS] shakes his head; but, Mr. President, I take it that this language contained in a dispatch from Great Britain to the United States, if sent while we had under consideration the Hay-Pauncefote treaty, would be taken as an inexcusable threat and insult——

Mr. FAIRBANKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. PATTERSON. Certainly.

Mr. FAIRBANKS. The Senator knows I do not wish to interrupt him unduly.

Mr. PATTERSON. I yield. The interruption is entirely satisfactory.

Mr. FAIRBANKS. I think the Senator, who is fair, puts an erroneous construction upon that language. As we are all advised, there are two routes contemplated by the Spooner Act, and I can see that the Administration might very well lay before Colombia the possibility of the adoption of the Nicaragua route if they should by undue exaction drive the Administration away from Panama. I think all the Secretary of State had in contemplation in this dispatch was that Congress might take the matter in its own hands at the ensuing session and possibly adopt the Nicaragua route. The suggestion of the possible use of any force was not within his purpose; I have no doubt of that.

Mr. PATTERSON. Mr. President, the Spooner Act was communicated to the Colombian Government along with the treaty. The Spooner Act stated in the most explicit terms that if within a reasonable time the President could not negotiate for the right of way across Panama, then it was the duty of the President to negotiate with Nicaragua for that route, and to commence the construction of the canal across it.

Mr. CARMACK. Will the Senator from Colorado permit me?

Mr. PATTERSON. Certainly.

Mr. CARMACK. The language used there is that Congress might take some action which the friends of Colombia would regret. It did not require any action of Congress to go to the Nicaragua route. That was already provided for in the Spooner Act. The President himself was directed to go to the Nicaragua route in the event he could not make an arrangement with Colombia, and it did not require any action of Congress. So it seems to me that on the face of it that language could not have referred to the alternative proposition of the statute.

Mr. FAIRBANKS. I will ask the Senator if it would not have been entirely proper for the President to have called the matter to the attention of Congress upon its reassembling? He was authorized by the Spooner act to adopt the Nicaragua route after a reasonable time had elapsed, failing to secure a proper concession from the Republic of Colombia. I think it would be quite competent and proper for the President, if he had failed during the vacation, to negotiate a suitable treaty with Colombia, to bring the matter back to the attention of Congress for its further consideration.

Mr. CARMACK. That may be, Mr. President, but if the Senator will permit me——

Mr. FAIRBANKS. If the Senator will permit me further, the President had power undoubtedly under the Spooner act, but in a matter so important, where the Congress had expressed its opinion so strongly in favor of the Panama route, I think it would have been entirely proper for him to have brought this subject to the further attention of the Congress before finally adopting the Nicaragua route.

Mr. CARMACK. That may have been, but the President in his message, in justifying the action he did take in the matter, refers to the fact that he had forewarned Colombia, apparently referring to the action he took in making an arrangement with Panama. He says himself he had looked forward to making such an arrangement, and the implication certainly from his message is that that was intended as a warning that he would do something else besides executing the alternative provision of the Spooner act. Again, our minister, Beaupre, was interrogated by the minister for foreign affairs as to what that did mean, whether it meant to execute section four of the Spooner act or to do something unfriendly to Colombia, and he declined to give any explanation or to make any statement on it. It is true that Secretary Hay did later send in a communication threatening to put into execution the alternative provision of the act.

Mr. FAIRBANKS. I think that is all the Secretary had in mind in the use of the language in question.

Mr. PATTERSON. In this connection it is better that there shall be no misunderstanding. The President in his message says:

That there might be nothing omitted, Secretary Hay, through the minister at Bogota, repeatedly warned Colombia that grave consequences might follow from her rejection of the treaty.

But, Mr. President, this telegram from Secretary Hay was intended to be communicated to the Congress itself, as the closing paragraph shows:

Confidential. Communicate substance of this verbally to the minister of foreign affairs. If he desires it, give him a copy in form of memorandum.

HAY.

But that was not all. Our minister communicated to the Colombian Government the following:

I avail myself of this opportunity respectfully to repeat that which I already stated to your excellency, that if Colombia truly desires to maintain the friendly relations that at present exist between two countries, and at the same time secure for herself the extraordinary advantages that are to be produced for her by the construction of the canal in her territory, in case of its being backed by so intimate an alliance of national interests as that which would supervene with the United States, the present treaty will have to be ratified exactly in its present form without amendment whatsoever, I say this because I am profoundly convinced that my Government will not in any case accept amendments.

It was not a question with Minister Beaupré, or of Secretary Hay, of the United States adopting the alternative of the Spooner Act. It is a notification to the Colombian Government that it must not be amended in any form if the Colombians desire to maintain the friendly relations that at the time existed between the two Governments. I care not what government it may be, however weak and despised, if it has the right of determining a given course for itself, it is less likely to yield that which it objects to under such a threat than if pacific measures had been followed.

But, Mr. President, Colombia is a State with 4,000,000 people, of mixed blood very greatly, it is true, and of a peculiar temperament, fastidious upon questions of honor and of dignity. What was to be expected of a representative body of that people when a great nation like the United States threatened to break off the friendly relations existing between them unless it ratified a treaty that the United States desired? If the President had sought means to defeat the treaty, he could not have pursued a course more certain to accomplish that end, and as he is a rational man and from his long experience is supposed to know what influences the human mind, especially when a question of patriotism is involved, he must have known, when he threatened the Colombian Congress with the severing of friendly relations with the United States unless that Congress ratified a treaty, it was the sure and certain way of securing its rejection.

We find in the correspondence that this threat was read to the Colombian Congress, and let us see with what result. It was intended to be communicated to the Colombian Congress. In one of the letters of the American minister, discussing this ultimatum, as it were, from the President to Colombia, we find the following:

My memorandum and notes, in which I pointed out that the Colombian Government did not apparently realize the gravity of the situation, and that if Colombia should now reject the treaty or unduly delay its ratification the friendly understanding between the two countries would be so seriously compromised that action might be taken by our Congress next winter which every friend of Colombia would regret, was received with loud murmurs of disapproval by the densely packed gallery.

The gallery of the Colombian Congress. And why should it not be? It fed the fires of anger and discontent, if any were aflame at that time. Colombians knew that the United States were strong and rich, and they were weak and poor. They must have believed that the threat was an insult offered only because of the difference in their stations. That the treaty was not ratified may be largely traced to the inconsiderate and insulting attitude of Secretary Hay to the Colombian Congress. It, if no other provocation existed, would have insured its rejection.

Our minister, under date of July 31, writes to Secretary Hay as follows:

Instructions heretofore sent to you show the great danger of amending the treaty.

The PRESIDING OFFICER (Mr. KEAN in the chair). Will the Senator from Colorado suspend for a moment?

Mr. PATTERSON. Certainly.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the Calendar of General Orders. The first bill on the Calendar will be stated.

The SECRETARY. Order of Business 13, Senate bill 887, for the purchase of a national forest reserve in the southern Appalachian Mountains, to be known as the National Appalachian Forest Reserve.

Mr. PETTUS. I ask that the Senator from Colorado may be allowed to proceed with his argument.

The PRESIDING OFFICER. The Chair understands the request of the Senator from Alabama to be that this bill be temporarily laid aside, and that the Senator from Colorado may proceed with his remarks. Is there objection? The Chair hears none, and it is so ordered.

Mr. PATTERSON. Mr. President, I desire to call attention to another matter in connection with the suggestion that Colombia committed some unforgivable offense by its failure to ratify the treaty. It is shown by the official correspondence that the Spooner Act was communicated to the Colombian Government with the treaty. Therefore, that Government knew its terms. What alternative did that act present to the Colombian Government, and what did Colombia have a right to expect would be the only penalty it would suffer if it should not ratify the treaty? The Spooner Act required that the President, if he did not secure the right of way and other concessions for the Panama route within a reasonable time, should negotiate with Nicaragua, and, having secured the proper terms, commence the construction of that canal. Colombia was practically informed by the United States that the penalty to be visited upon it for refusing to ratify the

Hay-Herran treaty would be that Colombia would not get the benefit of the canal that was to be constructed.

And did the Spooner Act not give to Colombia the right to accept the alternative? The Spooner Act plainly said to the Government of Colombia, it is not a matter of very great moment to the United States whether you ratify this treaty or not; there are two routes; the Congress of the United States prefers the Panama route, but it is just about as well satisfied with the Nicaraguan route as with the Panama route; we give you an opportunity to ratify a treaty by which you will secure the canal across your territory, but if you do not, then the President will, as directed, negotiate with another government and dig a canal across the territory of that government.

Mr. TILLMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from South Carolina?

Mr. PATTERSON. Certainly.

Mr. TILLMAN. In the connection in which the Senator is just speaking, I would remind him as to the contention of the President that Congress had selected this route and practically given instructions that no other shall be earnestly and honestly attempted to be obtained; that the House of Representatives by a vote of 302, I think, to 2——

Mr. PATTERSON. Three hundred and nine.

Mr. TILLMAN. Well, the House of Representatives, by three hundred and something to 2—practically nothing—voted for the Nicaraguan route, and they only accepted the Spooner compromise in conference. Therefore the contention that the Congress as a Congress selected the Panama route as a finality is unproven and can not be maintained.

Mr. PATTERSON. Mr. President, that is true, and I may refer to that feature more at length before I conclude. But what I am endeavoring to make clear is the alternative that was presented to the Colombian Government, and the only alternative. It was presented to it in such a way that that Government had a right to believe that it would not be considered an unfriendly act for it to reject the Hay-Herran treaty. As I said before, that treaty reached Colombia in this form: "Accept this treaty if you will. The United States prefers the Panama route; but if you do not accept it, it is not a matter of very great account to us. There is another route that the United States can secure so nearly equal to this in desirability and advantages that the mere matter of $5,000,000 in the cost of construction bridges the chasm." That is the case, provided Congress and the President, when they adopted the Spooner Act, were in earnest and did not include the alternative as a fraud upon the United States and a bluff to coerce Colombia into an acceptance of the treaty.

I understand that the Assistant Secretary of State Loomis, in a speech in New York—and I shall be corrected if I misstate his speech—in effect stated that the President never had a thought of constructing a canal along the Nicaragua route; that he held that route to be impracticable and in every way undesirable, and that from the first he stood for the Panama route, and practically it would be the Panama route or none.

If such is the case, then the Government of the United States was not honest with Colombia. When it presented the Spooner Act, in connection with the Hay-Herran treaty, it was an invitation to Colombia to exercise its judgment and to exercise it freely and without restraint, so far as the United States were concerned, because the United States had another string to its bow—that is, that if it did not secure Panama, then it would, under the direction of Congress, dig a canal via Lake Nicaragua. So Colombia accepted the alternative. It was not that Colombia did not want the canal. A reading of the official correspondence between the American minister and the Colombian secretary of state discloses that Colombia was anxious for the canal, but it was unwilling that it should be constructed under the terms and provisions of the Hay-Herran treaty.

The correspondence further discloses beyond peradventure that the Colombian Congress wished to amend the treaty and to again submit the treaty in due and orderly course, as amended, to the Government of the United States, and that our Secretary of State, representing the views of the President, in the most explicit terms informed the Colombian Government over and over again that Colombia should accept that treaty without the dotting of an "i" or the crossing of a "t," and that it would not be accepted by the United States in any other form.

The correspondence also discloses that the reason Colombia did not insert the amendments they wished in the treaty was, first, on account of these repeated statements by the American diplomatic representative, and, next, because they wished to leave the ground entirely free and open when the authorities of the two Governments should again meet for the purpose of preparing a new treaty to be submitted to both Governments.

Mr. President, I do not believe there has been a more earnest advocate of the Isthmian Canal than myself. In season and out of season, before coming to this body and since, I have urged it. I believed it should be constructed via Nicaragua. From my investigation I became convinced that was the most practicable and desirable route; that that route would best subserve the interest of the United States; that a canal could, in fact, be constructed more cheaply there, and that there were fewer difficulties to overcome. I had become convinced, and that conviction has not been removed or impaired in any degree, that there are obstructions in the Panama route that have not yet been solved, and that the successful construction of the canal is still within the realm of experiment.

When the Nicaragua route was rejected, I voted for the treaty for the Panama route, and I believed, as did every Senator when that treaty was ratified, that the President would observe the commands of the Spooner Act faithfully and without reluctance.

What condition has confronted the people of the United States and the Senate? Certainly not one that was anticipated when the Spooner Act was passed and the Hay-Herran treaty was ratified. We all believed in the possibility of the rejection of that treaty by Colombia. We knew it was within the power and the purview of that Government to either ratify or reject or amend it. We believed that if it were rejected, the President, obeying the law, would immediately take steps to secure the canal via Lake Nicaragua. Now, who could have anticipated that when this Congress met, Nicaragua would be wholly abandoned, Colombia would be flouted, that Panama would be revolutionized into an independent Government, and that the United States, in violation of its treaty obligations and of the admitted rules of international law, would have first abetted the secession and then negotiated a treaty with that mushroom Republic?

Mr. President, it is a matter of some moment as to whether there was or was not complicity upon the part of the United States in this Panama uprising. The President states in most emphatic terms that no member of the Administration either aided, or abetted, or encouraged it. I will not take issue with the President. It is not for me to say that, as he sees the truth, he does not speak it, but I have a right to call the attention of the Senate and the country to certain incontestable facts, so that the country may determine whether or not—unconsciously it must be as the President is an honorable man—that he is, to an extent, at least, responsible for the condition that now exists.

We discover, Mr. President, that in the summer of last year while the President says there was still hope that the treaty might be ratified he had two possibilities in mind; he was thinking of the very condition that followed—a secession by the Panamaians—and if that did not occur, then a proposition to Congress to seize Panama willy-nilly, pay to Colombia what the United States believed to be a fair compensation, and let Colombia do the best it could in its helplessness.

The President professes in his message great indignation against the Colombian Government, because some of its officials suggested that the concessions which were given to the New Panama Canal Company might be withdrawn and that Colombia might treat with the United States for the Panama route under circumstances that would permit Colombia to obtain the benefits that were to go to the New Panama Canal Company. The President expresses great horror and indignation at the suggestion of such a thing, not made by the Government of Panama, but by some of the officials of that Government; but he does not hesitate to state to the world that he proposed to submit to Congress a proposition to forcibly take Panama from Colombia and dig the canal without its consent. I do not know, Mr. President, which is the more honorable, whether measured by individual morals or international morals, a proposition to withdraw in a legal way something that has been conferred, or a proposition to seize through sheer might and power that which undeniably belongs to another.

The President in his message says:

My intention was—

Before the Colombian Congress adjourned, when he believed that the treaty would not be ratified—

to consult the Congress as to whether under such circumstances it would not be proper to announce that the canal was to be dug forthwith; that we would give the terms that we had offered and no others; and that if such terms were not agreed to we would enter into an arrangement with Panama direct, or take what other steps were needful in order to begin the enterprise.

Is not that a statement to the country that the President contemplated arranging for the secession of Panama, that it was his purpose, long before the so-called revolution occurred at Panama, to submit a proposition to Congress to arrange for the canal with Panama? He could not do it unless Panama had been induced to secede and to set up a government for itself, propped upon the bayonets and the guns of the United States. Further, the President says:

A third possibility was that the people of the Isthmus, who had formerly constituted an independent state, and who until recently were united to Colombia only by a loose tie of federal relationship, might take the protec-

tion of their own vital interests into their own hands, reassert their former rights, declare their independence upon just grounds, and establish a government competent and willing to do its share in this great work for civilization. This third possibility is what actually occurred. Everyone knew that it was a possibility, but it was not until toward the end of October that it appeared to be an imminent probability.

The President is right when he says that the secession of Panama was spoken of; that it was discussed in the press of this country; that it was spoken of in Bogota; that the Government of Colombia had been warned that such a thing might occur. That is true; but it is also true, Mr. President, that the President of the United States, long before the adjournment of the Colombian Congress, was considering two things: First, the probability of being compelled to seize Panama and take it out of the Colombian sisterhood of States by sheer force and negotiate with Panama for the construction of the canal, or, if a revolution occurred, to take advantage of that and negotiate with the revolutionary government. That was in the President's mind most undeniably.

Mr. President, do you doubt—can any man doubt who reads this message—that the President not only contemplated these things, but consulted about them with his intimates? The President speaks his mind freely; and whether directly with representatives of the Panama revolutionary junta or not, it is beyond question that those who were devising the Panama secession had ample information from those who had a right to know what the purpose of the President was, and they were going to take advantage of it.

To that extent, Mr. President, he is responsible. He had conceived the probability of the secession of Panama under his own guidance. He does not pretend that he did not express his opinions and desires freely; and that being the case, it does no violence to the President to suggest that his views and purposes were known, considered, and believed in by those who comprised the Panama revolutionary junta. Thus we find that long before the revolution occurred—if we can dignify it by that name—the President was contemplating preparations for it.

Mr. PLATT of Connecticut. Will the Senator allow me to ask him a question before he passes from the last subject?

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. PATTERSON. Certainly.

Mr. PLATT of Connecticut. Does the Senator think that there would have been any impropriety in the President consulting Congress with reference to what he would do in case Colombia rejected the treaty?

Mr. PATTERSON. No, sir. But I do think, Mr. President, answering the Senator from Connecticut, that there was grave impropriety in the President suggesting to Congress an act of treachery to a sister Republic. I do believe that it was a grave impropriety for the President to have determined to submit to Congress the proposition that it should ignore Colombia and deal with a section of Colombia—namely, the Department of Panama, for the canal, knowing that he could not do so unless he could induce Panama first to secede from Colombia and set up a government of its own.

To propose such a thing to Congress would, I take it, have been an insult to the integrity and the honesty of Congress. Certainly this body did not and could not have anticipated the submission to it of a proposition such as that, and I take it, Mr. President, that if the secession had not occurred and Congress had been convened, if the President had in cold blood submitted to it the proposition to unite with Panama to wrest it from the Government to which it owed allegiance in order that the United States might deal with it as an independent nation to secure the canal, that the proposition would have been indignantly spurned by every Member of Congress, both Senate and House.

Mr. PLATT of Connecticut. I am not so sure of that.

Mr. PATTERSON. No; perhaps I ought not to be so sure either. Perhaps I spoke with a little too much certainty, because, Mr. President, we have witnessed strange things. Who would have supposed six months ago that the President would have sent American vessels of war to Panama, both upon the Atlantic and Pacific sides, upon orders to prevent Colombia landing or marching troops for the purpose of maintaining its sovereignty in Panama, and that the Republican majority would as one man approve the act? But, Mr. President, the power of an Administration has been displayed many times, not alone by this Administration but by others. I have seen an Administration secure a treaty that the judgment of the Senate of the United States was against by a large majority. I have seen an Administration secure approval of an act that if presented by somebody else than the President would have been treated as an insult to the entire body.

Mr. PLATT of Connecticut. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. PATTERSON. Certainly.

Mr. PLATT of Connecticut. We have been listening to impeachments of the President, and now we are listening to an impeachment of Congress.

Mr. PATTERSON. Well, Mr. President, it is quite well enough to impeach Congress occasionally in its collective capacity. It is not above it. It is not anointed from on high. All the wisdom and all the virtue of the country does not lodge in Congress, and some of its acts are neither to be condoned nor approved.

Now, with both of these alternatives in the mind of the President, what do we discover? But first I call attention to another statement by the President. He urges the small number of marines on the *Nashville* and that were landed at Colon on the report of danger to American residents, as proof that the Administration had no participation in the Panama revolt. If it had, would there not have been a much heavier American war force on hand for the occasion, he inferentially asks. The *Nashville's* men were landed on November 4. The *Nashville* reached Colon on the 2d. But it officially appears that the *Cartagena* with its troops was not expected until the 10th, and the *Cartagena* was the only Colombian vessel supposed to be heading for the Isthmus. I quote from the President's message:

Before this telegram was sent, however, one was received from Consul Malmros at Colon, running as follows:

"Revolution imminent. Government force on the Isthmus about 500 men. Their official promised support revolution. Fire department, Panama, 441, are well organized and favor revolution. Government vessel, *Cartagena*, with about 400 men, arrived early to-day with new commander in chief, Tobar. Was not expected until November 10. Tobar's arrival is not probable to stop revolution."

Except the Colombian troops that would arrive on the *Cartagena*, there were none in Panama but those who had been bought for the insurrection with the money supplied either by the banking syndicate in New York or that was taken out of the Colombian treasury at Panama.

Since the *Cartagena* was not expected until November 10, and that was the only vessel supposed to be carrying troops to Panama, well might the authorities here believe that the issuance of orders to different war vessels of the United States on the 2d of November would send them to Panama in ample time to afford the support to the contemplated revolution which the junta expected.

On the 2d of November then, before the revolution broke out, when it was known that, if a revolution occurred, Colombia would as speedily as it might send its forces to overcome it, the following order was sent from Washington to the *Boston*, the *Nashville*, and the *Dixie:*

Maintaining free and uninterrupted transit. If interruption is threatened by armed force, occupy the line of railroad. Prevent landing of any armed force with hostile intent, either Government or insurgent, at any point within 50 miles of Panama. Government force reported approaching the Isthmus in vessels. Prevent their landing if, in your judgment, the landing would precipitate a conflict.

This dispatch, Mr. President, required American war vessels to prevent the landing of Colombian troops within 50 miles of Panama. But another dispatch was sent to the same vessels on the same date by which the scope of action of our naval force was enlarged. The dispatch is as follows:

NASHVILLE, *care American Consul, Colon:*

Maintain free and uninterrupted transit. If interruption threatened by armed force, occupy the line of railroad. Prevent landing of any armed force with hostile intent, either Government or insurgent, either at Colon, Porto Bello, or other point.

From every part of the Isthmus exclude Colombian forces from landing if they are landing with hostile intent. Hostile intent against whom and what? Not against the United States, but hostile intent against the insurgents who were expected to rise and overthrow their Government.

Send copy of instructions to the senior officer present at Panama upon arrival of *Boston*.

And then the President tells to what other vessels similar orders were sent.

So, Mr. President, it must be perfectly clear, first, that the President knew of the uprising that was threatened; that the President had determined to prevent interference by Colombia with the uprising; that the President had made up his mind to defeat every effort of Colombia to overcome the rebellion of its subjects, not requiring of Panama to demonstrate its ability to maintain its independence as against Colombia. Pure, cold-blooded, deliberate participation with the rebels, though the President avers it was without previous arrangement, but undeniably the secessionists knew his mind. He tells us that his mind was made up.

It was along the line that his efforts afterwards went. Can there be any doubt that the President thoughtlessly, he maintains, played into the hands of the rebels at Panama? Of course it was for a purpose. To secure the Panama Canal in defiance of treaty obligations and the rules of international law. The law of nations provides the same rules of conduct for strong nations dealing with weaker ones that it does for strong nations dealing with those equal in strength and power. But this Administration has one rule of conduct for dealings with weak nations and an-

other rule of conduct by which to guide its actions in dealing with equal or stronger nations.

If the weaker nation has what we want, then in the name of collective civilization we will take what we want. If we can not get it directly we will get it by connivance and conspiracy and rebellion. I take it, Mr. President, that international law should be as binding upon the consciences of nations as the civil law is expected to be binding upon the consciences of individuals; that the one is as much to be respected and enforced by those in authority as the other, and when the head of a great nation fails to observe the commands of international law he is as much a violator of law as is a citizen who disregards statute law whether it be the criminal or the civil code.

Mr. President, the *Cartagena* arrived at Colon on the morning of the 3d. Its officers landed. The *Cartagena* had brought troops, a new governor, a new set of officials for Panama because the Government had been informed of the disloyalty of Colombian officials then in control of Panama. At that time Colombia relied upon the good faith of the United States. In all the dealings of Colombia with us it had had no occasion to doubt that the obligations the United States had assumed by the treaty would be faithfully observed, and that the United States as the controlling power of the Western Hemisphere would deal with Colombia as it would with the strongest power upon the face of the globe. It had faith in the justice and honor of the United States, and so Colombia sent troops to Panama, not to contend with the United States, but to replace troops whose loyalty it suspected and to replace Panama's local official force.

But what was discovered? As soon as the Colombian officers landed at Colon—Generals Tobal and Amaya—they were not only refused transportation over the Panama Railroad for their troops from Colon to Panama, the seat of Government, but by the chicanery of the railroad officials they were decoyed into going without their forces to Panama, into the very arms of the conspirators, whose treachery had not then been displayed in open revolt. They were thrown into the Panama prison on the evening of the very day they went to Panama. Then, after their arrest, after the last train from Panama to Colon had departed on the night of the 3d, the revolution came out into the open. It was immediately accomplished. There were no Colombian forces to oppose them, and a brass band, with some speeches, with the United States in the background, gave the secessionists their victory.

It was not until the morning of November 4 that information of the so-called uprising was communicated to the people of Colon. On the 3d Colonel Torres, who had been left in command at Colon of the Colombian troops, learned of the arrest of his two superior officers. He knew it was the result of treachery; that American officials, in conjunction with the Panama junta, had prepared the trap that led them to the prison. Torres demanded their release, and it was when denied that he, it is asserted, threatened the lives of Americans at Colon.

I now take up the *Nashville* incident, to which the Senator from Wisconsin [Mr. SPOONER] referred on yesterday. The following is the account given of it by Merrill A. Teague. It has never been disputed. He is a journalist of high repute. He visited Panama immediately after the disturbances. He wrote these letters and they were published in nearly a dozen different influential journals in the United States, and no issue has yet been taken with a single material fact that his story of the so-called revolution contains.

Mr. ALDRICH. Will the Senator from Colorado allow me to ask him a question?

Mr. PATTERSON. Certainly.

Mr. ALDRICH. Does the Senator assume that uncontradicted newspaper reports are reliable history?

Mr. PATTERSON. I have discovered that whenever a newspaper statement is made, especially in the press of the capital, of matters with which prominent members of the Administration are associated, if they are untrue and relate to material matters, they are pretty promptly contradicted. I might refer to a newspaper statement which attracted everybody's attention but a few days ago. It is unnecessary to be more specific. The Senator from Rhode Island, I think, will recall what I refer to.

Mr. ALDRICH. I do not.

Mr. PATTERSON. It was stated in the press that the Chief Executive had said that a certain gentleman, when he returned to Washington, would be compelled to fish or cut bait, and we know how promptly that was denied from the White House, and very properly, too.

This is the account given by Mr. Teague, and there is no account which differs from it:

It was at this juncture that Governor Mollendes—

Governor Mollendes was appointed mayor of Colon by the revolutionary government. He had been appointed on the evening of the 3d. He got back to Colon on the train on the morning of the 4th, and this new mayor, a mulatto, was the gentleman who reported that Colonel Torres was about to assassinate all the American citizens in Colon.

It was at this juncture that Governor Mollendes executed a little coup of his own, to which American intervention is directly traceable.

The letters of this correspondent are written in the most friendly spirit to the Administration. They are in no wise hostile. In every one of his comments you can discover his direct and strong leanings to the Administration. So when he details facts of the revolution we may well conclude that he does not aim to do the Administration injustice. He writes:

It was at this juncture that Governor Mollendes executed a little coup of his own to which American intervention is directly traceable. Mollendes invited Colonel Torres, the Colombian commander, to meet him in conference at the Hotel Washington, another isthmian institution which is controlled by the Panama Railroad.

Employing all his persuasive abilities Mollendes urged Colonel Torres to reembark his troops and sail away, leaving the Isthmus to pursue its own course. This line of argument only increased Torres's bitterness. He became more defiant, even bombastic, and at 12.30 made a vehement threat that if Generals Tovar and Amaya were not given their liberty by 2 o'clock he would turn his battalion loose and slaughter every American in Colon. Nothing could have suited Mollendes and the other secessionists better than this threat. Mollendes waited not a minute after hearing Torres's avowal. Despite his excessive avoidupois he broke from the conference room in the Hotel Washington and running all the way covered the 300 yards to the general offices of the Panama Railroad in remarkably fast time.

There he communicated to General Superintendent Shaler the nature of Torres's threat, and in a moment more a signal was going from the small tower on top of the railroad's general office, by wigwag, to the *Nashville* to the effect that the life and property of all Americans in the city were endangered. The long-desired excuse for American intervention had at last been discovered by the secessionists, and before Torres could have communicated with his force jackies were going over the *Nashville's* sides, constituting a landing party, small in numbers, but matchless for grit and ability to shoot.

So the threat to assassinate is based upon what? Based upon the report of Mollendes. He may have been truthful and he may not, but it is perfectly clear that such a threat was not in accord with the known attitude of Colombians toward the United States at every stage of this transaction and before it. The fact is, the Colombian Government and its army have ever shown respect for the prowess and strength of the American Army and Navy. It has been the policy of Colombia, communicated to the Colombian army, to commit no overt act that would bring Colombia in conflict with the United States.

The Senator from Wisconsin [Mr. SPOONER] asked me yesterday whether I approved the act of Commander Hubbard in bringing the American marines and sailors to Panama soil. I say I do. To him, when the communication was made, the threat was a fact that he could not trifle with, and he very properly ordered the men of his command to land and take a position that would enable them to protect the American population if it became necessary to do so; but there is this disclosed by the communication of Commander Hubbard itself: It is true that the landing and behavior of this small body of American marines was, under the circumstances, a brave and proper act; nevertheless, there was in reality no danger from Colonel Torres's force. Captain Hubbard does not claim that the Colombian force made or attempted to make any attack. The most he claims is that they sought to provoke the Americans into making an attack. The fair conclusion is that no attack by the Colombians was contemplated. But the feeling upon both sides was tense, and a slight indiscretion upon either side might have brought on a conflict.

My judgment is that there was no thought of an attack. If there had been, forty or fifty American soldiers would not have deterred 400 Colombians from striking. It would have been 400 against less than seventy. True, the Colombians knew the prowess of the American soldier, but tell me what army has not confidence in its own prowess? If the Colombians had been inclined to make an assault upon that occasion, numbering as they did six to one, the assault would have been made.

Mr. President, Torres was denied transportation for his force to Panama. The naval officers were compelled to deny it to him under the orders they had received from Washington. Under those circumstances it is not to be wondered at that they were willing to retire altogether from Panama. They were useless, not even ornamental. Respecting the power of the United States, taught as they had been to believe in the justice of the American nation, having no question at that time but that ultimately justice would be done to Colombia by the Government with which Colombia had been in treaty relations for more than seventy years, their passage being paid, they embarked upon a British vessel and left the railroad company, the American officials, and those who sympathized with the uprising, in complete control of Colon.

This, Mr. President, is a skeleton history of that uprising. This is the history, so far as the public has knowledge, and that is all by which we can be guided. No American can feel proud of his country as he reads it. The course of the President throughout all his dealings with that unfortunate country has been counter to the principles and actions of every previous Administration with Colombia and the South American republics. What has the President sought to gain? He had decided, so he and his

friends admit, to construct the canal by the Panama route or have no canal at all. In this resolution he defied the act of Congress that required him to proceed to Nicaragua when honorable negotiations for the Panama route failed.

And why this sudden and unjustifiable determination to force the Panama route? I recall that never until the last Congress was there any sentiment whatever in the United States for the Panama route. It all favored the Nicaraguan. In 1896 the Republican National Convention declared in its platform—

The Nicaraguan Canal should be built, owned, and operated by the United States.

In 1900 the platform was more general. It reads:

We favor the construction, ownership, control, and protection of an Isthmian canal by the Government of the United States.

The Republican majority in Congress gave construction to that declaration as soon as Congress met. In 1902 the Hepburn bill was introduced providing for the construction of the Nicaraguan Canal, and it passed the House by the remarkable vote of 309 to 2, and the two who voted against it, as I understand, are opposed to the construction of any canal whatever. So it may be said that the Republican House of Representatives as soon as Congress met after that platform declaration of 1900 spoke the meaning of the platform, and, so far as it could, provided legislation under which to construct a canal. By a practically unanimous vote the Republican house declared in favor of the Nicaraguan route.

That bill came over to the Senate. It was at that time that the amended report of the Isthmian Canal Commission was made, in which it was stated that in view of the lessening of the price to $40,000,000 for the property of the New Panama Canal Company the Commission believed it would be better to adopt the Panama route.

Mr. President, in my opinion that was an evil day for the real friends of an isthmian canal. There was then injected into the controversy an element which had not been in it before. It was the equivalent of hanging up a purse of $40,000,000 to be contested for. The New Panama company is composed largely of members of the old robber canal company, those who had learned their lessons in France and had paid a partial penalty for their misdeeds. They had learned the efficacy of immense sums of money in corrupting public sentiment in the purchase of newspapers and other influence in the building up of lobbies to haunt legislative chambers.

Bunau-Varilla, one of the principals of the old Panama Canal Company, and its engineer, was appointed minister of the new Republic of Panama to the United States, when he had not even set his foot in Panama since 1886. He, the accredited minister of a new Panama Republic? No; the minister of the New Panama Canal Company, representing it. He received some sort of credentials from Panama, and he came here to lobby through, as he had lobbied through other governments, the scheme in which he is so deeply interested and from the success of which he will be immensely profited.

Mr. President, as soon as this purse of $40,000,000 was hung up—because if the Panama route was adopted $40,000,000 went to those who controlled it, while if Nicaragua was adopted, not a dollar would be available for anybody, and all that had been done at Panama was lost—I could almost see the delivery end of the venal press of the United States turned toward Washington, and with it came the manufactured change of sentiment. One by one the friends of Nicaragua dropped away. One by one the ranks of the Panama cabal were recruited, until by a small majority the Panama bill passed the Senate, went back to the House, and was acquiesced in by the House. The House had stood loyally for the Nicaraguan Canal, but rather than have no canal its Members changed their votes and gave their support to Panama.

This, Mr. President, is the history, so far as the country knows, of the sudden rise of Panama and the downfall of Nicaragua. Nicaragua has been the favorite route of the American people since the question of an isthmian canal has been discussed. More efforts have been made, by ten to one, by citizens of different nations and by different countries to secure a canal at Nicaragua than at Panama.

Examining the report of the Isthmian Canal Commission, I made a brief synopsis of what has been done from time to time in connection with it. Omitting the transactions of the very early dates, we find that in 1780 Spain had declared war against Great Britain, and an invading expedition under the command of Captain Polson was set out from Jamaica. Admiral Horatio Nelson, the great British admiral, then a post captain, was in charge of the naval operations. In his dispatches the latter stated the general purpose of the expedition as follows:

In order to give facility to the great object of government I intend to possess the Lake of Nicaragua, which for the present may be looked upon as the inland Gibraltar of Spanish America. It commands the only water pass between the oceans; its situation must ever render it a principal post to insure passage to the southern ocean—

The name by which the Pacific Ocean was then generally called—

and by our possession of it Spanish America is divided in two.

On the 8th of February, 1825, the envoy of the Republic of Central America at Washington, under command of his Government, addressed a letter to Mr. Clay, then Secretary of State, assuring him that nothing would be more grateful to "the Republic of the center of America" than the cooperation of the American people in the construction of a canal through Nicaragua so that they might share not only in the merit of the enterprise, but also in the great advantages which it would produce.

Mr. Clay made a favorable response to this communication, stating that if an investigation confirmed the preference which it was believed this route possessed, it would be necessary to consult Congress as to the nature and expense of the cooperation which should be given toward the completion of the work. Instructions were given to our chargé d'affaires in February, 1826, to put the President in possession of such full information upon the subject as would serve to guide the judgment of the authorities in the United States in determining their interests and duties in regard to it.

In June, 1826, the Republic of Central America decreed that proposals should be received for the right to construct an interoceanic canal via Lake Nicaragua, and entered into a contract with Aaron H. Palmer and his associates for its construction. The navigation and passage through the canal was to be common to all friendly and neutral nations. Palmer was unsuccessful in floating the enterprise and the contract was never executed.

Negotiations were entered into between the Central American Republic and a company of the Netherlands for the construction of a canal via Lake Nicaragua, and a basis for an agreement was adopted by the two houses of Congress in September and December, 1830. This effort also ended in failure.

After this failure the Congress of Central America turned to the United States and offered to grant to the Government the right to construct the canal. In response the Senate, on March 3, 1835, passed a resolution requesting the President to consider the expediency of entering into negotiations with the Republic of Central America and New Granada for the purpose of protecting by suitable treaty stipulations such individuals or companies as might undertake to unite the Atlantic and Pacific oceans by the construction of a ship canal across the American Isthmus and of securing forever to all nations the free and equal right of navigating it on the payment of reasonable tolls. President Jackson, acting upon the resolution, sent Mr. Charles Biddle to visit Nicaragua and Panama for the purpose of examining the different routes of communication, etc.

President Van Buren sent Mr. John L. Stephens to the Isthmus to examine and report as to the most feasible route. He recommended the Nicaraguan as the most desirable, but did not think the time was favorable for undertaking such a work because of the unsettled and revolutionary condition of the country.

In 1826 an English company sent out Mr. John Bailey to explore the country and negotiate for a concession. Failing in his main purpose, he remained in Central America, and in 1837 was employed by President Morazin to determine the best location for a canal. The route he favored was via Lake Nicaragua.

In November, 1827, Mr. J. A. Lloyd received a commission from President Bolivar to survey the Isthmus of Panama in order to ascertain the most eligible line of communication across it, whether by road or canal. He recommended a change of the route then used, but made no recommendation as to a canal.

In 1838 the Republic of New Granada granted a concession to a French company, authorizing the construction of roads, railroads, or canals across the Isthmus to the Pacific terminus at Panama. The company spent several years making explorations and communicated the results to the French Government. In September, 1843, M. Guizot, minister of foreign affairs, instructed Napoleon Garrela to proceed to Panama to investigate the question of the junction of both seas by cutting through the Isthmus and report the means of effecting it, the obstacles to be overcome, and the cost of such an enterprise. Garrela's report disappointed the expectations that had been raised by the projectors, and no further steps were taken in the matter and the concession was forfeited.

Then came the dispute with Great Britain as to the boundary line west of the Rocky Mountains, the war with Mexico, the cession of California, the organization of Oregon into a Territory, and the discovery of gold. These things made necessary better methods of transportation between the two oceans, and negotiations were entered into with the Government of New Granada to secure a right of transit across the Isthmus of Panama, which resulted in the treaty of 1846.

In 1849 the construction of the Panama Railroad was commenced, and the road was completed in 1855.

In June, 1849, Mr. Elijah Hise, for the United States, negotiated a treaty with Nicaragua, by the terms of which Nicaragua undertook to confer upon the United States or a company of its citizens the exclusive right to construct through its territory canals, turnpikes, railways, or any other kind of roads, so as to open a passage and communication by land or water, or both, for the transit and passage of ships or vehicles, or both, between the Caribbean Sea and the Pacific Ocean. In return the United States was to aid and protect Nicaragua in all defensive wars. Mr. Hise exceeded his authority in making this treaty and it was not approved by the Administration at Washington. He was succeeded by Mr. E. G. Squire, who negotiated another treaty of like character, with modifications. This treaty was not ratified.

The negotiations over these treaties led to the Clayton-Bulwer treaty of July 5, 1850. By this it was agreed, among other things, that the two contracting parties should support and encourage such persons or company as might first commence a ship canal through Nicaragua, with the necessary capital and with the consent of the local authorities and on principles in accord with the spirit and intention of the convention. A company had already been organized that had entered into a contract with Nicaragua that was protected by this treaty.

The following year a company availed itself of the privileges of a new contract and established a transportation line from Greytown up the San Juan River and across Lake Nicaragua by steamboats to Virgin Bay on the western side of the lake, and thence by stage coaches 13 miles over a good road to San Juan del Sur. In connection with steamship lines in the two oceans at the ends of the transit running to and from New York and San Francisco a regular communication was thus maintained between the Atlantic and Pacific ports.

In 1869 General Grant, in his first annual message to Congress, commended an American canal on American soil to the American people. Congress promptly responded to this sentiment by providing for further explorations of the Isthmus by officers of the Navy, and expeditions were organized and sent out for the purpose.

In March, 1872, a further resolution was adopted for the appointment of a commission to study the results of the explorations and to obtain from other reliable sources information regarding the practicability of the construction of a canal across the American continent. The President appointed on this commission Gen. A. A. Humphreys, Chief of Engineers, U. S. Army; C. P. Patterson, Superintendent of the Coast Survey, and Commodore Daniel Allen, Chief of the Bureau of Navigation.

The above-named canal commission had before them a report on the Nicaragua route made by Maj. Walter McFarland, Corps of Engineers, U. S. Army, who had been detailed by the War Department to aid in making these examinations. His report was highly favorable, and it placed the cost of the canal, which was to be 26 feet deep, at $140,000,000.

The commission also caused a route for a canal along and near the line of the Panama Railroad to be surveyed, and a favorable report upon this line was presented. The commission had also before it surveys of various routes in Darien and the Atrato Valley, reports of which are printed as House Miscellaneous Document No. 113, third session of the Forty-second Congress. This interoceanic canal commission reports:

> After a long, careful, and minute study of the several surveys of the various routes across the continent, we find that the route known as the Nicaragua route (here it is described) possesses, both for the construction and maintenance of a canal, greater advantages, and offers fewer difficulties from engineering, commercial, and economic points of view, than any one of the other routes shown to be practicable by surveys sufficient in detail to enable a judgment to be formed of their respective merits.

The Nicaragua route was again surveyed in 1885 under an order of the Secretary of the Navy, by Mr. A. J. Menocal. His report shows that the route is altogether feasible.

In December, 1884, a treaty was negotiated between the United States and Nicaragua authorizing the construction of a canal by the former over the territory of the latter, to be owned by the two contracting parties. While the treaty was pending in the Senate it was withdrawn by the President, who stated as a reason for his action that it proposed a perpetual alliance with Nicaragua and the protection of the integrity of the territory of that State, contrary to the declared policy of the United States.

In 1887 Nicaragua granted a concession to Mr. A. J. Menocal and others for a ship canal, but no construction occurred under that concession.

Then came the organization of the Maritime Canal Company for the construction of a canal over the Nicaragua route. The operations of that company are so recent that they need not be here repeated. Propositions to aid this company were before Congress for several years, through an arrangement by which the Government was to become a stockholder and an indorser of the company's bonds. A bill for this purpose passed the Senate in January, 1895, but failed in the House. Another bill that retained the company organization, but eliminated the private or individual stockholders, was passed by the Senate in January, 1899, but no final action was taken upon it by the House.

In March, 1895, the sundry civil bill was approved. It by way of amendment provided for a Commission to ascertain the feasibility, permanence, and cost of the construction and completion of the canal through Nicaragua. It provided for a board of three engineers to be appointed by the President. One from the Corps of Engineers of the Army, one from the Navy, and one from civil life. Under regulations to be made by the Secretary of State this board was to visit and personally inspect the route, examine and consider the plans, profiles, sections, prisms, and specifications for its various parts and report to the President. The board was appointed and proceeded to Nicaragua in performance of its mission. Later a new Commission was appointed consisting of Rear-Admiral John P. Walker, U. S. Navy; Col. Peter C. Hains, Corps of Engineers, U. S. Army; and Prof. Louis M. Haupt, civil engineer. It was designated as the Nicaragua Canal Commission, Admiral Walker being named its president. This Commission was to have all the powers and duties conferred upon the former board and was to report upon the proper route for a canal in Nicaragua, its feasibility, and the cost of the work, with the view of making complete plans for the construction of such a canal as was contemplated.

This brings the history of the transits of the American Isthmus and of the efforts to discover or construct a navigable waterway from the Atlantic to the Pacific to the close of the nineteenth century in an abbreviated form, except that relating to the Commission under whose second report Congress has been proceeding.

Mr. President, in this connection I desire to call attention to a communication from Professor Haupt that is printed in the Manufacturers' Record upon the subject of the two routes and the controversy as it now exists. It is both suggestive and instructive, and I will be pardoned, I know, for calling the attention of the Senate to it. Professor Haupt is a distinct friend of the canal. He was a member of the Canal Commission. The communication I refer to is printed in the issue of the Manufacturers' Record of December 24, 1903. He comments upon the attitude of the Administration toward Colombia and Panama, but I will not occupy the time necessary to read that. I will, however, quote what he says about the Nicaragua and Panama routes. He says:

> In view of the sequel, as revealed by recent events, it would seem that the program to substitute the Senate for the House bill was an adroit piece of legislation, and that *the apparent discretionary power* was introduced to secure the passage of the bill *with a determination to adhere to the Panama route, because it was regarded as the least injurious to the interests which have always opposed the isthmian waterway, and possibly, also, with a prescience of the ease with which its construction could be indefinitely postponed.*
>
> *Of the numerous examinations, surveys,* and official reports submitted since the date of the Childs survey of 1852, none of them deny the entire feasibility and superiority of the Nicaragua route, *not even* the renowned De Lesseps himself, and the physical conditions remain the same to-day, since they are the work of the Creator. "The winds and the sea obey him." *The calms in the Bay of Panama, which lies in the zone of the equatorial calm belt, constitute a most serious obstacle to the use of that route by the sailing vessel, which is the cheapest known form of ocean carrier, and hence the most feared by competitive transportation interests.*

I recall very well that when the canal discussion was up at a former session of the Senate the claim that the Panama Canal was not available for sailing vessels by reason of the equatorial calm that prevails on the Pacific side practically throughout the year was made and admitted. The proof was so conclusive that it was confessed, and then it was attempted to avoid it by the suggestion that the day of the sailing vessel was fast passing and that navigation by steam would soon altogether take its place. But, Mr. President, the truth remains that it is the cheap transportation of the sailing vessel that the great transcontinental lines fear more than the much more costly transportation by steam. Nevertheless, the Panama cabal succeeded in securing action by Congress that eliminates the sailing vessels of the world from the use of the isthmian canal and forces sailing vessels as of yore around South America. Professor Haupt continues:

> Another reason which may be assigned for the forcing of the Panama route may be found, as stated in the report of the late commission, to be the difficulty of securing a tight dam, which is a vital feature for the canal.

That may be one of the reasons for securing the indorsement of the Panama route by those who heretofore have been opposed to a canal. I know at least one Senator who did not hesitate to say, not publicly, that he was opposed to any canal, and voted for the Panama route because it was the most certain to prevent the construction and ultimate completion of any canal. I read again from Professor Haupt:

> Another reason which may be assigned for the forcing of the Panama route may be found, as stated in the report of the late commission, *to be the difficulty of securing a tight dam, which is a vital feature for the canal.* It is said:
>
> "The Bohio dam is the most important structure on the line, being of great magnitude, of vital necessity to the scheme, and offering many difficulties of construction. * * * Its total height above the lowest part of the foundation is 228 feet. * * * This requires the pneumatic process to be

used through a length of 1,314 feet, of which about 310 feet is at the maximum depth of 128 feet below sea level."

This depth is unprecedented in pneumatic work. Moreover, the report bears inherent evidence that other important features of construction have not been satisfactorily solved, for, in referring to the great volume to be excavated from the Culebra divide, it says:

"*The amount of excavation in this section is 43,317,200 cubic yards. The concentration of so large an amount of excavation in so small a space is without precedent. The engineer will recognize at once that thorough organization and tools specially adapted to the work are here required. * * * The method of conducting the work in general principles and in detail should be thoroughly worked out before actual execution is begun.*"

Again in reference to the maritime section of the canal at the Colon end, the report says:

"The canal in the low region above and below Gatun must be protected from overflow by levees, their total length aggregating about 5.4 miles. The height to which these levees should be carried can not be determined with accuracy from the present data, and must be fixed from the observation of floods hereafter. As in all other cases of doubt, a height has been adopted which will err, if at all, upon the safe side. For the purpose of estimate, the height has been placed at elevation 25."

Then Professor Haupt continues:

From this extract it would seem that further surveys and extended observations on flood heights are desired to determine the heights to be fixed for the protecting levees, and yet the records show that in the severe flood of 1879 the Chagres River rose *46 feet* and flooded the country for a distance of 80 miles along the line of the Panama Railroad. *This would require an elevation of double that given in the report as the basis of an estimate.*

Then he says:

At the rate of progress previously made *in the excavation at Culebra*, with lavish expenditures and an ample plant, *the average has been about 1,000,000 cubic yards annually during the most active years*, so that *the 43,000,000 cubic yards may make the date for the completion of this part of the work a very remote contingency.*

The best that has been done in the Culebra cut heretofore, with the most lavish expenditure of money and the use of the most scientific tools and machinery, has been in the neighborhood of 1,000,000 cubic yards per annum. If that is in anywise a test for the future of this canal, then it may be safely said that the Culebra cut alone is an obstacle that can not be overcome for the next twenty-five years. Professor Haupt says:

No mere edict of man can remove these serious difficulties, which are inherent. In this route, and the determination to adhere to it notwithstanding the alternative, which is yet available, *does indeed emphasize the statement that "the question is simply whether or not we shall have an isthmian canal."*

Mr. President, it seems to me that these are matters for reflection. Why this almost insane determination to have a canal via the Panama route or none? Was the voice of the American people so loudly in its favor that Congress is forced to provide for a canal which when constructed will give the least competition to the great transcontinental lines and, next, will take an unnecessarily long time for completion? Is it or is it not another leaf in the history of successful opposition to the opening of an isthmian canal that has been made through the influence of those whose interest it is to defeat a canal altogether?

Mr. President, those who have opposed an isthmian canal are all in favor of the Panama route. They recognize that the edict of the American people is that a canal shall be built. They must bow to it, and bowing to it they stand by the route that will require much the longer time to construct, whose successful construction is, according to the report of the Isthmian Canal Commission yet veiled in doubt, and that eliminates from competition with them the sailing vessels of the United States and of the entire commercial world.

Mr. President, there are mysteries upon mysteries. If the President of the United States had followed the law that was given to him for his guidance by the Congress of the United States; if he had not determined for some inscrutible reason to stand for the Panama route, come good, come evil, he would by this time have ended negotiations with Colombia, and the construction of the Nicaraguan canal might have been almost commenced.

It will never do to say that those who have opposed this treaty from conscientions conviction of solomn duty are opposed to an isthmian canal. The real friends of the canal are those who oppose the treaty. The real friends of the canal and who desire its speedy construction are those who say, Defeat this treaty; withdraw our ships and troops from Panama; let the obligations of our treaty with Colombia once more have sway in dealing with that unfortunate country, and let us commence the construction of a canal to which there are no insuperable obstacles, a canal which can be constructed and be placed in full operation, in my judgment, not less than fifteen or twenty years earlier than the Panama Canal, and that is admittedly much more advantageous to American interests than the Panama Canal.

Mr. President, as a Senator sworn to observe the supreme law of the land, believing that moral considerations should control Senators in dealing with nations as well as in dealing with their fellow-man, earnestly and anxiously desiring the construction and the speedy opening of an isthmian canal which will bring into competition with the great transcontinental railways not only the steam vessels but the great sailing fleets of the world, standing for a canal that will realize the wishes and desires of the American people in a much shorter period than is possible under the Panama scheme, I shall vote against the ratification of the Panama treaty, feeling that in doing so I am best serving my country and its people.

Mr. PLATT of Connecticut. Mr. President, yes, as stated by the Senator from Colorado [Mr. PATTERSON], there have been mysteries in this debate. It has been a mystery, which I have been until now unable to solve, that for days and weeks the motives and honesty and good faith of the President of the United States—not your President nor mine alone, but the President of the United States—should be assailed, sometimes in brutal language, sometimes in language the brutality of which was thinly disguised, for the action which he has taken in reference to the recognition of the new State of Panama.

But the last half hour of the speech of the Senator from Colorado dissipates the mystery. It is because, as he announces, that there is a determination that the isthmian canal shall not be constructed across the Isthmus of Panama, but shall be constructed on the Nicaragua route. The purpose of the attack to which we have listened, and the arguments which have been made, and the suspicions which have been dealt in, were perhaps disclosed by the Senator from Tennessee [Mr. CARMACK] even more boldly than by the Senator from Colorado. The Senator from Tennessee stated in effect, almost in words, that the President of the United States had violated all constitutional obligations, every canon of international law, and the plain statute law of the United States, rather than to allow a canal to be built where the Democratic party desired it to be built. I think I do the Senator no injustice, although I may not quote his language with absolute accuracy.

So I am glad, for one, that the reasons of these objections, of these arguments and insinuations, of this questioning of motives is at last disclosed. I do not desire in this debate to follow all these charges, all these attacks and arguments, in their various ramifications, but I do desire briefly to call the attention of the Senate to some facts.

One important fact, which seems to have been almost overlooked in this discussion, is that there has been a new State, a new nation established, created, and organized in the family of nations, a new State as thoroughly capable of dealing with the other nations of the world as is the United States or Great Britain, Germany, France, Russia, Brazil, Peru, Nicaragua, or any of the other nations which have recognized the Republic of Panama. That is a fact. It is a fact which can not be gainsaid, which can not be overthrown any more than can the nation which has thus taken its place among the nations of the world be overthrown except by violence and war.

We have recognized it. It is said that we have done so in violation of the rules of international law. I may refer to that before I get through with my remarks, but we have done it. So, since the 13th of November last there has been a State called the "Republic of Panama" entitled to all the consideration which any state in this world is entitled to; as fully competent to deal with us and with other nations as is any other country.

If we have violated the principles of international law in the recognition of that State, and thereby assisted it to take its place among the nations of the world, then at least twenty other governments of the world have violated all the canons of international law. So when anyone attempts to impeach the Government of the United States for having improperly, prematurely, or hastily recognized this new nation—this new State—they not only do that, but they assume to impeach all the great nations of the earth in the same words. If we have violated international law, so has England, so has France, so has Germany in the recognition of this new State.

I have been surprised that Senators who say that the President of the United States, in his recognition of this new State, had violated the principles of international law did not think that in so saying they were laying a charge at the doors of the great nations of the world, which have existed and studied international law for hundreds of years, and who have the best international lawyers, perhaps, in the world to advise them. I am surprised, when France within three days after the recognition extended by the United States to the Republic of Panama, Germany within a few days thereafter, and Great Britain within about a month recognized this new Republic, this new State, that Senators should arise here and charge the United States with a violation of the canons of international law. I am surprised that in their zeal to attack the President of the United States they should not have seen that their arguments also led them into an attack of the other great powers of the world, and the rulers and cabinets and statesmen of those powers.

It is a fact, Mr. President, that the State, called the "Republic of Panama," exists, and that we can enter into relations with it and it can enter into relations with us, and that nothing can change that fact or deprive that State of the power to enter into relations with us, or us to enter into relations with it, except force, war, conquest.

That being so, we take note of one other fact: That State has negotiated with the United States a treaty, a treaty which by that State has been ratified. I know it is not customary to speak of treaties in open session, and I am not going to say anything about this treaty which may not be said in open session. It has been made public. By the treaty that State, equipped with all the powers of a State, proposes to give the United States of America the right to construct a canal across its territory.

If that treaty be ratified here in the Senate, without amendment, it is the end of this long, long, weary controversy for the building of a canal which shall join the waters of the Atlantic and the Pacific oceans.

Mr. PATTERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Colorado?

Mr. PLATT of Connecticut. Certainly.

Mr. PATTERSON. I desire to ask the Senator from Connecticut a question, which is, whether or not he believes that if the United States, in negotiating this treaty with Panama, had demanded the entire Isthmus of Panama upon the penalty of withdrawing American war vessels from its ports, we should not have got it? In other words, is it not ours if we see fit to take it?

Mr. PLATT of Connecticut. Mr. President, I think that question is entirely outside of any discussion which I was making. I think I will answer it before I conclude my remarks; but right at this period I want to ask Senators what they are going to do with that treaty? I believe under the provisions of the Spooner Act, but certainly, if it be necessary to supplement that, by provisions which could surely be passed through this Congress, a canal can be commenced before this Congress shall adjourn, and completed, and nobody on the face of the earth can longer say us "nay."

Now, I want to ask those who are opposed to this treaty what they are going to do with this fact and with this condition? Will they vote against the ratification of the treaty because they think perhaps there was haste in its negotiation; because, against the word of the President of the United States, they still think that in some way or other the President was in complicity with the revolution which created the State of Panama, or for any of the other reasons which have been discussed here? Will they vote against the treaty except for the very reason avowed by the Senator from Colorado, that he proposes to prevent, if possible, the building of this canal across the Isthmus of Panama, so that it may be built across Nicaragua?

It has been said, Mr. President, that great wrong has been done to Colombia; that Colombia has a just right to complain of the United States; that we have helped to wrest from her a portion of her territory. I deny these charges and these assumptions. But suppose it be true that we have acted hastily; suppose it be true that we are in some way responsible for the creation of this new State; that in some way the moral aid of the United States has been given to the creation of the new State—what is to be done? What will Senators do then? The Senator from Colorado is very frank about it. He would withdraw the ships of the United States which now patrol the waters of the Isthmus of Panama. Would any other Senator do it? How many Senators does he think will vote for the resolution which, with the views he entertains, he ought to introduce, running something in this way:

Resolved by Congress, That the President be directed to withdraw from the Isthmus of Panama the naval vessels now in those waters.

I think, Mr. President, that when Senators came to face that issue they would hesitate. If they are determined that no canal shall be constructed except across Nicaragua, they would probably do it; but if they desire the construction of a canal along the route already selected by the Congress of the United States, I think they would not vote for such a resolution.

I thank the Senator from Colorado for his frankness and his boldness, but I do not think he represents the wishes or sentiments of the American people. I do not think they would be satisfied that the Congress of the United States, issuing its directions to the Commander in Chief of the Army and Navy, should require the withdrawal of those vessels from those waters. Would he go further than that? Would he say, if he thinks as he argued and as other Senators have argued, that we, the United States, prevented Colombia from putting down its revolution, that we should right that wrong, or so-called wrong, by going there and helping Colombia to recover the Republic of Panama? Where would Senators stop?

So much for the fact, Mr. President, which seems to have been lost sight of, but which can not be ignored—the fact that here is this State fully organized, fully equipped, with power to negotiate with us, and which has negotiated with us a treaty, ratified upon its part, for the construction of a canal across the Isthmus of Panama, and the further fact that the ratification of that treaty by the Senate of the United States and the exchange of ratifications with Panama gives the United States full right and power to discharge the duties which have been placed upon it by the nations of the earth in making it their trustee, for accomplishing this great work in the interest of commerce, in the interest of civilization, and in the interest of peace.

Mr. CULLOM. If the Senator will yield to me, I will make a motion that the Senate adjourn.

Mr. PLATT of Connecticut. I yield for that purpose.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 21, 1904, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 20, 1904.*

[*Continuation of legislative day of Tuesday, January 19, 1904.*]

AFTER THE RECESS.

The recess having expired, at 11.55 a. m. the House was called to order by the Speaker.

PURE FOOD.

Mr. HEPBURN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill which was before the House yesterday.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. LAWRENCE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of House bill 6295, known as the pure-food bill. When the committee rose yesterday amendments were being considered to the second section.

Mr. CLARK. Mr. Chairman, where is it we are at? [Laughter.]

The CHAIRMAN. When the committee rose yesterday amendments were being considered to the second section.

Mr. CLARK. Now, Mr. Chairman, I move to amend the second section by striking out the words "mixed" and "or imitated," in line 11, page 13, and inserting before the word "misbranded" the word "or."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 13, line 11, strike out the words "mixed" and "or imitated" and insert before the word "misbranded" the word "or."

Mr. CLARK. The reason I do that is this: Down in line 23, page 12, the phraseology is "adulterated or misbranded." Over on the next page the same phraseology is used in line 8. When you get down to the last part of line 10, it says "such adulterated, mixed, misbranded, or imitated food." That is, it puts into that line (the word "such" referring to what has gone before) the additional words "mixed" and "imitated." I suggest to the chairman of the committee that, for the purpose of consistency in the bill, either the words "mixed and imitated" ought to be struck out in line 11 or they ought to be also inserted in line 23, page 12, and in line 8 on page 13.

Mr. HEPBURN. Mr. Chairman, I have no objection at all to striking out the word "mixed" and the words "or imitated" and inserting the word "or" in line 11 of page 13.

Mr. CLARK. All right.

The question was taken; and the amendment was agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 3. That the Director of the Bureau of Chemistry and Foods shall make, or cause to be made, under rules and regulations to be prescribed by the Secretary of Agriculture, examinations of specimens of foods and drugs offered for sale in original unbroken packages in the District of Columbia, in any Territory or in any State other than that in which they shall have been respectively manufactured or produced, or from any foreign country, or intended for shipment to any foreign country, which may be collected from time to time in various parts of the country. If it shall appear from any such examination than any of the provisions of this act have been violated, the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis, duly authenticated by the analyst under oath, which certificate shall be admitted in evidence in all courts of the United States without further verification.

Mr. MANN. Mr. Chairman, in line 13 the word "than" should be the word "that." I offer that informal amendment.

The CHAIRMAN. If there is no objection, the informal amendment will be agreed to.

There was no objection.

Mr. CLARK. Mr. Chairman, I move to amend section 3 by striking out all after the word "country," in line 12. I will read the words I want stricken out, and then I will give the reason for striking them out.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 14, line 12, after the word "country," strike out the remainder of said line, and lines 13, 14, 15, 16, 17, 18, and 19.

Mr. CLARK. The words which should be stricken out are these, and I ask the patient and careful attention of every man in the House:

If it shall appear from any such examination that any of the provisions of this act have been violated, the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis, duly authenticated by the analyst under oath, which certificate shall be admitted in evidence in all courts of the United States without further verification.

Mr. Chairman, that provision violates the sixth amendment of the Constitution of the United States. There is not a man in the House that can read amendment 6 and then read the language of the bill which I have just read without recognizing the fact that the provision of this bill just quoted runs counter to that amendment. One of the clauses in that amendment is that—

In all criminal prosecutions the accused shall enjoy the right to be confronted with the witnesses against him.

There is not a State in the Union in which that same provision does not appear in its constitution. Every man that has ever practiced law, and every man that has ever been around a courthouse much, knows that the most valuable right that a defendant has in a criminal case is the right to be confronted by the witnesses and to have them cross-examined.

Mr. SMITH of Iowa. May I ask the gentleman a question?

Mr. CLARK. Yes, if I can get my time extended.

Mr. SMITH of Iowa. Is not this provision applicable to civil cases?

Mr. CLARK. Yes; and it is also applicable to criminal cases.

Mr. SMITH of Iowa. Then, in so far as it is applicable to civil cases, it is not unconstitutional?

Mr. CLARK. No.

Mr. SMITH of Iowa. Does not the gentleman think that when he said that the unconstitutionality applied to all cases he was not correct?

Mr. CLARK. I never said it was applicable to all cases.

Mr. SMITH of Iowa. The gentleman said generally it was unconstitutional, and he now says it is unconstitutional with reference to certain specific cases.

Mr. CLARK. Mr. Chairman, I believe I can generally state what I want to. What I stated was that in a criminal prosecution that clause in this bill is unconstitutional in so far as it applies to a criminal prosecution.

Mr. SMITH of Iowa. But the provision is not unconstitutional according to the gentleman's statement as applied to a large number of cases in this bill.

Mr. CLARK. Then why does not this bill confine it to cases in which it can be applied in a constitutional way?

Mr. SMITH of Iowa. I presume that is because everybody knows or ought to know that a law may be constitutional as applied to certain facts and circumstances, and unconstitutional as applied to others. The law is constitutional so far as civil cases are concerned, at least.

Mr. CLARK. Mr. Chairman, the chairman of this committee on Interstate and Foreign Commerce, the gentleman from Iowa [Mr. HEPBURN], is not only a veteran legislator, but is a veteran lawyer. I want to propound to him and to this House this question: What is the sense of incorporating into this bill a clause which is palpably unconstitutional? Up to the present time human ingenuity has never been able to devise a better scheme for the ascertainment of truth, for exposing of ignorance, or for the discovery of perjury, than cross-examination.

There is not a judge in the United States who for two seconds would permit a certificate from the Secretary of Agriculture to be used in a criminal case against a defendant at bar, and the truth about the whole thing is that we have fallen into the bad habit in this House of slapping together a bill in any shape, railroading it through in the raw, and then sending it over to the Senate, taking chances on Senators putting it into what they consider to be proper form. I am opposed to that. There were some who doubted the point which I made yesterday that sections 8 and 9 are unconstitutional, but there is not a lawyer in the House who will rise in his place and state here that this particular clause or sentence is not unconstitutional when applied to criminal cases.

[Here the hammer fell.]

Mr. GROSVENOR. Mr. Chairman, before I reply to the gentleman from Missouri [Mr. CLARK] I wish to say that on yesterday I entirely misapprehended the bill as it stood, or rather was in ignorance of the presence in this bill of one of the important sections or clauses of the bill. I have been all of my life, since I have been a lawyer, wholly opposed to punishing any man for a crime that he did not purposely or negligently commit. I therefore voted for an amendment inserting certain words pointing out the willful character of the violations that would come within the scope of this enactment. I had not read the bill with that care which I should, and on further examination I am satisfied that in section 6, beginning on page 17, there is an entire and adequate protection to a retail dealer who has in his possession the certificate of the manufacturer that the article is pure. Therefore, when the opportunity comes, I shall vote on the other side of the question.

The gentleman from Massachusetts [Mr. THAYER] made such a strong and lucid statement of the case that it strengthened my opinion that we were proceeding in the direction that I have combatted so many years. I know that the precedents of the statutes of the country are against even the position which I take. For instance, the first conviction ever upheld because of the sale of adulterated milk was upheld by the supreme court of Massachusetts on the ground that it was the duty of the retailer to know whether he was selling a fraudulent article or not, and the same question, although controverted by myself originally, was so upheld by the supreme court of Ohio. Yet I have never favored that sort of legislation and voted upon the long-established opinion which I have held.

Now, as to the objection made by the gentleman from Missouri [Mr. CLARK], I do not think it is well taken. In the first place, as to this document which is to be used in evidence, I should have said myself that it was not necessary to say that it was competent evidence, because if it is not competent evidence no enactment of Congress can make it so, provided its incompetency grows out of the constitutional provision that the gentleman from Missouri has cited.

But there are two answers to the proposition. The first one is that this evidence, even under his argument, is competent in a civil action, which is the principal action sought to be enforced by its presence. Thus far I think everyone will agree with me that the certificate of the officer who has made the examination is competent. It is not conclusive. This act does not undertake to give to that certificate the force and effect of law or of the truth of the certificate in its character and value as proof, but it says that for whatever it may be worth it shall be competent evidence.

Mr. GOLDFOGLE. Mr. Chairman, I would like to ask the gentleman from Ohio what construction he places upon the words "without further verification," in lines 18 and 19, and whether he does not believe that those words were intended to convey to the mind of the district attorney prosecuting, or to the mind of the judicial officer, the idea that there need be no further investigation into the truth of the certificate or further cross-examination of the analyst making the certificate?

Mr. GROSVENOR. I do not think that the language can bear any such construction as the gentleman suggests.

Mr. GOLDFOGLE. Why should the words to which I have referred be there?

Mr. GROSVENOR. Well, the meaning is that the signature of the officer, without any other verification, without any further proof of the character of the examination, shall be competent evidence.

Mr. GOLDFOGLE. Does the gentleman mean——

Mr. GROSVENOR. That language gives to the paper the character of a written record, which does not necessarily import verity, but does import competency as a matter of evidence.

[Here the hammer fell.]

Mr. CLARK. I ask that the gentleman from Ohio [Mr. GROSVENOR] have five minutes further, and when that additional time is granted I want to ask him a question.

Mr. GROSVENOR. On account of the condition of my throat I am speaking to-day with some difficulty, and I should like five minutes more, so that I may not be hurried.

The CHAIRMAN. Is there objection to granting to the gentleman from Ohio an extension of five minutes?

There was no objection.

Mr. CLARK (to Mr. GROSVENOR). What do you say about the plain constitutional provision?

Mr. GROSVENOR. I am coming to that now. I may differ from some of my friends around me here as to the question which would arise in a criminal case. The constitutional provision first applies beyond doubt to a criminal prosecution.

Mr. CLARK. Undoubtedly.

Mr. GROSVENOR. Everybody would say that.

Mr. CLARK. That is all it does apply to.

Mr. GROSVENOR. Certainly. My contention is that it applies to the "witness" and not to the character or value of the public document made evidence by the statute itself. Now, to illustrate: A soldier is on trial for desertion. Is it not competent to bring the muster roll of his company and regiment, certified by the War Department, as evidence that he was a soldier?

Mr. CLARK. Yes; but amendment 6 specifically excepts that sort of a case.

Mr. GROSVENOR. Very well; we will come to that in a moment.

Mr. CLARK. I want you to come to it right now. [Laughter.]

Mr. GROSVENOR. I hope the gentleman will not hurry me, because I am talking under a very great disadvantage.

Now, in the next place, I call the attention of the committee to the distinction in all law books between the word "witness" and the word "evidence." Evidence is one thing, and is widely distinguished from the word "witness." The constitutional provision is that the accused shall be "confronted with the witnesses against him and have compulsory process for obtaining witnesses in his favor." Now, that, in my judgment, does not apply to a written document offered to be used in evidence, because if that were so it would be simply impossible to try any man for forgery, or counterfeiting, or desertion, or a great many other things.

Take the case of the manifest of goods shipped or the consular manifest from abroad. On a charge of smuggling you can not cross-examine the paper; a man can not be confronted by it as a living witness. So I make the distinction between the term "evidence," meaning a living embodiment of humanity, and the term "document"—a dumb witness—the paper, the counterfeit money, the forged order, the stolen goods, or whatever else it may be that is made competent evidence, but is not a "witness" within the meaning of the constitutional provision.

But my answer on this whole matter is that it is competent for us to leave this provision in the bill for the purposes of all civil actions growing out of this measure, and allow the courts of the country to administer it so far as criminal proceedings may arise.

Mr. CLARK. I ak unanimous consent for five minutes.

The CHAIRMAN. Has the gentleman from Ohio [Mr. GROSVENOR] concluded?

Mr. GROSVENOR. I have.

The CHAIRMAN. The gentleman from Missouri [Mr. CLARK] asks unanimous consent to occupy five minutes. Is there objection? The Chair hears none.

Mr. CLARK. Mr. Chairman, I want to call the attention of the House to the peculiar verbiage of the last part of this sentence:

Which certificate shall be admitted in evidence in all courts of the United States without further verification.

That is what I am objecting to, both because it is unconstitutional and wrong in principle.

I may be mistaken about it, but it seems to me that if that language be literally construed, all that has to be done is that the prosecuting attorney or the district attorney shall rise in his place, address the court, and say, "I have here a certificate from the Agricultural Department at Washington, certifying so and so, and I offer it as evidence." If the trial judge pays any attention whatever to this statute, then that certificate is simply slipped into that case without even a messenger carrying it to that court; it may be sent by letter.

I want to ask the gentleman from Ohio, General GROSVENOR, a question. He is not only a veteran lawyer, but he is a distinguished criminal lawyer. What would he do if the legislature of Ohio or the Congress should pass a law authorizing the Secretary of Agriculture to make analysis of the contents of a stomach where it is charged that the dead person was poisoned? What would you do if they undertook to introduce one of those certificates in a case where you were defending a person for murder?

Mr. GROSVENOR. I did not catch the gentleman's question.

Mr. CLARK. I say suppose the legislature of Ohio or the Congress of the United States were to pass a law authorizing the Secretary of Agriculture to make an analysis of the contents of a dead person's stomach in a case where it is charged that death was produced by poison and to certify to what was found in the stomach, and that the certificate should be offered in the courts of Ohio or the United States courts as evidence against the defendant. What would you do if you were defending the person?

Mr. GROSVENOR. I would first save an exception to the introduction of the evidence. [Laughter.]

Mr. CLARK. Of course you would save an exception.

Mr. GROSVENOR. Secondly, I would proceed at once to insist that the man who made the analysis was alive, if he was alive, and I would bring him into court under the provision that my client was entitled to have him there, and I would cross-examine him.

Mr. CLARK. Yes; and that is exactly what I am contending for.

Mr. GROSVENOR. I hope I have maintained the reputation that the gentleman gave me as a competent lawyer, at least.

Mr. CLARK. I want to retract one thing that I said a while ago about the chairman of the Committee on Interstate and Foreign Commerce, Colonel HEPBURN. He is not guilty of this attempted great wrong individually, except so far as he consented to it. He is not primarily responsible for this bold attempt to infract the Constitution of the United States as well as the constitution of every State in the Union. Judge RUSSELL, of Texas, calls my attention to the fact that in the bill as originally introduced by the gentleman from Iowa section 3 stopped short after the word "oath" that is now in this seventeeth line, and does not contain these words, which I am trying to strike out:

Which certificate shall be admitted in evidence in all courts of the United States without further verification.

I take it that the gentleman from Iowa, Colonel HEPBURN, is too good a lawyer to put that kind of stuff into a bill of his own motion, and then ask the House of Representatives and the Senate of the United States to pass it and the President of the United States to sign it, but that some other gentleman, with less knowledge of law than the gentleman from Iowa, but with a greater zeal in behalf of some particular interest in this country, slipped that obnoxious clause into this bill surreptitiously and unbeknown to the gentleman from Iowa.

Mr. RICHARDSON of Alabama rose.

The CHAIRMAN. Does the gentleman from Missouri yield to the gentleman from Alabama?

Mr. CLARK. Yes.

Mr. RICHARDSON of Alabama. If a man were indicted for selling property under a mortgage, what would be the character of the certificate that could be used as proper evidence before a grand jury?

Mr. CLARK. Well, now, let me ask the gentleman a question.

Mr. RICHARDSON of Alabama. No; answer that.

Mr. CLARK. Well, yes, I will answer that.

Mr. RICHARDSON of Alabama. And then I will answer yours.

Mr. CLARK. You can use that mortgage in a criminal procedure. You could use this certificate in a criminal procedure if the right kind of machinery were provided for it. But when you come to use that mortgage you can not slip that mortgage into the case without having a witness on the witness stand to identify it and to be cross-examined.

Mr. RICHARDSON of Alabama. Under the laws of all the States I am familiar with you can put that mortgage in when it is a certified record from the office of the probate judge.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. ADAMSON. I ask unanimous consent that the gentleman from Missouri have five minutes more.

The CHAIRMAN. The time of the gentleman having expired, the gentleman from Georgia asks that the time of the gentleman from Missouri be extended five minutes. Is there objection?

There was no objection.

Mr. CLARK. Now, the procedure in the case that you suggest is this: The recorder of the county—that is what we call him in Missouri; he is called the county clerk in Kentucky, and I do not know what he is called elsewhere—is put upon the witness stand. You have a witness there right before your face, from whom you can find out whether this is a bogus certificate or a real one. You can cross-examine him to your heart's content.

But in this case you can send the certificate of the Department by mail to St. Louis or elsewhere, and the district attorney under this bill may shove it into the case.

Mr. RICHARDSON of Alabama. Now, is it not a fact, under the additional requirements of this third section that you propose to strike out, that there are more safeguards in it to bring the evidence that is to be certified without qualification than in the case of a mortgage?

Mr. CLARK. No, sir.

Mr. RICHARDSON of Alabama. It is perfectly plain and patent in this. In the first place, you have that the Secretary of Agriculture shall certify the facts to the proper United States district attorney, with a copy of the results of the analysis duly authenticated by the analyst under oath. That has all got to be certified under oath, and if this is so it is evidence, and nothing else but evidence. It does not carry verity with it. The theory of this section is merely to make it a record, not one bearing verity, but as the usual record in the case.

Mr. CLARK. Mr. Chairman, I have yielded to the gentleman nearly the whole of my five minutes, and I now yield to the gentleman from Minnesota [Mr. TAWNEY].

Mr. TAWNEY. Will not the gentleman from Missouri modify his amendment so as to strike out all after the word "oath," in line 17, down to and including the word "verification," in line 19?

Mr. CLARK. That is all I objected to.

Mr. TAWNEY. But your amendment covers more.

Mr. CLARK. I know it covered more than was necessary, because I did not have time to separate the section properly.

Mr. TAWNEY. I suggest that you move to strike out all after the word "oath," in line 17.

Mr. PAYNE. Do I understand the gentleman from Missouri wants more time?

Mr. CLARK. I want to get through with this thing, because I believe I am right about it. I want to modify my amendment by striking out all after the word "oath," in line 17.

The Clerk read as follows:

Lines 17, 18, and 19, strike out all after the word "oath," in line 17.

Mr. GROSVENOR. Will the gentleman yield to me now? You have asked me a hypothetical question; let me ask you one now.

Mr. CLARK. It took you a good while to get your wits together. [Laughter.]

Mr. GROSVENOR. I have already disposed of that. Now you can get your wits together. Let me suppose that a man in a certain county of Missouri is charged with bigamy.

Mr. CLARK. Yes.

Mr. GROSVENOR. And it is alleged or claimed that in a certain other county, or in another State of the Union, I do not care which, he was married to a certain person.

Mr. OLMSTED and others. A woman.

Mr. GROSVENOR. A woman; female. [Laughter.] After proving the more recent marriage the district attorney produces the record, a certified copy of the record, certifying that it is a true copy of the marriage record. The court takes judicial knowledge of the laws of that State, or having proof of it, as the case is made up. Then, with identification of the man as being the same man charged in the record, would that record be competent evidence to prove the offense?

Mr. CLARK. It would be competent pro tanto.

Mr. GROSVENOR. Pro tanto?

Mr. CLARK. Yes; pro tanto.

Mr. GROSVENOR. Then, this record is a record pro tanto?

Mr. CLARK. It would be competent thus far: That in a certain record in a certain county in Missouri there was a record of the marriage; but it would not be competent to show by certificate that the defendant was the same man.

Mr. GROSVENOR. Certainly not.

Mr. CLARK. Then, what do you argue?

Mr. GROSVENOR. I have already said there must be a witness to identify the man, and this is not precluded.

Mr. CLARK. But somewhere you have the right to cross-examine every witness. Now, in the case you suggest it is an official record. But in this case up here, it is a mere certificate of some chemist somewhere or other, not to a fact, but simply to his opinion.

Mr. GROSVENOR rose.

Mr. CLARK. Wait a minute.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. CLARK. I ask another five minutes, as it is important to settle this matter.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that his time be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. CLARK. The very purpose of this statute is to make this certificate a record, and clothe it with exactly the same power as a mortgage or mortgage record or any other record provided for under the statutes. Now, Mr. Chairman, in the case that the gentleman from Ohio speaks of, that is an official certificate by an officer of the law.

In this case in this bill a chemist in a Department in Washington is not certifying to a fact, but he is certifying to his opinion, and who cares what his opinion is? I desire to call your attention to another thing. The man who makes this certificate makes it ex parte. There is no chance for anybody to cross-examine him. Such a skillful cross-examiner as the gentleman from Ohio [Mr. GROSVENOR] is might take one of these chemists and in a good many cases by a strict and intelligent cross-examination may make him reverse his opinion, as we have all seen it done time and again in the trial of a case in court.

Mr. GROSVENOR. I beg the gentleman's pardon; I would not attempt to cross-examine one of these gentlemen at all; I would refer them to the Civil Service Commission.

Mr. CLARK. They are about of a piece with the Civil Service Commission; they are part of it.

Mr. OLMSTED. Will the gentleman from Missouri yield to a question?

The CHAIRMAN. Does the gentleman from Missouri yield to the gentleman from Pennsylvania?

Mr. CLARK. Yes, sir.

Mr. OLMSTED. Would not the chemist when put on the stand be required to qualify as an expert before the testimony would be admitted at all?

Mr. CLARK. Certainly.

Mr. OLMSTED. This would make evidence without the slightest qualification. He may be a mere clerk in a Department.

Mr. CLARK. Yes, sir; and I am very much obliged to the gentleman for the suggestion.

Mr. OLMSTED. And this is an outrageous proposition.

Mr. CLARK. Yes; it is. Now, I want to make another suggestion to the gentleman from Ohio. He stands up here year in and year out and inveighs against this "civil-service fraud," as he denominates it. I do not denominate it any such thing. Now, he comes in here and insists that some underling in the Agricultural Department, who got in there through this very same "fraud" he is always protesting against, shall be permitted to make an analysis, the certificate of which shall be used as evidence in any nook or corner of the country against a defendant in a criminal trial. It does not lie in his mouth to come in here and attempt to bolster up any part of the civil-service system.

Mr. GOLDFOGLE. Mr. Chairman, to adopt the proposed provision that the certificate of the analyst giving the result of an analysis shall be admitted in evidence in all courts of the United States without further verification is not only to make a wide departure from the rules that obtain in the trials of civil and criminal cases, but is to set aside by force of legislation the safeguards which the law has always provided to an accused party for the protection of his rights and the proper ascertainment of the truth.

It is proposed that an ex parte certificate of a subordinate official holding office by appointment shall be allowed in evidence without proof of the qualifications or expertness of the party making the analysis and without the opportunity or right to cross-examine him. Such an innovation on the law of evidence should not be permitted.

It was well suggested by the gentleman from Missouri [Mr. CLARK] that no defendant accused of a violation of law should be deprived of this highly important privilege of cross-examination.

Indeed it may well be doubted whether such a provision is constitutional at all. The gentleman from Alabama, as well as the gentleman from Ohio, suggests that a certified copy of a record could be introduced in evidence under the laws of their respective States. The cases are not analogous.

It is intended by the framers of the bill now under consideration to allow whoever may be for the time being selected as the scientist for the Department to certify to an analysis, and his certificate is to be accepted in all courts without allowing the accused to show inaccurate tests, false analysis, want of professional skill on the part of the chemist, improper motive, or even honest mistake.

All these things might be disclosed on a cross-examination, yet under the bill the accused is to be concluded by a certificate made ex parte and in secret. A suggestion was made that the certificate is to be likened to a certified copy of a mortgage, which when certified could be admitted in evidence. Such a case is entirely foreign to the one to which the bill relates. If——

Mr. HEPBURN. Mr. Chairman——

The CHAIRMAN. Will the gentleman from New York yield to the gentleman from Iowa?

Mr. GOLDFOGLE. Certainly.

Mr. HEPBURN. It might be possible to have a modification of this, and there would be no objection on the part of the committee to consenting to a motion to strike out the words following the word "oath," in line 17, and if the gentleman will permit me just a moment——

Mr. GOLDFOGLE. Certainly.

Mr. HEPBURN. The objection, as I understand it, is the language in the last two lines:

Which certificate shall be admitted in all courts of the United States without further verification.

Suppose it be made applicable only to all civil cases; then the objection which is urged would not properly lie.

Suppose the gentleman from Missouri adds, after the word "verification," the words "in all civil cases under this act," so that it will read "which certificate shall be admitted in evidence in all courts of the United States without further verification in all civil cases under this act."

Mr. GOLDFOGLE. I should be as unalterably opposed to such a provision as I am to the paragraph as it now stands. For the purposes of my objection it is immaterial whether the case in which the ex parte certificate is to be used is a civil or a criminal one, or whether the penalty entails the imposition of a fine or the imprisonment of an alleged offender.

The principle is the same. The legislation is just as vicious and the innovation on the rules of evidence just as dangerous. To so invade the good old rule of the common law is dangerous. I object to it. No mere appointee in a department or bureau should be given such wide scope and invested with the power which this section gives to the so-called analyst, even though the penalty was a single penny.

The stigma cast on a defendant who may happen to be innocent remains in the eyes of the community the same.

One charged with violating the law should have the right to cross-examine, so that the tribunal, court, or jury may say whether the analysis made was a good or a bad one; whether it was indeed one which stands the proper tests; whether it was one on which reliance can be placed.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GOLDFOGLE. Mr. Chairman, I ask three minutes more.

The CHAIRMAN. The gentleman from New York asks that his time be extended for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GOLDFOGLE. Mr. Chairman, the gentleman from Ohio

suggested that in a prosecution for bigamy a marriage record, properly certified, could be introduced in evidence. If all there was to the certificate was the statement that the marriage took place, if the record only stated the marriage took place, such certificate would not be admissible.

If the certificate authenticated the record signed by bride and groom, and this was properly authenticated under some statute which made that record so executed evidence, then, possibly, such certified record might be admitted. But it never was and I hope it never will be the law that a mere statement or opinion of an officer against one accused of a violation of law shall be admitted without giving the accused that right to examine into the qualifications of the so-called expert, and without the important privilege to cross-examine.

It would be an unsafe doctrine to interject in our law. It is so violative of every principle of justice that it ought not to be retained in the bill. Whether the case be civil or criminal, the effect which an unjust conviction might produce is almost the same, and I should, unless some safe, wholesome legislative rule was provided, seriously object to having any man convicted unless the evidence against him was of a character warranted by the good, old common law and of a kind which, allowing an accused to confront the witnesses against him, meets the spirit of the Constitution. [Applause.]

Mr. HEPBURN. Mr. Chairman, I ask unanimous consent to address the committee for five minutes.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to address the committee for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. HEPBURN. Now, Mr. Chairman, I will ask the gentleman from Missouri if he will make the modification I suggested.

Mr. CLARK. No; I think I will stand on my original motion.

Mr. HEPBURN. Mr. Chairman, this section was deemed necessary for this reason: The bill provides that the duty of making a chemical investigation in any part of the country for any of the States may be imposed upon the officers of the Government authorized under this law, men who have an official character, men whose appointment and whose official character is evidence as to their competency, and that is why, to some degree at least, the necessity for cross-examination as to their fitness is not required.

Now, these officers are sent from the capital here—say, to the State of Iowa—for the purpose of making a series of investigations, perhaps in regard to many articles. They are officers; they make an official statement of what they do, and the purpose of this statute is to give that official statement the character of a record, and nothing more. It is to place that record in the same category, upon the same basis as all other records, to be used in evidence when competent and to be denied such a place when not competent; and the verification provided for is simply for the purpose of doing away with the necessity and expense of sending to a great distance the officer who made that investigation. He would certify to what? Not to the guilt of a man, but to what he found with reference to a certain commodity of commerce; that is all. He is not a witness against a man, fixing the crime upon him, but he is there to show, as a scientist, an officer of the Government, that he has discharged the duty devolving upon him and that he found certain results.

Mr. GOLDFOGLE. Mr. Chairman, will the gentleman pardon an interruption?

The CHAIRMAN. Does the gentleman yield to the gentleman from New York?

Mr. HEPBURN. Yes.

Mr. GOLDFOGLE. Does the gentleman from Iowa mean that simply because the analyst may reside a great distance from the place of trial, the right of cross-examination should therefore be cut off?

Mr. HEPBURN. Oh, that is not a legitimate query at all, and the gentleman knows what I said and what is to be inferred from it. I want to save this expense. I want this law to mean something in the way of enforcement. I did not desire it to be the kind of statute which would suit the gentleman and that was presented to us by some of his constituents, perhaps—certain dealers in New York who wanted us to adopt a bill that from first to last did not contain a prohibition or a penalty. That was their idea of a pure-food bill. I want a law under which convictions may be had.

I want a law that may assert the rights of the innocent people of the United States. I am sorry that the solicitude of all these new-fledged constitutional lawyers is in the interest of crime and of criminals. I speak for the masses of the people who are wronged from day to day by these men over whom you gentlemen are so wonderfully solicitous.

Mr. MIERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HEPBURN. Certainly.

Mr. MIERS of Indiana. I understand the gentleman to say that the whole purport of this is to make a record?

Mr. HEPBURN. To give this paper the character of a record.

Mr. MIERS of Indiana. If that is true, what does the gentleman do with this language:

> If it shall appear from any such examination that any of the provisions of this act have been violated, the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis, duly authenticated by the analyst under oath, which certificate shall be admitted in evidence in all courts of the United States without further verification.

Mr. HEPBURN. Well, the gentleman does not assume, does he, that any human being would suppose that the Secretary of Agriculture is called upon to certify the facts of the commission of a crime?

Mr. MIERS of Indiana. That is the language of this bill.

Mr. HEPBURN. Surely not.

Mr. MIERS of Indiana. But that is the language.

Mr. HEPBURN. The fact of what is found there and whether it is a crime or not is a simple inference; but there must be a distinction some place.

[Here the hammer fell.]

Mr. CLARK. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for five minutes, most of which I would like myself. [Laughter.]

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that the time of the gentleman from Iowa be extended for five minutes. Is there objection?

There was no objection.

Mr. MIERS of Indiana. Mr. Chairman, I would ask if the gentleman holds as a lawyer that it is proper for a certificate under the Constitution to do anything more than to certify a record? The Constitution provides that the witness shall be presented to be examined.

Mr. HEPBURN. Well, now, I have but five minutes, and two-thirds of that is already mortgaged. I will ask the gentleman not to make a speech.

Mr. MIERS of Indiana. Then will the gentleman answer the simple question as to whether he holds that anything beyond a record itself can be certified?

Mr. HEPBURN. Why, surely not.

Mr. MIERS of Indiana. Then that is out of the way.

Mr. HEPBURN. That is all this does.

Mr. CLARK. Now, Mr. Chairman, I want to ask the gentleman from Iowa if he ever considered the first two lines of section 3 in connection with that paragraph of that section which I wish to strike out. The first two lines are that the Director of the Bureau of Chemistry and Foods shall make, or cause to be made, this examination; that is, he can employ anybody he chooses—it may be Tom, Dick, or Harry; a chemist or not a chemist—to make it. That is one thing. Down in the last part of that section it provides that the Secretary of Agriculture shall make this certificate, not the man that made the examination, but that the certificate shall be made by the Secretary of Agriculture as to what this lieutenant of his has done. I will ask the gentleman what he has to say in regard to that?

Mr. HEPBURN. I say simply this, that of course the chemist or the director of that bureau can not perform all of these duties. He must depute his power to some subordinate of his office and require it to be performed by him. How often does it happen that a clerk of the court deputes a deputy—he may have many—for the purpose of doing that thing which in contemplation of law he does, and that after this subordinate has made to him the proper reports—has informed him—he makes the certificate, just as would the Secretary of Agriculture here—a certificate of the facts as they are found in the regular and orderly procedure of business in that office by the subordinate who is deputed to perform that duty.

Mr. CLARK. What fact—the fact that an examination was made, or the fact that the examiner found certain facts?

Mr. HEPBURN. The fact that the examination was made and the results as reported to him.

Mr. CLARK. Let me ask the gentleman another question. He wants to confine this provision that I am trying to strike out to civil cases.

Mr. HEPBURN. I would not strike out any of it.

Mr. CLARK. But you asked me to do it.

Mr. HEPBURN. No; I asked you to strike out less than you at first proposed.

Mr. CLARK. Now, if this is a criminal procedure, what is the reason that the deposition of this man could not be taken?

Mr. HEPBURN. Probably it could; but you can get precisely the same results in this way.

Mr. CLARK. No; in a deposition you can cross-examine and find whether the man knows anything about the matter or not.

Mr. HEPBURN. The defendant can take his deposition anyhow. The provision does not cut off any man's right. But I see that the amendment would do this—it would make more difficulty in the enforcement of the law. I do not believe gentle-

men want that. I take it the gentleman from Missouri does want a law upon this subject—that he does regard it as an important matter that the existing evils shall be dealt with; and I submit to him that these hypercritical objections ought not to be urged against this measure. We have tried to make it symmetrical and harmonious. We have labored on this bill for a long time. It is, in my judgment, the best bill that has ever been presented. The conditions are varied in the various parts of the country, the interests affected are multitudinous. We have tried to harmonize them as best we could, but if gentlemen will insist upon all these hypercritical objections we shall simply have to abandon it.

If we are to have any law, and if I have anything to say as to what it should be, it will be a law that means something, a law that can be enforced, a law that is intended to punish and can punish those who are criminal—those who are preying upon the health and the lives of the people of the United States. Men so engaged are those that we ought to try to reach and to punish. Our sympathies and solicitude should be for their victims—those thousands and thousands who suffer to the extreme—every year that we live.

Mr. OLMSTED. Mr. Chairman, I am as much in favor of pure food and pure drugs and in favor of the general provisions of this bill and of its enforcement as is the gentleman from Iowa. But there is very high authority for the proposition that it is better that ninety-nine guilty men should go free than that one innocent man should suffer. Now, here is a provision which, in my judgment, is the most dangerous I have ever seen put or attempted to be put into an act of Congress. Here is a provision which puts every man engaged in the business of selling groceries or drugs at the absolute mercy of the Secretary of Agriculture or of any man, expert or inexpert, scrupulous or unscrupulous, employed by his Department to make an analysis.

Under this provision a man is to be employed by him with no qualifications prescribed by the act; that man makes an analysis; the Secretary of Agricultures certifies the result of that analysis. But that is not all. How does this bill read? And no matter what may be the interpretation of my distinguished friend from Iowa, the language in the act will have to be construed as it stands. I read from the bill:

If it shall appear from any such examination that any of the provisions of this act have been violated, the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy—

Not even the original is required—

with a copy of the results of the analysis, duly authenticated by the analyst under oath, which certificate—

The certificate of the Secretary of Agriculture as to all the facts of the violation of this act, including the results of the analysis—

shall be admitted in evidence in all courts of the United States without further verification.

Now, as the gentleman from Iowa has properly said, the finding of an analyst, whether a professional chemist or not, appointed by the Government would have great weight with the jury.

Here is a Government official making this certificate. You can not question his qualification. There is the certificate, and it is made evidence; I say that the defendant in either a criminal or a civil suit would, under the provisions of this bill, be at an undue disadvantage. He would really have no proper opportunity to defend himself. Here is the officer of the Government presenting his certificate, which certificate is to be taken as evidence of the facts in the case. A man tried under such a provision, no matter whether he were guilty or innocent, would not have one chance in ten.

I agree with what the gentleman from Missouri has said. In Pennsylvania we have a banking department; we have also an insurance department. Those departments examine banks and insurance companies. Their examiners report to the respective heads of those departments, which in turn certify to the attorney-general the result of their examinations; he thereupon proceeds to bring the matter into court. But when he goes there he is required to prove his case de novo. Neither the certificate of the examiner nor of the banking commissioner nor of the insurance commissioner can be used as evidence. So I say that the certificate contemplated in this bill, while eminently proper to move the attorney-general or the district attorney to action, is manifestly improper to be used in court as evidence of the facts in the case. It places at once upon the defendant the burden of proving his innocence, depriving him of the ordinary presumption which should hold good until his guilt has been proved. I hope the amendment will prevail.

Mr. HEPBURN. Mr. Chairman, I desire to ask what the pending motion is.

Mr. CLARK. It is to strike out everything after the word "oath."

Mr. HEPBURN. I will interpose no objection to that.

The CHAIRMAN. Has the amendment been modified by the gentleman from Missouri?

Mr. CLARK. No; the amendment is to strike out all the words in section 3, after the word "oath," in line 17.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That it shall be the duty of every district attorney to whom the Secretary of Agriculture shall report any violation of this act to cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such case provided.

Mr. CLARK. Mr. Chairman, I move to strike out the last word.

It is not to be assumed that everybody who wants to amend this bill is opposed to the principle of it. I have just as much solicitude for the great body of people in this country as has the gentleman from Iowa, Colonel HEPBURN, and I represent just as many of them on this floor, too. That kind of speech does not terrify me one particle. It is precisely the argument that has been made in favor of every bad bill ever introduced into this House. On this bill, as on all others, I do what I think is right. I am as much opposed to fraud in sale of food products as any man here or elsewhere, and I am as much in favor of punishing criminals. What I wish to call the attention of the House to at this moment is a thing that everybody overlooked when the bill was being read.

This bill will necessitate a great number of new employees in the Agricultural Department. I know there is a Bureau of Chemistry up there, but this bill provides practically for the creation of a new army of Federal officers, a great multitude that no man can number. I believe the chairman of the Committee on Appropriations [Mr. HEMENWAY], and all the members of the committee, as far as I know, are honestly trying to cut down the sum total of the appropriation bills. I am heart and soul with them in that undertaking. Now comes the gentleman with this bill and proposes to create a host of new employees, and, Mr. Chairman, if this bill goes through in its present form Federal spies under the guise of inspectors will swarm over this country in scores and hundreds and thousands, until they become almost as great a pest as the flies and frogs and lice in Egypt.

Mr. TAWNEY. And the boll weevil.

Mr. CLARK. I am opposed to the bill unless there is some restriction placed upon the number of officials who will be employed under it. That is all I want to say at this time.

The CHAIRMAN. Does the gentleman withdraw his formal amendment?

Mr. CLARK. Yes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADULTERATIONS.

SEC. 6. That for the purposes of this act an article shall be deemed to be adulterated—

In case of drugs:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia, it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia official at the time of the investigation.

Second. If its strength or purity fall below the professed standard under which it is sold.

Third. If it be an imitation of or offered for sale under the name of another article.

In the case of confectionery:

If it contain terra alba, barytes, talc, chrome yellow, or other mineral substances or poisonous colors or flavors, or other ingredients deleterious or detrimental to health.

In the case of food:

First. If any substance or substances has or have been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance or substances has or have been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be an imitation of or offered for sale under the distinctive name of another article.

Fifth. If it be mixed, colored, powdered, or stained in a manner whereby damage or inferiority is concealed.

Sixth. If it contain any added poisonous ingredient which may render such article injurious to health.

Seventh. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so.

Eighth. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter: *Provided*, That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated in the following cases:

First. In the case of mixtures of compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not included in definition fourth of this section. Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they

are mixtures, compounds, combinations, imitations, or blends: *Provided*, That the same shall be labeled, branded, or tagged so as to show the character and constituents thereof: *And provided further*, That nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome ingredient to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or imitation: *Provided further*, That no dealer shall be convicted under the provisions of this act when he is able to prove a written guaranty of purity, in a form approved by the Secretary of Agriculture as published in his rules and regulations, signed by the manufacturer or the party or parties from whom he purchased said articles: *Provided also*, That said guarantor or guarantors reside within the jurisdiction of the United States. Said guaranty shall contain the full name and address of the party or parties making the sale to the dealer, and said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act: *Provided*, That when in the preparation of food products for shipment they are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, the provisions of this act shall be construed as applying only when said products are ready for consumption.

Mr. MACON. Mr. Chairman, I desire to offer an amendment to strike out, in line 3, page 18, all after the word "articles" down to and including the word "States," in the fifth line.

The CHAIRMAN. The gentleman from Arkansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 18, line 3, beginning with the word "*Provided*," strike out the words:

"*Provided also*, That said guarantor or guarantors reside within the jurisdiction of the United States."

Mr. MACON. Mr. Chairman, it is a little alarming to see that in almost every bill of a national character presented to this body we find some restriction against trade with other countries. I do not understand why this is so. In offering this amendment I do not expect the people whom I have the honor to represent directly will be greatly benefited thereby, but I do believe that a large portion of the retail dealers of the United States who live adjacent to foreign territory will be benefited if this provision is stricken out, because they will not have to apply to some wholesaler to make purchases for them from a manufacturer in Canada, Mexico, Cuba, or other foreign countries in order that we may have the benefit of the sale of it in this country.

I realize, sir, that the burden already resting upon the people is great enough by reason of the unjust tariff that they have to pay upon the necessities of life when they are brought from other countries into ours; and now to say that the retailer who lives just across the St. Lawrence from Canada must go to some wholesaler who lives in this country and say, "I want certain products manufactured over the line in Canada, and in order to get them under the pure-food bill I must get you to purchase them for me; hence I will have to pay you your profit for your trouble in the matter in addition to the tariff that rests upon them," is certainly wrong in policy and in fact. I think it is unjust to make that requirement, and for that reason I move that the words be stricken out as mentioned in the amendment I offer.

I believe that the people of this country ought to have the greatest privileges on earth to trade wherever they please. I believe when God created men he intended to put them all upon an equal footing and allow them to have equal opportunity in the race of life, untrammeled by law, so long as they did not interfere with the rights or privileges of others. So I stand for a broad liberality of trade, that every American ought to be permitted to engage in, unrestricted by the provisions of every little bill that comes into Congress with proposed legislation upon any subject whatever, pure food or anything else. I want no restriction upon our own people, so that they can not go abroad under the same rules that you can go to your neighbor and purchase the things that you want to deal in. That strikes me as reasonable and just, and I can not think that the committee desires to impose further burdens upon the people in this free land of America by a further restriction of trade opportunities. Sir, I believe the committee will see that this bill does restrict our trade and will strike out the words indicated and say to the people who live along the Canadian and Mexican lines, and those who live along the coast, that they can go to neighboring territory and there make purchases without being subject to the provision that some wholesaler shall go and buy the product for them. [Applause.]

Mr. MANN. Mr. Chairman, I appreciate the difficulties which the gentleman has called attention to, but I desire to say he does not fully realize what the effect of his amendment would be. If his amendment should be adopted, the foreign sellers of goods could send in any rotten produce, which could be sold to the retail dealer of this country, and the retail dealer would be prosecuted, but the foreign seller could not be prosecuted, because we could not reach him; but his American competitor is required to furnish a guaranty, and we could reach the American producer or manufacturer.

Mr. PERKINS. Will the gentleman allow me to ask him a question?

Mr. MANN. Certainly.

Mr. PERKINS. Suppose the retail dealer bought of a foreign manufacturer and sold the goods, having reasonable cause to believe that they were impure, then he would be liable?

Mr. MANN. He would not be, begging the pardon of the gentleman.

Mr. PERKINS. This statute provides as it stands now that anyone who sells goods having reasonable cause to believe they are impure, no matter where manufactured, can be prosecuted.

Mr. MANN. That is very true; but the bill excepts the retail dealer from prosecution when he is able to produce a written guaranty, and, of course, that is controlling.

Mr. PERKINS. Let me suggest to the gentleman that if the bill stands as it is now there is sufficient provision, and he should strike this provision out as inconsistent to the bill.

Mr. MANN. Well, Mr. Chairman, I do not think it is inconsistent with the bill at all. The purpose of this provision is to exempt the retail dealer, the small dealer throughout the country, from prosecution under the terms of this bill, although he may sell an article which is adulterated if he is acting under a guaranty furnished to him by the wholesaler from whom he purchased, and then it is the duty of the Government to proceed against the wholesale dealer or manufacturer in a proper way. We want to get at the big dealers, who make these articles and endeavor to impose them upon the public. We are not after the little dealers who innocently handle the articles about which they can know nothing, but the effect of the amendment proposed would be absolutely to give all the benefits to the foreign manufacturer as against the local manufacturer.

Mr. MACON. Will the gentleman yield to me for a question?

Mr. MANN. Certainly.

Mr. MACON. Do you suppose for a single moment that a local dealer who was subject to prosecution under this act would be fool enough to buy rotten goods of a manufacturer in Canada, or foreign goods, and subject himself to a prosecution when he knew the men across the line would be exempt?

Mr. MANN. I have just stated to the gentleman the local dealers would not be subject to prosecution under this act. If the gentleman's amendment prevails and he gets a written guaranty from the foreign producer, no matter what the contents of the food may be——

Mr. MACON. Does it not say here by the amendment adopted yesterday that if he has reasonable cause to believe that it is adulterated he will be as guilty under this law as if he did it knowing it to be so?

Mr. MANN. Certainly not, because there is a provision exempting the retail dealer from any prosecution if he produces a guaranty. Now, we propose that if he produces a guaranty by some one whom we can reach, he shall be excepted. You propose if he produces a guaranty made by some foreign manufacturer, whom we can not reach, he shall still be exempted from the provisions of the act.

Mr. MACON. I did not say so——

Mr. MANN. That certainly will be the effect of the amendment; there is no possible question about it. Now, as a matter of fact, foreign manufacturers do not sell directly to retail dealers of the country. It will not, in fact, hurt the foreign manufacturers. They do not sell directly to the retail dealer. They sell to factors in this country or to wholesale dealers in this country, with possibly the exception of a small number along the Mexican line or the Canadian line, not large enough to make any great difference in its effect in the operation of the bill.

Mr. BASSETT. Mr. Chairman, I move to amend by striking out the last word. At this point I intended yesterday to offer an amendment to the fourth paragraph of this section, referring to imitations and to goods sold under names of other articles, but on studying more carefully that provision last evening I came to the conclusion that my objections were more fanciful than real. Yesterday I was very strongly inclined to combat many of the provisions in this bill, and I spoke in that way to many of my colleagues, but on examining it more carefully since then I have come to the conclusion that, notwithstanding some defects, it is my duty to support the bill; and as I do not want to be considered a person who talks one way and votes another, I take a few moments to give my reasons therefor.

I am in favor of limiting the provisions of the Constitution strictly as much as any Member upon this side. All my inclinations are toward preserving unimpaired the proper functions of the State governments. I believe that the family should do those things which the family can do better than the city, and that the city should do those things which the city can do better than the State, and that the State should do those things which the State can do better than the National Government; but when we come to pure-food requirements for the benefit of all the people as related to those articles of food which are distributed through all the States by single producers, I have come to the conclusion that the National Government can accomplish more than can the State governments, and for these rea-

sons: Pure-food legislation in the States is increasing, and it ought to increase, and what is more it ought to be enforced. There will soon be systems of laws regarding pure food that will all differ in the different States, and the result will be as great variety in pure-food requirements as there is now in divorce provisions. This is right enough as to State products consumed in that State, but not as to goods sold throughout the country. Manufacturers who are sending their goods to all the States will have to put them up in different ways to conform with the different requirements of those States. The goods that are produced in a State and used in that State properly remain subject to State legislation, and questions arising respecting them will be decided in the State courts. If there is a Federal pure-food law, there will be a tendency to limit State legislation to State products. Those goods that are sold throughout the country should be under a uniform pure-food law.

Now, I want to cite an example: In Gloucester, Mass., salted fish are put up in different ways and sold as codfish. The hake is put up to imitate codfish. Pure cod brings a better price than pure hake. When they send hake to a particular State that has a strict law, they mark it "pure fish;" but if the same article is to go to other States, they mark it "pure cod." And so it would be in many of those articles that are sent all over the country if State pure-food laws increase and no Federal law is passed. It would be necessary to have interstate articles conform to all sorts of different requirements in the different States, and therefore it seems to me that it is in the interest of pure food throughout the country if we have a Federal law such as this. Some of the details of this bill should be amended now, and others will be amended hereafter, as occasion may require. But modern invention is finding so many ways to cheapen foods by imitating, substituting, altering, and preserving, most of which is at the expense of the health of people who can not know the danger, that the time has come for the Federal Government, as well as for the States, to stop it. I believe, also, that this bill means purer food and drugs for the poor people of New York City, who of necessity incline to buy the cheapest. And for these reasons I have decided to support the bill. Mr. Chairman, I hereby withdraw my motion to amend.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. GROSVENOR having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries.

PURE FOOD.

The committee resumed its session.

Mr. HEPBURN. Mr. Chairman, I move that the debate on this section and the amendments thereto be closed in ten minutes.

Mr. CLARK. Mr. Chairman, I have an amendment that I want to offer myself.

Mr. HEPBURN. The gentleman may have all the time, as far as I am concerned.

The CHAIRMAN. The gentleman from Iowa moves that all debate on the pending section and amendments thereto be closed in ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. CLARK. Now, Mr. Chairman, I move to strike out lines 10, 11, and 12 on page 16.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 16, beginning with line 10, strike out lines 10, 11, and 12.

Mr. CLARK. Yesterday, Mr. Chairman, I undertook to get the gentleman from Iowa to give me his construction of the words "reduce or lower or injuriously affect." I wanted to know whether the three things were intended to mean the same thing. There are certain things you can not use or consume with any degree of pleasure or profit unless the quality is reduced or lowered.

Mr. HEPBURN. If the gentleman on the other side will allow a suggestion, I think we can cure his objection. It is to strike out the word "or" after the word "reduced," and the word "or" after the word "lower," and insert in lieu of the last "or" the words "so as to;" so it will read "so as to reduce, so as to injuriously affect its quality."

Mr. CLARK. Well, Mr. Chairman, that is not what I want exactly, but it is better than it is now.

Mr. MANN. It would read "so as to reduce or lower, so as to injuriously affect."

Mr. CLARK. Mr. Chairman, I insist on my amendment.

Mr. SHERLEY. Mr. Chairman, I offer as an amendment to the one offered by the gentleman from Missouri the suggestion made by the gentleman from Iowa, which, I think, covers the objection. It will then read: "If any substance or substances has or have been mixed and packed with it so as to reduce or lower so as to injuriously affect its quality or strength."

The CHAIRMAN. The gentleman from Kentucky offers as a substitute the words he has suggested and which the Clerk will report.

The Clerk read as follows:

In line 11, page 16, after the word "lower," strike out the word "or" and insert the words "so as to."

Mr. MANN. May I not suggest that he put in the word "thereby" instead of the words "so as"?

Mr. SHERLEY. I am willing to accept that suggestion.

Mr. CLARK. I will state to the gentleman from Iowa and the gentleman from Kentucky that if they will strike out the words "reduce or lower," I am perfectly willing to accept the words "injuriously affect." I am willing that they should be left in.

Mr. MANN. If the gentleman will pardon me, that would cover his own case, but there are many things where you reduce or lower the quality, and there might be a controversy as to whether you thereby injuriously affected its quality or strength.

Mr. CLARK. That is one objection to the bill, that we have to have somebody here to say whether you are making it better or worse.

The CHAIRMAN. The Clerk will report the substitute.

The Clerk read as follows:

In line 11, after the word "lower," strike out the word "or" and insert the words "and thereby;" so as to read, "so as to reduce and thereby injuriously affect its quality or strength."

Mr. SHERLEY. Mr. Chairman, I did not so understand the suggestion. I am willing to correct the language as to its grammar, but I am not willing to change the sense. I think by putting in the words "and thereby" instead of the words "so as to," as suggested by the gentleman from Illinois, you determine as a matter of fact that the lowering or reducing is injuriously affecting the quality or strength. That is the point I want to cover by my amendment. I shall therefore, under the circumstances, insist on the substitute that I offered to the amendment of the gentleman from Missouri.

Mr. MANN. Mr. Chairman, I see the point of the gentleman. It might be subject to that construction.

The CHAIRMAN. The Chair will ask the gentleman from Kentucky to again state the substitute which he submits.

Mr. SHERLEY. The substitute I offer is in line 11, to strike out the word "or" and insert the words "so as to thereby."

The CHAIRMAN. The question is on the substitute offered by the gentleman from Kentucky to the amendment offered by the gentleman from Missouri.

The question was taken, and the substitute was agreed to.

The CHAIRMAN. The question now comes upon the amendment as amended by the substitute.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 7. That it shall be the duty of the Secretary of Agriculture to fix standards of food products when advisable for the guidance of the officials charged with the administration of food laws and for the information of the courts, and to determine the wholesomeness or unwholesomeness of preservatives and other substances which are or may be added to foods, and to aid him in reaching just decisions in such matters he is authorized to call upon the committee on food standards of the Association of Official Agricultural Chemists, and such other experts as he may deem necessary.

[Mr. SHACKLEFORD addressed the committee. See Appendix.]

The CHAIRMAN. The gentleman from North Carolina is recognized in opposition to the amendment.

Mr. POU. Mr. Chairman, I believe one of the real evils of the age is the practice of adulterating what we eat and drink, and I maintain that there is nothing in this bill which an honest manufacturer may be afraid of. I am told that a certain kind of earth has a market value because of its use in the adulteration of flour and candy, and it is a matter of common knowledge that it is exceedingly difficult to purchase an absolutely pure article of whisky. A few times in the life of a man he must have spirits. It is both a blessing and a curse to mankind. Every day we see prices quoted for that article which would seem to be impossible, considering the tax levied by the Government, if it were absolutely pure. Eminent chemists tell us of all sorts of adulterations of what we eat and drink. Large establishments engaged exclusively in the manufacture of food adulterants have grown up in our country.

It is time that the strong arm of the law should protect the millions of human beings who are compelled to consume these manufactured food products. I do not believe in any needless restriction of legitimate business, and I admit that the tendency toward paternalism in our Government is alarming; that long sessions of Congress tend to evolve too much law—too many laws. A government simple in its operation, few in its functions, leaving the largest liberty to the individual, is the government which the citizen loves most. I admit that imperial tendencies have carried the ship of state so far from its original moorings that it is doubtful if it will ever again be steered back into the track

marked out by those who handled the old ship with such success in the older days of the Republic.

But occasionally a law is proposed which ought to pass. No honest man ought to object to the enactment of a law which requires him to manufacture pure food. No honest man should object to a law which prevents him from obtaining money under false pretense. This law, in my judgment, not only will not injure but will actually stimulate honest business. Only the man who offers the spurious for the genuine, who does business in secret, who is afraid for the public to know the ingredients of the food products he offers for sale, only this man need fear the passage of this bill.

I admit, Mr. Chairman, the force of some of the arguments of the opponents of the measure. The contention that the bill gives the Secretary of Agriculture great power is not without force, but in the administration of all law power must be vested in some one. The judge on the bench construes the law; twelve jurors say whether their fellow-man shall live or die. The enactment of every law must assume that its administrators will be honest. If the judge is corrupt, he should be impeached. If the juror violates his oath, he should be prosecuted and punished. If we hesitated to pass a necessary law because of the danger that a dishonest official would administer it, then the people would be without protection. We must assume in the enactment of law that officials are honest, not dishonest. The power vested by this bill in Secretary of Agriculture is infinitely smaller than that exercised by the hundreds of judges who preside every day over the courts of the various States. We must, therefore, assume that no dishonest Secretary of Agriculture will ever have charge of that Department, and let us assume in the enactment of this much-needed law that the Secretary who abuses the trust reposed in him will be impeached and driven from office.

Therefore I do not think the fears expressed by the gentleman from Missouri are well founded. Every judge to a certain extent is an autocrat, and there must be lodged in somebody's hands the power to execute all law.

Mr. SHACKLEFORD. Will the gentleman permit me to ask him a question?

Mr. POU. Certainly.

Mr. SHACKLEFORD. Is it the understanding of the gentleman from North Carolina that this bill confers judicial functions upon the Secretary of Agriculture?

Mr. POU. I do not so understand it.

Mr. SHACKLEFORD. You said every judge should have the power.

Mr. POU. I say every judge, to a certain extent, is an autocrat. You are bound to lodge in somebody's hands the power to determine the wholesomeness or unwholesomeness of goods offered for sale. Now, that being the case, this bill provides that this official shall act in an advisory capacity to the Secretary of Agriculture. In the second place, I do not think the position of the gentleman is well taken, because the provision which gives to this individual the power to say whether or not the food is wholesome or unwholesome does not make his decision final with respect to the courts. His decision is merely evidence in the court, just as the evidence of any other witness.

Mr. SCUDDER. Will the gentleman allow me to ask him a question?

Mr. POU. Certainly.

Mr. SCUDDER. Until the courts are called to pass upon this question, what is going to happen to the man's business?

Mr. POU. It must be governed, as a matter of course, by the decision of the Government official. And, Mr. Chairman, unless you clothe somebody with the power set forth in this bill, you can hardly frame a bill that could be operative which would accomplish the desired purpose.

Mr. SCUDDER. Will the gentleman allow me to ask him another question?

Mr. POU. Certainly.

Mr. SCUDDER. If the Secretary of Agriculture does not proceed, what redress has the man whose business has had the stigma cast upon it?

Mr. SHACKLEFORD. You might get out an injunction.

Mr. POU. The point I am making is simply this: In the first place it is absolutely necessary to vest this determining power in the hands of some official. In the second place, having put it in the hands of that official, this bill does not make his decision final. The decision of the Government expert is merely used as evidence in the courts, to be passed upon by the jury as the evidence of any other person.

Mr. GOLDFOGLE. Will the gentleman allow me to ask him a question?

Mr. POU. Certainly.

Mr. GOLDFOGLE. Now, this bill further provides where it shall be the duty of the Secretary of Agriculture to fix standards of food products. Now, having fixed a standard of food products, does not the gentleman recognize the fact that whosoever sells an article not of the standard fixed by the Secretary is guilty of violating the act, and that the question in a prosecution under this act would be as to whether the individual charged sold an article below the standard fixed by the Secretary? That would be the only question to be submitted to the jury.

Mr. POU. I think the gentleman is mistaken. I think the question would be whether or not the food sold was wholesome or unwholesome. I do not believe under this bill the decision of the Secretary or of the expert would be final.

Mr. GOLDFOGLE. Will the gentleman yield to another question?

Mr. POU. Certainly.

Mr. GOLDFOGLE. Does the gentleman know that a similar provision was incorporated in the bill relating to the importation of teas, and that the constitutionality of that provision was challenged and is now before the Supreme Court of the United States for decision?

Mr. POU. If the gentleman says so, I assume it to be a fact, as I am not informed with respect to the pendency of the action mentioned by the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. POU. I ask that I may have permission to proceed for three minutes.

The CHAIRMAN. The gentleman from North Carolina asks that he may be allowed to proceed for three minutes further. Is there objection? [After a pause.] The Chair hears none.

Mr. POU. I merely ask for an extension of time. Mr. Chairman, that the gentleman from Kentucky may have the opportunity to ask a question.

Mr. JAMES. Do you take the position that this law would repeal all the State laws upon pure-food legislation?

Mr. POU. Well, I will say to the gentleman candidly that I have not examined the laws of the various States which have legislated upon this subject sufficiently to answer that question intelligently. I leave that to him to determine.

Mr. JAMES. Do you not think that this is an unusual and extraordinary power to place in the hands of an officer appointed by some political power and exercising the duty of a political office?

Mr. POU. I think it is an unusual and extraordinary power providing for and meeting an abuse which demands that unusual and extraordinary power be vested in somebody for the efficient administration of the law.

Mr. JAMES. I will ask you the further question, If the Secretary of Agriculture should be so disposed, is it not within his power to create the greatest monopoly known in the United States in the article of pure food or any article of food?

Mr. POU. I think if he were to abuse his power he would probably be treated like any other corrupt official—impeached, prosecuted, and turned out of office.

Mr. JAMES. Suppose Mr. Machen occupied that place, or Mr. Neely, what would you say then?

Mr. POU. Well, I will not apprehend any such condition would arise.

Mr. JAMES. You doubtless would not have apprehended that which did arise.

Mr. MANN. This provision is to prevent any preference such as indicated.

Mr. HEPBURN. Mr. Chairman, it will be remembered that yesterday two gentlemen made violent opposition to some of the provisions of this bill. They took occasion when leisure came to them to read the whole bill to ascertain what was in it, and this morning they were frank enough to recant the errors which they had made because of the pertinent information which they had obtained by reading the whole bill. If gentlemen would read the bill before they become so violently agitated over it, it would be very much better, in my judgment; and especially if my colleague on the committee, the gentleman from Missouri [Mr. SHACKLEFORD], would allow me amiably to suggest that fact to him I would take it kindly, because it is evident that he has not read the seventh section of this bill. He would not have made the assault upon it if he had. It has nothing like the important relation to the matter that he gave to it. The section is simply—

That it shall be the duty of the Secretary of Agriculture to fix standards of food products when advisable for the guidance of the officials charged with the administration of food laws.

Mr. SHACKLEFORD. Read the next clause.

Mr. HEPBURN (reading):

And for the information of the courts——

Mr. SHACKLEFORD. Read the next section.

Mr. HEPBURN. I will read the next sentence.

And to determine the wholesomeness or unwholesomeness of preservatives and other substances which are or may be added to food——

Mr. SHACKLEFORD. That is corn meal or flour.

Mr. HEPBURN. It is "preservatives."

Mr. SHACKLEFORD. No; it says "preservatives or other ingredients."

Mr. HEPBURN. Oh, no; "preservatives and other substances" which are or may be added to foods. "Preservatives" or other substances used for preservation. That is what it means. That is what the courts will say about it. The courts will not give that wide range and scope that the gentleman thinks.

Mr. Chairman, this is a wholesome provision, and it is in the interest of the dealer; it is in the interest of the manufacturer; it is to give him some guide as to what the correct standard ought to be; it is to furnish him with information, and it is, in my judgment, largely in his interest.

Mr. Chairman, this will almost invariably be a question involving science, a question involving questions of chemistry—a class of information that the officials of the United States are not necessarily conversant with—and this provision imposes upon the officers who have the information to make necessary examinations and publish them in proper form to bring them within the reach of those officers who are charged with the administration of this law. It is an aid to them in the administration and performance of their duties; it is an aid to the manufacturers; it is an aid to the sellers to let them know what it is proper for them to sell, and to put them on their guard and give them an opportunity to avoid the acts that come from ignorance.

Mr. MIERS of Indiana. Mr. Chairman——

Mr. HEPBURN. One moment. I want simply to move that all debate upon this section and amendments be closed in ten minutes.

Mr. FITZGERALD. I would like to suggest to the gentleman that there is another amendment which will be offered if this amendment fails, and I think probably there should be some debate on the amendment.

Mr. HEPBURN. Then I move that debate upon this amendment be closed in ten minutes, Mr. Chairman.

The CHAIRMAN. The gentleman from Iowa moves that all debate upon the pending amendment be closed in ten minutes.

The motion was agreed to.

Mr. MIERS of Indiana. Mr. Chairman, section 5 defines the term "drugs," food, misbranded, etc. That is all well enough. If we make a mistake it is the fault of those who misunderstand it. The subject is considered.

Section 6 provides that for the purposes of this act certain articles shall be deemed to be adulterated, and then takes up what shall be deemed an adulteration in drugs, and makes four or five items. It takes up the case of confectionery, and then the case of food. There are eight exceptions, and in the eighth exception there is a proviso or two. Now, that limits, that defines, that is saying what those who vote upon this bill intend the bill shall mean. That is well enough; it is legislation. Section 7 follows. The bill defines what shall be an adulteration of drugs and of food, what shall mean misbranding, etc. The bill leaves the court to determine the truth of the evidence as in any matter relating to adulteration, mislabeling, etc., and this is good; but section 7 states:

It shall be the duty of the Secretary of Agriculture—

To do what?—

to fix standards of food products when advisable for the guidance of the officials charged with the administration of food laws and for the information of the courts and to determine the wholesomeness or unwholesomeness of preservatives and other substances which are or may be added to food.

He may not only cover one section of the country by his judgment, but every section; not only the capital, but every State in the Union. And he may do more than that. He may bring to his aid in reaching decisions of such matters, as he is authorized to call upon the committee of food standards, experts. What does that mean? The bill defines pure food. It also defines exceptions. Section 7 says the Secretary of Agriculture may set up another standard, a standard that controls the courts as well. The gentleman from South Carolina, as well as the gentleman from Iowa, say the only purpose of this section is that the Secretary of Agriculture may furnish testimony. He may do that if you strike out section 7. If the Secretary of Agriculture has any information that is admissible in the courts, he may be called upon to impart that information. Section 7 goes further, and says that he shall not only establish rules, but that he shall determine what is wholesome or unwholesome. The Secretary concludes and binds the Departments and the courts.

Mr. POU. Does the gentleman from Indiana contend when this bill gives the Secretary of Agriculture power to fix a standard that that makes his decision anything more than evidence in the courts upon the trial of a man for the violation of this law?

Mr. MIERS of Indiana. It certainly means more than that or it would not be in this bill. If the matter were not mentioned, his knowledge would be evidence in the court, if he has any, but he would not be permitted to make a certificate that would close up an institution in Indiana or Michigan or New York before there had been an opportunity of investigation, before there had been any effort to inform the institution that there was a charge of making an illegal sale. I say, Mr. Chairman, that while we do want pure food and a pure-food bill, I do not believe we ought, as a proposition of law, to give the Secretary of Agriculture authority to make a ruling that would say that this is impure or that is impure in the face of the bill that defines what shall be impure. Leave that to be determined by the law and the courts.

The CHAIRMAN. The time of the gentleman from Indiana has expired. The gentleman from Indiana asks permission to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. STANLEY. Mr. Chairman, I am heartily in favor of the provisions of this bill as a whole, and for that reason I am more anxious that no evil provision should creep into it. I regard section 7 as the only section in the bill which is essentially pernicious, for two reasons. In the first place it gives judicial authority to a man occupying a political office and to an expert. If there is anything that an expert seldom has, it is practical imformation about anything. They are useful as experts, and as experts only, and it is unwise to give to an expert—to a man holding a merely political office—judicial authority. It is essentially against the whole policy of the law for any man to at once be able to make a charge and pass upon that charge.

Mr. MANN. Will the gentleman allow me a suggestion?

Mr. STANLEY. Certainly.

Mr. MANN. Is the gentleman aware that the provision of this section is existing law?

Mr. STANLEY. I am not aware that the provisions of this bill are law or ever will be law.

Mr. MANN. I said the provision of this section.

Mr. STANLEY. I am not aware that there is any existing law like this.

Mr. MANN. Let me call attention to the Agricultural appropriation bill:

To enable the Secretary of Agriculture, in collaboration with the association of official agricultural chemists, and such other experts as he may deem necessary, to establish standards of purity for food products, and to determine what are regarded as adulterations therein, for the guidance of officials in the various States and of the courts of justice.

Mr. SCUDDER. That is for the guidance of the courts.

Mr. MANN. Yes; and that is the provision in this section.

Mr. SCUDDER. The objection to the section, in my opinion, is to be found in the provision which authorizes the Secretary of Agriculture to fix the standard of food products, and thereafter a person aggrieved thereby can not get to the courts for redress unless the Secretary proceeds against him, which he may not do. Moreover, it is not clear that this section does not rest a discretionary power in the Secretary of Agriculture which is not open to review. If it does, a man can be ruined without redress or opportunity to right himself.

Mr. MANN. We say "information" in this bill, which is not quite as strong as "guidance," and the sole purpose of putting this section in the bill is to have a pure-food law in one pamphlet, so that it will all be together. It is existing law, and not only existing law, but passed the muster, on two occasions at least, of the Democratic leader of the House, who was the leading minority member of the Committee on Agriculture, and has been in force for two years, never meeting objection.

Mr. GOLDFOGLE. Mr. Chairman, I should like to ask the gentleman from Illinois a question.

Mr. MANN. I will be glad to answer it, if the gentleman from Kentucky will yield.

Mr. STANLEY. I yield.

Mr. GOLDFOGLE. Of course the Secretary of Agriculture could call upon anybody for information. Now, why in section 7 is it provided that to aid him in reaching just decisions he may call upon the committee on food standards of the Association of Official Agricultural Chemists? He could go out and inform himself from any source whatever. Why is this specially provided? What is the object?

Mr. MANN. The only reason why it is specially so provided in this section is because it is so provided in existing law, which has passed the House—"to enable the Secretary of Agriculture, in collaboration with the Association of Official Agricultural Chemists," which I may say holds an annual meeting here, and the results of their meetings are reported and published as a Government document.

Mr. GOLDFOGLE. Why is it put in by way of legislation? He could have called upon them, or any chemist; if he is to fix standards, he could inform himself generally.

Mr. MANN. Originally the section provided that there should be a commission appointed of various people, but we thought that ought not to be done. These official chemists are chemists from each State of the Union, employed in the various agricultural colleges.

Mr. GOLDFOGLE. But I make the point that there is no necessity for putting that in the section at all.

Mr. MANN. Possibly that provision could be taken out. He could call upon them, but we thought to put in the existing law, so that all the law would be in one place. I may say that ordinarily it is not an easy thing to find anything in the statutes of the United States.

Mr. STANLEY. Mr. Chairman, I am willing to answer any questions, but I wish to make a still further objection, which to my mind is much stronger, and that is this: That it takes away a privilege more valuable than the right to have wholesome food. There is nothing more sacred to a man than his business. It is in a way the bread of life. Under the common law you can not assail a man's business, you can not injure a man's business, except at your peril. If a man is guilty of malpractice, you can hold him responsible, but make the charge that he is a charlatan and you do it at your peril. If a man is guilty of selling poisonous foods, under the various State laws you can hold him responsible, but charge him with a violation of those laws and you do so at your peril. Now, a man may engage in some particular manufacture. Some rival institution may wish to destroy him and may get hold of some forgotten and obscure expert, who in turn may secure the ear of the Secretary of Agriculture. This grave charge comes in an official character and the man suffering from it has no remedy. Had that charge been made by any individual without being barricaded behind this provision of law, that individual making the false charge would be compelled to answer in damages.

[Here the hammer fell.]

Mr. STANLEY. Mr. Chairman, I ask unanimous consent for one more minute.

Mr. HEPBURN. Mr. Chairman, I do not wish to be discourteous, but we must get along with this bill and we have had a long discussion.

Mr. STANLEY. I simply wish to finish the sentence.

Mr. HEPBURN. I withdraw any objection to that.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to continue for one minute. Is there objection?

There was no objection.

Mr. STANLEY. If a man is guilty of a violation of this law, any person with a knowledge of the facts can make the charge; but without this law, if the charge is false, the man has a remedy for the great damage done him. With this law his business can be destroyed and he is utterly without redress. [Applause.]

The CHAIRMAN. The question now comes on the motion of the gentleman from Missouri to strike out the section.

The question was taken; and on a division (demanded by Mr. SHACKLEFORD) there were—ayes 60, noes 75.

So the amendment was rejected.

Mr. CLARK. Mr. Chairman, before the Clerk begins reading section 8 I would ask unanimous consent that sections 8 and 9 be read and considered together, with the privilege of amending either, because I want to offer some amendments.

The CHAIRMAN. The gentleman from Missouri [Mr. CLARK] asks unanimous consent that sections 8 and 9 be read as one section.

Mr. CLARK. With the privilege of amending either.

The CHAIRMAN. Is there objection? The Chair hears none.

Mr. GOLDFOGLE. That does not preclude amendments to the pending section?

The CHAIRMAN. No; section 7 is still open to amendment.

[Mr. GOLDFOGLE addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. PATTERSON of Pennsylvania having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 1558. An act to grant to the State of Minnesota certain vacant lands in said State for forestry purposes;

S. 277. An act for the relief of settlers on lands in Sherman County, in the State of Oregon;

S. 371. An act granting to the State of North Dakota 30,000 acres of land to aid in the maintenance of a school of forestry;

S. 113. An act to enable the Secretary of the Treasury to pay the State of Vermont money appropriated by the act of Congress of July 1, 1902, and to adjust mutual claims between the United States and the State of Vermont;

S. 1352. An act for the relief of Lindley C. Kent and Joseph Jenkins as the sureties of Frank A. Webb;

S. 2795. An act to amend an act entitled "An act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto," approved June 6, 1892;

S. 347. An act providing for the establishment of a life-saving station in the vicinity of Cape Flattery or Flattery Rocks, on the coast of Washington;

S. 121. An act granting additional lands adjacent to its site to the University of Montana;

S. 2133. An act to change the name of Madison street to Samson street; and

S. R. 26. Joint resolution providing for the publication of 8,500 copies of a set of four charts on food and diet.

The message also announced that the Senate had passed without amendment the bill (H. R. 9292) in relation to business streets in the District of Columbia.

PURE FOOD.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 8. That every person who manufactures or produces for shipment and delivers for transportation within the District of Columbia or any Territory, or who manufactures or produces for shipment or delivers for transportation from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any drug or article of food, and every person who exposes for sale or delivers to a purchaser in the District of Columbia or any Territory any drug or article of food manufactured or produced within said District of Columbia or any Territory, or who exposes for sale or delivers for shipment any drug or article of food received from a State, Territory, or the District of Columbia other than the State, Territory, or the District of Columbia in which he exposes for sale or delivers such drug or article of food, or from any foreign country shall furnish within business hours and upon tender and full payment of the selling price a sample of such drugs or article of food to any person duly authorized by the Secretary of Agriculture to receive the same, and who shall apply to such manufacturer, producer, or vender, or person delivering to a purchaser, such drug or article of food for such sample for such use in sufficient quantity for the analysis of any such article or articles in his possession.

Mr. CLARK. Mr. Chairman, is it the agreement that sections 8 and 9 are to be considered together?

The CHAIRMAN. That was the agreement adopted by the Committee of the Whole.

The Clerk read as follows:

SEC. 9. That any manufacturer, producer, or dealer who refuses to comply, upon demand, with the requirements of section 8 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding $100, or imprisonment not exceeding one hundred days, or both. And any person found guilty of manufacturing or offering for sale, or selling, an adulterated, impure, or misbranded article of food or drug in violation of the provisions of this act shall be adjudged to pay, in addition to the penalties hereinbefore provided for, all the necessary costs and expenses incurred in inspecting and analyzing such adulterated articles which said person may have been found guilty of manufacturing, selling, or offering for sale.

Mr. HEPBURN. Mr. Chairman, I give notice that I will insist upon the observance of the rule in regard to these two sections as to amendment and discussion.

Mr. CLARK. Do you mean that we can not consider them together?

Mr. HEPBURN. Oh, no. What I mean to say is that the pro forma amendment can not be offered, and discussion can not be prolonged beyond the five minutes in the affirmative and the five minutes in the negative.

Mr. CLARK. I wish you would make that ten minutes.

Mr. HEPBURN. I have no objection to the gentleman taking ten minutes.

Mr. CLARK. Then I move to strike out all of section 8 and that part of section 9 beginning with the word "that" at the beginning of line 25, on page 19, and extending to the word "both," in line 5, on page 20, including that word.

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out all of section 8 and that part of section 9 beginning with the word "that" in line 25, page 19, down to and including the word "both," in line 5, page 20.

Mr. CLARK. Sections 8 and 9, to which I referred yesterday and which I now move to strike out, run as follows:

SEC. 8. That every person who manufactures or produces for shipment and delivers for transportation within the District of Columbia or any Territory, or who manufactures or produces for shipment or delivers for transportation from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any drug or article of food, and every person who exposes for sale or delivers to a purchaser in the District of Columbia or any Territory any drug or article of food manufactured or produced within said District of Columbia or any Territory, or who exposes for sale or delivers for shipment any drug or article of food received from a State, Territory, or the District of Columbia other than the State, Territory, or the District of Columbia in which he exposes for sale or delivers such drug or article of food, or from any foreign country shall furnish within business hours and upon tender and full payment of the selling price a sample of such drugs or article of food to any person duly authorized by the Secretary of Agriculture to receive the same, and who shall apply to such manufacturer, producer, or vender, or person delivering to a purchaser, such drug or article of food for such sample for such use in sufficient quantity for the analysis of any such article or articles in his possession.

SEC. 9. That any manufacturer, producer, or dealer who refuses to comply, upon demand, with the requirements of section 8 of this act shall be

guilty of a misdemeanor, and upon conviction shall be fined not exceeding $100, or imprisonment not exceeding one hundred days, or both. And any person found guilty of manufacturing or offering for sale, or selling, an adulterated, impure, or misbranded article of food or drug in violation of the provisions of this act shall be adjudged to pay, in addition to the penalties hereinbefore provided for, all the necessary costs and expenses incurred in inspecting and analyzing such adulterated articles which said person may have been found guilty of manufacturing, selling, or offering for sale.

Mr. Chairman, the sum and substance of these two sections is that any Government inspector can apply to any merchant selling anything and compel him to sell that article to him for the purpose of furnishing evidence against himself. If he refuses to so sell it, he may be prosecuted for refusing. If he does sell it, and an analysis shows it to be a forbidden article, he is thus compelled to furnish evidence against himself.

Mr. HEPBURN. Right here, will the gentleman permit me to ask him, if he is going to strike out that part of the section, why not strike out all of the balance of section 9, because it has no connection with anything else?

Mr. CLARK. Then let both sections go out.

The CHAIRMAN. The Chair understands the gentleman from Missouri then to modify his amendment so that it moves to strike out all of sections 8 and 9.

Mr. CLARK. Yes.

Mr. MANN. I think the chairman of the committee [Mr. HEPBURN] is mistaken about the latter part of section 9, which covers penalties for violation of the act, and is not applicable simply to this section. I think the original motion of the gentleman from Missouri left that properly in the bill. All after the word "both," in line 5, page 20, relates to the general provisions of the bill and violations of them, and not to the matter of selling to a Government inspector.

Mr. HEPBURN. Oh, no; I think not.

Mr. CLARK. Well, I will save all trouble by moving to strike out the whole thing, both sections.

Mr. Chairman, these two sections do what I started out to say they would do. They provide that any Government inspector can go to any merchant who is selling any of these articles supposed to be forbidden and compel him to sell to him a sample of the stuff for the purpose of furnishing evidence against himself.

Yesterday, when I said that those two sections were obnoxious to the fifth amendment to the Constitution of the United States, several constitutional lawyers jumped onto me, and they jumped so vigorously, some of them, that I began to be shaky about the correctness of my own position, because, as the gentleman from Iowa [Mr. HEPBURN] suggested, I am rather new as a constitutional lawyer; but my friend the gentleman from Georgia, Judge BARTLETT, who is an able and indefatigable lawyer, has aided me in this matter of constitutional law by referring me to a decision rendered by the Supreme Court of the United States, the syllabi of which I will read, as I have not time to read the whole opinion. It confirms me in the belief that I had yesterday that both sections are unconstitutional. In 116 United States Supreme Court Reports, page 616, is the case of Boyd *v.* The United States. Here are the syllabi:

The fifth section of the act of June 22, 1874, entitled "An act to amend the customs-revenue laws," etc., which section authorizes a court of the United States in revenue cases, on motion of the Government attorney, to require the defendant or claimant to produce in court his private books, invoices, and papers, or else the allegations of the attorney to be taken as confessed: Held, to be unconstitutional and void as applied to suits for penalties or to establish a forfeiture of the party's goods, as being repugnant to the fourth and fifth amendments of the Constitution.

Where proceedings were in rem to establish a forfeiture of certain goods alleged to have been fraudulently imported without paying the duties thereon, pursuant to the twelfth section of said act: Held, that an order of the court made under said fifth section, requiring the claimants of the goods to produce a certain invoice in court for the inspection of the Government attorney, and to be offered in evidence by him, was an unconstitutional exercise of authority, and that the inspections of the invoice by the attorney and its admission in evidence were erroneous and unconstitutional proceedings.

And that was not half so bad as this bill.

It does not require actual entry upon premises and search for and seizure of papers to constitute an unreasonable search and seizure within the meaning of the fourth amendment; a compulsory production of a party's private books and papers to be used against himself or his property in a criminal or penal proceeding, or for a forfeiture, is within the spirit and meaning of the amendment.

It is equivalent to a compulsory production of papers to make the non-production of them a confession of the allegations which it is pretended they will prove.

A proceeding to forfeit a person's goods for an offense against the laws, though civil in form, and whether in rem or in personam, is a "criminal case" within the meaning of that part of the fifth amendment which declares that no person "shall be compelled, in any criminal case, to be a witness against himself."

The seizure or compulsory production of a man's private papers to be used in evidence against him is equivalent to compelling him to be a witness against himself, and, in a prosecution for a crime, penalty, or forfeiture, is equally within the prohibition of the fifth amendment.

Both amendments relate to the personal security of the citizen. They nearly run into and mutually throw light upon each other. When the thing forbidden in the fifth amendment, namely, compelling a man to be a witness against himself, is the object of a search and seizure of his private papers, it is an "unreasonable search and seizure" within the fourth amendment.

Search and seizure of a man's private papers to be used in evidence for the purpose of convicting him of a crime, recovering a penalty, or of forfeiting his property is totally different from the search and seizure of stolen goods, dutiable articles on which the duties have not been paid, and the like, which rightfully belong to the custody of the law.

Constitutional provisions for the security of person and property should be liberally construed.

The fifth amendment therein referred to I set out in full in my remarks yesterday.

The fourth amendment is as follows:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Mr. Chairman, I submit that that decision of the highest judicial tribunal in the land establishes the proposition which I stated yesterday, that sections 8 and 9 are unconstitutional, and therefore ought to go out of the bill.

Mr. MANN. Mr. Chairman, it may seem a peculiar attitude to put me in to defend sections 8 and 9 after I have on the floor of the House and elsewhere repeatedly expressed my personal opinions that the sections were unconstitutional, and if they were not they ought to be. These sections of the bill, however, were put into the original pure-food bill at the request of the State board of food commissioners or inspectors, and they stated that they found difficulty sometimes in getting samples where there would be any controversy; and the original provision in this section provided that when samples were taken in this manner the seller should be protected by having left with him one of the samples. Now, so far as the Government itself is concerned, the officials of the Government who have been befriending this bill say that it makes no great difference to the Government.

Doctor Wiley, in his recent testimony before the committee in reference to section 8, was asked these questions:

Mr. MANN. Does it still require a man to sell evidence to convict himself? That is what the old bill did; I thought maybe you were trying to eliminate that.

Mr. WILEY. Yes; that is in section 8. As far as my experience goes with the administration of the law relating to foreign foods, I think there can be no difficulty in getting all the samples we want without such a section compelling the man to sell to convict himself, if necessary, because there are always ways to get those samples.

Mr. STEVENS. Is not that the most straightforward way to get them?

Mr. WILEY. Yes; it is a good deal better, it seems to me, than to get them by subterfuge; but there will be no difficulty in getting samples anyway.

Now, the purpose of the section was not to convict the seller from whom the provision is made to get the samples, but to protect him. If the Government official goes there and demands a sample from the dealer the dealer has a chance to have an analysis made of the same sample and is protected, but if the Government official walks in as an outsider and gets the sample the dealer has no protection against the testimony of the analyst who analyzed the sample.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. BARTLETT. If it is done for the protection of the dealer, why in section 9 do you make it a crime for the dealer not to comply in something that is for his protection?

Mr. MANN. Oh, well, Mr. Chairman, if the law is to be that way it must be enforced, but the purpose of the section originally was, and still is, to protect the dealer, so that he may have notice when the Government is claiming that he is selling an impure article, and so far as the Government itself is concerned, so far as the bill in other respects is concerned, it makes no difference whether these sections are in or out. Personally, Mr. Chairman, I have always believed, as I stated before, that they were unconstitutional, but the only way that that can be tested is by leaving them in the bill, letting them become a part of the law, and have the courts determine them, and if they are unconstitutional that ends the question. If the courts hold them constitutional, then the dealer knows when the Government is endeavoring to convict him of selling an impure article and knows what the article is and has a chance himself to have it analyzed.

The CHAIRMAN. The question is upon the motion of the gentleman from Missouri to strike out sections 8 and 9.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BARTLETT. Division, Mr. Chairman.

The committee divided; and there were—ayes 58, noes 67.

Mr. CLARK. Tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN. The Chair will appoint the gentleman from Missouri, Mr. CLARK, and the gentleman from Illinois, Mr. MANN, to act as tellers.

The committee again divided; and the tellers reported—ayes 66, noes 90.

So the amendment was rejected.

Mr. CLARK. Mr. Chairman, I have another amendment I wish to offer to section 8.

The CHAIRMAN. The gentleman from Missouri has an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding at the end of line 24, section 8, the following:
"But no sample of such drugs or articles of food obtained under the provisions of this section, or any information derived therefrom, shall be used as testimony in any criminal case against the person or persons from whom such samples were obtained for the purpose of securing convictions for the violation of the provisions of this act."

Mr. MANN. May I ask that that be reported over again, Mr. Chairman?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. CLARK. Mr. Chairman, I do not want to make any speech about that, but that amendment accomplishes precisely what the gentleman from Iowa said yesterday was the meaning of this law. That is, it makes plain what has been extremely obscure heretofore (if it is in the bill at all). That is, that you can not use this evidence that you make a man give as against himself; you can use it against anybody else.

The CHAIRMAN. The question is upon the motion of the gentleman from Missouri.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CLARK. Division!

The committee divided; and there were—ayes 51, noes 66.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows.

SEC. 11. That any article of food or drug that is adulterated or misbranded within the meaning of this act, and is transported or being transported from one State to another for sale, or if it be sold or offered for sale in the District of Columbia and the Territories of the United States, or if it be imported from a foreign country for sale, or if intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States, within the district where the same is found and seized for confiscation, by a process of libel for condemnation. And if such article is condemned as being adulterated the same shall be disposed of as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any State contrary to the laws of that State. The proceedings of such libel cases shall conform as near as may be to proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in such case; and all such proceedings shall be at the suit of and in the name of the United States.

Mr. CLARK. Mr. Chairman, I move to amend that section by striking out all, beginning with the word "and," in line 5, on page 21, extending to and including the word "State," in line 10, on the same page.

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will read.

The Clerk read as follows:

On page 21, in line 5, beginning with the word "and," strike out all the remainder of line 5, lines 6, 7, 8, 9, and 10, including the word "State."

Mr. CLARK. Now, Mr. Chairman, I will read that excerpt for the information of the House.

And if such article is condemned as being adulterated the same shall be disposed of as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any State contrary to the laws of that State.

Mr. Chairman, that is a most remarkable proposition, that the courts of the United States shall pronounce judicially that a thing is sold in violation of this law by reason of adulteration and then proceed to sell the very same identical thing, by a public authority, the sale of which is prohibited to a private citizen. It is an outrage on common sense and ordinary decency. There is not a man living that can justify it.

Mr. MANN. Will the gentleman from Missouri pardon me?

Mr. CLARK. Yes.

Mr. MANN. Suppose milk is being sold as good milk, and it is confiscated as being skim milk. Is there any reason why it should not be sold as skim milk?

Mr. CLARK. Not a bit; but if it is skim milk it is fit to drink. I deny that Congress has any power to prohibit the sale of skim milk.

Mr. MANN. It has the power to prevent the sale of skim milk as milk.

Mr. CLARK. If it isn't milk, what is it? [Laughter

Mr. MANN. It is not milk; it is skim milk.

Mr. CLARK. It is milk, all the same.

Mr. MANN. Yes; it is skim milk.

Mr. CLARK. I am not going to dispute with a dairyman on the subject of milk. [Laughter.] Here is a proposition. In one-half of the States of this Union there is a law against gambling, and as one of the penalties it authorizes the destruction of the gambling apparatus. There is some sense in that. But suppose the statutes should authorize the sale of the gambling apparatus and the turning of the proceeds into the public Treasury. What would you think of that? The truth is, Mr. Chairman, that nobody knows precisely what is in this bill.

That was demonstrated within the last fifteen minutes by the fact that the chairman of the committee, Mr. HEPBURN, and the lieutenant chairman of the committee, Mr. MANN, fell afoul of each other as to what the last part of section 9 means. I do not believe there are a dozen men in the United States who, if it really ever percolates through their brain what these words mean that I have moved to strike out, would venture to vote for the bill with those words in it.

Mr. MANN. Mr. Chairman, the words that the gentleman moves to strike out do not require the sale of the article that is found to be adulterated.

Mr. CLARK. The words authorize the sale.

Mr. MANN. It authorizes the court to dispose of it. The illustration that I gave the gentleman disposes of this proposition. The article may be offered as cream and it may be simply milk. If it is offered as cream and is in fact only milk, it is subject to seizure. There is no reason in the world why it should not be sold as milk.

Mr. CLARK. This section is about adulterated goods, and you do not claim that skim milk is adulterated.

Mr. MANN. I claim that if it is offered as cream, it is adulterated under this act.

Mr. WILLIAMS of Mississippi. That would be misbranding.

Mr. MANN. Under the language of the bill skim milk offered as cream is adulterated. Other language might determine it to be something else. It is of no importance what you call it. There is no reason in the world why an article should be destroyed if it can be sold for what it is. Many articles are offered for sale under another name which would be perfectly proper if sold under their own name.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken; and on a division (demanded by Mr. HEPBURN) there were—ayes 77, noes 78.

Mr. CLARK. Tellers, Mr. Chairman.

Tellers were ordered; and the Chairman appointed Mr. CLARK of Missouri and Mr. MANN of Illinois.

The question was again taken; and the tellers reported—ayes 85, noes 95.

So the amendment was rejected.

Mr. SNAPP. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend section 11, line 6, page 21, by inserting after the word "adulterated" the words "or misbranded within the meaning of this act."

Mr. MANN. Mr. Chairman, there is no objection to that amendment.

The question was taken; and the amendment was agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 12. That the Secretary of Agriculture is authorized to investigate the character and extent of the adulteration of foods, drugs, and liquors and whenever he has reason to believe that articles are being imported from foreign countries which by reason of such adulteration are dangerous to the health of the people of the United States, or of kinds which are forbidden entry into or forbidden to be sold or restricted in sale in the countries in which they are made or from which they are exported, or which shall be falsely labeled in any respect either by the omission of the name of any added ingredient or otherwise, or in regard to the place of manufacture or the contents of the package, shall make a request upon the Secretary of the Treasury for samples from original packages of such articles for inspection and analysis; and the Secretary of the Treasury is hereby authorized to open such original packages and deliver specimens to the Secretary of Agriculture for the purpose mentioned, giving due notice to the owner or consignee of such articles, who may be present and have the right to introduce testimony; and the Secretary of the Treasury shall refuse delivery to the consignee of any of such goods which the Secretary of Agriculture reports to him have been inspected and analyzed and found to be dangerous to health, or of kinds which are forbidden entry into or forbidden to be sold or restricted in sale in the countries in which they are made or from which they are exported, or which shall be falsely labeled in any respect either by the omission of the name of any added ingredient or otherwise, or in regard to the place of manufacture or the contents of the package.

Mr. WADSWORTH. Mr. Chairman, I move to strike out the last word. Two years ago I was in favor of and voted for a bill of this character. Since that time we have passed legislation in the form of amendments to the Agricultural appropriation act which, in my judgment, makes this legislation absolutely unnecessary. I want to read for the information of the House, because few Members are aware of this legislation, the items covering the appropriation for the Bureau of Chemistry in the Agricultural Department.

Laboratory, Department of Agriculture.—General expenses, Bureau of Chemistry: Chemical apparatus, chemicals, laboratory fixtures and supplies, repairs to engine and apparatus; gas and electric current, purchase of all necessary office fixtures, supplies, and necessary expenses in conducting special investigations, including necessary traveling and other expenses, telegragh and telephone services, for express and freight charges, labor and expert work in such investigations in the city of Washington and elsewhere, and in collating, digesting, reporting, and illustrating the results of such experiments; to continue the collaboration with other bureaus and divisions of the Department desiring chemical investigations and to collaborate with other Departments of the Government whose heads request the Secretary of Agriculture for such assistance, and for other miscellaneous work; for the employment of additional assistant chemists, when necessary, and for the rent

of buildings occupied by the Bureau of Chemistry; to investigate the adulteration of foods, condiments, beverages, and drugs, when deemed by the Secretary of Agriculture advisable, and for all necessary expenses of every kind connected therewith.

To enable the Secretary of Agriculture to investigate the character of food preservatives, coloring matters, and other substances added to foods, to determine their relation to digestion and to health, and to establish the principles which should guide their use; to enable the Secretary of Agriculture to investigate the character of the chemical and physical tests which are applied to American food products in foreign countries, and to inspect before shipment, when desired by the shippers or owners of these food products, American food products intended for countries where chemical and physical tests are required before said food products are allowed to be sold in the countries mentioned, and for all necessary expenses connected with such inspection and studies of methods of analysis in foreign countries; to enable the Secretary of Agriculture, in collaboration with the Association of Official Agricultural Chemists, and such other experts as he may deem necessary, to establish standards of purity for food products and to determine what are regarded as adulterations therein, for the guidance of the officials of the various States and of the courts of justice.

Now, Mr. Chairman, under that last clause which I have just read—"for the guidance of the officials of the various States and of the courts of justice"—the Secretary of Agriculture is empowered to cooperate with the State authorities; and I claim that the power to cooperate, supplemented with the power of the State, is sufficient to prevent the adulteration of food in the several States and in interstate commerce. Every sample that the gentleman from Illinois [Mr. MANN] has on his desk is of goods imported from abroad which have been refused entry in this country by virtue of a paragraph in the agricultural appropriation act, and which he repeats as section 12 of the bill. Therefore section 12 of the bill is simply a repetition of legislation already in force.

Mr. MANN. Mr. Chairman, that is what I stated in the opening of the discussion.

Mr. WADSWORTH. I know that; that is all right; so that the only question here to consider is the question of interstate commerce in adulterated food. I claim the provisions of the law from which I have just read will cover everything. I think this law is unnecessary. It will simply lead to an army of employees all over this country and a duplication of work.

Mr. POU. Mr. Chairman, I ask unanimous consent that I may have the privilege of extending my remarks in the RECORD.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SNAPP. Mr. Chairman, I offer the following amendment, which I will send to the desk and ask to have read.

The Clerk read as follows:

Amend section 12 by striking out, in lines 18, 19, and 20, page 21, the words "by reason of such adulteration are dangerous to the health of the people of the United States" and insert in lieu thereof the following: "adulterated or misbranded within the meaning of this act;" and by striking out, in line 11, page 22, the words "dangerous to health" and inserting the words "adulterated or misbranded within the meaning of this act."

Mr. SNAPP. Mr. Chairman, I offer this amendment for the purpose of harmonizing this bill with the other portions of it. It will be seen that in section 2 of the act it reads "adulterated or misbranded within the meaning of this act." That language is used throughout this act except in this section. The provisions of the act are applied to all manufactures that are produced within the United States, but in this section different language is used, and while in the balance of the act all manufactures are prohibited that are deleterious or poisonous, in this section, as applying to the products of foreign countries, this peculiar language is used: "by reason of such adulteration are dangerous to the health of the people of the United States." I believed when I read this that it was an inadvertence on the part of the committee in using different language in this section providing for importations from foreign countries than that used in regard to the manufactures of this country. It seems to me, Mr. Chairman, that the products of foreign countries introduced into this country under the terms of this bill ought not to enjoy any special privilege and be exempted from the general provisions of the bill, and it is for that reason that I suggest this amendment.

Mr. MANN. Mr. Chairman, I can understand the reasons which the gentleman has in his mind for proposing the amendment, but I am fully convinced that if he were aware of the operations of the existing law he would not have proposed the amendment.

Mr. SNAPP. Mr. Chairman, I would like to ask the gentleman a question. Are not the provisions of this law intended to take the place of all other laws?

Mr. MANN. The existing law upon this subject was enacted in an agricultural appropriation bill, not for a single year, but as the law. Some of the provisions in the agricultural bill are only continuing as they are passed from time to time, but this is a permanent statute and has been in operation since the 1st of last July. Under its terms the Agricultural Department and the Treasury Department together have returned from the United States goods which were imported here to the extent of many vessel loads of adulterated and deleterious goods.

The law has worked satisfactorily. If we put a different provision in this statute it will not change the law as it now stands on the statute books, because there is nothing here to repeal that enactment, and the only purpose of putting section 12 in this bill is that when a man in the country who deals in these goods gets hold of the pamphlet containing the pure-food law he has the whole Federal statute on the subject before him and does not have to seek through all the indexes of the Statutes at Large to find out whether he is violating a statute or not.

Mr. SNAPP. Mr. Chairman, I would like to ask the gentleman a question. Will not this law itself repeal all other laws in conflict with it without a special clause to that effect?

Mr. MANN. Why, certainly, Mr. Chairman. The gentleman, who is a fine lawyer, knows that that question need hardly to be asked or answered.

But this law would not be in conflict. To confer additional power upon the Secretary of Agriculture does not take away the power that he now has under the present law. And we deem it far better to leave the law the same in both places.

I do not know all the particular merits of that proposition; but I understand that in some cases goods have been forbidden to be sold in Germany or France or Italy, but have been sent over here to be sold, and we have shut them out on the ground that they are forbidden to be sold in the countries from which they came. We say that if a German manufacturer can not make goods fit to be sold in his own country he ought not to be permitted to send the same goods over here to us.

I think the gentleman is mistaken in his amendment; and I trust it will not prevail.

Mr. CLARK. I move to amend by striking out the last word.

Mr. HEPBURN. I do not want to be rude, but I must raise a point of order against that motion.

The CHAIRMAN. The point being raised, the Chair must rule that the motion is not in order.

Mr. CLARK. All right. I will get it in anyway.

The question being taken on the amendment, it was rejected.

The Clerk read as follows:

SEC. 13. That this act shall be in force and effect from and after its passage.

Mr. FULLER. Mr. Chairman, I move to amend by striking out, in line 19 of page 22, the words "its passage," and inserting in lieu thereof the words "the 1st day of September, 1904."

The CHAIRMAN. Does the gentleman from Illinois [Mr. FULLER] desire to be heard on his amendment?

Mr. FULLER. No; I think not. It is suggested to me that there will be no objection to the amendment if the language be changed so as to read "ninety days after its passage." That will be satisfactory to me.

Mr. MANN. Will the gentleman allow me to suggest that it might be better to fix a definite time, for this reason——

Mr. FULLER. I think I will adhere to the amendment as I first offered it.

Mr. CLARK. Mr. Chairman, I should like to occupy five minutes. A few words by way of conclusion to this long wrangle.

I believe every man in the House is desirous of accomplishing what the authors of this bill claim that they want. A man may be in favor of pure food without being in favor of every verbal or legislative monstrosity labeled "A pure-food bill." Nobody is in favor of deleterious stuff being sold, either to eat or drink. My own judgment is—and it has been demonstrated here time and again within the last two days—that this bill contains some provisions that are bad, others that are tautological, others that are mystifying, and some that are in contravention of the Constitution of the United States.

If I had not been opposed to the bill before, I would have been opposed to it by reason of what the gentleman from New York [Mr. WADSWORTH], the chairman of the Committee on Agriculture, has just stated; that the Secretary of Agriculture already has ample power—authority, officials, and money—to do the very things that the authors of this bill claim they wish to have done. If that is true, to enact this bill into law is a work of supererogation. I am opposed to duplicating work by Government officials. It has been stated on the floor of this House repeatedly, in a preceding Congress, by the gentleman who is now Speaker [Mr. CANNON], that the duplication of work exists in the Departments nearly everywhere—not only duplication, but triplication and quadruplication.

Mr. WADSWORTH. I want to state that the appropriation for the Department of Agriculture to be used for purposes of this kind is, in round numbers, $100,000.

Mr. CLARK. The gentleman from New York states that the appropriation is, in round numbers, $100,000, to do the very things you are proposing to do now by this bill.

In very few words I will give you my opinion as to what a new

law on this subject ought to be, if you want to make a new one. Every lawyer knows that precisely in proportion to the number of words there are in a statute will constructions thereof be made by the courts.

It is not the part of wisdom to use thousands of words to express the same thing that you could express in a short paragraph. If this House will pass a bill something like this, providing that every article of interstate commerce shall be plainly branded or labeled in the English language, stating what it is and the quality thereof, and that to manufacture it, to put it on the market, to wholesale it or retail it, or to offer it for sale when it does not come up to the label or brand, shall be treated by the courts as obtaining money, or attempting to obtain it, under false pretenses, then fix a penalty for the violation of that law—you have accomplished the whole thing. I would unhesitatingly support such a bill.

The truth about the matter is that there is scarcely a State in the Union that has not a law of the sort that can be enforced now. The prosecuting attorney that understands his business and has the courage to discharge his duty can convict every man who is selling goods that do not come up to what is pretended for them—can convict him under the common law against swindling.

I am opposed to the multiplication of statutes, and especially statutes that contain such a stultifying provision as that the courts of the United States shall be permitted to sell the articles which they confiscate from the citizen on the ground that they are not fit to be sold by the citizen. When a man buys such property at a Government sale, what is he going to do with it?

If he sells it again he lays himself liable under this statute. If he can not eat it all or can not drink it all, what is he going to do with it? The proposition is preposterous.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The reading of the bill is completed.

Mr. HEPBURN. Mr. Chairman, I move that the committee do now rise and report the bill to the House with a favorable recommendation.

Mr. WADSWORTH. I move as an amendment that the bill be recommitted to the Committee on Interstate and Foreign Commerce.

The CHAIRMAN. That motion will be properly made in the House, and not in Committee of the Whole.

Mr. WADSWORTH. I move that the bill be reported back with the recommendation that it be recommitted to the committee.

The CHAIRMAN. The Chair would suggest that the matter of the title has not been disposed of yet.

The Clerk read as follows:

Amend the title so as to read:
"A bill for the preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes."

The CHAIRMAN. That is a formality, and it will be agreed to.

Mr. HEPBURN. I suppose the question is on the adoption of the committee amendment.

The question was taken on the adoption of the amendment as amended.

The amendment as amended was agreed to.

Mr. HEPBURN. I move that the committee do now rise and report the bill favorably to the House.

Mr. WADSWORTH. I offer as an amendment to that motion that the committee recommend that the bill be recommitted to the Committee on Interstate and Foreign Commerce.

The CHAIRMAN. The Chair would be very glad to hear either gentleman on the precedence of these motions.

Mr. WADSWORTH. Is not my motion in the form of an amendment?

The CHAIRMAN. The Chair is under the impression that the motion of the gentleman from Iowa has precedence, but the Chair is not sure about it.

Mr. WADSWORTH. I offer my motion as an amendment to the motion of the gentleman from Iowa.

The CHAIRMAN. The Chair then will put the motion to the committee, as the gentleman from New York suggests his motion as an amendment to the motion of the gentleman from Iowa, and will put the question that the committee rise and report the bill back to the House with the recommendation that the bill be recommitted to the committee.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WADSWORTH. Tellers.

Tellers were ordered.

The CHAIRMAN. The Chair appoints the gentleman from New York, Mr. WADSWORTH, and the gentleman from Illinois, Mr. MANN, to act as tellers.

The committee divided; and there were—ayes 100, noes 111.

So the motion to report the bill with the recommendation that it be recommitted was lost.

Mr. HEPBURN. I move that the committee do now rise and report the bill favorably to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LAWRENCE, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 6295, and had instructed him to report the bill back with an amendment in the nature of a substitute, with the recommendation that the amendment be agreed to, and that the bill as amended do pass.

Mr. HEPBURN. Mr. Speaker, I offer an amendment to the bill, and ask for the previous question on the amendment and bill to its passage.

Mr. WILLIAMS of Mississippi. Mr. Speaker, I wish to ask unanimous consent that sixty minutes' time be given to the gentleman from Indiana [Mr. ZENOR] for the purpose of discussing a question that he desires to discuss. I had some conversation with him, and I understand that if he will wait until the bill is voted upon there will be no objection.

The SPEAKER. The Clerk will report the amendment.

Mr. CLARK. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. CLARK. Does this motion of the gentleman from Iowa shut anybody out from a motion to recommit?

The SPEAKER. It does not.

Mr. MANN. May I ask whether any disposition has been made on the order of voting on the amendments?

The SPEAKER. The amendment has not yet been reported. There is only one amendment.

Mr. MANN. There is more than one amendment.

The SPEAKER. It does not appear so from the report made by the Chairman of the Committee of the Whole House. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all of section 2 down to the word "court," in line 17 on page 13, and insert the following:

"SEC. 2. That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drugs which is adulterated or misbranded, within the meaning of this act, is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to a foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, or who, having received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or the Territories of the United States such adulterated, mixed, misbranded, or imitated foods or drugs, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding $200 for the first offense and for each subsequent offense not exceeding $300 or be imprisoned not exceeding one year, or both, in the discretion of the court."

The SPEAKER. The gentleman from Iowa demands the previous question on the bill and amendment.

Mr. HEPBURN. If I may be permitted to retain the floor, I will withhold my motion for the previous question for a moment until I explain the effect of this amendment that I have offered. As I understand the parliamentary situation, this bill comes to the House now from the Committee of the Whole as one amendment, only one amendment. The proposition that I offer is an amendment to section 2, covering all that part of section 2 that was amended by the committee, or rather recommended to be amended by the committee, and restoring the bill precisely as it was reported here. That is the purpose of it.

Mr. CLARK. Now, what becomes of the amendments we put in that section?

Mr. HEPBURN. It simply eliminates them entirely. Now, Mr. Speaker, I move the previous question upon my amendment, the amendments of the committee, and the passage of the bill.

Mr. STEPHENS of Texas. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman yield?

Mr. HEPBURN. Yes, sir.

Mr. STEPHENS of Texas. Does that strike out the amendment——

Mr. HEPBURN. It strikes out the word "willful" and the addition the gentleman added, which would make the bill practically inoperative and prevent convictions under the law.

Mr. SHERLEY. That applies also to section 2——

Mr. CLARK. Mr. Speaker——

The SPEAKER. Does the gentleman yield?

Mr. HEPBURN. Yes.

Mr. CLARK. There is another amendment in that section which was agreed to.

Mr. HEPBURN. Not in this part.

The SPEAKER. The question is upon the amendment to the amendment offered by the gentleman from Iowa, and on that the gentleman from Iowa demands the previous question.

The question was taken; and upon a division (demanded by Mr. STEPHENS of Texas) there were—ayes 133, noes 95.

So the previous question was ordered.

The SPEAKER. The question now is on the amendment to the amendment offered by the gentleman from Iowa.

Mr. ADAMSON. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. ADAMSON. We might just as well ask for the yeas and nays at once, as I understand the amendment would simply undo what was done yesterday.

The yeas and nays were ordered.

The question was taken; and there were—yeas 145, nays 126, answered "present" 6, not voting 105, as follows:

YEAS—145.

Acheson,	Draper,	Humphrey, Wash.	Reeder,
Adams, Pa.	Dresser,	Hunter.	Richardson, Ala.
Adams, Wis.	Driscoll,	Jones, Wash.	Ryan,
Allen,	Dwight,	Kennedy,	Scott,
Bartholdt,	Esch,	Ketcham,	Shafroth,
Bede,	Fordney,	Kinkaid,	Shiras,
Beidler,	Foss,	Knopf,	Sibley,
Bell, Cal.	Foster, Vt.	Kyle,	Smith, Ill.
Benny,	French,	Lacey,	Smith, Iowa
Birdsall,	Fuller,	Lafean,	Smith, Samuel W.
Bishop,	Gaines, W. Va.	Lawrence,	Smith, Wm. Alden
Boutell,	Gardner, Mass.	Lindsay,	Smith, Pa.
Bowersock,	Gardner, Mich.	Loud,	Southard,
Brown, Pa.	Gardner, N. J.	Loudenslager,	Southwick,
Brown, Wis.	Gibson,	McCarthy,	Spalding,
Brownlow,	Gillet, N. Y.	McCreary, Pa.	Sperry,
Burke,	Gillett, Cal.	McLachlan,	Stafford,
Burkett,	Graff,	McMorran,	Sterling,
Butler, Pa.	Granger,	McNary,	Stevens, Minn.
Calderhead,	Greene,	Mann,	Sulloway,
Campbell,	Grosvenor,	Marshall,	Tawney,
Cassel,	Hamilton,	Metcalf,	Thomas, Iowa
Conner,	Haskins,	Miller,	Tirrell,
Cooper, Pa.	Hedge,	Minor,	Townsend,
Cooper, Wis.	Hemenway,	Mondell,	Van Voorhis,
Cousins,	Henry, Conn.	Morgan,	Volstead,
Crumpacker,	Hepburn,	Needham,	Wanger,
Currier,	Hermann,	Norris,	Warnock,
Curtis,	Hill, Conn.	Olmsted,	Watson,
Cushman,	Hinshaw,	Otis,	Weems,
Dalzell,	Hitt,	Otjen,	Wilson, Ill.
Daniels,	Hogg,	Overstreet,	Woodyard,
Darragh,	Holliday,	Palmer,	Wright,
Davidson,	Howell, Utah	Patterson, Pa.	Young.
Davis, Minn.	Hughes, N. J.	Payne,	
Deemer,	Hughes, W. Va.	Porter,	
Dixon,	Hull,	Powers, Me.	

NAYS—126.

Adamson,	Foster, Ill.	Lever,	Russell,
Aiken,	Gaines, Tenn.	Lewis,	Scudder,
Baker	Garber,	Lilley,	Shackleford,
Bankhead,	Garner,	Lind,	Sheppard,
Bartlett,	Gillespie,	Little,	Sherley,
Bassett,	Glass,	Livernash,	Shull,
Beall, Tex.	Goldfogle,	Livingston,	Sims,
Benton,	Goulden,	Lloyd,	Slayden,
Bowers,	Gregg,	Lorimer,	Small,
Bowie,	Griggs,	Lucking,	Smith, Ky.
Burgess,	Gudger,	McAndrews,	Smith, Tex.
Burleson,	Hamlin,	Macon,	Snook,
Caldwell,	Hardwick,	Maddox,	Southall,
Candler,	Harrison,	Mahoney,	Spight,
Cassingham,	Haugen,	Martin,	Stanley,
Clark,	Hay,	Maynard,	Stephens, Tex.
Clayton,	Henry, Tex.	Moon, Tenn.	Sullivan, Mass.
Cochran,	Hill, Miss.	Padgett,	Tate,
Cowherd,	Hitchcock,	Page,	Thayer,
Croft,	Hopkins,	Patterson, N. C.	Thomas, N. C.
Crowley,	Humphreys, Miss.	Pierce,	Thompson,
Davis, Fla.	Hunt,	Pinckney,	Trimble,
De Armond,	James,	Pou,	Underwood,
Denny,	Johnson,	Rainey,	Wade,
Dickerman,	Jones, Va.	Reid,	Wallace,
Dinsmore,	Kitchin, Claude	Rhea,	Webb,
Dougherty,	Kitchin, Wm. W.	Rider,	Weisse,
Douglas,	Kluttz,	Rixey,	Williams, Ill.
Emerich,	Lamar, Mo.	Robb,	Williams, Miss.
Field,	Lamb,	Robinson, Ark.	Zenor.
Finley,	Legare,	Robinson, Ind.	
Fitzgerald,	Lester,	Rucker,	

ANSWERED "PRESENT"—6.

Brantley,	Houston,	Kline,	Miers, Ind.
Griffith,	Jenkins,		

NOT VOTING—105.

Alexander,	Brundidge,	Dick,	Hearst,
Ames,	Buckman,	Dovener,	Hildebrant,
Babcock,	Burleigh,	Dunwell,	Howard,
Badger,	Burnett,	Evans,	Howell, N. J.
Bates,	Burton,	Fitzpatrick,	Howell, Pa.
Bingham,	Butler, Mo.	Flack,	Huff,
Bradley,	Byrd,	Flood,	Jackson, Md.
Brandegee,	Capron,	Fowler,	Jackson, Ohio
Breazeale,	Cooper, Tex	Gilbert,	Kehoe,
Brick,	Cromer,	Gillett, Mass.	Keliher,
Brooks,	Davey, La.	Goebel,	Knapp,
Broussard,	Dayton,	Gooch,	Lamar, Fla.
Landis, Chas. B.	Morrell,	Robertson, La.	Taylor,
Landis, Frederick	Mudd,	Rodenberg,	Vandiver,
Lanning,	Murdock,	Ruppert,	Van Duzer,
Littauer,	Nevin,	Scarborough,	Vreeland,
Littlefield,	Parker,	Sherman,	Wachter,
Longworth,	Patterson, Tenn.	Shober,	Wadsworth,
Lovering,	Pearre,	Slemp,	Warner,
McCall,	Perkins,	Smith, N. Y.	Wiley, Ala.
McCleary, Minn.	Powers, Mass.	Snapp,	Wiley, N. J.
McDermott,	Prince,	Sparkman,	Williamson,
McLain,	Pujo,	Steenerson,	Wilson, N. Y.
Mahon,	Randell, Tex.	Sullivan, N. Y.	Wynn.
Marsh,	Ransdell, La.	Sulzer,	
Meyer, La.	Richardson, Tenn.	Swanson,	
Moon, Pa.	Roberts,	Talbott,	

So the amendment was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. DAYTON with Mr. MEYER of Louisiana.

Mr. MORRELL with Mr. KLINE.

Mr. SHERMAN with Mr. RUPPERT.

Until further notice:

Mr. ALEXANDER with Mr. SPARKMAN.

Mr. BRICK with Mr. MIERS of Indiana.

Mr. BUCKMAN with Mr. GILBERT.

Mr. BURLEIGH with Mr. BRANTLEY.

Mr. CROMER with Mr. GRIFFITH.

Mr. DOVENER with Mr. DAVEY of Louisiana.

Mr. EVANS with Mr. BURNETT.

Mr. KNAPP with Mr. LAMAR of Florida.

Mr. LANNING with Mr. VANDIVER.

Mr. MAHON with Mr. HOUSTON.

Mr. WARNER with Mr. BREAZEALE.

For this day:

Mr. BABCOCK with Mr. MCDERMOTT.

Mr. BRADLEY with Mr. PUJO.

Mr. BATES with Mr. WILSON of New York.

Mr. BINGHAM with Mr. BRUNDIDGE.

Mr. BURTON with Mr. COOPER of Texas.

Mr. CAPRON with Mr. GOOCH.

Mr. DICK with Mr. BROUSSARD.

Mr. DUNWELL with Mr. FITZPATRICK.

Mr. FLACK with Mr. ROBERTSON of Louisiana.

Mr. GILLETT of Massachusetts with Mr. RICHARDSON of Tennessee.

Mr. HILDEBRANT with Mr. RANDELL of Texas.

Mr. HOWELL of New Jersey with Mr. SHOBER.

Mr. HUFF with Mr. TALBOTT.

Mr. JENKINS with Mr. HOWELL of Pennsylvania.

Mr. CHARLES B. LANDIS with Mr. HOWARD.

Mr. FREDERICK LANDIS with Mr. MCLAIN.

Mr. LITTAUER with Mr. SULLIVAN of New York.

Mr. LONGWORTH with Mr. SULZER.

Mr. LOVERING with Mr. WILEY of Alabama.

Mr. MCCLEARY of Minnesota with Mr. KELIHER.

Mr. MARSH with Mr. RANSDELL of Louisiana.

Mr. MUDD with Mr. KEHOE.

Mr. NEVIN with Mr. SCARBOROUGH.

Mr. POWERS of Massachusetts with Mr. BYRD.

Mr. PRINCE with Mr. PATTERSON of Tennessee.

Mr. ROBERTS with Mr. FLOOD.

Mr. RODENBERG with Mr. VAN DUZER.

Mr. SLEMP with Mr. SWANSON.

Mr. VREELAND with Mr. HEARST.

Mr. WACHTER with Mr. BUTLER of Missouri.

On this vote:

Mr. BRANDEGEE with Mr. BADGER.

Mr. PERKINS with Mr. WYNN.

Mr. WYNN. Mr. Speaker, I desire to be recorded.

The SPEAKER. Was the gentleman present and paying attention when his name should have been called?

Mr. WYNN. No, sir; I was not present at the moment my name was called.

The SPEAKER. The rule does not permit the Chair to allow the gentleman to vote.

The result of the vote was then announced as above recorded.

The SPEAKER. The question now is on agreeing to the substitute amendment as amended.

The question was taken, and the amendment was agreed to.

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

The SPEAKER. The question now is on the passage of the bill.

Mr. RICHARDSON of Alabama. Upon that question, Mr. Speaker, I demand the yeas and nays.

The question was taken.

The SPEAKER. Twenty gentlemen rising; not a sufficient number, and the yeas and nays are refused.

Mr. CLARK. Mr. Speaker, I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. CLARK. The Committee of the Whole adopted an amendment here, striking out the last words in section 3. What has been done with that amendment?

The SPEAKER. The Chair will state to the gentleman from Missouri that the only knowledge that the Chair can have touching this amendment is by the report of the Chairman of the Committee of the Whole House on the state of the Union. The Chairman reported the amendment in its perfected form in the shape of a substitute for the original bill, and the amendment stands by itself complete, as reported by the Chairman of the Committee of the Whole House. Now, the gentleman in charge of the bill moved to amend the substitute. The House voted upon that amendment and adopted it. The question now is upon the passage of the bill as amended.

The question was taken; and upon a division (demanded by Mr. RICHARDSON of Alabama) there were—ayes 201, noes 68.

So the bill was passed.

On motion of Mr. HEPBURN, a motion to reconsider the last vote was laid on the table.

The SPEAKER. Without objection, the title will be amended.

There was no objection.

Mr. MANN. Mr. Speaker, I ask unanimous consent that gentlemen who have spoken upon this bill have leave to extend their remarks in the RECORD for ten calendar days.

The SPEAKER. The gentleman from Illinois asks unanimous consent that Members who have spoken upon the bill just passed have leave to extend their remarks in the RECORD for ten calendar days. Is there objection?

Mr. PAYNE. Mr. Speaker, I object unless the gentleman makes it five days.

Mr. MANN. Then, Mr. Speaker, I shall have to modify my request and make it for five days.

The SPEAKER. Is there objection to the request as modified? [After a pause.] The Chair hears none, and it is so ordered.

Mr. BROWN of Wisconsin. Mr. Speaker, I ask unanimous consent that the Committee on Mines and Mining be permitted to have such printing done as is necessary.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the Committee on Mines and Mining have leave to order such printing as may be necessary. Is there objection?

Mr. PAYNE. I object.

The SPEAKER. Objection is made.

ARMY APPROPRIATION BILL.

Mr. HULL, from the Committee on Military Affairs, by direction of that committee, reported the bill (H. R. 10670) making appropriations for the support of the Army for the fiscal year ending June 30, 1905, and for other purposes; which was referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. HAY. Mr. Speaker, I reserve all points of order on the bill.

Mr. HULL. Mr. Speaker, I desire to give notice at this time that to-morrow I will move to take up this bill for the consideration of the House.

CARRIAGES, ETC., MAINTAINED AT GOVERNMENT EXPENSE.

Mr. PAYNE. Mr. Speaker, by direction of the Committee on Ways and Means I offer a privileged report, reporting back House resolution 146 and offering a substitute therefor, of which I desire immediate consideration, which I shall send to the desk and ask to have read.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to furnish to this House, at his earliest convenience, a statement showing the number of horses, carriages, and automobiles maintained at Government expense for the use of officials in his Department, together with a statement showing the cost of said horses, carriages, automobiles, and harness, the date of purchase, from what fund the payment was made, and the amount of wages paid to men acting as coachmen, footmen, and chauffeurs, whether carried on the rolls as such or in some other classification; also the list of officials entitled to the use of said carriages, and the date when such service was inaugurated.

Mr. PAYNE. Mr. Speaker, that contains all of the requests for information in the original resolution, and also some additional points of information.

Mr. WILLIAMS of Mississippi. Mr. Speaker, I desire to say that I hope the resolution will pass.

The SPEAKER. The question is on agreeing to the substitute resolution.

The question was taken; and the substitute was agreed to.

The SPEAKER. The question now is on agreeing to the resolution as amended by the substitute.

The question was taken; and the resolution was agreed to.

On motion of Mr. PAYNE, a motion to reconsider the last vote was laid on the table.

SIVEWRIGHT, BACON & CO.

The SPEAKER laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Claims, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a report from the Secretary of State, with accompanying papers, relating to the claim of Messrs. Sivewright, Bacon & Co., of Manchester, England, British subjects, for compensation for damages sustained by their vessel, the British steamship the *Eastry*, in consequence of collisions in June, 1901, at Manila, with certain coal hulks belonging to the United States Government.

I recommend that, as an act of equity and comity, provision be made by the Congress for reimbursement to the firm of the money expended by it in making the repairs to the ship which the collisions rendered necessary.

THEODORE ROOSEVELT.

WHITE HOUSE,
Washington, January 20, 1904.

Mr. WILLIAMS of Mississippi. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. ZENOR] be granted forty-eight minutes within which to address the House.

The SPEAKER. The gentleman from Mississippi asks unanimous consent that the gentleman from Indiana [Mr. ZENOR] be granted forty-eight minutes within which to address the House. Is there objection?

There was no objection.

APPROPRIATIONS FOR PUBLIC ROADS.

Mr. ZENOR. Mr. Speaker, I desire to testify my appreciation of the kindness of the minority leader [Mr. WILLIAMS of Mississippi] and the distinguished gentleman from Iowa [Mr. HEPBURN] and this indulgence of the House, for I feel that the opportunity of presenting some remarks upon a subject which I regard as of general importance is due to the courtesy of the gentlemen mentioned and of the House.

We have just listened to a very interesting and animated discussion of the provisions of the bill just passed the House—a measure involving to some extent the consideration of questions which are closely related to the subject on which I desire to express these views.

The bill just passed is one intended to regulate and secure to the people of this country the use of pure food and pure drink. My sympathies were with the provisions of that bill. There were some few provisions and sections of the bill which did not entirely meet my approval, which seemed to be open to some criticism and to be somewhat amenable to objections made—provisions which were discussed upon the floor of this House. But taking the bill as a whole I did not regard the objections made to it as sufficient to warrant any successful opposition to its passage.

The bill involved to some extent the question as to the power of the Federal Government to enter the different States of this Union for the purpose of regulating and controlling what is said to be the commerce of the United States. The purpose of the bill, if I have properly apprehended the scope of its provisions, was not to interfere with the domestic concerns of the different States of this Union, was not in any manner to invade or interfere with the right of the States to control their own local and domestic affairs. The provisions of the bill, as I have understood them, does not undertake to interfere with the exercise on the part of the States of the police power; nor do they invade the sovereign jurisdiction of the States.

I have always been an uncompromising advocate of pure food. I believe that this bill is responsive to the demands of the great body of the people of this country. I believe that the moral sense of the American people approve legislation projected along lines of this kind, having for its purpose the suppression of the practice of frauds, adulterations, and misrepresentations in the sale of food products, and that the same should receive our support. I believe that such legislation upon the part of the Federal Government is wise, in order to wipe out the practices that have grown up and the evils that are incident to the commerce of this country, and in order to secure the people in their rights and protect them against frauds.

But, Mr. Speaker, the question to which I desire to call, briefly, the attention of the House at this time is neither new nor novel. It has challenged the attention and agitated the minds of the people of every civilized nation of the world. From the earliest period of authentic history to opening dawn of the present century roads and road building have been among the most important subjects that have engaged the attention of the great body of the people and commanded the respectful thought and consideration of their legislators and legislative bodies.

In our own country, almost contemporaneous with the inauguration of government, began the agitation of the question of the construction of canals and public roads. And with the advent of Jefferson's Administration the sentiment of the country had attained such force and cohesion that it found expression in the introduction of the bill in Congress which has since become so widely known as the bill authorizing the building of the Cumberland road.

This was the pioneer measure that blazed the way for others of like character. Following in the wake of this came the bills

which were enacted into laws, authorizing the construction of the roads from Detroit to Chicago, from Natchez to Nashville, from the frontier of Georgia to New Orleans, and from Memphis to the St. Francis River, in the State of Arkansas.

Jefferson approved the law authorizing the construction of the Cumberland road as early as 1806, and the legislation subsequently authorizing these other enterprises occurred between that date and the year 1835.

While these measures were being considered, and others intended to effectuate and carry them into operation, they received the attention of many of our leading public men and were advocated by such eminent statesmen as Clay, Calhoun, and others of equal note. I may say that it was the concurrent opinion at that time of those who have left a record upon the subject that the surplus revenues of the Federal Government could not be used to a better purpose nor in the promotion of a more worthy and meritorious cause than the improvement of the highways and common roads.

While it is true that they did not always agree as to the power and scope of the authority of the General Government to undertake and carry on the work, it was the prevailing opinion that it should be done by the Government or under its controlling supervision, and they favored an amendment to the Constitution, if this was necessary to that end. Upon this question of the power of the Federal Government to appropriate money out of the Federal Treasury in aid of the construction of internal improvements of this kind, it is both interesting and instructive to study the able and masterly veto message of President Jackson upon this subject.

In his veto of the bill proposing to authorize a subscription of stock in the Maysville, Washington, Paris and Lexington Turnpike Road Company by the Government, he took occasion to enter into an elaborate discussion of these questions and presented his views at great length. In the course of this discussion he reviewed at some length the views held by his predecessors, Mr. Jefferson, Mr. Madison, and Mr. Monroe. In speaking of Mr. Jefferson's Administration he uses this language:

In the Administration of Mr. Jefferson we have two examples of the exercise of the right of appropriation, which in the considerations that led to their adoption and in their effects upon the public mind have had a greater agency in marking the character of the power than any subsequent events.

I allude—

Says he—

to the payment of $15,000,000 for the purchase of Louisiana and to the original appropriation for the construction of the Cumberland road, the latter act deriving much weight from the acquiescence and approbation of three of the most powerful of the original members of the Confederacy expressed through their respective legislatures.

Continuing, he says:

Although the circumstances of the latter case (referring to the Cumberland road) may be such as to deprive so much of it as relates to the actual construction of the road of the force of an obligatory exposition of the Constitution, it must nevertheless be admitted that so far as the mere appropriation of money is concerned, they present the principle in its most imposing aspect, no less than twenty-three different laws have been passed through all the forms of the Constitution, appropriating upward of $2,500,000 out of the National Treasury in support of that improvement, with the approbation of every President of the United States, including my predecessor, since its commencement.

Referring to the Administration of Mr. Madison, President Jackson, in this veto message, says further:

Independently of the sanction given to appropriations for the Cumberland and other roads and objects under this power, the Administration of Mr. Madison was characterized by an act which furnishes the strongest evidence of his opinion of its extent. A bill was passed through both Houses of Congress and presented for his approval "setting apart and pledging certain funds for constructing roads and canals and improving the navigation of water courses, in order to facilitate, promote and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense."

Regarding the bill as asserting a power in the Federal Government to construct roads and canals within the limits of the States in which they were made, he objected to its passage on the ground of its unconstitutionality, declaring that the assent of the respective States in the mode provided by the bill could not confer the power in question; that the only cases in which the consent and cession of particular States can extend the power of Congress are those specified and provided for in the Constitution, and superadding to these avowals his opinion that "a restriction of the power" to provide for the common defense and general welfare "to cases which are to be provided for by the expenditure of money would still leave within the legislative power of Congress all the great and most important measures of Government, money being the ordinary and necessary means of carrying them into execution."

I have not been able to consider these declarations in any other point of view than as a concession that the right of appropriation is not limited by the power to carry into effect the measure for which the money is asked, as was formerly contended.

President Jackson, proceeding further and quoting the views held upon this question by Mr. Monroe, says:

The views of Mr. Monroe upon this subject were not left to inference. During his Administration a bill was passed through both Houses of Congress conferring the jurisdiction and prescribing the mode by which the Federal Government should exercise it in the case of the Cumberland road.

He returned it with objections to its passage, and in assigning them took occasion to say that in the early stages of the Government he had inclined to the construction that it had no right to expend money except in the performance of acts authorized by the other specific grants of power, according to a strict construction of them, but that on further reflection and observation his mind had undergone a change; that his opinion then was "that Congress have an unlimited power to raise money, and that in its appropriation they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defense, and of general, not local, national, not State, benefit," and this was avowed to be the governing principle, through the residue of his Administration.

Mr. Speaker, these are the views in brief of the early Presidents of our Government upon this subject as defined and understood by President Jackson, himself a strict constructionist and jealous guardian of the rights of the States in all their full scope and power. He, too, cherished doubts of the power of Congress under the Constitution, to authorize the Federal Government to engage in the work of road and highway construction, and expressed his unwillingness to indorse or sanction such a policy as proposed under the provisions of the bill then under consideration, it being the bill proposing a subscription to the stock of the Maysville Turnpike Company.

His views may be ascertained by a reference to this same veto message, where he says:

In the message which was presented to Congress at the opening of its present session I endeavored to exhibit briefly my views upon the important and highly interesting subject to which our attention is now to be directed. I was desirous of presenting to the representatives of the several States in Congress assembled the inquiry whether some mode could not be devised which would reconcile the diversity of opinion concerning the powers of this Government over the subject of internal improvements and the manner in which these powers, if conferred by the Constitution, ought to be exercised.

The act which I am called upon to consider has, therefore, been passed with a knowledge of my views on this question as these are expressed in the message referred to. In that document the following suggestions will be found:

After the extinction of the public debt it is not probable that any adjustment of the tariff upon principles satisfactory to the people of the Union will, until a remote period, if ever, leave the Government without a considerable surplus in the Treasury beyond what may be required for its current service.

As then, the period approaches when the application of the revenue to the payment of the debt will cease, the disposition of the surplus will present a subject for the serious deliberation of Congress, and it may be fortunate for the country that it is yet to be decided. Considered in connection with the difficulties which have heretofore attended appropriations for purposes of internal improvement, and with those which this experience tell us will certainly arise whenever power over such subjects may be exercised by the General Government, it is hoped that it may lead to the adoption of some plan which will reconcile the diversified interests of the States and strengthen the bonds which unite them. Every member of the Union, in peace and in war, will be benefited by the improvement of inland navigation and the construction of highways in the several States.

Let us, then, endeavor to attain this benefit in a mode which will be satisfactory to all. That hitherto adopted has by many of our fellow-citizens been deprecated as an infraction of the Constitution, while by others it has been viewed as inexpedient. All feel that it has been employed at the expense of harmony in the legislative councils. And, adverting to the constitutional power of Congress to make what I considered a proper disposition of the surplus revenue, I subjoined the following remarks:

"To avoid these evils it appears to me that the most safe, just, and Federal disposition which could be made of the surplus revenue would be its apportionment among the several States according to their ratio of representation, and should this measure not be found warranted by the Constitution, that it would be expedient to propose to the States an amendment authorizing it."

This, Mr. Speaker, is a brief résumé of the views and the opinions that were held from Jefferson down to President Jackson. Is there any gentleman upon the floor of this House who doubts that in the consideration of these measures Jefferson did not have in mind the scope, limitations, and restrictions of the Federal Constitution? Is there a Democrat upon this side of the House that doubts that James Madison, under whose Administration quite a large number of these bills passed proposing to make appropriations for the support of the old Cumberland road and the other roads to which I have called the attention of the House, did not adhere strictly to his views of the limitations of the Constitution of his country?

Will it be doubted that President Jackson, who of all the Presidents that have occupied that high and exalted position commands in the highest degree the confidence and respect of not only Democrats, but of all other parties in this country, had these in mind? Yet there is nowhere to be found in the veto message of President Jackson an intimation that the Congress of the United States did not possess the power to both raise the revenue and to appropriate the same in the construction of public roads and public highways.

He even went so far as to recommend that that was the best disposition that could be made of the surplus that had accumulated in the public Treasury, when we reached the point that the United States debt was extinguished. In his message he expresses the opinion that the people of this country would not consent to a modification of the tariff duties for a considerable time in the future, and in the meantime the public debt, which had been rapidly diminishing, would be extinguished, and then the country would be confronted with a proposition for the disposition of the surplus moneys in the public Treasury; and then the Congress of the United States would have for consideration the proposition of appropriating this surplus revenue to internal improvements and to the construction of public highways.

There is nowhere an intimation that power does not exist in the Federal Government both with reference to raising the revenue and the appropriation of it. The exercise of the veto power of

President Madison in the one instance and President Jackson in the other, was based upon the ground that, in their opinion, it was an infraction of the rights of the States for this Government to enter upon a scheme of public improvements that reached out to the different States and to take charge of the actual construction of the work within the limits of the States and therefore to interfere with the exercise, on the part of the States, of the police powers of the States.

I agree with the views as expressed by these Presidents of the United States. I am a devotee of the teachings of Jefferson. I have been brought up and educated in that school of thought of which Jefferson, Jackson, and Monroe, and all of the illustrious Presidents who followed in their footsteps were the chief exemplars. These great and eminent statesmen taught in their day that the Constitution of our country was above all statutory laws; that the Constitution of this country should be held sacred, and that the rights of a State also should be observed; that the limitations of the National Government and of the State governments should be enforced when involved in a measure of national legislation.

The doubt expressed by General Jackson of the propriety of the measure to which he interposed that veto was that it entered into the States, authorized the Federal officers to enter into the States and take charge and enter upon the construction of the roads. Congress even went farther than that in the last law that was passed in reference to the Cumberland road, which was a law for putting the roads in repair, and all roads from time to time need repairs, and the Cumberland road proved to be no exception to this rule.

The roads of this country are to-day in such a horrible condition that an appeal is coming up from every township, county, parish, and section—in fact, from all over this Union—for relief. The old Cumberland road, of course, got out of repair, and the question was addressing itself to the Congress of the United States whether or not it would be best to pursue the policy of appropriating money out of the Treasury or to adopt a scheme of tollgates upon the old Cumberland road from which they could derive a revenue with which to repair those roads. That was the bill which met with the veto of the President, and upon good and tenable grounds.

I am not and never have been in favor, as I understand the general limitations of the Federal Government, of any law that invades the rights of the States, that destroys the power of the States in the control of their own domestic affairs. I believe with Jefferson when he declared that the State governments in all their constitutional rights should be maintained as the best administrators of our domestic affairs and chief bulwark against anti-Republican tendencies; therefore these bills were all vetoed upon grounds which do not appear and are not involved in any proposition pending before this Congress to-day.

I desire, Mr. Speaker, to call attention briefly to two bills which have been introduced and are now pending in the Congress of the United States, one in the House, known as the Brownlow bill, and the other in the other end of the Capitol, known as the Latimer bill. I have carefully examined those two bills. They are drafted along similar lines. They are projected along lines that are very nearly the same but vary in detail.

What are the propositions contained in those bills. I do not refer to them as meeting my entire approbation or that I am willing at this particular time to say I would be willing to support them without perhaps some amendments, but I call attention to the general policy. They propose to organize a Bureau of Public Roads in the Agricultural Department. That Bureau of Public Roads shall take the place of what is known as the "Office of Public Road Inquiries" to-day.

What has been the work of this Office of Public Road Inquiries? I feel sure that I reflect the public sentiment throughout this country, especially in all sections of it where the operation and benefits of its practical experiments have been witnessed and felt, when I say that its experiments in this work of giving object lessons in road building have been of immeasurable profit to the masses, and that the people will testify their appreciation of the value and benefits that they have derived in the country from them. Demands are being made for the expansion and the extension of these experiments.

This Bureau of Public Roads is to take the place of the Office of Public Road Inquiries, and the powers of this Bureau of Public Roads are to be extended and the provisions contained in the two bills are to the effect that the Federal Government shall cooperate with the different States and Territories of this Union in the construction of common roads and public highways. Is there any objection to it? Is there any constitutional reason why these bills thus far should not be favorably considered?

I undertake to say, Mr. Speaker, there can not be found in the provisions of either one of those two bills anything which is obnoxious to any constitutional provision. They propose that the State or subdivisions of the State shall raise revenues sufficient to defray one-half the expense of the construction of any public highway for which application is made and that the State shall furnish to the Federal Government or to the director of the bureau of public roads a certificate showing that the State has secured the right of way over and upon which the road is to be constructed.

That the States are to assure the Federal Government, certify to the Federal Government, satisfy the Federal Government that they have raised money sufficient to defray one-half of the expense of the construction of such road. When the application is made by the State to the director of the bureau of roads, he takes the matter up, and through the officials of that bureau he makes an examination of such proposed highway and sends experts upon the ground to ascertain the feasibility of the construction of same road.

If, after investigation, it is determined that the road is worthy of the aid of the Federal Government, in contemplation of the provisions of the law, then he recommends that the road be adopted. He drafts plans and specifications and makes an estimate of the cost of the road.

The Federal Government is not required to pay a single cent on the enterprise inaugurated under the policy proposed by these bills until the road is completed, except the payment upon an estimate made by engineers of the department of the Bureau of Roads, not exceeding 80 per cent of the cost of construction. The residue of the payments shall be withheld until the completion of the road and the final payment is made.

I do not care to take up the time in going over the details of these bills, but I say, Mr. Speaker, there is not one sentence in the provisions of these bills that would conflict with the views as expressed by Jackson, by Monroe, by Jefferson, the great road builders of this country; Jefferson, the pioneer in road construction of this country; the pioneer in his intellectual conception of the needs of his country; the pioneer in the reformation of all those vicious laws and customs that were handed down to the American colonies through centuries of royal power and kingly rule; the pioneer in the great reform movement for the abolition of the union of church and state; the pioneer in that great reform that set the land titles of this country free [applause]; the man that occupied a seat in the Congress of the United States, and when he felt that he saw this Government of ours launched safely upon its proud and glorious career, voluntarily resigned and went to the grand old State of Virginia, in order to reform the laws and customs that had been handed down to them by the colonies in conformity with the provisions of the Constitution, in conformity with his conception of the character of this Republic of ours. [Applause.]

No other man, Mr. Speaker, with less influence than Thomas Jefferson, could have accomplished this wonderful achievement. He brought order out of chaos and reformed the customs of this country, and among the best, perhaps, of all was the separation of church and state. And finally, coming down to 1806, we have the authority of Thomas Jefferson for the inauguration of a system of public improvements from which we do not propose to depart. The old Cumberland road, the conception of Jefferson, was a road beginning at the source of the waters which empty into the Atlantic, extending across the State of Maryland, over a part of the State of Virginia, over a part of the State of Pennsylvania, through the great State of Ohio, and through my own State of Indiana and through Illinois to its final terminus at the city of St. Louis.

It was a gigantic enterprise, supposed to be in that day worthy of the patronage and support of this great Government of ours. It is said that it was the longest road that was ever projected in the history of the world. For years it was maintained at the expense of the Government, as were the others to which I have alluded. Upon these projects there was expended, it was said, $14,000,000, by the Government of the United States.

The time has come when that portion of our people the most directly interested in the good-road construction should be heard in the halls of Congress. What are they? Who are they that appeal to us for consideration of this proposition? One-third of the population of our country occupy the rural districts; two-thirds occupy the towns and the cities. One-third of the people have to bear all the burdens and almost the entire cost of keeping up the common roads and common highways of this country, while these public roads, at least all the important ones, are post-roads of the United States, used by the Government in transporting and carrying the mails. Some one suggests, Why not the State, by a system of taxation levied upon the wealth of the State, create a fund out of which to construct these highways?

My answer is, gentlemen, that the importance and the benefits of these roads extend beyond our State lines, and besides, many

of the States are so poor that they have not the resources to furnish sufficient means with which to construct these public roads. While many of the States of this Union have an abundance of wealth, many of them are very poor. It is said, according to the best estimate, the best approximate estimate that can be made, that a levy of 1 mill would raise a fund sufficient to construct all of the roads in the State of New York.

New York is one of the wealthiest States of this Union. New York, the great Empire State of this Union, has resources to which she can appeal to get revenue with which to construct public highways. On the other hand, take the State of South Carolina, and it is only one among many others, and we find in that State the resources are so limited, their wealth is of such a character, that it would require fifty times the amount of tax upon the property interests in the State of South Carolina to raise a sum equal to 1 mill in the State of New York.

These burdens ought to be shared equally by the wealth of the entire country, to the extent at least of 50 per cent of the cost of construction. This would average the general burden between all of the States of this Union. What reason is there for asking the Federal Government to interpose or to join with the States in this great enterprise in the construction of the country roads and public highways, some one asks.

Why, my reason for it is—and it is a most convincing reason to me—that the revenues of this Government of ours are derived from a system of taxation that imposes its burdens upon the consumers of this country, and the consumers of this country contribute this enormous surplus that has congested the vaults of the public Treasury to-day; and of all of the men who have without murmur contributed their portion of this burden it has been the great agricultural classes—the farmers of this country, that class of our men that have asked the least of the Government and have received the least—who have contributed more than any other class of people in the country.

These burdens of taxation are borne by all of the citizens throughout this country. Therefore the revenue that is accumulated in the public Treasury is contributed by all of the people of this country. The revenues to-day that are in the public Treasury have been the tribute of the sweat and the toil and the labor of the farmer perhaps in a greater degree than any other class of people in the country.

This enormous surplus is the result of a system of excessive taxation with which I confess I have no sympathy. This system of taxation is a protective tariff higher than any ever enacted in this country before. And I ask my Republican friend if he can offer any objection to a proposition of this kind which purposes to equalize and distribute the burdens in the maintenance and construction of the public roads because it may be suggested that they are of local significance and of local benefit? Where are the great masses of the people of this country benefited by a system of high protection?

I am not here this evening to enter upon a discussion of the policy of protection. The country has accepted the tariff system, at least for the present, as being the fixed policy of this Government, but the benefits derived from this system of taxation have gone to the beneficiaries of the system itself. The tribute that has been paid to create this enormous surplus has been paid by the farmers and the agricultural people of the country to maintain a system that has built up the plutocracy and wealth of the country, the manufacturing interests of the country.

Yet, there ought not to be any want of harmony between the interests of the farmer and the agricultural people and those who are engaged in producing the manufactured products of the country. Their prosperity and their welfare ought to harmonize and mingle together. There ought to be no hostility as between the two. But speaking of the equity and the reasons why this Federal Government should contribute a portion to the building of public roads, I say that according to every principle of equity, justice, and right, in the form of reason and good conscience, the man who advocates this system of protection can not afford to stand up and deny to the farmers of the country the poor pittance of a small contribution from the groaning surplus in the Treasury vaults, the result of their own contributions, the result of their tribute to this system of taxation.

They should receive a portion of the benefits, and the only way they can receive it is by an appropriation by the Federal Government, and, as Jackson said, inasmuch as the public debt of the country did not require the use of all of the surplus in the Treasury, then the question would come for the consideration by Congress of the appropriation of this surplus money to the construction of public roads and internal improvements.

You have no use for the surplus to-day in the public Treasury, and we will have none so far as the public debt is concerned until 1907, and yet we have a surplus of over $226,000,000 absolutely free and under the control of the Congress of the United States. But what is this proposition, and what does it mean to the farmers of this country, my friends? Mr. Speaker, according to the best estimate that has ever been made, the farmers and the agricultural people pay the enormous, almost incomprehensible, sum of a billion of dollars for the transportation of farm products from the farms to the market places at which they sell them.

[Here the hammer fell.]

Mr. GRIFFITH. Mr. Speaker, I ask unanimous consent that the gentleman may be allowed to conclude his remarks.

The SPEAKER pro tempore (Mr. DALZELL). The gentleman from Indiana asks unanimous consent that the gentleman may be permitted to conclude his remarks. Is there objection?

There was no objection.

Mr. ZENOR. I am very thankful to my colleague [Mr. GRIFFITH] for his kindness and to the House for this generous treatment. Mr. Speaker, that seems an astounding statement, but it is according to statistics, and these statistics are confirmed by an investigation of the history of the countries from which they were taken, that the cost of transportation per ton per mile of farm products over the present condition of roads is 25 cents, while the cost of railroad transportation, according to the statistics of this country, is one-half cent per ton per mile.

Look at the difference of cost to the farmers of this country who have to transport their goods from the farms to the towns and to the railroad stations and to the wharves of the rivers. Twenty-five cents per ton per mile to haul these goods over these bad roads is the amount the farmers of this country have paid out of their sweat and toil and sacrifice, making the sum of $1,000,000,000 annually. This is the stupendous sum they have been and are now paying as the price of their folly and for the enjoyment of the luxury of bad roads in this country.

How much have been the total receipts of all the railroads and transportation companies of this country per year? According to recent reports made, the aggregate receipts of all the railroads amounted last year to $700,000,000. It thus appears that the amount the farmers of this country pay for the transportation of their farm products from the farms to the railroad stations and markets is more money by $300,000,000 than all the receipts of all the railroads put together in this country per annum.

How much can be saved by good roads? Did you ever stop to think of the proposition? According to statistics and the most reliable estimates that have been made, good roads—macadamized roads, etc.—will reduce the cost to the farmers in the transportation of their products from the farm to the markets from 10 to 12½ cents per ton per mile. What does this mean? It means a reduction of the cost to the farmers of this country. It means a saving out of the hard earnings of these millions of toilers upon the farms of this country; the saving of just $500,000,000 per annum.

In addition to that there are other reasons. Take a farmer who lives on the line of one of these improved roads. Suppose that he has a farm of, say, 80 acres, and that is about the average number of acres owned by the farmers throughout my section of the country. Those 80 acres are worth, say, $30 an acre; and if the farmer has in addition farming implements and animals with which to carry on his operations amounting in value to $800, his total investment is $3,200.

Now, that farmer, according to the best estimates, will transport from his farm to the markets 30 to 40 tons a year. He pays upon each ton per mile 25 cents. Twenty-five cents per ton per mile upon those 30 tons would be $7.50 per mile. The average distance that he is obliged to travel in transporting these products to market is about 8 miles. Eight times $7.50 makes $60. Thus there would be a clear saving to the farmer in this single item of $30, when we take into consideration the reduction of cost by good roads of one-half.

How much would be the tax upon the farmer for a macadamized road in his neighborhood under the policy proposed to be inaugurated by either of the bills now pending in this House? If that policy be inaugurated and these roads are built, the average tax, according to the best estimates, would be 5 mills on the dollar.

Five mills, continued for five years, with the aid of the Federal Government, is the expenditure proposed by the Agricultural Department for putting all the roads of this country into very excellent condition. Five mills on the dollar, if paid by the farmer whose farm and farming implements, etc., amount to $3,200, would be $16. Therefore, to the farmer who pays $16 there is a saving or, in other words, a clear profit of over $14—an actual saving in the transportation of his products to the railroads and the markets.

Not only that. According to the statistics of 1900, there were about 16,000,000 horses and mules maintained upon the farms of this country for the purpose of their operation and conduct. If

you had good roads—macadamized roads—you would not only reduce the number of horses required, but you would increase their power to carry the products over the roads when completed. Under the estimate of the Department it is supposed that when these roads are completed at least 2,000,000 of these horses and mules could be dispensed with.

The average cost of keeping a horse or mule is about $50. The support and maintenance of 2,000,000 horses or mules would amount to $100,000,000. This burden to the farmer of the country could be wiped out by the adoption of the system of improved roads. Not only that, but there is not a single road that would be projected and built under the policy proposed that would not bring to the farmers living along the line of that road an increased value to every acre of his farm.

The lowest estimate placed upon this would be $5 an acre, so that a farmer with his 80 acres of land would receive an increment in the way of its enhanced value of $5 an acre, and that would be about $400; and putting his tax at $16 for five years we have a total in the tax contributed on the part of this particular farmer toward building and improving the public roads of $80, and he will save it five times over in the construction and use of good roads.

There are other phases of this question which could be presented which would demonstrate to a certainty that in no other direction can the economy upon the farm be so much enhanced as in this way. In addition to that, there are other things to be considered besides the financial aspect of a proposition of this kind. Ah, you say that the Government is not able to contribute $24,000,000 for the purpose of aiding the different States in this Union in bringing up and placing upon a higher plane the common roads and highways of this country.

Do you believe, as some people profess, that it would bankrupt this Government? Ah, we heard that cry and that argument made when the proposition was submitted in this House for the establishment of rural free-delivery mail routes. That cry was made then by those who were suspicious that the final and ultimate effect of the operation of that policy would be the bankruptcy of this country; and to-day that experiment of rural free delivery has brought comfort, happiness, and prosperity to a very large majority of the people that have been blessed by its benefit.

It not only has done that, but it has increased the revenues of the Government by reason of the fact that these rural delivery routes traverse and permeate the country, increasing the mail and increasing the revenue, adding to the revenue of the Government so that they have almost become self-supporting because of the increase of the revenue coming to the Government and because of the abolition of many of the crossroads post-offices in the neighborhoods in which routes are established.

There are social phases of this question that are entitled to a higher consideration than any financial consideration. My friends, the farmers of the country need all the facilities possible for transporting their products to the market. They need all the facilities, all the advantages to which our present advancement and high civilization in this country entitle them. They of all the classes of people in this country share the least in the advantages and benefits of legislation which has so materially contributed to the wealth of this country. They are leaving the country. It is an isolated life, and it becomes monotonous to the young men, the bone and sinew of the farm, the young men upon whom responsibility must ultimately fall for the operation and conduct of the farm. They are getting tired of the isolation and drudgery of farm life in the country, and there is a constant tendency to shift from the healthy atmosphere of the country, from the farm in which the young man receives his best impressions and that physical and mental discipline which so well serves him in after years and prepares him for an honorable and useful career as a good citizen. He needs to be made contented. To do that you have to improve the public highways.

In addition to that, Congress has the power to establish post-offices and post-roads throughout this country. To-day the Government is utilizing all the most important public roads running through the counties in which this system of rural free delivery has been introduced. Is there, therefore, no reason why this Government of ours should not contribute a pro rata share for the maintenance, for the upbuilding of this system of public roads? I have heard of no convincing argument yet made why national aid and cooperation should not be extended to the different States of the Union.

But I must hurry on. There are other reasons. It is said that this Government is proposing to enter upon a policy that savors of paternalism. But it is getting late in the history of the legislation of this Congress for any man to reproach the advocate of Government aid to the public roads with the suggestion that it is paternalism. I call the attention of Members of this House, some of whom were Members at the time when appropriations were made for the rescue of the people of Martinique, a colony of France, by an appropriation of $200,000 I believe it was.

I call attention to the appropriation made for the benefit of the Cuban people while it was said that that country was suffering. I believe that amount was $50,000. Not only that. There are other appropriations we have made frequently in response to repeated appeals of distress in this country.

But more particularly I want to call attention to the enormous sums of money that have been appropriated out of the public Treasury for the rivers and harbors of this country. I do not object to that. I believe it is an improvement worthy of commendation and worthy of the support of this Government of ours. I believe that all the great highways upon which are borne the commerce of this country and which are calculated to develop its internal resources should be patronized liberally by the Government.

In addition to that, when the Pacific railroads were built this Government, in a spirit of unprecedented liberality, voted to the Pacific railroads and their collateral branches 197,000,000 acres of the public domain. Was this a public purpose? Is the Northern Pacific Railroad a public enterprise, or is it a private corporation and a private enterprise?

That 197,000,000 acres of land that the Government appropriated and donated as a free gift of this Government to the railroads of this country at $5 an acre, which is a low cost, would approximate a billion dollars; so that the Government is not without precedent in entering upon and considering a proposition to afford aid in the construction of the public roads and the public highways of this country. I might call attention to other appropriations of more doubtful propriety than any of those to which I have already alluded.

My friends, these are some of the questions that appeal to us in the consideration of the bills which propose national aid and national cooperation with the different States and Territories of the Union in order to build up the common roads and the common highways, and in a measure to place these upon a higher plane and in closer touch with the present high standard of our progress and achievements in all other respects. The present system of roads is an antiquated system.

In addition to that, Mr. Speaker, there are other reasons, it seems to me, that might influence the judgment of the Members of this House favorably toward the consideration of this proposition. The farmers of this country, the agricultural people, have always in all of the great crises in the history of our country been most conservative, loyal, and devoted to their Government.

In all the great contests and in all of the great struggles through which our country has passed, both in domestic and foreign war, it was the farmers of this country who marshaled themselves in response to the call of their country and marched to the firing line in defense of the flag.

It was the farmers from the Southern States and other sections of the Union, when the battle of New Orleans was fought—it was the farmers in homespun, with flintlock guns—who rushed to the assistance of General Jackson, and by their courage, patriotism, and unerring marksmanship challenged the British forces to call a final halt at the city of New Orleans. It was the farmers, my friends, who, in 1845, shouldered their guns and marshaled the army of the Union on the Texas frontier and drove the invading foe across the Rio Grande and planted the Stars and Stripes upon the heights of Chapultepec and the proud Montezumas.

The farmers of this country have in all its greatest emergencies demonstrated and proved their unselfish devotion and loyalty to this Government of ours. The time has come, it seems to me, when these demands of the agricultural classes, the demands of the men most interested in the construction of public highways, should be recognized by Congress.

Mr. Speaker, I have occupied more time than I intended to when I rose to address the House. I feel conscious of the fact that I have used more time than wisdom in the expression of these views. If I have exhibited some apparent zeal in speaking upon this subject, I trust that it has been inspired by motives as honorable and an ambition as worthy as the great cause of the great rural population of this great Republic and which needs no apology here or elsewhere.

My friends, if professions of zeal for the farming classes, if to be their friend is a virtue which deserves commendation, then I cherish the conviction that my country is blessed with an abundance of it, for I can not conceive it possible that anywhere under the shadow of the flag or shelter of the Republic there can be found any intelligent, patriotic citizen who does not wish to see them happy, prosperous, and contented. [Applause.]

I wish to submit in connection with my remarks the following table prepared by the Department of Agriculture, showing the amount each State would receive from an appropriation of $24,000,000, to aid the States in the construction of good roads.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF PUBLIC ROAD INQUIRIES,
Washington, D. C., January 12, 1904.

Population of the various States of the United States, according to the census of 1900, and amount to be appropriated for the construction of public roads in each State, apportioned according to population.

State.	Population, census of 1900.	Appropriation for public roads.
Alabama	1,828,697	$588,264
Arkansas	1,311,564	421,910
California	1,485,053	477,719
Colorado	539,700	173,613
Connecticut	908,420	292,225
Delaware	184,735	59,426
Florida	528,542	170,024
Georgia	2,216,331	712,960
Idaho	161,772	52,040
Illinois	4,821,550	1,551,019
Indiana	2,516,462	809,507
Iowa	2,231,853	717,953
Kansas	1,470,495	473,036
Kentucky	2,147,174	690,713
Louisiana	1,381,625	444,448
Maine	694,466	223,399
Maryland	1,188,044	382,175
Massachusetts	2,805,346	902,437
Michigan	2,420,982	778,793
Minnesota	1,751,394	563,397
Mississippi	1,551,270	499,020
Missouri	3,106,665	999,366
Montana	243,329	78,275
Nebraska	1,066,300	343,012
Nevada	42,335	13,618
New Hampshire	411,588	132,401
New Jersey	1,883,669	605,947
New York	7,268,894	2,338,292
North Carolina	1,893,810	609,210
North Dakota	319,146	102,664
Ohio	4,157,545	1,337,418
Oregon	413,536	133,028
Pennsylvania	6,302,115	2,027,294
Rhode Island	428,556	137,860
South Carolina	1,340,316	431,159
South Dakota	401,570	129,179
Tennessee	2,020,616	650,001
Texas	3,048,710	980,723
Utah	276,749	89,026
Vermont	343,641	110,544
Virginia	1,854,184	596,463
Washington	518,103	166,666
West Virginia	958,800	308,431
Wisconsin	2,069,042	665,579
Wyoming	92,531	29,766
Total States	74,607,225	24,000,000
Territories (including Alaska and Hawaii), District of Columbia, military and naval	1,696,162	
Total United States	76,303,387	24,000,000

NOTE.—The appropriation contemplated, $24,000,000, is equal to 32.16846626 cents for each of the 74,607,225 persons residing in the various States, as enumerated in the census of 1900. The appropriation indicated for each State is equal to its population multiplied by the average appropriation per capita.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 1558. An act to grant to the State of Minnesota certain vacant lands in said State for forestry purposes—to the Committee on the Public Lands.

S. 277. An act for the relief of settlers on lands in Sherman County, in the State of Oregon—to the Committee on the Public Lands.

S. 371. An act granting to the State of North Dakota 30,000 acres of land to aid in the maintenance of a school of forestry—to the Committee on the Public Lands.

S. 113. An act to enable the Secretary of the Treasury to pay the State of Vermont money appropriated by the act of Congress of July 1, 1902, and to adjust mutual claims between the United States and the State of Vermont—to the Committee on War Claims.

S. 1352. An act for the relief of Lindley C. Kent and Joseph Jenkins as the sureties of Frank A. Webb—to the Committee on Claims.

S. 347. An act providing for the establishment of a life-saving station in the vicinity of Cape Flattery or Flattery Rocks, on the coast of Washington—to the Committee on Interstate and Foreign Commerce.

S. 121. An act granting additional lands adjacent to its site to the University of Montana—to the Committee on the Public Lands.

S. 2133. An act to change the name of Madison street to Samson street—to the Committee on the District of Columbia.

S. R. 26. Joint resolution providing for the publication of 8,500 copies of a set of four charts on food and diet—to the Committee on Printing.

S. 782. An act granting a pension to Mary D. Duval—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

By unanimous consent, the following changes of reference were made:

The bill (S. 2418) granting a pension to Marit Johnson—from the Committee on Invalid Pensions to the Committee on Pensions.

House resolution No. 150—from the Committee on Foreign Affairs to the Committee on Expenditures in the State Department.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. Pending that, the Chair will submit the following request for leave of absence:

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted Mr. VANDIVER, for ten days, on account of important business.

The motion of Mr. PAYNE was then agreed to; and accordingly (at 5 o'clock and 22 minutes) the House adjourned until to-morrow at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, submitting a statement of the cost of all type and experimental manufacture of guns and other articles manufactured by the Government during the fiscal year ended June 30, 1903—to the Committees on Appropriations and Military Affairs, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Missouri River from Sioux City, Iowa, to the mouth; also near Hermann, West Glasgow, Wilhoite Bend, Lexington, and St. Joseph—to the Committee on Rivers and Harbors, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 7056) creating a commission to consider and recommend legislation for the development of the American merchant marine, and for other purposes, reported the same with amendment, accompanied by a report (No. 418); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 1938) granting an increase of pension to Aldridge Patterson, reported the same without amendment, accompanied by a report (No. 419); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1760) granting a pension to Ann A. Devore, reported the same with amendment, accompanied by a report (No. 420); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 200) granting an increase of pension to Austin Almy, reported the same with amendment, accompanied by a report (No. 421); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1825) granting a pension to Josephine L. Webber, reported the same without amendment, accompanied by a report (No. 422); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1559) granting an increase of pension to Marie A. Rask, reported the same without amendment, accompanied by a report (No. 423); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 99) granting an increase of pension to Joel C. Shepherd, reported the same without amendment, accompanied by a report (No. 424); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 754) granting a pension to John M. Lawton, reported the same with amendment, accompanied by a report (No. 425); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6352) granting a pension to Mary Huff and her five children, reported the same with amendment, accompanied by a report (No. 426); which said bill and report were referred to the Private Calendar.

Mr. HOGG, from the Committee on Pensions, to which was referred the bill of the House (H. R. 195) granting a pension to Michael J. Landy, reported the same with amendment, accompanied by a report (No. 427); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8850) granting a pension to Thomas Joyce, reported the same with amendment, accompanied by a report (No. 428); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4946) to restore James F. Wheeler to the pension roll, reported the same with amendment, accompanied by a report (No. 429); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8916) for the relief of Susie G. Seabury, reported the same with amendment, accompanied by a report (No. 430); which said bill and report were referred to the Private Calendar.

Mr. HOUSTON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6547) granting a pension to John Holzer, reported the same with amendment, accompanied by a report (No. 431); which said bill and report were referred to the Private Calendar.

Mr. BROWN of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 7799) to increase the pension of John O. Rice, reported the same with amendment, accompanied by a report (No. 432); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 7072) granting a pension to Mary McCall, reported the same with amendment, accompanied by a report (No. 433); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6091) granting an increase of pension to John W. Brown, reported the same with amendment, accompanied by a report (No. 434); which said bill and report were referred to the Private Calendar.

Mr. BROWN of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6020) granting an increase of pension to William P. Connor, reported the same with amendment, accompanied by a report (No. 435); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 2822) granting a pension to Louisa Phillips, reported the same with amendment, accompanied by a report (No. 436); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 2916) granting an increase of pension to Francis S. Howard, reported the same with amendment, accompanied by a report (No. 437); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 2912) granting a pension to Mrs. Elizabeth A. Jones, reported the same with amendment, accompanied by a report (No. 438); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 3435) granting an increase of pension to John M. Pratt, reported the same without amendment, accompanied by a report (No. 439); which said bill and report were referred to the Private Calendar.

Mr. BROWN of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 219) granting a pension to M. J. Burton, widow of Thomas Burton, reported the same with amendment, accompanied by a report (No. 440); which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred, as follows:

A bill (H. R. 6780) authorizing the Union Pioneer Mining and Trading Company to construct and maintain a bridge across the Cantalla Creek in the district of Alaska—Committee on the Territories discharged, and referred to the Committee Interstate and Foreign Commerce.

A bill (H. R. 7830) granting a pension to H. F. Jones—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8771) granting a pension to Walter F. Horner—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 9122) granting an increase of pension to Mildred S. Ogden—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 10067) raising the rank of B. F. Wood on the retired list of the Navy—Committee on Military Affairs discharged, and referred to the Committee on Naval Affairs.

A bill (H. R. 6344) granting an increase of pension to Clara M. Gihon—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 7829) granting a pension to Mrs. T. W. Mittag—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred, as follows:

By Mr. CRUMPACKER: A bill (H. R. 10652) to amend section 8 of an act entitled "An act to provide for a permanent Census Office," approved March 6, 1902—to the Committee on the Census.

By Mr. RIDER: A bill (H. R. 10653) to provide for purchase of site and the erection of a public building thereon in the city of New York, in the State of New York—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 10654) to provide for the erection of a branch post-office in the city of New York, in the State of New York—to the Committee on Public Buildings and Grounds.

By Mr. SPALDING: A bill (H. R. 10655) relating to proofs under the homestead laws, and to confirm such proofs in certain cases when made outside of the land district within which the land is situated—to the Committee on the Public Lands.

Also, a bill (H. R. 10656) to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900—to the Committee on the Territories.

Also, a bill (H. R. 10657) to declare a portion of the Red River of the North unnavigable—to the Committee on Interstate and Foreign Commerce.

By Mr. SOUTHWICK: A bill (H. R. 10658) to provide for the purchase of a site and the erection of a public building thereon at Schenectady, in the State of New York—to the Committee on Public Buildings and Grounds.

By Mr. JONES of Washington: A bill (H. R. 10659) to establish a permanent military camp ground in the vicinity of Spokane, in the State of Washington—to the Committee on Military Affairs.

By Mr. BUTLER of Pennsylvania: A bill (H. R. 10660) for the benefit of officers of the Marine Corps, upon retirement, who served during the civil war—to the Committee on Naval Affairs.

By Mr. BINGHAM: A bill (H. R. 10661) to increase the compensation of inspectors of customs at the port of Philadelphia—to the Committee on Ways and Means.

By Mr. ALLEN: A bill (H. R. 10662) for the extension of Eighth street northeast, otherwise known as Railroad avenue—to the Committee on the District of Columbia.

Also, a bill (H. R. 10663) to authorize the abandonment of W street northeast, Washington, D. C.—to the Committee on the District of Columbia.

By Mr. CAMPBELL: A bill (H. R. 10664) to provide for the improvement of a lot provided for the burial of veterans of the civil and other wars of the United States in Oakwood Cemetery, Parsons, Kans.—to the Committee on Military Affairs.

By Mr. CURTIS: A bill (H. R. 10665) providing for the manufacture or antitoxine serum, and for other purposes—to the Committee on Agriculture.

By Mr. McDERMOTT: A bill (H. R. 10666) concerning the registration and recording of ships and vessels—to the Committee on the Merchant Marine and Fisheries.

By Mr. LOVERING: A bill (H. R. 10667) to amend chapter 11 of the laws of 1897, entitled "An act to provide revenue for the

Government and to encourage the industries of the United States"—to the Committee on Ways and Means.

By Mr. RIDER: A bill (H. R. 10668) to amend section 73 of the act entitled "An act providing for the public printing and binding and the distribution of public documents," approved January 12, 1895—to the Committee on Printing.

By Mr. BABCOCK: A bill (H. R. 10669) to regulate the issue of licenses for Turkish, Russian, or medicated baths in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HULL, from the Committee on Military Affairs: A bill (H. R. 10670) making appropriation for the support of the Army for the fiscal year ending June 30, 1905, and for other purposes—to the Union Calendar.

By Mr. BADGER: A bill (H. R. 10674) to amend section 1754 of the Revised Statutes of the United States—to the Committee on Reform in the Civil Service.

By Mr. LILLEY: A bill (H. R. 10756) to amend an act entitled "An act to provide revenue for the Government and to encourage the industries of the United States," approved July 24, 1897—to the Committee on Ways and Means.

By Mr. CRUMPACKER: A concurrent resolution (H. C. Res. 33) providing for the printing and distribution of the Statistical Atlas of the Twelfth Census—to the Committee on Printing.

Also, a concurrent resolution (H. C. Res. 34) providing for printing and distributing the Abstract of the Twelfth Census—to the Committee on Printing.

By Mr. HITCHCOCK: A resolution (H. Res. 159) requesting the Public Printer to furnish certain information as to the number of official carriages in his Bureau—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ACHESON: A bill (H. R. 10671) granting an increase of pension to Samuel Hindman—to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 10672) granting an increase of pension to John A. Brown—to the Committee on Invalid Pensions.

By Mr. BADGER: A bill (H. R. 10673) granting an increase of pension to William H. Richardson—to the Committee on Invalid Pensions.

By Mr. BANKHEAD: A bill (H. R. 10675) for the relief of the heirs of Davis Knight, of Fayette County, Ala.—to the Committee on War Claims.

By Mr. BENNY: A bill (H. R. 10676) for the relief of Ferdinand W. Rave—to the Committee on Claims.

By Mr. BIRDSALL: A bill (H. R. 10677) granting an increase of pension to John W. Seeber—to the Committee on Invalid Pensions.

By Mr. BISHOP: A bill (H. R. 10678) granting relief to Charles E. Russell, as administrator of John H. Russell, deceased—to the Committee on War Claims.

By Mr. BRADLEY: A bill (H. R. 10679) granting a pension to Emma W. Lloyd—to the Committee on Invalid Pensions.

By Mr. BRANTLEY: A bill (H. R. 10680) granting an increase of pension to S. B. Coe—to the Committee on Invalid Pensions.

By Mr. BROWN of Pennsylvania: A bill (H. R. 10681) for the relief of Capt. and Bvt. Maj. Thomas H. Carpenter, United States Army, retired, or his legal representatives—to the Committee on Claims.

By Mr. CALDERHEAD: A bill (H. R. 10682) granting an increase of pension to Marion Arnold—to the Committee on Invalid Pensions.

By Mr. CLAYTON: A bill (H. R. 10683) granting a pension to William Lanier—to the Committee on Invalid Pensions.

By Mr. COOPER of Texas: A bill (H. R. 10684) granting a pension to Lucretia Jane Davidson—to the Committee on Pensions.

Also, a bill (H. R. 10685) granting a pension to Mary Elizabeth Davidson—to the Committee on Pensions.

By Mr. DENNY: A bill (H. R. 10686) granting a pension to Michael Kurtz—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10687) granting an increase of pension to George Leonard Foss—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 10688) for the relief of Johann A. Killian—to the Committee on Claims.

By Mr. FORDNEY: A bill (H. R. 10689) granting an increase of pension to Henry Howe—to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 10690) to provide suitable medals for the officers and crew of the United States vessel of war *Kearsarge*—to the Committee on Naval Affairs.

By Mr. GROSVENOR: A bill (H. R. 10691) granting an increase of pension to J. W. Hilyard—to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 10692) for the relief of the Evangelical Lutheran Church, of Stephens City, Va.—to the Committee on War Claims.

By Mr. HUMPHREY of Washington: A bill (H. R. 10693) granting an increase of pension to Henry Stimon—to the Committee on Invalid Pensions.

By Mr. HUNTER: A bill (H. R. 10694) granting an increase of pension to Alderson T. Keen—to the Committee on Invalid Pensions.

By Mr. JACKSON of Ohio: A bill (H. R. 10695) granting an increase of pension to Jefferson Martin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10696) granting an increase of pension to Frederick Clink—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10697) granting a pension to Mary Conter—to the Committee on Invalid Pensions.

By Mr. LORIMER: A bill (H. R. 10698) granting an honorable discharge to Jeremiah Duane—to the Committee on Military Affairs.

Also, a bill (H. R. 10699) granting an increase of pension to Henry J. Brockway—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 10700) granting a pension to Ella D. Madden—to the Committee on Invalid Pensions.

By Mr. LOVERING: A bill (H. R. 10701) granting an increase of pension to Abbie A. Durant—to the Committee on Invalid Pensions.

By Mr. MAHONEY: A bill (H. R. 10702) for the relief of John Riley—to the Committee on Naval Affairs.

By Mr. MANN: A bill (H. R. 10703) granting a pension to Sarah Kearney—to the Committee on Pensions.

By Mr. MORGAN: A bill (H. R. 10704) for the relief of Moses J. Robertson—to the Committee on Claims.

By Mr. McCALL: A bill (H. R. 10705) for the relief of Samuel M. Blair—to the Committee on War Claims.

By Mr. McMORRAN: A bill (H. R. 10706) granting an increase of pension to Alfred J. West—to the Committee on Invalid Pensions.

By Mr. POWERS of Massachusetts: A bill (H. R. 10707) granting an increase of pension to John McVicar—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10708) granting an increase of pension to Alfred A. Burrell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10709) granting an increase of pension to James M. Seavey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10710) granting a pension to Augusta Reichburg—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10711) granting a pension to Mary Henrietta Baston—to the Committee on Invalid Pensions.

By Mr. RIDER: A bill (H. R. 10712) granting a pension to Henrietta Weidner—to the Committee on Pensions.

By Mr. RIXEY: A bill (H. R. 10713) for the relief of the legal representatives of Kitty Douglass—to the Committee on War Claims.

By Mr. RUCKER: A bill (H. R. 10714) for the relief of Francis M. Sheppard—to the Committee on War Claims.

By Mr. SMALL: A bill (H. R. 10715) granting an increase of pension to Alpheus W. Simpson—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 10716) granting an increase of pension to Joseph Russell—to the Committee on Invalid Pensions.

By Mr. SOUTHALL: A bill (H. R. 10717) to reinstate Francis S. Nash as a surgeon in the Navy—to the Committee on Naval Affairs.

By Mr. SPIGHT: A bill (H. R. 10718) granting a pension to John B. Baughman—to the Committee on Pensions.

Also, a bill (H. R. 10719) for the relief of Mrs. G. W. Ross, Mrs. H. C. Cary, Mrs. Annie Brooks, L. C. Wilcoxon, and Willie Wilcoxon, heirs at law and representatives of Wiley Franks, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10720) for the relief of the heirs of Abraham Jones—to the Committee on Claims.

Also, a bill (H. R. 10721) for the relief of heirs of Mrs. Susan L. Bailey, deceased, late of Marshall County, Miss.—to the Committee on War Claims.

Also, a bill (H. R. 10722) for the relief of the estate of C. G. Boswell, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10723) for the relief of George L. McGehee and John C. McGehee, heirs of Mary McGehee, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10724) for the relief of W. A. French—to the Committee on War Claims.

Also, a bill (H. R. 10725) for the relief of the estate of William Parker—to the Committee on War Claims.

Also, a bill (H. R. 10726) for the relief of James H. Knox—to the Committee on War Claims.

Also, a bill (H. R. 10727) for the relief of Mrs. Martha T. Davis—to the Committee on War Claims.

Also, a bill (H. R. 10728) for the relief of Dr. J. N. McIntyre—to the Committee on War Claims.

Also, a bill (H. R. 10729) for the relief of the heirs of H. G. Spencer—to the Committee on War Claims.

Also, a bill (H. R. 10730) for the relief of the heirs of Benjamin Hawes, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10731) for the relief of the heirs of Mrs. Louisa Ragsdale—to the Committee on War Claims.

Also, a bill (H. R. 10732) for the relief of the heirs of John Carruth, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10733) for the relief of W. D. Aston—to the Committee on War Claims.

Also, a bill (H. R. 10734) for the relief of Henry C. McElroy—to the Committee on Military Affairs.

Also, a bill (H. R. 10735) for the relief of the estate of Elizabeth Hull Wellford, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10736) for the relief of the estate of Eben N. Davis, deceased, late of Marshall County, Miss.—to the Committee on War Claims.

Also, a bill (H. R. 10737) for the relief of the estate of David A. Hamilton—to the Committee on War Claims.

Also, a bill (H. R. 10738) for the relief of Martha A. Allen, administratrix of Wyatt M. Allen, deceased, late of De Soto County, Miss.—to the Committee on War Claims.

Also, a bill (H. R. 10739) for the relief of the heirs of Mrs. M. A. Allen—to the Committee on War Claims.

Also, a bill (H. R. 10740) for the relief of the estate of William A. Jeffries, deceased—to the Committee on War Claims.

Also, a bill (H. R. 10741) for the relief of Mrs. Mary Tate, of De Soto County, Miss.—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10742) for the relief of William Moyers, of Marshall County, Miss.—to the Committee on Claims.

Also, a bill (H. R. 10743) for the relief of Mrs. A. T. Mason, of Benton County, Miss.—to the Committee on War Claims.

Also, a bill (H. R. 10744) for the relief of the estate of Isham G. Bailey, deceased, late of Marshall County, Miss.—to the Committee on War Claims.

Also, a bill (H. R. 10745) for the relief of the heirs of Mrs. Polly Callahan, deceased, late of Marshall County, Miss.—to the Committee on War Claims.

Also, a bill (H. R. 10746) for the relief of the estate of Maria A. Reinhardt, deceased, late of Marshall County, Miss.—to the Committee on War Claims.

By Mr. SULLOWAY: A bill (H. R. 10747) granting an increase of pension to George Crosby—to the Committee on Invalid Pensions.

By Mr. TRIMBLE: A bill (H. R. 10748) granting an increase of pension to Kate Ridgeway—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10749) granting an increase of pension to John Brafford—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10750) granting an increase of pension to Libbie G. Rawls—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10751) granting a pension to William J. Ballard—to the Committee on Invalid Pensions.

By Mr. VANDIVER: A bill (H. R. 10752) granting a pension to Francis M. Harris—to the Committee on Invalid Pensions.

By Mr. WATSON: A bill (H. R. 10753) granting an increase of pension to James M. Gwinn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10754) granting an increase of pension to Noah Jarvis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 10755) granting an increase of pension to John Thrasher—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 the SPEAKER: Memorial of Z. T. Baum and 34 others, of Paris, Ill., praying for favorable legislation in behalf of Moses B. Page—to the Committee on Invalid Pensions.

Also, memorial of George S. Hummer and 30 others, of Sheldon, Ill., protesting against legislation for the establishment of a parcels-post—to the Committee on the Post-Office and Post-Roads.

By Mr. BANKHEAD: Affidavits in war claim of heirs of Davis Knight, of Walker County, Ala., for reference to Court of Claims under section 14 of Tucker Act—to the Committee on War Claims.

By Mr. BARTLETT: Resolutions of Altoona Lodge, No. 302, Atlanta, Ga., of Brotherhood of Railway Trainmen, favoring passage of bills H. R. 89 and 7041—to the Committee on the Judiciary.

By Mr. BIRDSALL: Resolution of Lookout Post, No. 70, Dubuque, Iowa, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. BISHOP: Resolutions of Dahlgren Post, No. 149, of Holton; Maurice B. Weller Post, No. 218, of Luther; Joseph Hooker Post, No. 26, of Hart; S. Mallison Post, No. 298, of Pierpont; James F. McGinley Post, No. 201, of Manistee; Albert Sperry Post, No. 337, of Ravenna; Phil Kearnes Post, No. 7, of Muskegon; and Pap Williams Post, No. 15, of Ludington, Mich., Grand Army of the Republic; also petition of Veterans of 1861, of Bailey, Mich., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: Petition of the Commercial Club of La Cygne, Kans., protesting against enactment of parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDWELL: Petition of merchants of Mount Olive, Ill., protesting against the passage of the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. CAMPBELL: Resolutions of Commercial Club of Topeka, Kans., relative to the American merchant marine—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Antietam Post, No. 64, Grand Army of the Republic, of Parsons, Kans., for an appropriation for improvement of soldiers' cemetery—to the Committee on Appropriations.

By Mr. COOPER of Texas: Resolutions of the members of the bar of Beaumont, Tex., favoring the passage of bill H. R. 10145—to the Committee on the Judiciary.

Also, petition of citizens of Grapeland, Tex., against the passage of the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. COUSINS: Resolutions of Robert Mitchell Post, No. 206, of Marion; P. M. Coder Post, No. 98, of Vinton, and John B. Hancox Post, No. 314, of Belle Plaine, Iowa, Grand Army of the Republic, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. DANIELS: Resolution of the Pioneers of Los Angeles County, in favor of preserving the big trees of California—to the Committee on the Public Lands.

Also, resolution of San Francisco Chamber of Commerce, favoring the purchase of the Calaveras grove of big trees, in California—to the Committee on the Public Lands.

Also, resolution of San Francisco Chamber of Commerce, favoring measure to provide for destruction of derelicts at sea—to the Committee on Rivers and Harbors.

Also, resolution of San Francisco Chamber of Commerce, in favor of bill for protection of harbor of Hilo, Hawaii—to the Committee on Rivers and Harbors.

By Mr. DOVENER: Papers to accompany bill granting a pension to Melvina J. Twiger—to the Committee on Invalid Pensions.

By Mr. FLACK: Papers to accompany House bill granting an increase of pension to Margaret Delaney—to the Committee on Invalid Pensions.

By Mr. FULLER: Resolutions of Carter Wright Post, No. 772, Grand Army of the Republic, of Somonauk, Ill., in favor of a service-pension law—to the Committee on Invalid Pensions.

Also, petition of Denver Chamber of Commerce and other organizations of Denver, Colo., for a new Government building—to the Committee on Public Buildings and Grounds.

Also, memorial of independent tobacco manufacturers, in opposition to bills H. R. 6 and 97—to the Committee on Ways and Means.

By Mr. GARDNER of Massachusetts: Resolutions of Boston Branch, National League of Commission Merchants, and other bodies, favoring the granting of more authority to the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of Boston Chamber of Commerce, favoring the continuance of rebating the duty on bituminous coal imported—to the Committee on Ways and Means.

By Mr. GILLESPIE: Petition of citizens of Peaster, Tex., for the passage of the McCumber bill and the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. GROSVENOR: Papers to accompany bill granting an increase of pension to J. W. Hily—to the Committee on Invalid Pensions.

By Mr. HITT: Resolution of W. M. Enderton Post, No. 729, Grand Army of the Republic, Rock Falls, Ill., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. HAY: Petition of citizens of Rappahannock, Va., in favor of the Hepburn-Dolliver bill (H. R. 4072)—to the Committee on the Judiciary.

Also, papers to accompany a bill for the relief of the Evangelical Lutheran Church of Stephens City, Va.—to the Committee on War Claims.

By Mr. HUGHES: Petitions of J. Walter Mitchell, Hamilton C. Goss, and George Howell, favoring the bill to construct a war museum building—to the Committee on Public Buildings and Grounds.

By Mr. HULL: Affidavit in the matter of the claim of Joseph

R. Shannon, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. GRIFFITH: Petition of Franklin Desk Company, of Franklin, Ind., in favor of bill H. R. 9302, to place alcohol used for industrial purposes on the free list—to the Committee on Ways and Means.

By Mr. HOWELL of New Jersey: Resolution of J. G. Shackleton Post, No. 83, Grand Army of the Republic, Department of New Jersey, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Resolutions of Merchants and Manufacturers' Association of Baltimore, Md., asking for an increase in the depth of the main ship channel giving access to the port of Baltimore from 30 to 35 feet depth of water at mean low tide—to the Committee on Rivers and Harbors.

By Mr. LITTLEFIELD: Resolutions of Bosworth Post, No. 2, of Portland, Me., and of Edwin Libbey Post, No. 16, of Rockland, Me., Grand Army of the Republic, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. McNARY: Petitions of vessel owners, fishermen, and others of Boston and Gloucester, asking the Government to offer a sufficient bounty on dogfish to insure their extermination—to the Committee on the Merchant Marine and Fisheries.

By Mr. MADDOX: Petition of trustees of Pleasant Grove Baptist Church, of Ringgold, Ga., praying reference of war claim to the Court of Claims under Bowman Act—to the Committee on War Claims.

By Mr. MARSHALL: Petition of citizens of North Dakota, that unallotted lands tributary to Devils Lake Indian Reservation be opened to settlement—to the Committee on Indian Affairs.

Also, petition of citizens of North Dakota, that unallotted lands tributary to Devils Lake Indian Reservation be opened to settlement—to the Committee on Indian Affairs.

By Mr. PADGETT: Petition of James P. Moore, praying reference of claim to Court of Claims—to the Committee on War Claims.

By Mr. PRINCE: Resolutions of G. W. Trafton Post, No. 239, of Knoxville, Ill., and of Joe Hooker Post, No. 69, of Canton, Ill., Grand Army of the Republic, favoring the enactment of a service-pension law—to the Committee on Invalid Pensions.

By Mr. RAINEY: Resolutions of Edwin D. Lowe Post, No. 295, Grand Army of the Republic, of Jerseyville, Ill., favoring the enactment of a service-pension law—to the Committee on Invalid Pensions.

By Mr. RODEY: Resolution of Aztec Post, No. 15, Grand Army of the Republic, Department of New Mexico, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. RYAN: Memorial to accompany bill providing for a public building at Denver, Colo.—to the Committee on Public Buildings and Grounds.

By Mr. SLAYDEN: Petition of the Sons of Hermann and the Farmers' Club of Shovel Mount, Tex., in opposition to the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. SMITH of Kentucky: Papers to accompany bill for war claim of the Baptist Church of Columbia, Ky.—to the Committee on War Claims.

By Mr. SMITH of Pennsylvania: Petition of Statelick (Pa.) Epworth League, praying for the passage of the McCumber, Hepburn-Dolliver, Humphreys, and Dryden bills—to the Committee on the Judiciary.

By Mr. SNOOK: Resolutions of Philadelphia Maritime Exchange, favoring international arbitration—to the Committee on Foreign Affairs.

Also, resolutions of the South Side Business and Improvement Association, favoring a new Federal judicial district for central Ohio, with court located at Columbus, Ohio, and favoring an appropriation to enlarge the Government building at Columbus, Ohio—to the Committee on the Judiciary.

By Mr. SOUTHALL: Memorial to accompany bill for the relief of Francis S. Nash—to the Committee on Naval Affairs.

By Mr. SOUTHWICK: Petition of Admiral Farragut Garrison, No. 25, of Albany, N. Y., in favor of bill H. R. 3586—to the Committee on Naval Affairs.

By Mr. SPALDING: Petition of B. B. Richardson and 67 others, of Drayton, N. Dak., in favor of the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, resolutions of citizens of Fargo, N. Dak., relative to navigation of Red River—to the Committee on Rivers and Harbors.

By Mr. SPIGHT: Papers to accompany bill for the relief of Wiley Franks—to the Committee on Invalid Pensions.

Also, papers to accompany bill relating to the Payton Tate pension claim—to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of heirs of Mrs. Parley—to the Committee on War Claims.

Also, papers to accompany bill for relief of William Mayers, of Marshall County, Miss.—to the Committee on the Post-Office and Post-Roads.

By Mr. SULZER: Letter of the American Trading Company, of New York City, indorsing the Lodge bill—to the Committee on Foreign Affairs.

Also, resolutions of the Merchants and Manufacturers' Association of Baltimore, for improvement of main ship channel—to the Committee on Rivers and Harbors.

Also, letter of Edward A. Bond, of Albany, N. Y., in favor of bill H. R. 4503—to the Committee on Agriculture.

By Mr. THOMAS of Iowa: Petition of citizens of Sac City, Iowa, favoring the passage of bills H. R. 4072 and S. 1390—to the Committee on the Judiciary.

By Mr. TIRRELL: Petition of P. P. Adams and others, of Waltham, Mass., for the payment of a bounty by the United States for the extermination of dogfish and the establishing of fertilizer and oil works on the Atlantic coast—to the Committee on the Merchant Marine and Fisheries.

By Mr. WADE: Resolution of Albert Winchell Post, No. 327, Grand Army of the Republic, of Lyons, Iowa, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. WARNOCK: Resolutions of Harry Davis Post, No. 612, Grand Army of the Republic, of Woodstock, Ohio, urging the passage of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: Resolutions of Grand Army of the Republic posts of Wayne City, Grayville, West Salem, Albion, and Louisville, Ill., urging the passage of a service-pension bill—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *January 21, 1904.*

Prayer by the Chaplain, Rev. EDWARD EVERETT HALE, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BEVERIDGE, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. If there be no objection, the Journal will stand approved. It is approved.

HEIRS OF STEPHEN STALEY.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of William B. Staley, Ellen R. Whitson, and Robert D. Staley, sole heirs of Stephen Staley, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed a bill (H. R. 6295) for preventing the adulteration or misbranding of food or drugs, and for regulating traffic therein, and for other purposes; in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. FOSTER of Washington presented a memorial of the Grays Harbor Trades and Labor Council, American Federation of Labor, of Aberdeen, Wash., remonstrating against the reenactment of the law authorizing the payment of allotment in the coastwise trade; which was referred to the Committee on Commerce.

He also presented petitions of sundry ministers of Seattle and of sundry citizens of Seattle and Waitsburg, all in the State of Washington, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented petitions of the congregation of the Christian Church of Waitsburg, of the congregation of the First Baptist Church of Everett, and of the congregation of the United Presbyterian Church of Waitsburg, all in the State of Washington, praying for the enactment of legislation providing for the Sunday closing of the Lewis and Clark Centennial Exposition; which were referred to the Select Committee on Industrial Expositions.

He also presented a petition of the Commercial Club of Centralia, Wash., praying that an appropriation be made in aid of the Lewis and Clark Centennial Exposition; which was referred to the Select Committee on Industrial Expositions.

Mr. PERKINS presented a petition of the Chamber of Commerce of San Francisco, Cal., praying for the enactment of legislation providing for the removal or destruction of derelicts; which was referred to the Committee on Commerce.

He also presented a petition of the Chamber of Commerce of San Francisco, Cal., praying that an appropriation be made for the protection of the harbor of Hilo and for the improvement of