attached Cavalry, National Guard of Tennessee, to improve park properties—to the Committee on Military Affairs.

By Mr. NEEDHAM: Petition of citizens of California, in favor of granting lands to the landless Indians of north California—to the Committee on Indian Affairs.

By Mr. OTIS: Petition of Hudson River Central Baptist Association, asking Congress to investigate certain charges against the authorities of the Independent State of the Kongo—to the Committee on Foreign Affairs.

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

By Mr. PATTERSON of Pennsylvania: Resolution of Anthracite Division, No. 543, and Capitol Division, No. 160, Brotherhood of Locomotive Engineers, favoring bill H. R. 13354, for the relief of veteran army locomotive engineers—to the Committee on Invalid Pensions.

Also, resolution of Fairview Division, No. 278, Brotherhood of Locomotive Engineers, of Ashley, Pa., favoring bill H. R. 13354, for the relief of veteran army locomotive engineers—to the Committee on Invalid Pensions.

By Mr. PORTER: Petition of the Guarantee Title and Trust Company, against proposed system of post-checks—to the Committee on the Post-Office and Post-Roads.

By Mr. SHEPPARD: Papers to accompany bill H. R. 16151, for the relief of W. C. York—to the Committee on War Claims.

By Mr. SNAPP: Papers to accompany bill for increase of pension for Emanuel F. Brown—to the Committee on Invalid Pensions.

By Mr. TOWNSEND: Petition of Farmers' Club of Tecumseh, Mich., against repeal of the Grout bill—to the Committee on Agriculture.

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## SENATE.

FRIDAY, *December 16, 1904.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

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

The PRESIDENT pro tempore. The Journal will stand approved.

### ELECTORAL VOTES.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting the final ascertainment of electors for President and Vice-President for the States of California, Connecticut, South Dakota, and Texas; which, with the accompanying papers, were ordered to be filed.

### ESTIMATE OF APPROPRIATION.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the disbursing clerk of the Treasury Department, submitting an estimate of appropriation to be included in the legislative, executive, and judicial appropriation bill for 1906 for one clerk of class 3 in the office of the Secretary of the Treasury, $1,600; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

### FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the findings of fact filed by the court in the cause of James Davidson *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the findings of fact filed by the court in the cause of the trustees of Tuscarora Lodge, Independent Order of Odd Fellows, of Martinsburg, W. Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the findings of fact filed by the court in the cause of Edward Gallagher, administrator of Charles Gallagher, 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. 15317) to build a bridge across the Ouachita River, Arkansas; in which it requested the concurrence of the Senate.

### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President pro tempore:

S. 708. An act authorizing the Secretary of the Interior to authorize the building of a bridge across Thief River in the State of Minnesota;

S. 2114. An act to fix the rank of certain officers in the Army;

S. 2578. An act granting an increase of pension to Sylvester Beezley;

S. 2745. An act granting an increase of pension to Thomas Howard;

S. 2893. An act granting an increase of pension to Emanual Morter;

S. 3033. An act granting an increase of pension to Charles B. Williams;

S. 3175. An act granting an increase of pension to Rachel H. Coleman;

S. 3329. An act granting a pension to Mary E. Strong;

S. 3414. An act granting an increase of pension to Henry Wheeler;

S. 3502. An act granting an increase of pension to Joseph W. Willis;

S. 3640. An act granting an increase of pension to John S. Stevens;

S. 3791. An act granting an increase of pension to Edwin J. Tenney;

S. 4417. An act granting an increase of pension to Chadbourne H. Warren;

S. 4690. An act granting an increase of pension to Andrew W. Switzer;

S. 5184. An act granting a pension to Ethel Talley;

S. 5263. An act granting a pension to Annie M. Eapolucci;

S. 5416. An act granting an increase of pension to James A. Hopson;

S. 5423. An act granting an increase of pension to Ellen J. Morton;

S. 5484. An act granting an increase of pension to Burnetta B. Lehmann;

S. 5492. An act granting an increase of pension to Mary T. Holden;

S. 5556. An act granting an increase of pension to Sarah A. Hoback;

H. R. 14468. An act to authorize the sale and disposition of surplus or unallotted lands of the Yakima Indian Reservation, in the State of Washington; and

H. J. Res. 176. Joint resolution to pay the officers and employees of the Senate and House of Representatives their respective salaries for the month of December, 1904, on the 20th day of said month.

### PETITIONS AND MEMORIALS.

Mr. FOSTER of Washington presented a petition of the Woman's Study Club of Tacoma, Wash., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which was ordered to lie on the table.

Mr. BURNHAM presented a petition of the Woman's Suffrage Association of Concord, N. H., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which was ordered to lie on the table.

He also presented a petition of the Woman's Board of Home Missions of the Presbyterian Church of New York City, praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which was ordered to lie on the table.

He also presented a petition of the International Pure Food Congress, of St. Louis, Mo., praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

Mr. GALLINGER. I present a petition signed by 110 of the leading citizens of Georgetown, D. C., praying for the construction of a bridge over Rock Creek at Q street. The men and firms who have signed the petition are among the most reputable and potential citizens of the District. I think they would be gratified to have their petition, which is not very long, go into the RECORD, and I will ask unanimous consent that the Secretary may read it, omitting the names.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

There being no objection, the petition was read and referred to the Committee on the District of Columbia, as follows:

*To the Senate and House of Representatives:*

We, the undersigned, residents and property owners in that portion of the city of Washington known as Georgetown, have for many years felt sorely in need of a bridge over Rock Creek at Q street.

Very many good and valid reasons exist why the erection of such a bridge should now be authorized, and we beg to submit a few of these reasons for the consideration of your honorable body.

The present crossings over Rock Creek are inadequate for the increased demands of this growing portion of Washington.

The few existing bridges are largely taken up by double tracks for car lines, leaving scant, if not unsafe, passageway for vehicles and pedestrians.

The present entrances to this charming and picturesque part of our city are out of keeping with its dignity and really deter its growth, leading as they do into our most unattractive streets.

The banks of Rock Creek, in plain sight from our present bridges, are now used as a dumping place for all sorts of unsanitary refuse, and a bridge at Q street would be the first step toward preserving the natural beauty of Rock Creek Valley. If the dumping were stopped and the disfigured parts of the valley reclaimed by grass and vines, the present unsightly chasm separating Georgetown from Washington would be transformed into a healthful and beautiful breathing space.

Other and more extended improvements may some day be advisable, but we are all agreed that our need for this bridge is immediate, and further delay in its construction will be a detriment to our growth and the denial of a real necessity—an attractive entrance to the residence section of Washington which will afford to the city proper a much-needed unobstructed driveway to Arlington and the Conduit road and to us a deeply needed and well merited improvement.

Geogetown is an integral part of Washington legally and socially. It has a population of 30,000 inhabitants. For thirty-four years it has been paying taxes at equal rate with every part of the city, and yet it has absolutely no parks, no pleasure grounds, and no decent means of communication with its neighbors.

As taxpayers we assert our right to have our portion of the city receive its due share of improvements. For years we have patiently asked this, and now we most respectfully and earnestly petition that you grant us a bridge across Rock Creek at Q street and authorize the reclaiming and beautifying of Rock Creek banks in its immediate vicinity.

DECEMBER, 1904.

Mr. GALLINGER presented a petition of sundry citizens of Washington, D. C., praying for the enactment of legislation authorizing the extension of Rock Creek Ford road, or Rittenhouse street, westward, etc.; which was referred to the Committee on the District of Columbia.

Mr. WETMORE presented a petition of the Woman's Christian Temperance Union of Providence, R. I., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which was ordered to lie on the table.

He also presented a petition of Local Division No. 57, Brotherhood of Locomotive Engineers, of Providence, R. I., praying for the enactment of legislation granting pensions to locomotive engineers who served in the war of the rebellion; which was referred to the Committee on Pensions.

Mr. DRYDEN presented a petition of the Woman's Christian Temperance Union of Paterson, N. J., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which was ordered to lie on the table.

He also presented a memorial of M. Calm & Bro., of Newark, N. J., remonstrating against the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a petition of the Woman's Board of Home Missions of the Presbyterian Church of New York City, N. Y., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Indian Territory when admitted to statehood; which was ordered to lie on the table.

Mr. KNOX presented a petition of 23 citizens of Millcreek, Pa., praying for the adpotion of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of 22 citizens of Millcreek, Pa., 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 petitions of sundry citizens of Philadelphia, Peters Creek, and Delta; of the Nottingham Quarterly Meeting of Friends, of Peters Creek; of the Woman's Christian Temperance Union of Delaware County; of the Pennsylvania Woman's Christian Temperance Union, of Philadelphia; of the Christian Endeavor Society of the Grace Methodist Episcopal Church, of Philadelphia; of the Christian Endeavor Society of the Summit Presbyterian Church, of Germantown; of the executive committee of the Schuylkill branch of the Philadelphia Christian Endeavor Society, of Philadelphia, and of the Christian Endeavor Society of the Bethel Church, of Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which were ordered to lie on the table.

He also presented petitions of sundry citizens of Philadelphia, Wyncote, Rydal, Byberry, Lansdowne, and Millersville; of the Woman's Suffrage Associations of Delaware County, Lansdowne, and Philadelphia; of the Philadelphia Legislative League, of Philadelphia; of the Woman's Club of Columbia; of the Sorosis Club, of Langhorne; of Local Union No. 146, Woman's International Union-Label League, of Bradford; of the Teachers' Five O'Clock Tea Club, of South Bethlehem; of the Woman's Culture Club of Connellsville; of the Friday Conversational Club, of Monongahela; of the Woman's Club of New Brighton; of Linton Temple, No. 3, Rathbone Sisters, of Erie; of the Bellevue Equal Rights Association, of Bellevue; of the Sharon Circle of Ladies of the Grand Army of the Republic, of Sharon, and of the New Century Club, of Philadelphia, all in the State of Pennsylvania, praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were ordered to lie on the table.

He also presented a memorial of the Piso Company, of Warren, Pa., and the memorial of Edward M. Paxson, of Philadelphia, Pa., remonstrating against the enlargement of the definition of the term "drug" in the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented petitions of the Board of Trade of Erie, of the Board of Trade of Scranton, and of the Trades League of Philadelphia, all in the State of Pennsylvania, praying for the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

He also presented a petition of Local Division No. 565, Brotherhood of Locomotive Engineers, of Newcastle, Pa., praying for the enactment of legislation granting pensions to locomotive engineers who served in the war of the rebellion; which was referred to the Committee on Pensions.

Mr. CULLOM presented petitions of sundry citizens of Hillsboro, the Christian Endeavor Society of Hillsboro, all in the State of Illinois, and of the Woman's Board of Home Missions of the Presbyterian Church, of New York City, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Indian Territory when admitted to statehood; which were ordered to lie on the table.

He also presented a petition of the board of directors of the Merchants' Exchange of Memphis, Tenn., and a petition of sundry citizens of San Francisco, Cal., praying for the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

Mr. PERKINS presented a petition of the Bar Association of San Francisco, Cal., praying for the enactment of legislation providing for an additional district judge for the northern district of California; which was referred to the Committee on the Judiciary.

Mr. HEYBURN presented sundry papers to accompany the bill (S. 4333) granting an increase of pension to Lando J. Ralph; which were referred to the Committee on Pensions.

Mr. FULTON presented a petition of the Chamber of Commerce of Portland, Oreg., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

Mr. QUARLES presented a petition of the Woman's Christian Temperance Union of Bloomington, Wis., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Richland Center, Wis., praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which was ordered to lie on the table.

Mr. PROCTOR presented a petition of the Woman's Club of St. Johnsburg, Vt., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

Mr. FRYE presented a petition of the International Pure Food Congress, praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (S. 5798) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., reported it without amendment, and submitted a report thereon.

Mr. BEVERIDGE. I am directed by the Committee on Territories to report back House bill 14749 with divers and sundry amendments, and with a recommendation that the bill when thus amended be passed. I wish to give notice that immediately after the vote to-day upon the Philippine bill I shall move to proceed to the consideration of this bill.

The bill was read by title and ordered to be placed on the Calendar, as follows:

A bill (H. R. 14749) to enable the people of Oklahoma and of

the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. BATE. I desire to enter a motion to recommit the bill which has just been reported by the Senator from Indiana, and let that motion lie on the table for the present. I expect testimony here, and when it comes I wish to be heard. I merely enter the motion to recommit.

Mr. NEWLANDS. I did not hear the announcement made by the Senator from Indiana regarding the bill.

The PRESIDENT pro tempore. The notice he gave was that immediately after the disposal of the pending unfinished business he would move that the Senate proceed to the consideration of the bill reported from the Committee on Territories this morning.

Mr. BATE. That is, that he would do it? He did not do it this morning, but gave notice he would do it?

The PRESIDENT pro tempore. He did not make the motion, but gave notice that he would make it.

Mr. STEWART, from the Committee on Indian Affairs, to whom was referred the amendment submitted by himself on the 13th instant, proposing to appropriate $2,500 for one chief of division in the office of the Commissioner of Indian Affairs, intended to be proposed to the legislative, executive, and judicial appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

Mr. PROCTOR, from the Committee on Military Affairs, to whom was referred the bill (S. 6150) for the relief of Maj. E. W. Halford, paymaster United States Army, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 6157) for the relief of Maj. Seymour Howell, paymaster, United States Army, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. 11286) to prevent the unlawful wearing of the badge or insignia of the Grand Army of the Republic or other soldier organizations, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

TENNESSEE RIVER BRIDGE.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 15590) to amend an act approved April 26, 1904, entitled "An act to enable the Secretary of War to permit the erection of a lock and dam in aid of navigation in the Tennessee River near Chattanooga, Tenn., and for other purposes," to report it favorably without amendment. The bill simply proposes to amend the act passed at the last session of Congress to build a lock and dam in the Tennessee River. It proposes to make a change in the location of this improvement, and it should be done at once in order that they may go on with the work. I ask unanimous consent for the present consideration of the bill.

Mr. BATE. It is purely a local matter. There can be no objection to it.

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

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

COMMITTEE ON INTERSTATE COMMERCE.

Mr. CULLOM, from the Committee on Interstate Commerce, reported the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*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 the hearings which may be had by the committee or its subcommittees on bills and resolutions coming before said committee; to have its hearings, bills, and reports printed, and that any expense incurred shall be paid out of the contingent fund of the Senate.

Mr. KEAN subsequently, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported the foregoing resolution without amendment; and it was considered by unanimous consent, and agreed to.

INAUGURATION OF THE PRESIDENT-ELECT.

Mr. SPOONER, from the Committee on Rules, to whom was referred the following concurrent resolution, submitted by himself on the 8th instant, reported it without amendment; and it was considered by unanimous consent, and agreed to:

*Resolved by the Senate (the House of Representatives concurring)*, That a joint committee consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect of the United States on the 4th day of March next.

BILLS INTRODUCED.

Mr. PLATT of New York introduced a bill (S. 6163) granting an increase of pension to Elizabeth M. J. Meagher; which was read twice by its title, and referred to the Committee on Pensions.

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

A bill (S. 6164) granting an increase of pension to Edward Michaelis (with an accompanying paper);

A bill (S. 6165) granting a pension to Robert K. Smith (with an accompanying paper);

A bill (S. 6166) granting a pension to David S. Clare;

A bill (S. 6167) granting a pension to Bernard Sprenger; and

A bill (S. 6168) granting a pension to William Crome (with an accompanying paper).

Mr. BURNHAM introduced a bill (S. 6169) granting an increase of pension to John B. Colby; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FOSTER of Louisiana introduced a bill (S. 6170) to fix the grade on retired list of the Army of Col. James W. Powell, United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BALL introduced a bill (S. 6171) granting an increase of pension to Fannie C. Avis; which was read twice by its title, and referred to the Committee on Pensions.

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

A bill (S. 6172) for the relief of the administrator of the late D. S. Farrer, of Virginia, and others; and

A bill (S. 6173) for the relief of the trustees of the Wilderness Baptist Church, of Spottsylvania County, Va.

Mr. McCUMBER introduced a bill (S. 6174) granting an increase of pension to Chittle Chittleson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DILLINGHAM introduced a bill (S. 6175) for the relief of Benjamin Burrows; which was read twice by its title, and referred to the Committee on Claims.

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

A bill (S. 6176) granting an increase of pension to David A. Reich; and

A bill (S. 6177) granting an increase of pension to J. S. Prose.

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

A bill (S. 6178) to purchase an additional strip of land to the eastward of the light-house at Pigeon Point, California;

A bill (S. 6179) to establish a light and fog signal on Karquinez Strait, California;

A bill (S. 6180) to establish at Ano Nuevo Island, seacoast of California, an additional dwelling for light-house keepers;

A bill (S. 6181) to establish a light-house near Santa Barbara Landing, California;

A bill (S. 6182) to establish a light-house and fog signal on Red Rock, upper part of San Francisco Bay, California; and

A bill (S. 6183) to construct a tender for the engineer service of the twelfth light-house district.

Mr. MONEY introduced a bill (S. 6184) authorizing the Mississippi Central Railroad Company to construct a bridge across the Pearl River at or near Smiths Ferry, Lawrence County, Miss.; which was read twice by its title, and referred to the Committee on Commerce.

Mr. NELSON introduced a bill (S. 6185) granting an increase of pension to Thomas Read; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRYE introduced a bill (S. 6186) granting an increase of pension to Lizzie E. Shehan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PROCTOR introduced a bill (S. 6187) to reclassify employees in the civil service; which was read twice by its title, and referred to the Committee on Civil Service and Retrenchment.

He also introduced a bill (S. 6188) granting an increase of pension to William Sartwell; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENTS TO OMNIBUS CLAIMS BILL.

Mr. McCREARY submitted an amendment intended to be proposed by him to the bill (H. R. 9548) for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, commonly known as the Bowman Act; which was referred to the Committee on Claims, and ordered to be printed.

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (H. R. 9548) for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the Bowman Act; which was referred to the Committee on Claims, and ordered to be printed.

AMENDMENT TO STATEHOOD BILL.

Mr. BARD submitted an amendment intended to be proposed by him to the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into he Union on an equal footing with the original States; and to enable the people of New Mexico and Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States; which was ordered to lie on the table, and be printed.

AMENDMENT TO PENDING PHILIPPINE BILL.

Mr. CULBERSON submitted the following amendment to House bill 14623, intended to be proposed as an amendment to the amendment offered by Mr. DIETRICH; which was ordered to lie on the table:

Amend by adding after the word "bonds," in line 7, the following: "and bonds shall not be issued by any railroad company which may avail itself of the guaranty under this section for an amount exceeding $35,000 per mile of railroad."

HEARINGS BEFORE COMMITTEE ON PRIVILEGES AND ELECTIONS.

On motion of Mr. BURROWS, it was

*Ordered*, That the Committee on Privileges and Elections be given leave to print, from time to time, the hearings held before the committee during the third session of the Fifty-eighth Congress.

REPORT OF COMMISSIONER OF NAVIGATION, 1904.

On motion of Mr. FRYE, it was

*Ordered*, That there shall be printed 500 additional bound copies of the Report of the Commissioner of Navigation for 1904, for the use of the Bureau of Navigation.

IMPROVEMENT OF BLAINE HARBOR, WASHINGTON.

Mr. FOSTER of Washington submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

*Resolved by the Senate (the House of Representatives concurring)*, That the Secretary of War be, and he is hereby, directed to cause an examination and survey to be made and estimate submitted of the cost of improving the harbor of Blaine, Wash., to meet the demands of commerce.

EMPLOYMENT OF STENOGRAPHER.

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

*Resolved by the Senate*, That the Committee on Transportation and Sale of Meat Products be, and it is hereby, authorized to employ a stenographer, whose compensation shall be at the rate of $100 per month, to be paid out of the contingent fund of the Senate; and his employment shall cease at the close of this the third session of the Fifty-eighth Congress.

RECORD OF IMPEACHMENT TRIALS.

Mr. PLATT of Connecticut. I ask unanimous consent to reconsider the vote by which the order was made yesterday for the printing of extracts from the Journals of the Senate in impeachment cases, for the purpose——

Mr. BAILEY. Of course I am not going to object, but I should like to know why.

Mr. PLATT of Connecticut. For the purpose of correcting the order. I will state the matter a little more fully.

Mr. BAILEY. That is sufficient.

Mr. PLATT of Connecticut. The order was to print a document for the use of the Senate. That involves 1,400 copies, which are more than the Senate needs. Five hundred of them go into one place and 700 of them into another, and Congress does not get them at all. I wish to change the order so that 500 copies shall be printed for the use of the Senate. I think that number will be sufficient. I move to reconsider the vote by which the order for printing the extracts from the Journals relating to impeachment cases was passed yesterday.

The motion to reconsider was agreed to.

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

*Ordered*, That there be printed for the use of the Senate 500 copies of extracts from the Journals of the Senate containing the record of impeachment trials in the cases of William Blount, John Pickering, Samuel Chase, James H. Peck, West H. Humphreys, Andrew Johnson, and William W. Belknap.

BUSINESS OF THE SENATE.

Mr. GALLINGER. Mr. President, I rise to a parliamentary inquiry.

It has been stated to me by several persons that some arrangement was made on yesterday, at a time when I was absent from the Senate on public business, whereby nothing was to be done by the way of business in the Senate after the adjournment today. I make the inquiry for the reason that as chairman of the Merchant Marine Commission it has been my purpose to make the report from that Commission on Monday of next week.

The PRESIDENT pro tempore. The Chair, under the circumstances, declines to answer the interrogatory of the Senator from New Hampshire.

Mr. GALLINGER. Can the Chair direct the Senator from New Hampshire to any source from which he may get the desired information?

The PRESIDENT pro tempore. An inquiry by the Senator directed to the Senator from Illinois [Mr. CULLOM] perhaps would convey the necessary information.

Mr. GALLINGER. The Senator from New Hampshire will be pleased to consult with the Senator from Illinois.

HOUSE BILL REFERRED.

The bill (H. R. 15317) to build a bridge across the Ouchita River, Arkansas, was read twice by its title, and referred to the Committee on Commerce.

ADJOURNMENT TO MONDAY.

Mr. ALDRICH. I move that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

CIVIL GOVERNMENT OF THE PHILIPPINE ISLANDS.

The PRESIDENT pro tempore. The morning business is closed.

Mr. LODGE. In accordance with the notice which I gave, I now call up House bill 14623, the Philippine government bill. I have understood that one or two Senators desire to speak on the bill and amendments this morning.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Massachusetts?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14623) to amend an act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and to amend an act approved March 8, 1902, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," and to amend an act approved March 2, 1903, entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands, and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes."

Mr. GORMAN. I present an amendment to strike out all after the word "assembled," in line 2, on page 1, down to the end of section 1.

The PRESIDENT pro tempore. The amendment will lie on the table until 3 o'clock.

Mr. LODGE. May I ask that the amendment be stated at the desk. I did not have my copy of the bill before me at the moment.

The PRESIDENT pro tempore. The amendment submitted by the Senator from Maryland will be stated.

The SECRETARY. On page 1 strike out all of section 1.

Mr. NEWLANDS. I should like to inquire whether that is numbered according to the reprinted bill.

Mr. GORMAN. Yes; the last print of the bill, December 14. I simply propose to strike out these words:

That all bonds issued by the government of the Philippine Islands, or by its authority, shall be exempt from taxation by the Government of the United States, or by the government of the Philippine Islands or of any political or municipal subdivision thereof, or by any State, or by any county, municipality, or other municipal subdivision of any State or Territory of the United States, or by the District of Columbia, and all the provisions of this section are hereby made applicable to Porto Rico.

In other words, the amendment strikes out the exemption from taxation of all municipal bonds in the islands and makes them subject to taxation as other bonds in the United States.

Mr. LODGE. I wish to say in regard to the amendment that this exemption was given by Congress in the case of certifi-

cates of indebtedness which we authorized the Philippine government to issue for the purpose of maintaining the parity between the peso and the gold standard, and it was also given in the case of the bonds for the purchase of the friars' lands. But it was not given in the case of the bonds that were to be issued for the improvement of the water supply of the city of Manila nor for the bonds to provide for the construction of sewers and other municipal improvements in the towns of the Philippine Islands. The need of it is very well set forth in the report of the Secretary of War, which I hold in my hand. On pages 52 and 53 the Secretary states, I think with perfect truth, that the exemption of these bonds from State, county, and municipal taxation in the United States is of no consequence to States, counties, or municipalities here, but it makes a difference of 1 and 2 per cent in the rate at which the money can be borrowed for these municipal improvements.

It is a great benefit to the people of the islands to have this exemption, and the amount which is lost in taxation in this country is so trivial at the outside estimate that it would not be worth considering. I regard it as a very valuable and important provision, and I was very glad to add to it the amendment offered by the Senator from Ohio [Mr. FORAKER], which I think will be of equal value to the people of Porto Rico.

It seems to me that to enable the people in those islands to borrow the necessary money for municipal improvements at the lowest possible rate, where it can be done without any serious loss to us—in fact, with no loss at all—that will be susceptible, and without involving the United States in any way, is sensible and advisable legislation, and I sincerely hope that the amendment will not prevail.

Mr. GORMAN. Mr. President, the amendment probably may not be properly discussed at this particular juncture, but I will say that the theory of exempting from taxation bonds of the United States is so well established that there is no controversy about it now, although the time has been when it was very questionable whether it was good policy on the part of the Government.

Upon the bonds issued for the construction of railroads under the provisions of this bill 5 per cent is guaranteed by the Government of the United States, the principal of which the report accompanying the bill holds that, morally, this Government would be responsible for. This is probably the greatest concession that has ever been made by this Government for local improvements in any part of the common country. Their exemption from taxation, as stated in the report of the committee, of which the honorable Senator from Massachusetts is chairman, is based upon the ground that they would make the bonds a valuable investment or asset to corporations investing in them.

Mr. LODGE. Will the Senator allow me a moment?

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

Mr. GORMAN. Certainly.

Mr. LODGE. This section does not exempt the bonds of any railroad from taxation.

Mr. GORMAN. I did not quite understand the Senator.

Mr. LODGE. I say this section does not exempt any railroad bonds or any railroad property. It exempts only bonds issued for public purposes by public——

Mr. GORMAN. That includes necessarily the bonds that are to be issued for the railroads, as I take it.

Mr. LODGE. Not at all. It does not cover the railroad bonds at all.

Mr. GORMAN. It covers bonds for all municipal purposes.

Mr. LODGE. But the railroad bonds are not issued for municipal purposes. The municipalities can not contribute to railroads.

Mr. GORMAN. They can not?

Mr. LODGE. The municipalities can not contribute, under the authority given them, to railroads.

Mr. GORMAN. Do I understand the Senator to say that the bonds which are to be issued for the construction of these railroads will not be exempt from taxation?

Mr. LODGE. I say the bonds issued by the railroads will be subject to taxation. The only connection of the Philippine government with the bonds issued by the railroads is a guaranty of interest. There is no other privilege given to the bonds.

Mr. GORMAN. As I understand this provision—and I ask to be corrected if I am wrong—all the bonds which may be issued by the authority of the government of the Philippine Islands for works of improvement in all the towns of the islands, for waterworks and every other purpose, the Commission or the Philippine government may determine, will under the provision be exempt from taxation. Is not that so?

Mr. LODGE. I do not understand that any bonds issued by the railroads can be exempt under any provision of this bill. The municipalities are unable to issue bonds for the benefit of the railroads. That, I think, is excluded by section 3 as it now stands, and with the amendments and restrictions proposed by the senator from Wisconsin [Mr. SPOONER], which I entirely accept, it is impossible that municipalities should issue any bonds in aid of a railroad. No railroad bonds can be issued except by the railroads themselves. All the government undertakes is to guarantee the interest, under certain conditions, of course, to be made with the railroads; but there is no possibility under this bill of exempting any railroad bonds from taxation.

Mr. GORMAN. Then all the bonds that are issued by authority of the Philippine government for all other improvements are to be exempt under this provision, as I understand it?

Mr. LODGE. All the municipal bonds and the bonds issued by the Philippine government for public purposes are to be exempt.

Mr. GORMAN. Very good. Now, I submit that for the first time, in dealing with any Territory in this country or any State in the Union, has such a provision been found in legislation anywhere.

Mr. LODGE. If the Senator will allow me again, I am afraid he did not listen to what I stated when I first got up.

Mr. GORMAN. It may be that I did not fully understand the Senator.

Mr. LODGE. We exempted the bonds which we authorized the Philippine Commission to issue for the purpose of maintaining the gold standard. We exempted the bonds which we authorized the Commission to issue for the purchase of the friar lands. The exemption has already been given in both those cases, with the result that they were able to borrow, I understand, on much better terms.

Mr. GORMAN. Yes; and I ask the Senator from Massachusetts if that is not the only precedent? In any case, in all the government of the Territories of the United States did Congress ever attempt to make such a provision for the exemption of municipal bonds? It crept into the original act for the government of the Philippine Islands, the Senator says; but I take it the Senate is considering the subject at this time more calmly than it could then consider it, and a precedent that is bad and vicious ought not to be followed now. The mere fact that in that case, at a time when we were in a state of war, and when in considering the matter here it divided us on party lines, that extraordinary action was taken ought not to be followed now.

Mr. President, it does seem to me that this is going away beyond any concession that ought to be made by this Government. Improvements are necessary, and we set the example to all our people. As the Senator from Massachusetts says, it amounts to very little in the government of cities and municipalities in the United States. It may be true that only a small portion of these bonds will ever reach the United States. I do not know how that may be, but it is wrong in principle. I supposed if there was to be any exemption from taxation at all it would be on bonds that were issued for these public improvements in the islands for which the Government of the United States is liable, both the interest and the principal. That probably could be maintained, although even in that case it would be an extraordinary proposition. If the Government guarantees 5 per cent interest upon bonds, and they are sold and known to be the bonds of the United States, they can be negotiated at 2½ and 3 per cent at the outside, and to exempt them from taxation would be a further premium of from 1½ to 2 per cent in every banking institution in the United States which acquired them.

Couple that with the fact that the Secretary of War has frankly said to Congress that in the matters of making the contract for the expenditure of this money and for the negotiation with the corporations that are to construct these works there ought not to be open competition, that it can best be done by private negotiation, and that he had anticipated the matter by conferring with certain gentlemen in New York who had the financial ability and power to construct the work. With that provision regarding that power existing, if the Government exempted the railroad bonds from taxation it would simply be too great a temptation to be placed in the hands of anybody.

Mr. President, like the Senator from Texas [Mr. CULBERSON], who stated the case clearly and tersely for those of us who have opposed the acquisition and the continued control of the islands, we regard that matter as settled, and there is no longer any question to be discussed as to whether we shall go on with the control of the islands. That seems to have been fixed for the time being by a decree of the American people. But in the framing of the measure by which these improvements are to be

made and these expenditures are to be incurred it ought to be applied without regard to the division on this aisle by such carefully constructed provisions, and provisions so well guarded that there will not be able to creep into it extraordinary expenses, or extraordinary obligations on the part of this Government. Let us deal with them as liberally as we would deal with a part of our own territory on this side of the ocean.

Without hesitation I say if this matter applied to New Mexico or the Indian Territory or Arizona, or any other Territory within the limits of our country, such a proposition would not be considered for a moment; and this step should not be taken until it shall be demonstrated by actual trial and a fair trial that those people can not raise any sufficient amount of money upon their own resources without such an extraordinary provision as the exemption from taxation of their bonds. Then it will be time enough to consider the matter and give them relief, if it becomes necessary, but let us not do it now.

Mr. FORAKER. I do not know that I correctly understood the Senator from Maryland [Mr. GORMAN], but if I did not he can correct me. I understood him to speak as though of the impression, at least, that we are issuing bonds here for the construction of railroads that the United States Government in some manner is to be responsible for. I have not so read the bill. All that we do here, as I understand it, is to authorize the Philippine government to issue bonds of its own for certain enumerated purposes. Then we authorize the Philippine government, in addition to that, to guarantee the payment of 5 per cent interest on the bonds that will be issued by railroad companies organized hereafter to construct the railroads which are provided for in this bill. So the United States Government has no responsibility whatever. It is not the case of the United States Government guaranteeing 5 per cent interest and then exempting them from taxation; but the effect of the provision is to simply exempt from taxation in this country bonds that may be issued by the Philippine government. The bill, as I understand it, does not go so far as to exempt from taxation in this country all bonds that will be issued by railroads on which the interest will be guaranteed by the Philippine government. If there is any doubt about that it could be removed by so amending the bill as to make it clear. I think there is much merit in what the Senator from Maryland has said on that point.

Mr. GORMAN. The Senator from Ohio is very familiar with the bill, and I wish to ask him if he does not agree with the Secretary of War on that point? I understand the Secretary of War and the chairman of this committee prepared this bill. So far as the railroad bonds are concerned, I understand that we do guarantee by this bill to pay 5 per cent, and that morally we are bound both for the interest on the bonds as well as the principal.

Mr. FORAKER. I do not understand that we are bound morally or otherwise, certainly not legally, to pay either the principal or the interest of these railroad bonds. The United States Government authorizes the Philippine government to guarantee the payment of the interest. I am not familiar with what the Secretary has stated in his report; I have not read it; but if the Senator will call my attention to the page on which those remarks are found, I will be glad to look at them, or, if the Senator will read what the Secretary of War says, I shall pause until he may do so.

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. CULBERSON. What the Secretary of War was speaking about in that connection has reference only to the bonds issued by the Philippine Islands under its authority, and not the railroad bonds, as seems to have been inferred by the Senator from Maryland.

Mr. FORAKER. Oh, yes, Mr. President, I understand now how the Secretary of War might make the observation that we were morally bound, that because we created that government we are responsible for it; and yet that is open to some debate, I should think.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. BAILEY. Would the State of Ohio feel morally bound to pay the obligations of a municipality which it had created and which it had authorized to issue bonds?

Mr. FORAKER. I do not think so, and it never has felt so.

Mr. BAILEY. I simply interpose this because in all human probability these bonds will come back to the American Congress for payment, and I do not want any statement here in the RECORD that I feel morally bound to tax the American people to pay for any bonds of the Philippine Islands.

Mr. FORAKER. Mr. President, the Senator from Texas will remember that my statement was that I could understand how the Secretary of War might have made that observation with respect to bonds issued by a government we had created and were in a sense responsible for, but that I thought that proposition was open to debate.

Mr. BAILEY. Yes.

Mr. FORAKER. I meant by that to reserve to myself the same right the Senator reserves to himself, and very properly so.

Mr. BAILEY. The State of Ohio might create a municipality and clothe it with authority to issue bonds.

Mr. FORAKER. They are the agencies.

Mr. BAILEY. And yet it has never felt bound to redeem such municipal bonds.

Mr. FORAKER. I do not know that the United States Government has ever felt obliged to redeem any bonds issued by any Territory.

But, Mr. President, I have been somewhat diverted by these remarks from what I wanted to say more particularly than anything else, and that is that by exempting these bonds we are simply seeking to provide a market for them and to make them a desirable investment. There are plenty of bonds being offered that are issued in this country about which there can not be any question, and investors are not likely to run after bonds issued by Porto Rico or by the Philippine Islands unless there is some inducement for them to do so that is not offered in connection with bonds issued in this country.

All investments in bonds in Ohio, in my own State—and I suppose that is true in every other State—are subject to taxation in the hands of the holders. They are not all returned, as has been suggested here, but that does not alter the legal duty of the holder to return them. They are supposed to be taxable, and whether they are taxable or nontaxable has much to do with their salability. When Porto Rico has occasion to issue bonds she must come here or go to some other place to sell them. Her market for them at home is at least very limited, not adequate. The same is true as to the Philippine Islands. They have no adequate market there, so they must come to this country to sell bonds, and when they sell them here they have to sell them in competition with bonds issued here, about the validity of which there is not any question and about the power of the authority issuing and guaranteeing them there is no question. So it seems to me that the cases of the Philippines and Porto Rico are exceptional. They should not be classed, when it comes to a matter of this kind, with the Territories or with the municipalities of this country, where we all feel that there is no risk to run as to the payment of bonds if they be validly issued.

The only purpose I had in offering the amendment as to Porto Rico was to make what I thought was a very appropriate and advantageous provision for the Philippines applicable to Porto Rico. There is no reason why they should not be both treated alike. If one is to have this privilege the other should have it. There should not be any discrimination between them. That is about all I care to say in answer to the Senator's suggestion.

Mr. BAILEY. Mr. President, I cordially agree with the Senator from Maryland [Mr. GORMAN] that the American Congress in dealing with either the Philippine Islands or the island of Porto Rico is not justified in making exemptions in their favor beyond the exemptions which the States make in behalf of their own municipalities. If the State of Ohio, the State of Maryland, and all the other States of this Union permit the municipalities which they create and which they authorize to issue bonds and to sell those bonds subject to the power of local taxation, it seems to me that the American Congress would well perform its duty toward these possessions by applying to them the same rule which the States apply to their municipalities; and in view of the fact that the various governments of this country, from the Government of the Republic down to the government of the municipalities and taxing districts, are increasing their expenditures at an enormous rate, it does not appear to me a wise policy for us to be extending these exemptions from taxation.

But, Mr. President, I rose more for the purpose of saying that while that is my view, and I cordially agree with the Senator from Maryland that the exemptions ought not to be made, I still want it incorporated in the RECORD of Congress that if hereafter some importunate bondholder shall come to Congress asking that we discharge the obligations of these bonds nobody shall be permitted to read out of the RECORD here that I assented to the proposition that there is a moral obligation upon us to pay them.

Senators will recall that when the great State of Pennsylvania once repudiated its indebtedness one of its bonds was held by rare old Sydney Smith, and there is somewhere in the archives of this Congress a petition, signed by him and others similarly situated, praying that the American Government will either compel the State of Pennsylvania to pay those bonds or else assume the payment itself. It may happen that no such chance as this will occur in the case of the Philippine bonds, but I assume that it may, and so I intend to vote against these railroad bonds and probably will be compelled to vote against the municipal bonds, because I shall vote against the passage of the entire bill. But while I might agree to authorize those municipalities, under proper limitation, to issue their bonds for public works and improvements, I would no more assume the moral responsibility of this Government for those bonds than I would assume the moral responsibility on the part of any State government for bonds which it authorizes one of its municipalities to issue.

I desire to call the attention of the committee to another matter. It seems to me if they are anxious to secure a market for these bonds that instead of exempting them from the legitimate power of taxation which exists in the States, counties, and municipalities of this Union, they will throw about them still further safeguards. For instance, it would appear to me a very reasonable precaution that this bill should provide that not a single one of these municipalities should be permitted to issue and sell its bonds until the project has been submitted to the Philippine Commission, approved by them, and the issuance of the bonds authorized and indorsed.

For many years in my own State we had some vexatious litigation and some bad feeling respecting our own municipal and county bonds, until at last the legislature of that State, in its wisdom, provided a law under which those bonds could be only issued after observing certain formalities and after the approval of the attorney-general had been given. Since the enactment of that law our bonds have often sold bearing a lower rate of interest, or have commanded a higher premium, which is in effect the same thing to the taxpayer. If the committee would incorporate in this bill some provision of that kind it would be more attractive to the investor than the exemptions which have been proposed.

Mr. President, while I am on my feet I desire to offer an amendment in lieu of the one which I offered yesterday afternoon. Before offering it I will take occasion to say that after the Senator from Iowa [Mr. ALLISON] had proposed his amendment, making a certain section of the existing law applicable to bonds issued under section 4 of this bill, I was inclined to think that his amendment would reach the end I desired, and for that reason I asked that it should be printed in the RECORD. After having examined it carefully I find that it provides practically and only what is already provided in the law of nearly every State in this Union. Almost without exception, the States provide that no stocks or bonds shall be issued by any corporation except for money or property actually received. But the trouble is that in spite of that provision these corporations go on overissuing their stock and overissuing their bonds. True enough, such an overissue of stocks or bonds might subject the corporation to a forfeiture of its charter in a suit brought by the State for that purpose, but unless the State chooses to penalize such corporations by the forfeiture of their charter for such misconduct, such stocks and bonds continue in the market, and continue as between the corporations and the holders valid obligations of the corporations.

In order to provide against this injustice toward these people, I have added to the amendment which I offered yesterday afternoon a provision that no stocks or bonds shall be issued except at par value, to be paid in money or in property at a fair valuation. Then I safeguard that provision, which is substantially the provision in the seventy-fourth section of an existing law, by further providing that before any railroad, the income from whose bonds or stocks is to be guaranteed by the general government of the Philippine Islands, shall be permitted to issue stocks or bonds, it must submit the question to the Philippine Commission, and can only issue them and sell them when authorized to do so by that Commission. My amendment especially directs that Commission to see that those bonds are only issued in accordance with the provisions of this act, which require that they shall only be issued and sold for actual cash or for property at a fair valuation.

This is not an experiment in legislation. The State of Massachusetts for many years has safeguarded the issue of stocks and bonds by similar enactments, and for the last twelve or fourteen years the State of Texas has been especially prudent in reference to the issue of railroad stocks and bonds. We provide there that no railroad can issue stocks or bonds except for money or property, nor can they issue them for money or property except with the approval of the railroad commission. The result of this wise legislation has been that for twelve or fourteen years no mile of railroad in all the State of Texas has been overcapitalized.

If Congress can protect the people of the Philippine Islands from the overcapitalization of their railroads, it will do them an inestimable service. I offer this amendment, and at the proper time I shall ask a vote upon it. It practically embraces the amendment I offered yesterday afternoon and that offered by the Senator from Maryland, with the additional requirement on the Philippine Commission.

Mr. DUBOIS. Mr. President, I desire to offer the amendment which I send to the desk.

Mr. BAILEY. I should like to have the amendment which I have offered read. Probably nobody will pay any attention to it, but nevertheless I should like to have it read.

The PRESIDING OFFICER (Mr. DRYDEN in the chair). The amendment proposed by the Senator from Texas will be read.

The SECRETARY. After the word "years," at the end of section 4, line 10, page 5, it is proposed to insert the following:

*Provided further*, That before any guaranty of interest or income as herein authorized shall be made the railroad company desiring to avail itself of such guaranty shall include in its charter or articles of incorporation an express agreement that the general government of the Philippine Islands shall always possess and exercise the right of regulating charges for freight and passenger service: *And provided further*, That no railroad company, the interest or income for which is guaranteed under the provisions of this act, shall issue or sell any stock or bonds, except at their par value to be paid for in cash, or property at a fair valuation; and before such stock or bonds can be issued or sold they shall be authorized and approved by the Philippine Commission, whose duty it shall be to closely supervise the issuance of such bonds, and to strictly enforce this act in respect to the same.

Mr. DUBOIS. Now, Mr. President, I should like to have my amendment read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Idaho will be read.

The SECRETARY. In section 6, page 5, line 17, after the word "be," it is proposed to insert "rigidly;" and in line 19, after the word "government," to insert "so far as such immigration laws relate to the importation of Chinese cooly labor;" so as to make the section read:

SEC. 6. That the immigration laws of the United States in force in the Philippine Islands shall be rigidly administered by the officers of the general government thereof designated by appropriate legislation of said government, so far as such immigration laws relate to the importation of Chinese cooly labor, and all moneys collected under said laws as duty or head tax on alien immigrants coming into said islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of said islands to be used and expended for the government and benefit of said islands.

Mr. DUBOIS. Mr. President, I think it is opportune to offer the amendment now, and I trust there will be no opposition to it in the Senate. The senior Senator from Ohio [Mr. FORAKER] gave notice that on all proper occasions he would urge an amendment to any Philippine bill for the reduction of certain tariff duties.

There are in the Philippine Islands some 72,000,000 acres of land, only 5,000,000 acres of which are in the possession of individuals or corporations. The other 67,000,000 acres are public lands, and, as a general thing, they are exceedingly rich for agricultural purposes. Some 50,000,000 acres of land in the Philippine Islands are susceptible of the highest cultivation, and this is especially so in regard to sugar. In Louisiana, in Texas, and in other favored spots in this country they raise from a ton to a ton and a half of cane sugar to the acre; in certain other favored portions of our country they raise from a ton to a ton and a half of beet sugar to the acre; in Cuba they raise about 4 tons to the acre; in Porto Rico about 4½ tons; in the Hawaiian Islands, 4 or 4½ tons; and on some plantations in Hawaii they raise as high as 10 or 11 tons to the acre; and the Philippine Islands are more productive for sugar than the Hawaiian Islands.

Efforts are being made, and will be made—the tendency is all in that direction—to allow the corporations to gain control of large tracts of those lands. The Board of Trade of Manila has repeatedly memorialized us in language similar to the following:

We ask for the immediate passage of laws for the admission of cooly labor, as the native labor is inadequate and insufficient for the development of the resources of the islands.

As white people go there, as they take those lands and commence to cultivate them, the demand for the importation of cooly labor will be more insistent. There are, as I say, 50,000,000 acres of public lands there which are suscepible of the cultivation of sugar to the highest degree. Fifty million acres of land is almost more than one-half of the agricultural land west of the Missouri River. It is two and a half times as much agricultural land as there is in all the New England States, and, with

the threatened reduction of the duty on sugar, I think we should make it absolutely certain that Chinese cooly labor shall not go there to put our sugar industry in direct competition with the tropical sugar.

They can raise sufficient sugar in the tropical countries which now belong to us to supply the world, and the whole tendency is to put our sugar industry, especially the beet-sugar industry, in competition with the sugar of these tropical countries. I think the Senate in passing this bill giving up the administration of our immigration laws to a Commission in the Philippine Islands should give them to understand in unequivocal language that they shall so administer those laws as not to allow Chinese cooly labor to come in there in competition with our labor, especially in the raising of sugar.

Mr. FORAKER. Mr. President, I ask that the amendment offered by the Senator from Idaho may be again read.

The PRESIDING OFFICER. The amendment will be again read.

The SECRETARY. In section 6, page 5, line 17, after the word "be," it is proposed to insert "rigidly;" an din line 19, after the word "government," to insert "so far as such immigration laws relate to the importation of Chinese cooly labor;" so as to make the section read:

SEC. 6. That the immigration laws of the United States in force in the Philippine Islands shall be rigidly administered by the officers of the general government thereof designated by appropriate legislation of said government, so far as such immigration laws relate to the importation of Chinese cooly labor; and all moneys collected under said laws as duty or head tax on alien immigrants coming into said islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of said islands to be used and expended for the government and benefit of said islands.

Mr. FORAKER. Mr. President, so far as this amendment is concerned, I want to say to the Senator from Idaho [Mr. DUBOIS], in the first place, that I did not foresee when we entered into a unanimous-consent agreement to vote to-day at 3 o'clock that he was going to offer this amendment; and, under the precedent established day before yesterday, when I offered an amendment which I was compelled to withhold under the pressure brought to bear upon me, because it had not been foreseen by the Senator from Idaho and others, I might insist that this amendment should not be considered, especially so in view of the character of the remarks the Senator has made in support of his amendment. But I am not going to insist upon any such thing. I take advantage of the opportunity that has been offered me simply to emphasize what I said when I concluded to withhold the amendment that I had offered, to which the Senator objected on the ground that he had not foreseen when the unanimous-consent agreement was made that such an amendment would be offered. I want, in thus emphasizing it, to repeat what I said on that occasion, that when we enter into a unanimous-consent agreement to vote upon a bill at a certain time, and all pending amendments and all amendments that may be at that time offered, every Senator is to be regarded as at liberty to offer, down to the time when we take the final vote, any amendment he may think it his duty to offer.

I have always understood the consent agreement to be so broad as that, and I think a consent agreement, if it is to be restricted to such amendments as have been offered before it is entered into or such amendments as Senators will concede they foresaw would be offered, would not constitute a very valuable practice. I think the Senator has a perfect right to offer this amendment which he has offered, but I have just as much right to object to its consideration on the ground that I did not foresee it, for I did not foresee, as the Senator had to object to the amendment I offered when I offered it. But, as I said, I am not going to object to it. I do not believe in that practice. I took occasion to say, when I announced that I would withhold my amendment and not offer it, that I should not regard my action as establishing a precedent by which I should be bound hereafter, and I hoped no Senator would feel that he would be bound.

I am quite willing to have the Senator's amendment considered without any objection from me. I think it is his right to have it considered, and if anybody objected to its being considered on the ground that it had not been foreseen I would join the Senator in insisting that the objection was not well taken.

Now, I have only this objection to make to the Senator's amendment, It says that the immigration laws shall be rigidly administered so far as a certain class of immigrants are concerned, which class he names. I think the immigration laws of the United States should be rigidly administered as to every class to which they apply, and I do not think we should say by legislation that the immigration laws shall be rigidly administered as to a particular class, because we thereby impliedly say that we do not expect them to be rigidly administered as to other classes.

I do not think, Mr. President, there is any necessity for the amendment, because we enact laws upon the theory that they will be faithfully administered, that they will be rigidly administered, if you please, and that they will be faithfully and rigidly administered as to every class of people to whom they may apply, whether those laws be immigration laws or laws of some other character. I do not think there is any necessity for it for that reason.

Now, I wish to say a word, while I am on my feet, in answer to the remarks made by the Senator from Texas [Mr. BAILEY] a moment ago. He made two points to which I wish to make answer very briefly. I understood him to say it would help to make a market for these bonds issued in the Philippines if we provide in this bill that the issue of them shall be carefully supervised by the Philippine Commission. This is the effect, as I understood the Senator, of his remarks in that respect. I call the Senator's attention to the fact that on page 2, section 2, there seems to be just that kind of a provision. I wish to read it, for I think, with the Senator, that no bonds should be issued by the Philippine government or by any of the municipalities in the Philippines except only under the supervision of that Commission or some other controlling authority.

SEC. 2. That for the purpose of providing funds to construct port and harbor works, bridges, roads, buildings for provincial and municipal schools, court-houses, penal institutions, and other public improvements for the development of the Philippine Islands by the general government thereof, the said government is authorized from time to time to incur indebtedness, borrow money, and to issue and sell therefor (at not less than par value in gold coin of the United States) registered or coupon bonds of such denomination and payable at such time or times, not later than forty years after the date of the approval of this act, as may be determined by said government, with interest thereon not to exceed 4½ per cent per annum: *Provided*, That the entire indebtedness of said government created by the authority conferred by this section shall not exceed at any one time the sum of $5,000,000: *And provided further*, That the law of said government creating the indebtedness and authorizing the issue of the bonds under this section shall be approved by the President of the United States.

That refers to bonds issued by the Philippine government, and certainly the law sufficiently guards the issuing of that class of bonds.

Section 3 relates to municipalities, and provides as follows:

SEC. 3. That section 66 of the act of Congress approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is hereby amended to read as follows:

"SEC. 66. That for the purpose of providing funds to construct sewers, to furnish adequate sewer and drainage facilities, to secure a sufficient supply of water, and to provide all kinds of municipal betterments and improvements in municipalities, the government of the Philippine Islands, under such limitations, terms, and conditions as it may prescribe, with the consent and approval of the President of the United States, may authorize and enable, by appropriate legislation, any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds, in such amount and payable at such time as may be determined by the government of said islands, with interest thereon not to exceed 5 per cent per annum: *Provided*, That the entire indebtedness of any municipality shall not exceed 5 per cent of the assessed valuation of the real estate in said municipality, and any obligation in excess of such limit shall be null and void."

I do not know whether the Senator has read those provisions or not. I had not read them particularly until he made his remarks, and when I looked at them I thought they were sufficient in a general way. They might be improved no doubt, but so far as concerns the bonds issued by the government, they are to be issued by the Commission itself, and their act is to meet with the approval of the President of the United States before they can make an issue of bonds for the general government of the Philippine Islands.

Mr. BAILEY rose.

Mr. FORAKER. As to municipal bonds, if the Senator will bear with me for just a moment, they can not be issued in excess of 5 per cent of the taxable valuation of the real estate of the municipality. That is a safe limitation to start with. Any excess over that amount is by the terms of this proposed act made null and void; and an issue can not be made up to that amount except under the supervision of the general Commission, which must approve and direct the whole proceeding, including the enactment of the legislation necessary to authorize it.

Mr. BAILEY. Mr. President, the Senator from Ohio is entirely right in saying that it sufficiently safeguards it in a general way, but these provisions are not essentially different from similar laws under which gross abuses have been practiced in the municipalities of our own country. If I had my way, one of the requirements that I would make would be that each of the bonds should be registered by the Philippine Commission after they approved them. The approval provided for by the President of the United States can not possibly be exercised upon a full understanding of all these facts. The President of the United States to-day has vastly more to do than one man can possibly do, and to impose upon him the duty of inquiring into the contracts and the improvements which are to be made in

the Philippine Islands would multiply his duties without extending his time, and would simply make it impossible for him to know.

He can do as he does now on very many important matters, take the advice of those under him, and then his approval is a mere matter of form. Now, rather than to have the approval of the President as a matter of form, I would prefer the approval of the Philippine Commission, who are right on the ground, and when they approve the bonds, countersign, as it were, register them, and make them incontestable, except for fraud. That is the course I would suggest.

Mr. FORAKER. The point I was trying to make was that, in respect to the Philippine government bonds, as distinguished from the municipal bonds this bill provides for, there will be both the approval of the Philippine Commission, as the Senator thinks there should be, and the approval by the President.

Mr. BAILEY. The Senator from Ohio will recall that my comment in that respect was directed to municipal bonds.

Mr. FORAKER. Yes; I do recall that, but I was calling attention to both. So far as concerns the issue of bonds not exceeding five millions, authorized by this proposed act, to be made by the government of the Philippine Archipelago, there will be in the first instance the approval of the Philippine Commission, because they are the authority that must act in the premises to authorize the issue, and their authority is to be supervised and approved by the President.

Of course the President does have, as the Senator from Texas suggests, a great many duties; but we know that he is compelled now to act through the advice of those who are called about him under the law to be his advisers. That is what he has an Attorney-General for; that is what he has a Secretary of War for. When a question arises that belongs in any particular Department, I assume he takes the advice of the head of that Department, and the head of that Department makes the thorough investigation that ought to be made; and they will proceed in that manner hereafter as to these bonds if this bill should become a law.

Coming now to the municipal bonds, I think they are exceedingly well guarded, and my point in reading this to the Senator was to ask him whether or not he had considered how we could make it any stronger than it is.

Mr. SPOONER rose.

Mr. BAILEY. The Senator from Wisconsin [Mr. SPOONER] has proposed an amendment that suits me better than the provision in the bill.

Mr. FORAKER. I have not seen the amendment of the Senator from Wisconsin.

Mr. SPOONER. I will state in a general way to the Senator in a moment, if he will permit me, what it is.

Mr. FORAKER. Certainly.

Mr. SPOONER. It limits the purposes for which the bonds may be issued to drainage, sewerage, water supply, and the erection of primary public school buildings, and it provides for the issue only where, in the opinion of the Commission, the purposes may not be accomplished reasonably by taxation. It provides also that the bonds shall not be issued except in a given case—with the prior approval of the President.

It does put a great deal of work nominally upon the President, but we are putting upon the President a great many functions, none of which are, from the standpoint of trusteeship, as important as this, to prevent by all possible safeguards the improvident issue of bonds by 900 municipalities over there, and the piling up of bonded indebtedness which in the years to come may lead to municipal bankruptcy.

Mr. FORAKER. I have not read the amendment that was offered by the Senator from Wisconsin, and I happened to be out of the Chamber when it was read at the desk, but I understand, from what the Senator has said of this amendment, its nature; that it is, in the first place, a restriction of the purposes for which bonds may be issued, and a requirement that they shall be approved by the President, in addition to the other requirements enumerated in the proposed act.

It does seem to me that it is hardly necessary to impose that duty on the President, if the Senator will allow me to say that without misunderstanding me, because of the limitation as to the amount. These bonds can not be issued by any municipality in excess of 5 per cent of the valuation for taxation of the real estate belonging to that municipality. It seems to me it can not be very burdensome, and that a Commission such as we have always heretofore had there and such as we are likely to have, could supervise that issue when it is confined anyhow within what must be conceded to be safe limitations. There is hardly a municipality in this country, I suppose, that has not issued bonds in excess of 5 per cent of the assessed valuation of its real estate for taxation, and that is one of the abuses which this bill seems to guard.

Mr. SPOONER. I think in a given case the President ought to be informed as to the population, and he ought to be pretty generally informed as to the details attending the proposition to issue bonds. It would be the Secretary of War who would examine into the matter and do the detail work about it and present it to the President, and I am quite satisfied the President would not shrink from any burden of work that would conserve the interest of that people in a matter so vital.

So far as the 5 per cent limitation is concerned, the Senator knows that the adequacy of that limitation depends altogether on the honesty of the officials who assess the property and the purposes for which they assess it. I have known instances, although I will not specify, where the assessment has been enormously raised for the purpose of raising enormously the debt limit.

Mr. BERRY. I should like to ask the Senator from Wisconsin, if the Senator from Ohio will permit me, who assesses this property? Is it done by the the municipal officers or by the general Commission?

Mr. SPOONER. I suppose it is done by the Filipinos under the law over there. I do not suppose that Americans do the work of assessing in the different localities.

Mr. BERRY. I am talking about towns and municipalities.

Mr. SPOONER. That is what I am talking about.

Mr. BERRY. Does the Senator say it is done by officials appointed by the Commission?

Mr. SPOONER. I suppose they are appointed now. Later, perhaps, they will be elected by the communities.

Mr. BERRY. In the course of human events.

Mr. FORAKER. Many are elected now.

Mr. BAILEY. Will the Senator from Ohio permit me to make a suggestion? While the limitation of 5 per cent on the property value does limit the burden which those people may impose upon themselves, yet unless the expenditure is jealously guarded they may derive very small benefits from even the 5 per cent limitation. So I should like to take the provision of the Senator from Wisconsin, limiting the purposes for which bonds may be issued, and then also have the limitation of 5 per cent on the amount.

The Senator from Ohio, I know, will agree with me that the first purpose for which the proceeds of bonds should be devoted is to sewerage, water, and schools.

Mr. FORAKER. Yes.

Mr. BAILEY. The Senator from Wisconsin limits it to those purposes, I think wisely.

Mr. FORAKER. I think wisely, too.

Mr. BAILEY. I think if the bill is limited to those purposes, with the 5 per cent limit, while there may be cheating, more or less, as between the people who buy the bonds and make the bids on the work, those people will obtain what is necessary with no very great burden.

Mr. FORAKER. I thought the 5 per cent limitation was a good one, a safe one.

Mr. SPOONER. It is.

Mr. FORAKER. I thought so, because property is not likely to be assessed for taxation purposes higher than its real value. In this country, according to our experience, it is generally assessed for taxation at below its true value. I think 66⅔ per cent is as high as property the country over can be said to be assessed and be on the tax duplicate for taxation.

Mr. BERRY. Will the Senator from Ohio permit me?

Mr. FORAKER. Certainly.

Mr. BERRY. In this country the people themselves have something to say about the amount of the assessment, and that would account for the lower assessment. There, if I understand it, the people who are to pay the taxes have no voice in it. It is done by men appointed by the Commission.

Mr. FORAKER. I understand the Senator is mistaken as to that. I do not know just what the facts are, but I am told that there are over 800 native Filipinos holding offices in the Philippine Archipelago.

Mr. BERRY. By appointment under this Commission?

Mr. FORAKER. No; by election.

Mr. McCOMAS. By election in the barrios.

Mr. BERRY. Does the Senator intend to say that the men who assess property there are elected by the people?

Mr. FORAKER. No; I do not. I think they are, but I do not know. All I mean to say is that I have seen a statement—which was made by some one I thought reliable, although I do not remember now by whom—that there were over 800 native Filipinos holding office, most of them elected.

Mr. McCOMAS. Will the Senator allow me? I would not be positive, but I think I am right in saying that the fiscal and the secretary are elected. And they are the officers or a part of the officers who make the assessment. However, I do not wish to speak positively.

Mr. TILLMAN. Mr. President——

Mr. SPOONER. Will the Senator yield for a moment?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. FORAKER. I yield to the Senator from Wisconsin. I do not yield the floor.

Mr. SPOONER. I wish to offer an amendment as a substitute for section 4 of the bill, and I ask to have it read.

The PRESIDING OFFICER. Does the Senator from Ohio yield for that purpose?

Mr. FORAKER. I yield to the Senator in order that he may offer the amendment, and that it may be read and printed.

Mr. SPOONER. That it may be printed before there is occasion to vote. It is an amendment to strike out section 4 and insert what I send to the desk.

The PRESIDING OFFICER. The clerks inform the Chair that it will be impossible to have the amendment printed in time, by 3 o'clock.

Mr. SPOONER. I will take the chance on that. I think it can be done.

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin will be read.

The SECRETARY. It is proposed to strike out section 4 and *insert in lieu thereof* the following:

That for the purpose of aiding in the construction, equipment, operation, and maintenance of such railroads, using steam, electricity, or other power, in the Philippine Islands, as the Philippine government may hereafter specifically authorize, the said government is empowered to enter into a contract of guaranty with any railroad company, organized pursuant to the laws of said government or of the United States or any State thereof, undertaking to construct, equip, operate, and maintain any such railroad, whereby the said government shall guarantee interest, at not exceeding 4 per cent per annum upon first lien bonds to be issued by such company, properly secured by mortgage or deed of trust upon the said railroad, its equipment, franchises, and other property, real, personal, and mixed, then owned and thereafter to be acquired.

Such contract of guaranty shall be signed on behalf of said government by the chief executive thereof and on behalf of the railroad company undertaking the construction, equipment, maintenance, and operation of said railroad by the chief officer thereof, thereunto duly authorized by the stockholders and directors of the same, and shall contain, among others, the following provisions:

First. That the total amount of bonds the interest upon which is to be guaranteed shall in no event exceed the amount actually invested in cash in the construction and equipment of such railroad, to be determined as hereinafter provided.

Second. That no debt except as above provided shall be incurred by the said undertaking railroad company, its successors or assigns, by which a lien shall be created upon such railroad, its equipment or other property, prior to the lien of said government to secure the repayment of the interest paid by it under said guaranty without the consent of the Congress.

Third. That the said railroad shall be constructed and equipped within the time limited in the first instance by the Philippine government, or any extension of said time granted by said government for good cause shown.

The contract of guaranty shall be in substance indorsed upon said bonds and signed by the treasurer of said islands, and the same shall not be signed and delivered except upon satisfactory proof of the completion of the railroad in sections of not less than 20 continuous miles each, and in such proportion, to be fixed from time to time by said government, as the actual capital invested in completed road and acquired equipment shall bear to the capital required for the completion and equipment of the entire road, to be determined by the said government.

All payments made under any such guaranty shall be from the time the same are paid a lien upon said railroad and its property then owned and thereafter to be acquired subject only to the lien of the mortgage or deed of trust executed to secure the bonds, the interest upon which shall have been so guaranteed, and the total sum paid under such guaranty shall at the expiration thereof be payable to said Philippine government upon demand, and in default of such payment the said lien shall be immediately forecloseable.

*Provided*, That in no event shall the total annual contingent liability of said government under the guaranties authorized by this section at any time exceed the sum of $1,500,000, and no such guaranty shall continue for a longer period than thirty years.

For the further security of the Philippine government the Commission or any subsequent Philippine legislature shall declare the proper rules for ascertaining clearly the cash capital actually invested in said railroads and the net income actually received on said capital so invested, and shall provide for supervision by said Philippine government, through the auditing, engineering, and railroad bureaus thereof and by such other agencies as may be fixed by law, of the conduct of the finances of the road, and of its location, construction, operation, and maintenance.

The government shall have the power to appoint two members of the board of directors of any undertaking company whose bonds shall be guaranteed as provided in this section.

Each such railroad company shall make such reports from time to time as to its receipts and expenditures, in such form and substance and sworn to by such officials, as may be prescribed by the Philippine government.

Section 74 of an act entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is hereby made applicable to the corporations whose bonds shall be guaranteed under the provisions hereof.

Mr. BAILEY. I hope the amendment will be printed before we take a vote.

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin will be printed.

Mr. BAILEY. There was some question whether it could be done.

Mr. PETTUS. I ask the Senator from Ohio to yield to me for a moment in order that I may propose an amendement, which need not be printed or read. It has already been read and printed, but was withdrawn.

Mr. FORAKER. I rose only to yield the floor. The other point the Senator from Texas made to which I referred, and on which I wanted to say something in answer to him, is covered so fully by this amendment that I shall defer any remarks on that subject.

Mr. TILLMAN. Mr. President, before the Senator from Ohio yields the floor I should like to have a little information. If I understood him, and the Senator from Maryland, also, a moment ago, there was a claim or an assertion to the effect that a certain number, eight hundred I think was mentioned, of Filipinos are now holding office and they were said to be elected. Do I understand the Senator to say that the Philippine government as now constituted and run has an elective feature?

Mr. PLATT of Connecticut. In municipalities, of course.

Mr. FORAKER. The Senator misunderstood the remark I made. My remark was that I had seen a statement, which seemed to me to be credible, to the effect that there are now, to-day, over eight hundred native Filipinos holding offices of one kind and another in the Philippine Archipelago. I stated that I did not know whether they were elected or appointed, but it was my impression that most of them were elected.

Mr. TILLMAN. Elected by whom?

Mr. FORAKER. I remember to have seen notices in the newspapers of the election of alcaldes, or whatever they are called, officials of one kind and another. I do not profess to be informed. The Senator from Maryland interrupted me to give some information on the subject. He is a member of the Philippine Committee; I am not; and he naturally knows more about it than I do.

M. McCOMAS. The governors of provinces are elected and certain officers of the various barrios and townships are elected.

Mr. TILLMAN. Elected by whom?

Mr. McCOMAS. By a certain electorate. The number I can not state accurately.

Mr. TILLMAN. But who gives these people the franchise? We have not given it to them.

Mr. McCOMAS. It is done under the laws of the Commission.

Mr. TILLMAN. The Commission, then, have granted the power to vote to a certain class of Filipinos?

Mr. McCOMAS. Yes, sir.

Mr. TILLMAN. That is it?

Mr. McCOMAS. That is it.

Mr. TILLMAN. So it is a ukase or an executive order?

Mr. McCOMAS. It is a law passed by the Commission and relates to officers of barrios and governors of provinces and perhaps to a few other officers. I can not just inform the Senator, I have not accurate information; but they have been electing them now for some time.

Mr. BACON. Is not the Senator mistaken as to the matter of governors?

Mr. McCOMAS. Governors of provinces?

Mr. BACON. I ask him if he is not mistaken as to that?

Mr. McCOMAS. I think not.

Mr. BACON. I know there are elections of minor municipal officers, but when you speak of a province I do not know how much that embraces. Certainly there are governors who are appointed by the central authority at Manila. There may be some minor officers designated "governors" who are not included in the class I refer to, but the provincial governors are appointed at Manila.

Mr. LODGE. Most of the provincial governors are now chosen by the barrios—that is, by the municipalities. All the local officers in the barrios and municipalities are natives, as I understand it, and they are elected by the inhabitants of the barrios under such restrictions of suffrage and methods of voting as have been established by the Philippine Commission. I can not give those regulations without looking them up in the book. I can not give them from memory, but that is the system under which they are chosen.

Mr. TILLMAN. If the Senator will permit me, these so-called "officers" are, of course, mere puppets in the hands of the Commission, subject to removal or a refusal to issue a commission to them, and all that kind of thing, of course.

Mr. LODGE. I do not so understand it.

Mr. TILLMAN. Has the Philippine Commission, then, abdicated its absolute control of affairs in the Philippines, and is it establishing a representative government there by decree?

Mr. LODGE. I understand that for some time the local officers who correspond to mayors, councilmen, and aldermen and the local governments of the different municipalities have

been elected by the people of the municipalities, not appointed in any way or holding any commissions from the Commission.

Mr. TILLMAN. They are merely instruments in the scheme of government which the Commission itself has inaugurated, and are subject to removal or absolute control in everything they do.

Mr. LODGE. I do not understand that at all.

Mr. TILLMAN. It is a remarkable and anamolous condition for us to say that the Philippine Commission shall have absolute control; that the President shall appoint five men who shall go there and exercise the same autocratic power the Czar exercises in Russia, and then contend or assert even that they delegate their authority to somebody to go and elect somebody, and yet they have control of them.

Mr. LODGE. They have established, as they were authorized to do under the law, a system of elective local governments, and under those local governments, just as the laws of our States establish elections for local governments, the local officials are chosen.

Mr. TILLMAN. Subject, of course, to removal by the Commission.

Mr. LODGE. I do not so understand it. They are elected. They are not removed by the Commission.

Mr. TILLMAN. With all due deference, then, to the Senator from Massachusetts, I think it is an absurdity.

Mr. LODGE. Why?

Mr. TILLMAN. Simply because——

Mr. LODGE. It is exactly the system we have here.

Mr. TILLMAN. If the Commission have autocratic control and power to pass a law of that character they certainly have the power to rescind that act.

Mr. LODGE. Certainly.

Mr. TILLMAN. They have the power to remove any man elected or pretended to be elected.

Mr. LODGE. Certainly they have. A State government can rescind every State, city, and town charter.

Mr. TILLMAN. But you just said they did not.

Mr. LODGE. Congress can stop it, of course.

Mr. TILLMAN. Undoubtedly Congress can stop it, but Congress has delegated its authority to the President, and the President has delegated his authority to these five Commissioners.

Mr. LODGE. How would the Senator have the local officers elected?

Mr. TILLMAN. Simply by having some scheme of franchise under which those who are qualified would have an election and the officers elected so declared.

Mr. LODGE. That is precisely what they have.

Mr. TILLMAN. Except that we have not done it and the President has not done it, but the Commission have done it.

Mr. LODGE. No; because we delegated to the Commission the power to do it.

Mr. TILLMAN. We did not delegate it to the Commission. We delegated it to the President.

Mr. LODGE. We delegated it to the Commission.

The PRESIDING OFFICER. Senators will please address the Chair.

Mr. LODGE. We approved the law the Commission passed in that respect.

Mr. CULBERSON. Mr. President, I simply rose for the purpose of giving the Senate the information which apparently is desired on the subject. I have it here in a political pamphlet issued by the War Department just previous to the last election. It is entitled, "What has been done in the Philippines," published, it is true, as a Senate document, but nevertheless a political pamphlet, as will be generally recognized.

It seems that in thirty-four of what are called "Christian provinces" the governors are elected. I will read what the Bureau of Insular Affairs says about it. It is as follows:

The provincial governor is elected biennially, on the first Monday in February, by a convention consisting of counselors of every duly organized municipality in the province, which, after selecting a presiding officer and secretary, is to proceed by a secret ballot to choose a person to be the provincial governor, subject to confirmation by the Philippine Commission.

The positions of treasurer and supervisor are subject to the civil-service law, and the positions of secretary and fiscal are filled by appointment made by the Philippine Commission.

An election was held in thirty-two of the thirty-four Christian provinces on the first Monday in February, 1904, and at this time all of the governors in these Christian provinces were elected to office in the manner above set forth, and for the first time all of them are Filipinos. The remaining provincial officers, including clerks of courts, members of boards of tax revision, etc., with the right of exercise of authority of government (but not including subordinate clerkships), are filled by 86 Americans and 238 Filipinos.

Mr. FORAKER. Two hundred and thirty-eight out of what class of officials?

Mr. CULBERSON. I will read it again.

The remaining provincial officers, including clerks of courts, members of boards of tax revision, etc., with the right of the exercise of authority of government (but not including subordinate clerkships), are filled by 86 Americans and 238 Filipinos.

Mr. FORAKER. I will request the Senator to state whether that shows how many in the grand aggregate of Filipino officials there are? Does the statement the Senator read show that? I did not observe it.

Mr. CULBERSON. It shows that there are 34 provincial governors Filipinos and 238 subordinate clerks, with 86 Americans.

Mr. FORAKER. But I understood the Senator to read it as though it referred to something in addition to what had been described before. What is the language? Will the Senator kindly read it again?

Mr. CULBERSON. This pamphlet in effect states that of the 34 governors of Christian provinces all of them are Filipinos, and that in addition there are subordinate offices filled by 86 Americans and 238 Filipinos.

Mr. FORAKER. Not including clerks, etc. I should like to see that document.

Mr. McCOMAS. If the Senator from Ohio will yield to me I offer an amendment that it may be pending. I do not desire to have it read. It is an amendment to strike out and insert a substitute.

The PRESIDING OFFICER. The amendment will lie on the table.

Mr. TILLMAN rose.

Mr. BACON. Will the Senator from South Carolina permit me just to say that I challenged the suggestion of the Senator from Maryland that the governors were elected, and what has just been read by the Senator from Texas corroborates what was my meaning at the time—that there was no election of governors by any popular vote. Of course when speaking of an election——

Mr. LODGE. The Senator did not say anything about a popular vote.

Mr. BACON. I know; but I am showing what I meant.

Mr. LODGE. Does the Senator think the Senators of this body are elective?

Mr. BACON. I am not criticising the mode of election. I had suggested that the Senator was mistaken in saying that the governors were elected. Of course when we were speaking of elections we all had in our minds popular elections. I was satisfied that the governors were not elected by a popular election.

Mr. McCOMAS. I said I did not know by what electorate body they were chosen, but that they were elected.

Mr. BACON. I wish simply to repeat that the contemplation we all had in the colloquy was a popular election; at least that was in my mind.

Mr. LODGE. The Senator will, I hope, not say all, for I was careful to sate that they were not elected by a popular election.

Mr. BACON. I limited it by the concluding remark, saying that that at least was in my mind.

Mr. TILLMAN. I do not know that there is any additional light to be added to this subject after the Senator from Texas has given us the facts, but I certainly do not stand corrected in my original assertion and proposition that the entire power in regard to the government of the Philippines is in the hands of the President and of the Commission, and that any delegated authority which that Commission have voluntarily spread out a little thinner than the five among certain municipal officers, and so on, is subject to their control and discretion, because this pamphlet states that they are subordinate to approval or ratification, I believe. It is a mere subterfuge to say that the Filipinos have any share in their government except as the instrument chosen by the Commission itself. I have not changed my opinion one iota as to what I had, and nothing has been given me in the way of light or informaion that would cause me to change it.

Mr. QUARLES. Mr. President, I do not intend to participate in the discussion regarding the amendments which are necessary to render section 4 of this bill safe. The discussion thus far had has only confirmed in my mind an apprehension, and without assuming to have any superior knowledge in regard to the conditions obtaining in the Philippine Islands I may be at least permitted to express an apprehension which I say has been increased rather than removed by this discussion.

As I understand this measure, sir, we are dealing with the whole Philippine Islands. It may be natural when we talk of the Philippine Islands to think of Luzon and even to confine our view to the city of Manila, where civilization has been developed considerably; but I apprehend that in considering this

measure we are bound to take in all those islands and to consider all the tribes who are to be affected by this measure, not only the Tagals, who have made some progress in civilization, but the many other tribes scattered through those distant islands who have hardly yet taken a step in the direction of civilization. If I understand this measure, it is to apply and reach out to the revenues of all those islands equally.

I apprehend that if a railroad is built there it will be built on the island of Luzon. Now, the question with me is, and my apprehension is, whether we are not going too fast in this matter. Referring now to section 4, which seems to be an ambitious scheme to furnish railroads to the Philippine Islands, I submit, in the first place, that that is the most natural mistake which we can make, considering our attitude to this question and considering the condition of the people with whom we are dealing. They are not Anglo-Saxons. They are Malays. They have not had long experience in the affairs of government, and some of them have absolutely had none. If I understand aright, there are some of the islands that are not yet provided with ordinary highways. If I understand it aright, their means of transportation are confined to a two-wheel cart and a water buffalo.

Mr. President, in our zeal to promote civilization in the islands let us not forget that it is a mighty transition from the water buffalo and the two-wheeled cart to the vestibuled railroad train. The Anglo-Saxon race never took such a jump in civilization. Before we had the railroad we had the highway; we had the stagecoach; we had the perfected vehicles that were used upon those highways, and then came the railroad. But now you are asking this simple people, some of whom do not yet wear clothes that make them presentable, to contribute to furnish an indemnity for a system of railways upon one island in which the other tribes probably have no interest whatever.

The question which I wish to submit to the Senate is this: What will be the influence of this measure on those people? Civilization is necessarily a plant of slow growth. It is like education. You have got to deal with the individual. You can not educate a nation. You have got to educate individuals. So you can not civilize a province; you have got to proceed with them and civilize them as individuals.

What will be the effect, then, of this measure? Instead of stimulating a love of progress and civilization I am afraid that it will create a revulsion in the minds of those natives against our processes and our methods. I believe that instead of trying to frame a safe provision out of section 4 and to provide, for the present time at least, a system of railways, it would be far better, the influence would be more salutary, to provide those people with highways, not only in the island of Luzon, but in the other islands. Let us stimulate them and obtain better methods of transportation over improved highways, and then let us take up the matter of railroad exploitation at a later time. It seems to me that we are going too fast and that we shall really retard, rather than advance, the very end we have in mind by taking up this railroad matter at this time.

Mr. CARMACK. Mr. President, as my action the other day with respect to the amendment offered by the Senator from Ohio [Mr. FORAKER] seems to have been misunderstood by some people, I wish to make an explanation in regard to the matter.

I did not oppose the amendment offered by the Senator from Ohio because I was opposed to reducing the tariff on Philippine products, for I very earnestly favor such a reduction. I was opposed to it because I am opposed to doing anything in what I believe to be an unconstitutional way. The amendment of the Senator from Ohio, in my judgment, if made a part of the bill, would have made it a bill to raise revenue, and as such would have brought it into conflict with the provision of the Constitution which gives to the House of Representatives the exclusive right to originate such bills.

I do not think it is a matter of any consequence whatever as to what disposition is made of the revenue after it is collected. That does not in the least change the character of the bill. Nor is it a matter of any consequence, in my judgment, whether the bill is to raise more revenue or less revenue. If it raises, that is to say, if it produces, any revenue at all it is a bill to raise revenue.

The McKinley tariff bill was a bill to reduce the revenues, and was so named in its title. I do not think the Senator from Ohio or anyone else will claim that the McKinley tariff bill could have originated in the Senate, simply because it proposed to reduce the revenues.

Mr. PETTUS. If the Senator will excuse me, the pending bill originated in the House, and this is a mere amendment to it.

Mr. CARMACK. I know it originated in the House, but you can not take a bill having reference to matters of civil government in the Philippine Islands and insert an amendment proposing to raise revenue on articles imported into the United States and make it constitutional in that way.

Mr. FORAKER. If the Senator will allow me to interrupt him, I called attention, when the amendment was under consideration, to the fact that this bill by its title states that one purpose is to amend the act providing revenue for the Philippine Islands, and by section 5 of the act it provides for a reduction of revenue by allowing to be admitted free of duty certain enumerated articles. So it is a bill that originated in the House, and it is a bill to raise revenue within his contention—that is to say, as I understand him, it is a bill reducing the revenues of the Philippine government, as it came to us from the House. I do not think that the constitutional provision has any application to bills relating to the revenues of the Philippine government, but only to the revenues of the United States.

Mr. CARMACK. There was nothing in the bill as it came from the House proposing to affect tariff duties levied by the United States upon articles imported into the United States. That is what was proposed to be added to this bill by the Senator from Ohio.

Mr. FORAKER. Will the Senator state that again? My attention was diverted.

Mr. CARMACK. I say there was nothing in the bill, as I understand it, as it came from the House, which proposed to affect tariff duties upon articles imported into the United States.

Mr. FORAKER. No; but there was a provision affecting the tariff on articles imported into the Philippine Islands.

Mr. CARMACK. That is a very different proposition.

Mr. FORAKER. The amendment which I offered had nothing to do with the revenues of the United States.

Mr. CARMACK. It did, Mr. President, with revenues collected by the United States. As I said, it is a matter of no consequence whatever what the United States chooses to do with the revenue after it has collected it. Whether it gives the revenue away, whether it gives it to the people of the Philippine Islands, or whatever else it may do with it, it does not in the least affect the character of the bill as a bill to raise revenue.

Mr. FORAKER. But, Mr. President, the revenues on sugar and tobacco imported into this country from the Philippine Islands under the law as it now stands go not into the Treasury of the United States Government, but into the treasury of the government of the Philippine Islands, and the amendment I offered only proposed to reduce the amount that shall be collected for the benefit of the Philippine government. It does not change the use of a dollar of revenue.

Mr. CARMACK. I do not care to go into further debate on the question. The fact is that at the last session of Congress we had assurances from the Senator from Rhode Island [Mr. ALDRICH] that a bill of that sort would be pressed and passed at this session of Congress, but it was assumed then and it was distinctly asserted by the Senator from Massachusetts [Mr. LODGE] that if such a bill did come to us it would come from the House of Representatives. That was so stated by the Senator from Massachusetts, and we all had a right to assume that if we were to consider any such bill it would come from the House of Representatives. I say, in my judgment, it was not proper right at the heels of this discussion, when the time allotted for the discussion of this question was about to expire, to bring in an amendment which involved any such proposition, and in my recollection it has never before been attempted in this matter, but it had always been understood that we were to consider a bill of that sort when it came from the House of Representatives and not otherwise.

Mr. FORAKER. The Senator exonerated me from all criticism when I made some remarks the other day, and I hope the Senator has not changed his mind about it.

Mr. CARMACK. Not in the least. I know the Senator thought he was right, and I know the Senator did not intend to take any advantage.

Mr. FORAKER. The Senator still thinks he was entirely right—that is to say, that he had a perfect right to offer that amendment at that time under the agreement. I called attention to the fact this morning, showing how that kind of precedent, if it should be taken advantage of, would work. The Senator from Idaho offered an amendment, and I was perfectly within the precedent, if that should be regarded as one, when I announced that I had not foreseen he was going to offer that amendment, and I have as much right to object to it on that ground as he had to object to my amendment. But I do not care to discuss it either.

Mr. CARMACK. The difference is that the Senator had every reason to expect the Senator from Idaho might offer such amendment and nobody had any reason to suspect that there

would be such an amendment as that proposed by the Senator from Ohio.

Mr. FORAKER. On that point I differ from the Senator from Tennessee, because this is a question that has been raised here by an amendment offered of this general character every time we have had any Philippine legislation to which it could be attached.

Mr. CARMACK. Yes; to which it could be properly attached.

Mr. FORAKER. To say that this is not a revenue measure is in a sense begging the whole question. By its title it is a revenue measure. The purpose of it is to amend the revenue act, giving day and date and title of the revenue act, and then it does in fact amend that revenue act. Of course it is a revenue act for the Philippine government; but I understand the Senator to say it does not make any difference, so far as the basis of his contention is concerned, whether the revenues when collected come to our Government or go to the Philippine government.

Mr. CARMACK. I say if we collect the revenues here at the custom-houses of the United States the bill authorizing that to be done is a bill to raise revenue and must originate in the House of Representatives, no matter how you spend the money. But, Mr. President, I do not want to continue the discussion of that branch of the question, as the amendment has been withdrawn. I simply wanted to give my reasons for being opposed to the amendment of the Senator from Ohio at this time, and to say that whenever the proposition embodied in the amendment shall be brought properly and constitutionally before this body I will support it very earnestly.

Mr. FORAKER. I am gratified to hear that expression from the Senator.

Mr. CARMACK. I will do anything I can to make it pass. I shall do it, Mr. President, not simply because I believe in tariff reform and in a reduction of our exorbitant tariff duties, but because I believe it is the duty of this Government, so long as we hold the Philippine Islands, to do everything we possibly can to promote the prosperity of those people.

As I said, Mr. President, I will do everything in my power when the time comes to seek to promote such legislation, and I am very sorry the Senators upon the other side have not been more diligent and active and determined in their effort to secure such legislation. At the last session of Congress, if I remember aright, there was no effort made to pass any such bill, although it was the long session of Congress, and we had practically unlimited time. I believe the President did not even mention it in his message, although we had assurances at that time that the matter would be pressed at this session of Congress.

Mr. PETTUS. Mr. President——

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

Mr. CARMACK. Certainly.

Mr. PETTUS. I desire to call the Senator's attention to section 5 of this bill, which does relate to the raising of revenue.

Mr. CARMACK. I have spoken of that, Mr. President. It refers to articles imported into the Philippine Islands, and not to the imports of the United States, which strikes me as a very important difference.

I say it is the duty of this Congress to do something in the way of reducing tariff duties on the products of the Philippine Islands; but no effort has been made in that direction; no effort was made at the last session of Congress. Instead of that, Congress devoted its time in a very large measure to the consideration of a bill extending our shipping laws and our coastwise laws to the Philippines, thereby increasing, in the estimation of Secretary Root, the freight charges on all Philippine products about 300 per cent.

Mr. President, I wish to deal with this bill very briefly in connection with other legislation which we have had concerning the Philippine Islands. The President of the United States in his message says that in dealing with the Philippines our first consideration should always be the welfare and prosperity and general advancement of the people of those islands. While we may incidentally get some benefit out of it, he tells us that our first consideration always should be to promote the welfare and prosperity of the Filipinos themselves. The Senator from Massachusetts [Mr. LODGE], in a very notable speech delivered as permanent chairman of the Republican convention in 1900, took a very different view. He said that he and that convention would make no "hypocritical pretense" of being chiefly interested in the welfare of the people of the Philippine Islands; that we were in the Philippines chiefly for our own profit and advantage, and not for the welfare of the people of the Philippine Islands. It seems to me that the legislation we have had with respect to the Philippines has proceeded from the motives then announced by the Senator from Massachusetts, and not from the broader and more benevolent purpose declared in the President's message.

We have maintained prohibitory tariff duties upon all products brought from the Philippine Islands that might possibly enter into competition with any American products, and we have done so over the repeated and emphatic protest of Secretary Taft, of Governor-General Wright, and of our Commission in the Philippine Islands, who have told us over and over again that these tariff laws are not only injurious to the trade, the industry, and the prosperity of the Philippine Islands, but that they were injurious to the temper and disposition of the people, and make more difficult the task of reconciling them to American rule.

Then, Mr. President, we have enacted a law which imposes a duty upon all hemp exported from the Philippine Islands to any other country in the world except the United States. We say to the Filipinos that we can not open our market for your sugar and your tobacco, and we will not suffer you to have a market here for those products, because they may come in competition with American products, but when it comes to hemp we want all you have got, and we will not permit you to export your hemp to any other country in the world except the United States, unless upon the payment of a heavy penalty. The articles which may come into competition with the products of the United States are barred from this market, and an article which we desire, which will not compete, is barred from any other market except the market of the United States. That has been the character of our legislation.

In addition to that we have extended our coastwise laws to the Philippine Islands, and in doing so, as the late Secretary Root says, we have increased the freight charges, or will increase the freight charges upon all products of the Philippine Islands coming to this country and all articles bought by them from this country 300 per cent. We have done that over the emphatic protest of Secretary Taft, Governor-General Wright, and of all our officials in the Philippine Islands. Secretary Taft said, in respect to that very proposition, that if you maintain that law—

> The people of the islands may well ask, "What advantage are we to get out of association with the United States in a business way if our trade is to be used only for the purpose of increasing the business of American ships, while the limitation of the coastwise laws, by increasing the freight rates, wil reduce the business that we now have with that country?"

In other words, Mr. President, according to the testimony of Secretary Taft and according to the testimony of Governor-General Wright, our legislation with respect to the Philippine Islands has only tended to create discontent and dissatisfaction—to burden the industries and destroy the trade of the Filipino people.

Now it is proposed by this bill to do something partially to counteract the effect of our other hostile legislation by compelling the Filipinos to pay a subsidy to build a railroad in the Philippines; to pay out of their taxes a dividend of 5 per cent to some corporation of American capitalists that will go there to build railroads.

Mr. President, I am in principle opposed to the policy of subsidizing railroads, and I believe it would be better for the people of the Philippine Islands if you will leave that question to develop itself. When capitalists feel that there is urgent need for railroads in the Philippine Islands that will pay dividends, they will build them. A railroad, Mr. President, that will not pay dividends is a railroad that is not very badly needed. If there was a great necessity for a railroad over there, it would pay dividends; but American capitalists could not be induced to put a dollar in the Philippines simply because they could see no reasonable hope of any adequate return upon their investment. I say if there was any such prospect, as we have been told, of great prosperity, great trade, and great industrial development in the Philippine Islands capital would go there without being hired to go. If we want to develop the Philippine Islands, if we want to develop their industry, extend their trade, and induce capital to go there for investment, our first duty is to put an end to the hostile legislation by which we have been destroying their industries, their commerce, and their prosperity.

Mr. President, I am opposed to this fourth section for another reason stated by my friend from Nevada [Mr. NEWLANDS]. I am opposed to doing anything that will make it more difficult for us to get out of the Philippine Islands.

I might not have had the courage to express myself again on this question, in view of the result of the late election, but for the cheering and comforting words of the President in his

late message to Congress, to which I wish to direct brief attention. The President says:

I most earnestly hope that in the end they—

That is, the Philippine people—

will be able to stand, if not entirely alone, yet in some such relation to the United States as Cuba now stands.

The Democratic platform says:

We insist that we ought to do for the Filipinos what we have done already for the Cubans.

In other words, Mr. President, the President of the United States expresses the hope that the time will come when the principles laid down in the platform of the Democratic party will be triumphant and when they will prevail in the Philippine Islands. We welcome the President to the ranks of the anti-imperialists. I think by that statement he has almost qualified himself for membership in the Anti-Imperialist League of Boston. I believe the President has not quite gone so far really as he would like to go, but he has gone just as far in the direction of the Democratic platform at this time as his pride and his partisanship will permit him to go; and I am satisfied that he will continue to approach closer and closer until he will be found openly espousing and advocating its principles.

*Mr. President*, this renunciation by the President of the policy of imperialism is a very remarkable change from the attitude heretofore maintained by the Republican party in favor of a general policy of colonialism, advocating and proclaiming to the world that it was our manifest destiny to go forth and grab other people's lands, other people's goods, all over the world, and that we were to hold the Philippine Islands, "hold them fast—hold them forever," as a distinguished Republican Senator said upon this floor—"forever and a day," as the present Speaker of the House of Representatives expressed it. I say there has been a remarkable change in the President's attitude on this question, and I believe it will prove a progressive change. The President's expression on this question indicates to me that he is sick and weary and disgusted with his task. It is the groan of a weary Titan, who wants to turn loose just as soon as he possibly can; and I believe, if it were not a matter of pride with him, he would say that he stands squarely and emphatically upon the Democratic platform on this question.

That is the view held by some others, Mr. President. Here is the Chicago Inter-Ocean, which describes itself as the only Republican newspaper published in the city of Chicago. After commending the President's message as a whole, it gets down to what he has to say on the Philippine question. It says:

In referring to the Philippines, however, the President sounds a lower note, and a disappointing one. After declaring that the Philippine people "are utterly incapable of existing in independence at all or of building up a civilization of their own," and after rebuking the "foolish persons here at home" who engaged in "foolish and dangerous intrigue for a complete independence" of the Philippines, the President says:

"I firmly believe that we can help them [the Philippine people] to rise higher and higher in the scale of civilization and for capacity of self-government, and I most earnestly hope that in the end they will be able to stand, if not entirely alone, yet in some such relation to the United States as Cuba now stands."

Commenting upon that the Inter-Ocean says:

This is the expression of a personal hope and not a declaration of policy, but, nevertheless, as the utterance of a President, it will be given great significance. In effect, the President expresses the hope that in the end the policy, not of the Republican party, but that enunciated by W. J. Bryan and Judge Parker, may prevail in the Philippines.

Is not this lowering the party flag to an enemy driven in rout from the field? Is it not a suggestion that the time may come when American territory can be surrendered as the Democrats insisted in the campaigns of 1900 and 1904 that it should be surrendered?

Mr. President, candor compels me to say that that is true; candor compels me to say that the President has expressed the hope that the policy, not of the Republican party, but the policy enunciated by Judge Parker, by William J. Bryan, and by the Democratic party in its platform will prevail. It is true, Mr. President, that he has lowered the flag to the anti-imperialists. They so regard it, and the leading newspapers of his own party so regard it. This paper says again:

The expression of a hope on the part of the President that the Philippines may ever become other than American territory will not contribute to the Americanization of the islands nor to the growth of American influence in the Asiatic Pacific.

Mr. President, that is true; we are bound to admit that that is true. When the President encourages the people of the Philippine Islands by distinctly holding out to them the hope of independence, it will not encourage them to rest satisfied and content under American rule. There can be no doubt in the world about that.

The President in his message indulges in his usual fling at all those who have the presumption to hold an opinion not entirely in accord with his own, and to charge them with raising all sorts of trouble for the Philippine Islands.

Mr. President, if hereafter there shall be any trouble there the President will have no right to charge it to the Democratic party or to the Anti-Imperialist League, for he himself in his message distinctly holds out to the people of the Philippines the hope of independence. Whether it is to come sooner or later makes no difference. There is only one of two ways in which the people of the Philippines can be made content. One is to satisfy them that they will be given independence sooner or later, and the other is to absolutely crush out the spirit of independence and reduce them to a state of despair.

So, I say, the President himself has done more to create trouble by holding out a mere hope than if he had made a definite promise, for under a positive promise they would be content to wait, but so long as he holds out to them a hope which is qualified by fear and distrust, and so long as his words of encouragement are denounced by leading Republican newspapers, the Filipinos will be hoping for independence and at the same time they will be fearing despotism. This will do more, I say, to create trouble in the Philippine Islands than anything that ever has been or could be said by the Democratic party distinctly promising them independence.

So far as that is concerned, Mr. President, these people whom the President criticises are much nearer to him and to his present views than many of the leading members of his own party in this House and in the House of Representatives; and, more than that, there is a greater difference between the Roosevelt of to-day, who speaks such kindly words of the people of the Philippine Islands, who describes them as steadily climbing the heights and preparing themselves for independence, and the Roosevelt of three or four years ago, who reviled the whole people, without any discrimination whatever, as barbarians, savages, and Apaches—I say there is a greater difference between those two Roosevelts than there is between the Roosevelt of today and Judge Alton B. Parker and William J. Bryan.

I am opposed to the fourth section of this bill, and I concur very heartily with what was said by the junior Senator from Wisconsin [Mr. QUARLES]. We are proceeding too rapidly in this matter of trying to force the growth of civilization. The growth of civilization can not be forced. Gradual progress can be made, and it may be to some extent stimulated and encouraged, but you can not railroad any people from a lower stage of civilization into a higher.

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## APPENDIX.

In executive session Mr. CARMACK obtained unanimous consent to add the following as an appendix to his remarks:

Philippine conditions—The report of an independent observer—The islands absolutely prostrated economically—Agriculture much depressed—The miseries of reconcentration—The large number of prisoners at Bilibid—The law a jumble of American and Spanish—Weakness of the native constabulary—Control of the press by intimidation and by government advertising—The most expensive administration the islands have known.

[By Prof. H. Parker Willis, of Washington and Lee University, Lexington, Va.; in the New York Evening Post, October 28, 1904.]

The prominence given by Secretary Taft to the Philippine question, and his assurance that satisfactory progress toward better things is being made in the islands may lead persons who have not closely examined this subject to believe that insular conditions are all that they should, or at least all that they can, be. A recent visit to the islands, extended through some four months and covering a wide field of observation, has not only led to a conviction on my part that this opinion is unfounded, but, further, I am satisfied that it is in all essential respects at variance with the facts. They are otherwise than as Secretary Taft represents them to be—quite otherwise.

This statement is not intended to reflect on Mr. Taft's sincerity, but is made in the belief that the principles on which the Philippine Commission is organized necessarily prohibit its members, and particularly its head, from either coming into close touch with the natives or fully realizing the nature of conditions for which they themselves are responsible.

There can be no doubt that the general public of the United States is under grave misapprehension concerning the situation in the Philippines. Erroneous statements as to what has actually been done in the archipelago have been constantly put before them from many sources. They may well be described as "given to strong delusion, wholly believing a lie." If they could realize the state of affairs in those islands now prevailing, they would be horrified at the desolation wrought by war and disgusted at the failure of our "civil government" to lay even the foundation for improvement.

### ECONOMIC PROSTRATION.

The Philippine Islands are to-day absolutely prostrated economically and politically. Hardly any undertaking is being successfully conducted. According to unpublished figures furnished by the internal-revenue office of Manila, about 5,000 licenses to do business have been issued to American individuals and firms during the period of our occupation. Of these firms and individuals all except some 800 have failed or withdrawn from business, or about 84 per cent of the total. The survivors include chiefly the very smallest establishments, such as boarding houses, saloons, etc. It appears that hardly more than half a dozen American firms of recognized capital are at this time actually doing business in Manila. The population of the city, formerly some 266,000 persons, has fallen (census 1904) to 219,900, owing largely to

depressed business. Simultaneously with this decline a heavy decrease in the American population has occured (from 6,462 in 1901 to 4,389 in 1904). During the past summer at least three of the chief American business enterprises either failed or withdrew from the field. A steady and positive decline in all branches of trade with the United States is now in progress, as partially illustrated by the fact that for the seven months ending July, 1904, the shipments of domestic merchandise from the United States to the Philippines were $2,530,899, as against $2,593,924 for the corresponding months a year earlier, while the shipments of merchandise from the Philippines to the United States were $5,978,148 for these same seven months, as against $7,337,532 a year earlier. Relations between the United States and the Philippines under the tariff act passed by Congress in 1902 are so difficult that there is no reason to anticipate the building up of any satisfactory trade between the islands and the United States either now or in the future. Recent shipping legislation has depressed the interisland trade still further, both actively and by anticipation. To-day a large fleet of Philippine steam vessels is anchored off Cavite with absolutely no occupation. This fleet is daily growing in size.

While the conditions in trade with our own country are thus discouraging, there is no warrant for the belief that the general outlook is more favorable. Much has been said by American administrators of a recent growth in exports and imports as indicating increased prosperity, but there is certainly no such inference to be drawn from the figures. Between 1899 and 1903 gross imports of merchandise increased about two and one-half times, but imports of food and animals quadrupled, the growth in this item being due to rice purchases for the support of the starving peasants and draft animals designed to replace those destroyed by war and rinderpest. Manufactured goods imported fell off largely between 1901 and 1903, showing a decline in productive business and articles of luxury, etc., more than doubled between 1899 and 1903, showing nothing more than a demand for such goods made by government employees in the islands. The growth in exports (chiefly hemp) is due simply to a partial restoration of peace and consequent resumption of regular dealings.

The trade conditions observable at Manila and other ports are merely a reflection of what may be witnessed in the interior. A journey through the provinces can not help giving a most discouraging impression. Many towns, formerly well built, and destroyed during the war by some one of the various armies, have been only partially, and even then badly, rebuilt. Churches are in ruins; whole villages here and there lie waste. In many parts of Luzon the roads and trails, nearly impassable, are daily falling into worse condition. Barring one initial appropriation of about $1,000,000 and some recent appropriations from the Congressional relief fund, nothing has been done by the central government in road making except to sink some $800,000 in attempting what seems to be an impossible road to the summer resort at Benguet. The bridges blown up or otherwise destroyed have in few instances been replaced. It is the common opinion that land travel is more difficult and slower than ever before.

CONDITION OF AGRICULTURE.

The increasingly depressed state of agriculture in these rice-growing islands can be realized by a review of the importations of rice during the past four years. These have been as follows (Report 1904, p. 48):

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| 1900 | $3,113,423 |
| 1901 | 5,490,958 |
| 1902 | 6,578,481 |
| 1903 | 10,061,323 |

This growth in the imports of rice is attributed by Philippine farmers not to changes in agriculture, as intimated by Governor Taft, but to three causes: (1) The almost total loss of their farm animals (estimated officially at 90 per cent) due to war and rinderpest; (2) injury done to irrigation systems during the war; (3) the scarcity of adult male labor as a result of the war. The "disproportionate number of women and children" consequent upon the war is still noticeable. Most of these farmers are now drawing on their savings or are borrowing at rates averaging at least 20 per cent in order to get subsistence and pay their taxes. The imposition of heavy land taxes in the provinces by the Commission has led to a general expropriation in some quarters. In others the suffering has been so intense that the Commission has had to suspend the tax in default of putting up for sale the bulk of the landed property of the province. In some provinces hundreds of pieces of property, many of them not exceeding 2 acres each, have been scheduled for sale. No machinery for providing loanable capital has been introduced by the Commission, and the requirement that land shall be registered at a heavy fee in order to prove titles is working great immediate hardship.

The depression in rice culture is paralleled for a different reason in the growth of sugar. Sugar could be raised with much less reliance on animal labor than could rice; but the American tariff situation absolutely forbids the possibility of making a profit on it. Planters state that under present tariff duties they can barely cover the cost of production. Tobacco is in a suffering condition, owing to new tariff duties in several eastern countries. Hemp is the only article in which prosperous conditions of production now exist; but its cultivation must always be narrowly limited to certain soils and localities. Parallel with the bad trade and agricultural outlook has come a great increase in cost of living, which is now fully double its former amount in some places. So hard has it been to get even a bare subsistence that the population has become greatly reduced in vitality and has fallen an easy prey to the series of terrible epidemics of the past three years. The Philippine tariff on imported commodities is so arranged as practically to forbid imports of agricultural machinery, and the Commission professes to be unable to change it without Congressional consent.

SUFFERING AND DISSATISFACTION.

Partly owing to the bad industrial prospect, to actual suffering, and to intense and permanent dissatisfaction with existing political arrangements the unrest of the country continues to increase. When President McKinley sent the Philippine Commission to the islands he furnished certain clear-cut instructions as to the line of conduct it should pursue.

"The Commission," he wrote (April 7, 1900), "should bear in mind * * * that there are certain great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom; * * * that there are also certain practical rules of government which we have found to be essential to the preservation of these great principles of liberty and law, and that these principles and these rules of government must be established and maintained in the islands. * * * Upon every division and branch of the government of the Philippines, therefore, must be imposed these inviolable rules:

"That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted; that no person shall be put twice in jeopardy for the same offense or be compelled in any criminal case to be a witness against himself; * * * that no law shall be passed abridging the freedom of speech or of the press or of the rights of the people peaceably to assemble and petition the Government for a redress of grievances, * * * and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed."

Have these instructions been fulfilled? Although the islands have now for about three years been under the full control of what is technically known as a "civil government," there are certain facts which indicate that the term "civil" is a misnomer. It is further true that this term is becoming progressively less and less applicable to the administration of the Philippines. Notwithstanding that in the beginning many of the provinces were organized as civil governments, it has been thought necessary now and again to substitute a politico-military government, and to-day at least six of the provinces are still organized on that basis. Extreme military methods for controlling the population are provided for by law and their application in certain cases authorized. Of these the most marked is what is known as "reconcentration."

RECONCENTRATION.

The use of this plan for reducing a population to submission is authorized by section 6 of the Commission's act No. 781, further organizing the constabulary, in the following words:

"In provinces which are infested to such an extent with ladrones or outlaws that the lives and property of residents in the outlying barrios are rendered wholly insecure by continued predatory raids, and such outlying barrios thus furnish to the ladrones or outlaws their source of food supply * * * it shall be within the power of the civil governor, upon resolution of the Commission, to authorize the provincial governor to order that the residents of such outlying barrios be temporarily brought within stated proximity to the poblacion or larger barrios."

It is a fact that no recent year has passed without the application of this policy on a large scale. In 1902 it was undertaken in the region about Lake Taal, comprising parts of Laguna and Batangas provinces. It then affected not less than 100,000 people, according to the report of Colonel Wagner, who inspected the camps (S. Doc. 331, 57th Cong., 1st sess., pt. 3, p. 2873), each of which included from 8,000 to 14,000 persons. During 1903 the same plan was pursued in Albay, where very large areas were entirely deprived of population, the inhabitants being herded in camps like those of Batangas. During the current year reconcentration has been ordered for Samar (executive order of August 15) throughout a region including about 20,000 inhabitants.

Besides the official application of the policy on a large scale, other instances have occurred. Several camps now exist in Cavite, and, not long since, reconcentration was tried in Tayabas, without official authority, according to Ex-Governor Taft. It is beyond the question, from the testimony both natives and Americans who are conversant with the workings of reconcentration, that its effects are most disastrous, causing widespread suffering. In the camps food is distributed only when extreme want requires it, work on the roads being sparingly furnished to those who are able thus to supply themselves with rations. The lack of house accommodations and the scarcity of food, as well as the overcrowding of the inmates of the camps, have invariably caused marked increase in mortality. At the same time there has been a tremendous loss of crops and houses throughout the districts in which reconcentration has taken place. The hemp losses chargeable to reconcentration in Albay are estimated by Mr. Taft at from 10,000,000 to 12,000,000 pesos, or $5,000,000 to $6,000,000 United States (Report, 1904, p. 52), an enormous loss when the limited character of native resources is considered.

Even this estimate is certainly too low, and would have to be largely increased if other commodities besides hemp should be considered. A vastly larger loss was unquestionably inflicted upon the province of Batangas, which has the appearance of being wholly ruined, owing to the destruction of cocoanut and other trees. The authorities speak of the treatment accorded to this province as a "severe lesson," and there is in the Philippines none of the familiar pretence that reconcentration operations can be carried on without hardship of the most terrible character.

Total losses of crops left without tendance in the reconcentrated districts, of houses burned by the careless or malicious soldiery, and general ruin to fixed capital, necessarily result in most serious suffering when the inmates of the camps are released and find themselves deprived even of the scanty support furnished them while in confinement. The natives had become so accustomed to the use of reconcentration by the Spaniards that they regarded it as a matter of course in time of war. They resent very bitterly, however, the pretence that civil government exists when such methods are employed; and this is the first complaint usually made by intelligent Filipinos, when questioned concerning reconcentration. They feel that Mr. McKinley's "rules" ordering that "no person shall be deprived of life, liberty, or property without due process of law, and that private property shall not be taken for public use without just compensation," have been violated.

SEVERE LEGISLATION.

The readiness of the Commission to make the whole population suffer for the acts of a small body of insurgents or ladrones is further shown in the operations under act No. 518 and its subsequent modifications. This act imposes the penalty of death, or at least twenty years' imprisonment, for membership in a ladrone band, providing that "to prove the crime * * * it shall not be necessary to adduce evidence that any member of the band has in fact committed robbery or theft." A further provision (sec. 4) specifies that "Every person knowingly aiding or abetting such a band of brigands * * * by giving them information * * * or by securing supplies of food, clothing, arms, or ammunition * * * shall * * * be punished by imprisonment for not less than ten years." This legislation has been carried further by act No. 1121, which enlarges the number of commodities, theft of which constitutes "highway robbery," and gives

a broader scope to the kinds of assistance that may be rendered to such a band. It is not now safe to give even the traditional cup of cold water to a suspected ladrone. The object of this whole series of acts, like the use of the reconcentration policy, has been to bring into subjection an unsympathetic population, and to render peaceful people responsible for the acts of a less submissive element. It is the testimony of capable American lawyers in Manila that under existing law it is entirely possible to convict any human being in the archipelago of "bandolerismo" (the local name for membership in or assistance to organized bands of insurrectionists), without regard to guilt. That such conviction can be secured is, in fact, the open boast of some constabulary officials. Filipinos believe that these statutes are inharmonious with the "great principles of government * * * which we deem essential to the rule of law and the maintenance of individual freedom."

How effective this legislation has been may be seen from the situation in the Bilibid prison. From September 1, 1902, to September 1, 1903, there was a growth of nearly 100 per cent in the population of this institution, the number confined on the latter date being 3,184. On a recent date (May 23, 1904) this number had risen to 4,420, a growth in less than nine months of 1,236 persons, or about 40 per cent. The net inward movement was then estimated by the authorities at 8 to 10 persons per day, which would mean a gross annual increase of 2,800 to 3,500. The total number of persons confined August 31, 1903, on charges of "aiding insurrection, brigandage, conspiracy, highway robbery, illegal custody of arms, rebellion, sedition, violation of oath of allegiance, violation of laws of war, violation of articles of war, and treason," was 1,093. These offenses do not include such crimes as murder, homicide, or theft, but represent the number of men confined for what we consider strictly political offenses. In other words, about one-third of all these prisoners were confined because of their connection with revolutionary movements. Supposing that the rate of increase in this class of prisoners had been the same as the ratio of growth in the total prison population, and eliminating 414 petty police-court offenders, it appears that fully 40 per cent of all long-time convicts now in Bilibid are confined for such political offenses. On a recent date the number of men confined in Bilibid who had been sentenced and were awaiting capital punishment was 100.

STATE OF THE JUDICIARY.

In bringing about these convictions, and in harshly enforcing the harsh legislation already referred to, responsibility must be divided between the judiciary and the constabulary. The judges have for the most part been under the thumb of the Commission, or incompetent and disposed to convict without sufficient evidence.

The defective character of the judiciary of the islands has been fully recognized by authoritative writers. Mr. Colquhoun, the English author of a recent book, Greater America, speaks of it (p. 343) as a well-known fact, and other foreigners fully agree with him. We, in fact, took to the islands a body of judges for the lower courts, many of whom knew little American, and no Spanish, law; who were ignorant of the Spanish language, and who had never heard the native dialects. The evil features of the present situation seem to be as follows:

(1) The judiciary act (No. 136) contains no provision for the length of tenure of judges in courts of first instance, and no process by which they may be publicly impeached and removed from office. They hold their places subject to the will of the Commission.

(2) Few of them speak and understand Spanish, and they are consequently able to follow the testimony in the courts only with great difficulty. This is a notorious fact.

(3) A system of venal or incompetent interpreters has been developed, through whose errors or corruption many innocent men are brought into jeopardy. Numerous cases of the sort can be cited.

(4) The Commission has assumed the privilege in some cases of suggesting to the judge in advance the direction to be taken by his verdict. Cases of this kind are vouched for by two high officers of the Philippine government, by one ex-judge, by prominent lawyers in Manila, and by intelligent natives.

(5) No legislation or precedent exists whereby judges are distributed according to a known system, so that it is customary to bring a judge of well known ultra administration sympathies to try a case where a certain kind of verdict is wanted. Some judges have been permanently transferred to another district as a kind of penalty for anti-administration verdicts. Some have been asked to resign; others have been ostracized, and thereby forced to resign and leave the islands. A review of the names of the judges appointed during the last three years and their later history fully illustrates this statement. It should be added that in revising the Spanish substantive law we have eliminated most of its characteristic features and have left it a medley of heterogeneous provisions drawn from American State systems, and roughly put together for a bench most of whose members knew no Spanish law. In Americanizing the law of the islands we have, however, omitted the principles of trial by jury, and other protections to individual rights. The present confusion is keenly felt by the best Spanish and Filipino lawyers and by the most informed of our judges. No more drastic criticism on the work of our legal revisionists could be penned than the "Notes to the Spanish Civil Code," lately published by Judge Willard, formerly of the Philippine bench. The bad judicial and legal situation was fully presented to Mr. Taft before he left the islands by eminent members of the Manila bar, but he failed to take action, suggesting political motives for the criticisms.

CONSTABULARY SITUATION.

In close connection with the status of the judiciary should be considered some of the recent developments in the organization of the native constabulary. In organizing this force (act No. 175) it was provided that its members should be drawn from the province where stationed, thus giving it the character of local police. This policy is highly praised by Governor Wright in his most recent report as secretary of commerce and police. The plan has, however, been entirely vitiated by the act of Congress passed January 30, 1903, whereby the use of the Philippine Scouts, under command of the chief of constabulary, was ordered. These scouts are chiefly Macabebes and Ilocanos, and they have uniformly been stationed in provinces toward which they feel strong racial antipathy. Moreover, the rule that the constabulary should be recruited in the provinces where they were to serve seems to have been frequently violated. As time has gone on, too, the constabulary has approximated much more closely to the military type, and has lost its original character as a police force. Its members have ceased to live among the people or in their own homes, have been gathered into barracks, placed upon a basis of military pay and rations, and are now substantially a military force like the scouts. They are described as "peace officers," but are authorized to arrest men "without warrant." Constabulary officers are of two classes—old soldiers elevated from the ranks of the regulars, and young, inexperienced men brought from the United States. Under the first class of officers serious abuses and hardships have been inflicted upon the population. Under the second class evils of disorganization and laxity have become prevalent.

At various points the constabulary or scouts have inflicted torture, as in Cavite; done violence to women, as in Isabela Province, and committed cold-blooded murder, as also in Isabela; arrested men without warrant and instituted unreasonable searches and seizures, as in Cavite; have stolen personal property, or taken it without payment, as in Masbate and elsewhere, or have grossly violated public order, as in Cebu. The foregoing provinces are mentioned because the abuses in each and every case there referred to can be established by the testimony of reliable eyewitnesses. Trustworthy Philippine lawyers affirm that there are hundreds of men all over the islands who are confined by the constables without any warrant of law. It is certain that the irritation aroused among the people by constabulary outrages is nearly universal. In fact, the uniform reply to questions concerning the constabulary situation is that the force is "as bad as the Guardia Civil" of Spanish time—a verdict than which none more severe could be imagined. It deserves to be added that the hardships inflicted by the constabulary have not been directed against the ladrones, but against the peaceful inhabitants. Ladronism still continues in different regions, apparently in some cases through the connivance of the constabulary. The constables have been vastly more active in campaigning against insurrectos than against those ladrones whose only motive was robbery. In the former case, they have, when able to surround a small band, often butchered them without quarter, as in the case of the force of Gen. San Miguel, which was literally cut to pieces toward the end of 1903. General Allen, chief of the constabulary, states, in conversation, that the records of his bureau are "filled with complaints against the force," but he never finds that the charges have any foundation. This is attributable to the fact that constabulary abuses are always investigated and reported upon by constabulary officers, usually belonging to the very locality where the abuses complained of have been committed. It is only by outside investigators that the facts can be established. This makes it the more to be regretted that the Commission has almost uniformly refused to investigate charges of this sort directly.

CONTROL OF PUBLIC OPINION.

The great difficulty encountered in correcting abuses prevalent in the Philippines to-day probably lies in the absence of any freedom of speech or of the press. Act No. 292, known as the "sedition act," provides that "if two or more persons conspire to overthrow, put down, or destroy by force the Government of the United States in the Philippine Islands * * * such persons shall be punished by a fine of not more than $5,000 and by imprisonment, with or without hard labor, for a period not more than six years." Under this act, and by the use of the constabulary spies, it has become unsafe for private persons to attend social gatherings, or express political opinions in their own homes. Expressions by letter are equally dangerous, owing to the searching of the mail—a process which, it is thought by Señor del Pan, of the Manila bar, in his argument on the recent Lukban case, has been carried vastly further, and has been more arbitrarily used, than under the Spanish administration. While prosecutions under the sedition act are chiefly directed against natives, restraint of the Americans is mainly carried under Act No. 227, known as the "criminal-libel act." This law defines a libel as a "malicious defamation," and specifies that the truth of the libel shall not constitute a defense unless it shall be shown that publication was made "with good motives and for justifiable ends," a point not easily to be established before Philippine courts. The provisions of this act, taken in connection with those of the sedition act, are such as to make it practically impossible to express an opinion adverse to the administration or any member of it without becoming liable to prosecution.

In cases where a critic is too influential, or where his critisms and charges are too carefully phrased to admit of prosecuting him, a process of ostracism takes place which is usually very effective, as Manila society consists chiefly of officeholders who take their bias directly from those in authority. An American bishop stationed in Manila expresses in conversation the opinion that the "impatience of criticism shown by the Commission" is one of the most disastrous features of the present Philippine situation. The hostility of the higher authorities, he asserts, is visited upon preachers who venture to criticise a member of the Commission or any of its policies. In the recently concluded "O'Brien libel case" the two defendants, who conducted a newspaper in Manila, were sent to prison on the ground that they had published a report of some court proceedings containing statements unfavorable to the defendant, who happened to be a member of the Commission. It was admitted that the report was correct; but the technical point was made that the headlines did not accurately describe the substance of the article.

In recent decisions handed down by courts of first instance in Manila, heavy penalties, including both fine and imprisonment, have been awarded not only to the author and producer, but even to the actors in the play, "Hindi Aco Patay," a dramatic production of an allegorical character, in which Philippine independence was hinted at.

A process of buying the good will of publications through the award of Government advertising and other favors has been used to supplement the methods of intimidation already suggested. The expression of opinion through the agency of political parties has also been placed under severe restriction. The Nationalist party, which attained a considerable degree of strength about two years ago, was destroyed by prosecutions directed against important men in the organization. Under purely technical attacks upon the form of its constitution, a workingmen's union was recently driven out of existence because of the belief that its purpose "was primarily political." These statements are vouched for by the prosecuting officers of our Government in Manila, who freely admit the ulterior purpose of the prosecutions in question. During the past summer efforts were made to recast the platform of the Federal party in such wise as to demand independence. The revised draft was shown to members of the Commission as a precaution, and these gentlemen requested its suppression on the ground that "it would embarrass Mr. Taft just at this time." The platform never appeared in print.

Do these conditions agree with President McKinley's "rule" that "no law shall be passed abridging the freedom of speech or of the press, or of the rights of the people peaceably * * * to petition the Government for a redress of grievances?"

COST OF ADMINISTRATION.

The system of government just described has not even the merit of economy. It is by far the most expensive government the island has ever known. The Schurman Commission (Report, vol. 1, p. 80) gave

the annual receipts of the Spanish Government in 1894–95 as $13,579,900 Mexican, of which sum about $9,000,000 was derived from internal taxes. The new internal-revenue law of the Philippines just passed is estimated to produce from $10,000,000 to $11,000,000, and is apologized for by its authors as "no worse than the Spanish." The Schurman Commission quotes (page 79) expenditures of the Spanish Government in 1894–95 as $13,280,139, of which sum $4,045,061 was for war and $2,450,176 for navy, the balance—some $6,700,000—being civil outlay. As against this sum it may be noted that our outlay for the year 1903 on strictly civil expenses was about $22,000,000 Mexican currency. To this should also be added probably $2,000,000 for the cost of provincial administration and a somewhat greater sum deducted for permanent improvements. Conversely, there should be large reductions in the "civil outlay" noted above for the Spanish Government, as that figure includes the cost of carrying on the church, some diplomatic expenses, and other items. Without going into these changes in the accounts in detail, it may be stated that the cost of our civil administration is from three to five times as heavy as that of the Spaniards—yet the Schurman Commission complained of Spanish administration on the ground of "costliness."

Nor can the indictment of the expense incident to Philippine administration stop with local conditions in the islands. The Philippines are tremendously expensive to the United States. According to Gen. George W. Davis (Report Div. of Phil., 1903, p. 50), the annual cost of the army and navy in the Philippines in actual cash is at least $21,000,000 gold. This estimate was based upon a force (scouts and Americans) of about 23,000 men. As the present force is probably 3,000 men smaller, a reduction of corresponding amount must be made. This, however, is far more than offset by the cost of the Philippine mail service, which falls largely on the United States; of the army transports, both trans-Pacific and interisland; by the facts that tropical service counts double time toward retirement for enlisted men; that claims for pensions are more numerous as a result of such service; that many army officers are now serving in the Philippine government at the cost of the United States; and that, in a variety of ways, the islands are a continuous draft on our Trasury. Conservative estimators place the present annual money cost of the Philippines to the United States at not less than $25,000,000.

Nor does the money laid out for civil expenses "go largely to Filipinos," as so often claimed. A review of the personnel of the government during the past three years shows that the number of Americans holding civil offices in 1903 was 3,458, as against 2,777 in 1902, and 2,044 in 1901, while the number of Filipinos for these three years was 3,318, 2,697, and 2,562, respectively. In other words, there were employed in 1901 25 per cent more natives than American, while in 1902 the natives were about 3 per cent less numerous than the Americans and 4 per cent less numerous in 1903. In the latter year the 3,318 Filipino employees drew aggregate salaries of $1,497,610, while the 3,458 Americans drew $4,284,482.

GENERAL SUMMARY.

As General Davis mildly states the situation (Report, 1903, p. 31): "Americans in the Philippines have not so far been an unmixed blessing to the native inhabitants." We have, in fact, destroyed the public buildings of the country, inflicted continuous crop losses, during a period of six years; ravaged and burned large sections of territory; produced conditions leading to the death of most of the farm animals and to serious human and animal epidemics; brought foreign trade to an unprofitable condition by our tariff legislation; inaugurated a tremendously expensive government for the benefit of foreign officeholders; established a partisan judiciary; crowded the prisons, and deported or sent to the gallows the best and most patriotic of the native leaders.

Mr. FORAKER obtained the floor.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. I yield to the Senator to offer an amendment only, as the Senator said he desired to offer an amendment.

Mr. BAILEY. I desire to preface that amendment with this statement: Earlier in the session I intimated a doubt as to the power of the United States to exempt the bonds and other evidences of indebtedness issued by the municipalities in the Philippine Islands. The more I think of that the more I am persuaded that they are not in any proper sense the agencies of the Federal Government; and for that reason I move to strike out the first section of the bill.

The PRESIDENT pro tempore. Will the Senator, please, at his leisure send the proposed amendment to the desk, so that it may be ready for action?

Mr. BAILEY. Certainly.

Mr. FORAKER. Mr. President, at this late hour——

Mr. STONE. Will the Senator yield to me?

Mr. FORAKER. I hope I shall not be asked to yield.

Mr. STONE. Only that I may offer an amendment.

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

Mr. STONE. Let it be read, Mr. President.

The PRESIDENT pro tempore. The Senator from Missouri asks that his amendment be read.

Mr. FORAKER. I yielded to the Senator for a moment to offer his amendment, but it can be offered after 3 o'clock and read then, if the Senator is not particular. It can be offered at any time before the final vote is taken; but I will yield, as it seems to be a short amendment.

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

The SECRETARY. In section 1, page 2, line 8, after the name "Porto Rico," it is proposed to insert the following:

*Provided*, That nothing in this act shall be so construed as to make or hold the Government of the United States in any manner liable to pay any bonds that may be issued by the government of the Philippine Islands or any municipal or other subdivision thereof under the provisions of this act.

The PRESIDENT pro tempore. The amendment will lie on the table.

Mr. FORAKER. Mr. President, inasmuch as there is a very short time remaining until we have to vote and other Senators are anxious to make some remarks, I shall be very brief in what I have to say. I rise only that I may put into the RECORD the statement that this is the fourth time an amendment of this character has been offered. I stated only a few days ago that the RECORD shows that an amendment of this character—I mean the amendment I offered, and about which the Senator from Tennessee [Mr. CARMACK] has been talking—was offered on the 24th of February, 1902. That was an amendment offered to a revenue measure originating in the House of Representatives and sent here by that House. It was, therefore, within the contention of the Senator, as he has made his contention here to-day, and yet, as I remember it, the Senator was opposed to that amendment at that time.

Mr. CARMACK. What amendment was that?

Mr. FORAKER. It was an amendment I offered reducing the rates to 25 per cent of the Dingley law on dutiable goods imported into this country from the Philippine Archipelago.

Mr. CARMACK. When?

Mr. FORAKER. I offered that amendment on the 24th day of February, 1902.

Mr. CARMACK. My recollection is that I was in favor of it.

Mr. FORAKER. No. My recollection is that the Senator made a very strong speech in opposition. I think he said something about my amendment being in the nature of a gold brick—I have forgotten just what his expression was.

Mr. CARMACK. No. After the Senator's amendment had been changed to a reduction of only 25 per cent, instead of as he first proposed it—75 per cent, I opposed it. I should have supported it if the amendment had remained as he had offered it.

Mr. FORAKER. I offered the amendment providing for a reduction of the duties to 25 per cent of the Dingley rates—a reduction of 75 per cent. Afterwards, failing to get any encouragement that that could be passed, I made it a reduction of 50 per cent, and still the Senator was opposed to it. I never heard of his willingness to support it when it was reduced to 25 per cent of the Dingley rates. But I am only calling attention to the fact that he was in opposition to the amendment at that ime.

Mr. CARMACK. If the Senator will permit me, at the session before the last, when this matter was up, I very earnestly supported the proposed reduction to 50 per cent, although I preferred a reduction to 25 per cent.

Mr. FORAKER. I am coming to the record now. On the 14th day of February, 1903, I offered a similar amendment, and again the Senator was in opposition. That was an amendment offered to a bill originating in the House of Representatives to raise revenue, or affecting the revenues of the Philippine Islands. Then, on the 3d day of March, 1903, this question was here again, and it was my recollection, until the Senator just now corrected me, that he was then again in opposition to it.

Mr. CARMACK. No, sir.

Mr. FORAKER. I remember that the two Senators from Colorado spoke very energetically in opposition to that amendment.

Mr. CARMACK. I spoke in favor of it.

Mr. FORAKER. Then I am glad to be corrected and I am glad to know that the Senator will, when we get another measure here from the other House, be willing to support an amendment of this general character.

Mr. CARMACK. If the Senator will permit me a moment, I do not say that I will vote for any measure that may be brought here proposing a reduction in the Philippine tariff. It must be a real and substantial reduction. As to the measure of which the Senator was speaking, I remember saying at the time that I would vote for it with a great deal of contempt, because I did not believe that amendment would give a substantial reduction of the Philippine tariff duties or that it would do the people of the Philippines any good. I will vote for such a reduction as the Senator is proposing in his amendment to this bill.

Mr. FORAKER. The amendment I presented at the time to which the Senator refers, which he spoke in favor of, and to which he now refers, proposed a reduction to 25 per cent—a reduction of 75 per cent.

Mr. CARMACK. That was changed to 50 per cent.

Mr. FORAKER. It was afterwards changed to 50 per cent, as the Senator says, but I did not understand the Senator to

object at that time on the ground that it reduced duties only 50 per cent.

The amendment I am offering at this time, and which I say I want to offer again, ought to satisfy the Senator, if anything short of absolute free trade will satisfy him, because it puts all articles coming into this country from the Philippine Archipelago on the free list, excepting only sugar and tobacco; and it reduces the duty on sugar and tobacco to 25 per cent of the Dingley rates.

Mr. CARMACK. I will vote for that.

Mr. FORAKER. I am glad to hear that. The Senator will be given a chance the first time an appropriate bill comes along.

Mr. BERRY. I will say to the Senator from Ohio that the Senator from Alabama [Mr. PETTUS] has offered such an amendment to this bill.

Mr. FORAKER. The Senator from Tennessee [Mr. CARMACK] read from the Chicago Inter-Ocean, a very ably conducted Republican paper. I have in my hands one of the most ably conducted Democratic papers in this country, and, in view of the Senator's speech, I think I ought to have read from the desk the leading editorial published in that paper on December 14, last Wednesday, two days ago.

Mr. PLATT of Connecticut. To what paper does the Senator refer?

Mr. FORAKER. The Cincinnati Enquirer, one of the most influential Democratic papers in the country. I do not know of any Democratic paper that has a larger circulation, or one that has more influence on the politics of our part of the country at least. I ask the Secretary to read the editorial.

Mr. STEWART. Can it not be inserted in the RECORD without reading?

Mr. FORAKER. No; I want it read. It will only take a moment.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

NO MORE FOR THE ENQUIRER.

Mr. PLATT of Connecticut. Does not the Senator think that under the system we are now pursuing, within the next ten or twenty years the Philippine Islands will be just as independent as they would be under a protectorate?

Mr. NEWLANDS. No, I do not think they will be. I was saying that the positions of these two leaders were approximately the same, and I stated the views of Mr. Bryan. Mr. Roosevelt's recent message contains his view, which I assume will be the view of the Republican party.

Mr. FORAKER. Will the Senator from Nevada allow me to interrupt him for a question?

The PRESIDING OFFICER (Mr. BLACKBURN in the chair). Does the Senator from Nevada yield to the Senator from Ohio?

Mr. NEWLANDS. Certainly.

Mr. FORAKER. I should like to know why the Senator, in stating the positions of the two men as the positions of their respective parties, ignores the views of Judge Parker on this subject?

Mr. NEWLANDS. I do not ignore them.

Mr. FORAKER. The Senator has not stated them.

Mr. NEWLANDS. I do not ignore the views of any Democrat in the country, but I refer to Mr. Bryan to-day and during the last eight years as the acknowledged leader of the Democratic party, and I refer to Mr. Roosevelt as the leader to-day of the Republican party. (CONGRESSIONAL RECORD, December 12.)

It is, of course, not possible to say how many people in this country the distinguished Senator from Nevada represents in his sweeping assertion of leadership; but there is certainly one journal which can not be delivered to such a following. Under such leadership as Mr. NEWLANDS declares to be existent to-day, or under conditions which it helped to create this year, the Democratic party has gone to disaster in three Presidential elections, and the wreckage has been more complete and awful in each successive year.

There is no dispute of the right of Mr. Bryan and those politically associated with him to persist in their doctrines. There need be no disparagement of their eminent ability and sincerity. There is no occasion for regret or apology for a course that once seemed to be the right one. But why should there be an obstinate standing out against three popular verdicts—the last one almost the strongest in the history of our Union? Why undertake, while the streams on the last battlefield are still red, to nominate for leadership again the generals who have thrice led their soldiers to humiliating defeat?

The time has come for a general showing of hands. The Enquirer is ready with its pronouncement. It will not, under any circumstances, fall in with a leadership that has been three times rebuked by the people, but has still insisted on governing the party councils. It will not yield obedience to men who have just been enormously repudiated by their own party. It will not be coaxed, wheedled, or dragooned into a suicidal course by suggestions of party fidelity. It is for America, and for the American people. It bows to their will as to what is necessary for the splendid advancement and development of the country. It is for prosperity and not for calamity for the sake of triumph. It is in the proud company of Democrats, numbering in the millions, who refused at the last election to be delivered. It touches elbows on either side with legions who did not find in Bryan or Parker the exemplification of true Democratic faith.

Good luck to Mr. Bryan and his friends in their personal affairs. No recriminations and no hard feelings. But no more Bryan leadership, no more dilution of Democracy with Populism, repudiation, and heresy; no more restraint on the flight of the American eagle, and no more tugging at the holding-back strap for yours truly, The Cincinnati Enquirer.

Mr. STEWART. Mr. President, I do not think Senators fully appreciate the importance of railroads to the accomplishment of what we propose to do in the Philippine Islands—to civilize and build up. Before the advent of railroads civilization was substantially limited to water courses. The people had to be near water transportation, and the interior was hardly penetrated. Now we are making appropriations to send teachers and other civilizing influences into the Philippines. If we do not have railroad communication, the people of the Philippine Islands will be in the same position that they have been under the Spaniards for the last three hundred years. The contact of the Spaniards with those people was confined to the harbors and the water courses where navigation could be had. The interior of the islands, small as they were, remained as it had been—outside the influence of civilization.

In our own country, previous to the building of railroads, development was confined to the Mississippi and the Lakes and the lands near by which could be easily reached. So it has been in all countries. But the advent of railroads has sent water courses, so to speak, or their equivalent, into the interior. If you send teachers into the Philippine Islands without railroads, they will have to stay at the ports. You can not protect them in the interior. If you have railroads, at every depot you will have a trading station where people will be protected and where the natives can see the power of civilization, where they can come in contact with civilizing influences. Barbarism is not driven out of any country by power, except the power of association. The natives must see what civilization is. You can not take it into the interior without railroads.

The invention of railroads has revolutionized the means of civilizing the interiors of all countries, and to say that you can raise up the Filipinos and you remain at the seaports, the interior not occupied by you, not occupied by your school-teachers and your churches, and all that, which they would have at every depot if they had railroads, is out of the question. It never has been done, and it can not be done in the case of the Philippines.

In case of war railroads furnish the cheapest method of conducting war. In fact, they dispense with the necessity of war. The railroads are the peacemakers of the world, particularly in barbarous countries. There will be no uprising where railroads go. The armies can follow too quickly. The people soon understand that. We will wage no war of oppression, but we will carry on war there if the people rebel. But the best way is to take away from them the inclination to rebel.

If you build railroads there they will know that rebellion will be futile, and they will not attempt it; and besides, they will soon see the blessings of civilization. They will have a market. They will make money. They will be employed. Our teachers and schools and churches will be there, and the influence of civilization will be over them, and you will build them up.

To talk about civilizing the Filipinos without railroads is idle. It never has been done in any country in the world. It never will be done. Railroads will be the instrumentality of civilization from this time on. They make the interior as accessible to civilization as the ports on the ocean, equalizing conditions, multiplying the means of subsistence and the homes of mankind.

It is said we should wait. I say we have not gone fast enough. The railroads should be the pioneers when the object is to civilize. When our object is to bring people in contact with civilized institutions, the railroads should take them there. You have not gone fast enough. If we had commenced to build railroads in the Philippines when we first got the islands the people would have been far on the road to being able to maintain government. If you want to prepare them for independence, if you want to prepare them for self-government—as all parties now declare they do—if that is the object, do it quickly, and the only way to do it quickly or to do it at all is to give them railroads.

Mr. NEWLANDS. Mr. President, I regard the amendment to section 4 which has been proposed by the Senator from Wisconsin [Mr. SPOONER] as much more satisfactory than the present section. But as it has not been printed and I have not been able to examine it critically, I can not yet say whether I will support it by my vote. Judging from the reading that was given of this section at the desk, I think that it does not cover the question of taxation, which I regard as one of the highest importance—namely, that a fixed and certain rule shall be established now for the taxation of these railway systems. I think this is fully covered by the amendment which I have offered, which proposes to tax the gross receipts of these railroads 1 per cent per annum for five years, during the period of infancy, and gradually to increase this tax at the rate of one-quarter of 1 per cent per annum until a maximum of 5 per cent on the gross receipts shall be attained, that tax to be imposed in lieu of all other taxes either upon the railroad or upon its stocks or bonds.

And here let me say that I differ with my friend the Senator

from Texas and my friend the Senator from Maryland regarding the matter of exemption from taxation of these bonds in the United States. I believe when we tax a railroad we should tax but one value and we should tax it entirely to the railroad corporation, and that after we have taxed the whole in the hands of the railroad corporation we should not tax or permit to be taxed the parts in the hands of bondholders and of stockholders; that that is double taxation.

Mr. BAILEY. The Senator from Nevada overlooks the fact that there is no exemption of railroad bonds, and therefore what he says has no reference.

Mr. NEWLANDS. Very well. I will also apply it to these municipal bonds to which he refers. What I have said will apply to section 4 as I have proposed to amend it. But I will also speak of municipal bonds, to which he refers. We will assume that these municipal and Philippine government bonds are negotiated in this country and the money which is now in this country and subject to taxation is transported to the Philippine Islands and there put into public works. The value represented by that money is in the works and not in the bonds. The bonds are simply the representatives of the money that has gone into those works. Those works are in the Philipine Islands and not in the United States. There is the place of jurisdiction for taxation. If it is public property, of course it is not taxable. If it is private property, the property there is taxable and the stock or bonds representing the investment there, in my judgment, ought not to be taxable any more than a title deed of property in the Philippine Islands should be taxable in this country.

Mr. BAILEY. Mr. President——

Mr. NEWLANDS. I have only a few moments.

Mr. BAILEY. I dislike to see the Senator from Nevada make a mistake like that. A title deed has no value, but a bond has.

Mr. NEWLANDS. The property has value, but the bond only has value and the stock only has value because the property which they represent has value, and that property is in the Philippine Islands, absolutely free from the jurisdiction of this country or from its protection.

Now, I insist upon it that we have a confused and complicated system of taxation in this country, arising out of this fact. In this country we have a system of taxing the railroads in the hands of corporations, assessing the whole property, and then taxing the stocks and bonds—the parts in the hands of the owners—and the result is that the holders of stocks and bonds do not return their property for taxation. The exceptionally honest ones may, but they are few. If you look over the tax returns of this country you will find vast aggregations of stocks and bonds nominally under the law subject to taxation, but not upon the tax rolls.

Suppose they were upon the tax rolls. What would happen then? The bonds of a railroad enterprise are negotiated at about 3 or 4 per cent. If the bonds themselves are subject to taxation under the laws of the various States, the average tax is at least 2 per cent. The result is that the return to the owner of the bond is halved by the tax. And I ask you, how can you inaugurate or maintain any system of bonds upon great public enterprises, which confessedly you wish to negotiate at a low rate of interest, if you allow them to be taxed, and allow a tax to be imposed equivalent to one-half the rate of interest called for by the bonds? So, as a matter of public policy, I say it is unwise, and as a matter of justice it is unjust, to tax the parts as well as the whole, and if these railroads are in the Philippine Islands they should be taxed there and not in the United States, and they ought not to be taxed here through the medium of stocks and bonds, which are simply representative of values and property there.

The PRESIDENT pro tempore. The hour of 3 o'clock has arrived. The bill is in the Senate as in Committee of the Whole and open to amendment. The Chair thinks it will expedite business if Senators will offer the amendments which they have heretofore sent to the table.

Mr. BAILEY. Mr. President, I do not comply with the request of the Chair to send to the desk a written amendment which I offered, because I understand the Senator from Maryland, while I was called from the Chamber for a moment, offered the same amendment, to strike out the first section.

Mr. GORMAN. It is pending, and is at the desk. I offered it this morning. It has not been printed. It is to strike out all after the enacting clause to the end of the section.

The PRESIDENT pro tempore. The Senator from Maryland offers an amendment, which will be stated.

The SECRETARY. On page 1 strike out all after the word "*assembled*," in line 2, to the end of section 1, including the amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Maryland.

Mr. GORMAN. On that I ask for the yeas and nays.

Mr. BACON. Has the amendment offered by the Senator from Ohio to this section been acted upon?

Mr. FORAKER. I think the Senator in charge of the bill accepted the amendment, there being no objection.

Mr. BACON. It is already in? That is all I want to ask about.

Mr. LODGE. The amendment of the Senator from Ohio was agreed to. The motion of the Senator from Maryland is to strike out the whole section as amended. I hope it will fail.

Mr. PLATT of Connecticut. I wish to make an inquiry. The amendment relating to Porto Rico has been accepted. When the bill comes into the Senate, that amendment may be reserved and voted upon separately in the Senate?

The PRESIDENT pro tempore. It may be. The question is on agreeing to the amendment offered by the Senator from Maryland.

Mr. GORMAN. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CULLOM. There is so much confusion that I have been unable to learn what the pending amendment is.

The PRESIDENT pro tempore. The amendment will again be stated.

The SECRETARY. Strike out all after the enacting clause to the end of section 1.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DANIEL (when his name was called). I am paired with the Senator from North Dakota [Mr. HANSBROUGH]. If he were present, I should vote "yea."

Mr. FOSTER of Washington (when his name was called). I have a general pair with the Senator from Mississippi [Mr. MCLAURIN]. The Senator from New York [Mr. DEPEW] has a pair with the Senator from Louisiana [Mr. MCENERY]. I transfer my pair to the Senator from New York, which will enable the Senator from Louisiana and me to vote. I vote "nay."

Mr. PLATT of Connecticut (when Mr. HAWLEY's name was called). My colleague is paired with the Senator from Alabama [Mr. MORGAN]. If my colleague were present, he would vote "nay."

Mr. HOPKINS (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. LATIMER]. As he is not present, I refrain from voting.

Mr. KEARNS (when his name was called). I have a general pair with the Senator from Montana [Mr. GIBSON]. As he is not present, I withhold my vote.

Mr. KITTREDGE (when his name was called). I have a general pair with the junior Senator from Colorado [Mr. PATTERSON]. I transfer the pair to the senior Senator from Pennsylvania [Mr. PENROSE], and will vote. I vote "nay."

The roll call was concluded.

Mr. DIETRICH. I wish to announce that my colleague [Mr. MILLARD] is paired with the Senator from Arkansas [Mr. CLARKE] upon all questions.

Mr. MONEY. I desire to announce that my colleague [Mr. MCLAURIN] is paired generally with the Senator from Washington [Mr. FOSTER], but in this case there has been a transfer, so that he stands paired with the Senator from New York [Mr. DEPEW].

Mr. GORMAN. I wish to announce the pair of the senior Senator from Colorado [Mr. TELLER] with the Senator from Maine [Mr. HALE].

The result was announced—yeas 23, nays 48; as follows:

YEAS—23.

| | | | |
|---|---|---|---|
| Bacon | Clay | McCreary | Pettus |
| Bailey | Cockrell | McEnery | Simmons |
| Bate | Culberson | Mallory | Stone |
| Berry | Dubois | Martin | Taliaferro |
| Blackburn | Foster, La. | Money | Tillman |
| Carmack | Gorman | Overman | |

NAYS—48.

| | | | |
|---|---|---|---|
| Aldrich | Crane | Fulton | Nelson |
| Alger | Cullom | Gallinger | Newlands |
| Allee | Dick | Gamble | Platt, Conn. |
| Allison | Dietrich | Heyburn | Platt, N. Y. |
| Ankeny | Dillingham | Kean | Proctor |
| Ball | Dolliver | Kittredge | Quarles |
| Bard | Dryden | Knox | Scott |
| Beveridge | Elkins | Lodge | Smoot |
| Burnham | Fairbanks | Long | Spooner |
| Burrows | Foraker | McComas | Stewart |
| Clapp | Foster, Wash. | McCumber | Warren |
| Clark, Wyo. | Frye | Mitchell | Wetmore |

NOT VOTING—19.

| | | | |
|---|---|---|---|
| Burton | Gibson | Kearns | Patterson |
| Clark, Mont. | Hale | Latimer | Penrose |
| Clarke, Ark. | Hansbrough | McLaurin | Perkins |
| Daniel | Hawley | Millard | Teller |
| Depew | Hopkins | Morgan | |

So Mr. GORMAN's amendment was rejected.

Mr. McCUMBER. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The Senator from North Dakota offers an amendment, which will be stated.

The SECRETARY. It is proposed to strike out all of section 4 of the bill.

Mr. McCUMBER. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SPOONER. I wish to move a substitute for the pending motion to strike out section 4 and substitute another section for it.

Mr. McCUMBER. It seems to me we have a right to vote on this first, and then if the Senator desires to introduce a new section 4 I see no objection to his doing so.

Mr. SPOONER. It is a parliamentary question of order. I do not know myself——

The PRESIDENT pro tempore. The Chair did not understand the Senator.

Mr. SPOONER. I wish to move to strike out section 4 and insert.

The PRESIDENT pro tempore. That has precedence of the motion to strike out.

Mr. SPOONER. I move——

Mr. LODGE. If I may, I suggest to the Senator from Wisconsin that the printed copies of the amendment which he has offered is on the way from the Printing Office and will be here in two or three minutes, and if we can pass this over and deal with some other amendment Senators will shortly have the printed amendment before them.

Mr. SPOONER. You will not only have to pass it over, but the amendment of the Senator from North Dakota as well.

Mr. LODGE. I hope the Senator from North Dakota will not press his amendment. It is very desirable that Senators should have a copy of the amendment of the Senator from Wisconsin before them when they vote. If the amendment is pressed, the Senator from Wisconsin must go on and offer his substitute now.

Mr. BAILEY. If the printed copies of the amendment are on the way from the Printing Office, probably there are some other amendments pending to this section, which would take precedence of the motion of the Senator from North Dakota, that could be considered.

Mr. SPOONER. I wish to move to strike out section 2.

Mr. BAILEY. There are some motions——

The PRESIDENT pro tempore. Does the Senator from North Dakota withdraw his motion?

Mr. McCUMBER. For what purpose?

The PRESIDENT pro tempore. For the purpose of awaiting the printed copies of the proposed amendment to be offered to it before the motion is made to strike out the section.

Mr. McCUMBER. It seems to me that that can be substituted afterwards, if the Senator from Wisconsin desires. This simply strikes out the section as it now appears. I should prefer to have a vote on it now.

Mr. SPOONER. I can not move to amend a section that has been stricken out.

Mr. McCUMBER. If that is true, I withhold my amendment.

Mr. BACON. I want to suggest, under the statement made by the Senator from Texas, that there are questions which take precedence of the motion of the Senator from Wisconsin that would consume the necessary time. In other words, as I understand, there are amendments to the existing section as it stands. The section as it stands will have to be perfected by action upon those amendments before the Senate can be called upon to pass on the question whether it will substitute the proposition of the Senator from Wisconsin therefor.

Mr. SPOONER. I do not controvert that proposition, but I was confronted by another, which I was obliged to antagonize by my motion.

Mr. BACON. I understand that, but if we can proceed to act upon the other amendments to the section, it will defer the other question.

Mr. BAILEY. Of course the motion to amend the section must take precedence of a motion to strike it out. Assuming, as might happen to be the case, though it is not the fact in this particular instance, that the proponent of the motion to amend would support the entire section if amended, the friends of that section would be entitled to that vote. It happens in this case that if the amendment which I have offered should be adopted I would still vote against the section, because I am opposed to the principle of the Government guaranteeing the bonds of a private corporation. But at the same time I am entitled to have my motion voted on, because the motion I have made seeks to make this section better than it stands in the bill.

I think the motion of the Senator from Wisconsin to amend, which nearly covered the points of my motion, and undoubtedly is a great improvement, as it appears to me, on the section as it stands, ought to be voted on before the motion to strike out, and I express that opinion notwithstanding I am going to vote with the Senator from North Dakota on the motion to strike out.

Mr. CULLOM. There are several amendments printed in the section.

The PRESIDENT pro tempore. They have been adopted.

Mr. BERRY. I think they have been adopted. In order to occupy the time until the printed amendment of the Senator from Wisconsin reaches the Senate, I will ask for a vote on the amendment which I proposed this morning, which adds certain words after the word "years."

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. There is not any parliamentary question about it. As a matter of course, it is in order to offer amendments to section 4, which is proposed to be stricken out.

Mr. MALLORY. Mr. President——

The PRESIDENT pro tempore. This comes very near a debate, which is not in order.

Mr. ALDRICH. I ask for the regular order, Mr. President.

Mr. FORAKER. The regular order.

Mr. McCUMBER. I ask that the amendment which I had read just now be held until the amendment proposed by the Senator from Wisconsin may be read.

Mr. FORAKER. And all amendments to the section.

Mr. McCUMBER. And any other amendments to that section.

The PRESIDENT pro tempore. The Senator from North Dakota asks unanimous consent to withdraw his amendment for the present. Is there objection? The Chair hears none. The Senator has a right to withdraw it.

Mr. ALLISON. The Senator also suggested that all amendments to the fourth section should be withdrawn for the present.

Mr. CULLOM. No.

Mr. ALLISON. Then I will ask unanimous consent that that may be done.

Mr. GORMAN. What amendments?

Mr. ALLISON. The amendments to the fourth section. If the amendment of the Senator from Wisconsin shall be adopted, undoubtedly the amendments suggested to the fourth section will also be offered as amendments to his substitute for the fourth section, and it seems to me we might postpone action on them.

Mr. BAILEY. That is the reason I wished to see the printed amendment. I wished to see it so that I could know where to offer my amendment to it if it should be adopted. I am perfectly willing to wait.

The PRESIDENT pro tempore. Is there objection to the withdrawal of these amendments for the present?

Mr. PLATT of Connecticut, and others. No.

The PRESIDENT pro tempore. The Chair hears none.

Mr. CULBERSON. A mere verbal amendment suggested yesterday by myself to section 4, page 4, line 3, after the word "may," to insert "hereafter," was accepted by the Senator from Massachusetts.

Mr. LODGE. That is included in the amendment about to be offered by the Senator from Wisconsin, which it is my intention to accept, so far as I can, for the committee.

Mr. CULBERSON. I suppose there will be no objection to the adoption of this amendment to the amendment.

Mr. LODGE. No; I have no objection to it, of course.

The PRESIDENT pro tempore. Will the Senate agree to the amendment on page 4, line 3, after the word "may" and before the word "specifically" to insert "hereafter?"

The amendment was agreed to.

Mr. DUBOIS. I offer the amendment which I previously sent to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In section 6, on page 5, line 17, after the word "be," insert the word "rigidly;" so as to read, "shall be rigidly administered;" and in line 19, after the word "government," insert the words "so far as such immigration laws relate to the importation of cooly labor."

Mr. DUBOIS. I ask that the section as proposed to be amended be read.

The Secretary read as follows:

SEC. 6. The immigration laws of the United States in force in the Philippine Islands shall be rigidly administered by the officers of the general government thereof designated by appropriate legislation of said government, so far as such immigration laws relate to the impor-

tation of Chinese coolie labor, and all moneys collected under said laws as duty or head tax on alien immigrants coming into said islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of said islands, to be used and expended for the government and benefit of said islands.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Idaho [Mr. DUBOIS].

The amendment was rejected.

Mr. SPOONER. I move to strike out all of section 3, after the figure "66," in line 8, and to insert in lieu thereof the amendment which I send to the desk.

The SECRETARY. On page 3, line 8, after the numeral "66," strike out the remainder of the paragraph and insert:

That for the purpose of providing funds to construct necessary sewer and drainage facilities, to secure a sufficient supply of water and necessary buildings for primary public schools in municipalities, the government of the Philippine Islands may, where current taxation is inadequate for the purpose, under such limitations, terms, and conditions as it may prescribe, authorize, by appropriate legislation, any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds in such amount and payable at such time as may be determined to be necessary by the government of said islands, with interest thereon not to exceed 5 per cent per annum: *Provided*, That the entire indebtedness of any municipality shall not exceed 5 per cent of the authorized valuation of the real estate in said municipality, and any obligation in excess of such limit shall be null and void: *Provided further*, That no such municipality shall exercise the power to issue such bonds without the prior approval of the President.

Mr. LODGE. I accept that amendment. I think it improves the section.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. SPOONER].

The amendment was agreed to.

Mr. SPOONER. I now move to strike out section 4 and to insert in lieu thereof what I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Strike out section 4 and insert——

Mr. GORMAN. Before the substitute is adopted I suppose it will require common consent that any amendment may be offered to it afterwards. Ordinarily it would not be in order in committee nor until the bill was reported to the Senate. I take it there will be no objection that if the substitute is adopted we shall have the right in the committee to offer amendments to it.

Mr. ALDRICH. That is all right.

Mr. BERRY. Unless it is stricken out entirely.

Mr. FORAKER. It will be open to amendment in the Senate.

Mr. BACON. In this connection I should like to have the matter understood as to whether we could also have a right when we get into the Senate to move to strike it out altogether.

Mr. LODGE. We have it here.

Mr. SPOONER. I suppose my motion is divisible.

Mr. BACON. It is my opinion that we have it, but I wanted that understood beforehand.

Mr. SPOONER. That question has not been raised.

Mr. LODGE. The Senator can move to strike it out after it has been inserted.

The PRESIDENT pro tempore. Not in Committee of the Whole, but it can be done in the Senate.

Mr. LODGE. He can do it in the Senate.

The PRESIDENT pro tempore. The whole bill is open to amendment in the Senate.

Mr. BERRY. I ask if the amendment is not divisible, and if we can not first take the vote on the motion to strike out entirely and then vote upon the question of substitution?

The PRESIDENT pro tempore. It is not divisible.

Mr. BERRY. It is not divisible?

The PRESIDENT pro tempore. No.

Mr. BERRY. The motion to strike out and insert is not divisible, the Chair holds?

The PRESIDENT pro tempore. It is not, except in the matter of amending the portion to be stricken out or the portion to be inserted.

Mr. BERRY. And it is not in a situation where it can be divided now?

The PRESIDENT pro tempore. It is not.

Mr. BERRY. Then is it agreed that a motion to strike out may be made after the amendment is voted upon?

The PRESIDENT pro tempore. After it has gone into the Senate.

Mr. BERRY. Not in Committee of the Whole?

Mr. BLACKBURN. No.

The PRESIDENT pro tempore. Not in Committee of the Whole; that is, if agreed to as in Committee of the Whole it can receive no further action in committee until it reaches the Senate.

Mr. GORMAN. That is the point I suggested, whether we can not have an understanding that when the vote is taken on the substitute while we are in committee, and it becomes a part of the bill, we may offer amendments to it now, when it is fresh before us. I think there will be no objection to that course. There ought not to be any objection to it.

The PRESIDENT pro tempore. The Senate understands undoubtedly, without my saying so, that the part to be stricken out is now open to amendment and that the part proposed to be inserted is also open to amendment.

Mr. GORMAN. I understand that.

The PRESIDENT pro tempore. So far as amendments are concerned, they are separate questions; but they must be voted upon ultimately as one question.

Mr. GORMAN. I think there is a general desire to have a direct vote on the amendment offered by the Senator from Wisconsin, it being very much preferable to the present fourth section, but there are one or two Senators who would, I think, like to amend the substitute.

Mr. SPOONER. I hope no objection will be made to the Senator's suggestion. We want to get on with the business in a fair way. We all want to do what is right.

Mr. GORMAN. It will only facilitate business.

Mr. LODGE. The amendment of the Senator from Wisconsin is open to amendment now.

Mr. GORMAN. I understand that perfectly.

Mr. LODGE. If there are amendments to be offered to the amendment of the Senator from Wisconsin, now is the time to offer them.

Mr. GORMAN. Very well, if that is the desire.

Mr. CULBERSON. I call the attention of the Senator from Wisconsin to what appears to be an obvious error on page 4. Instead of being $1,500,000 it ought to be $1,200,000, the interest at 4 per cent.

Mr. SPOONER. That is taken from the original section.

Mr. CULBERSON. I say it is an obvious error. That is the amount at 5 per cent.

Mr. SPOONER. The Senator is right about that.

Mr. CULBERSON. I move to amend the amendment.

Mr. GORMAN. Let the amendment be read.

Mr. CULBERSON. I beg pardon, the amendment has not been read.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Wisconsin [Mr. SPOONER] will be read.

The SECRETARY. Strike out all of section 4 of the bill and insert in lieu thereof the following:

That for the purpose of aiding in the construction, equipment, operation, and maintenance of such railroads, using steam, electricity, or other power, in the Philippine Islands as the Philippine government may hereafter specifically authorize, the said government is empowered to enter into a contract of guaranty with any railroad company organized pursuant to the laws of said government or of the United States or any State thereof undertaking to construct, equip, operate, and maintain any such railroad, whereby the said government shall guarantee interest, at not exceeding 4 per cent per annum upon first-lien bonds to be issued by such company, properly secured by mortgage or deed of trust upon the said railroad, its equipment, franchises, and other property, real, personal, and mixed, then owned and thereafter to be acquired.

Such contract of guaranty shall be signed on behalf of said government by the chief executive thereof, and on behalf of the railroad company undertaking the construction, equipment, maintenance, and operation of said railroad by the chief officer thereof, thereunto duly authorized by the stockholders and directors of the same, and shall contain, among others, the following provisions:

First. That the total amount of bonds the interest upon which is to be guaranteed shall in no event exceed the amount actually invested in cash in the construction and equipment of such railroad, to be determined as hereinafter provided.

Second. That no debt except as above provided shall be incurred by the said undertaking railroad company, its successors or assigns, by which a lien shall be created upon such railroad, its equipment, or other property, prior to the lien of said government to secure the repayment of the interest paid by it under said guaranty without the consent of the Congress.

Third. That the said railroad shall be constructed and equipped within the time limited in the first instance by the Philippine government, or any extension of said time granted by said government for good cause shown.

The contract of guaranty shall be in substance indorsed upon said bonds and signed by the treasurer of said islands, and the same shall not be signed and delivered except upon satisfactory proof of the completion of the railroad in sections of not less than 20 continuous miles each, and in such proportion, to be fixed from time to time by said government, as the actual capital invested in completed road and acquired equipment shall bear to the capital required for the completion and equipment of the entire road, to be determined by the said government.

All payments made under any such guaranty shall be from the time the same are paid a lien upon said railroad and its property then owned and thereafter to be acquired, subject only to the lien of the mortgage or deed of trust executed to secure the bonds, the interest upon which shall have been so guaranteed, and the total sum paid under such guaranty shall, at the expiration thereof, be payable to said Philippine government upon demand, and in default of such payment the said lien shall be immediately foreclosable.

*Provided*, That in no event shall the total annual contingent liability of said government under the guaranties authorized by this section at

any time exceed the sum of $1,200,000, and no such guaranty shall continue for a longer period than thirty years.

For the further security of the Philippine government the Commission or any subsequent Philippine legislature shall declare the proper rules for ascertaining clearly the cash capital actually invested in said railroads and the net income actually received on said capital so invested, and shall provide for supervision by said Philippine government, through the auditing, engineering and railroad bureaus thereof and by such other agencies as may be fixed by law, of the conduct of the finances of the road, and of its location, construction, operation, and maintenance.

The government shall have the power to appoint two members of the board of directors of any undertaking company whose bonds shall be guaranteed as provided in this section.

Each such railroad company shall make such reports from time to time as to its receipts and expenditures, in such form and substance and sworn to by such officials, as may be prescribed by the Philippine government.

Section 74 of an act entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is hereby made applicable to the corporations whose bonds shall be guaranteed under the provisions hereof.

Mr. CULBERSON. I do not think the amendment I suggested to the Senator has been yet adopted.

Mr. SPOONER. It was read as adopted from the desk. Of course that was a mistake.

Mr. CULBERSON. Now I offer an amendment to the amendment. On page 2, line 5, strike out the word "four" and insert "three;" and on page 4, lines 3 and 4, strike out the words "one million two" and insert the word "nine;" so as to make it correspond with 3 per cent.

Mr. SPOONER. That is to reduce the interest from 4 to 3 per cent?

Mr. CULBERSON. From 4 to 3 per cent, and to reduce the amount from $1,200,000 to $900,000. Upon this amendment to the amendment I ask for the yeas and nays.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 2, line 5, after the word "exceeding" and before "per centum," strike out "four" and insert "three;" so as to read: "Not exceeding 3 per centum per annum." On page 4 of the amendment, strike out the words "one million two" and insert the word "nine;" so as to read: "At any time exceed the sum of $900,000."

The PRESIDENT pro tempore. The Senator from Texas, on this amendment to the amendment, demands the yeas and nays.

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

Mr. DANIEL (when his name was called). I have a general pair with the Senator from North Dakota [Mr. HANSBROUGH]. If he were present, I should vote "yea."

Mr. FOSTER of Washington (when his name was called). I have a general pair with the Senator from Mississippi [Mr. MCLAURIN], and the Senator from Louisiana [Mr. MCENERY] has a general pair with the Senator from New York [Mr. DEPEW]. The pairs have been transferred, so that I am at liberty to vote. I vote "nay."

Mr. HOPKINS (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. LATIMER]. As he is not present, I withhold my vote.

Mr. PETTUS (when Mr. MORGAN'S name was called). The senior Senator from Alabama [Mr. MORGAN] is unwell. He is paired with the senior Senator from Connecticut [Mr. HAWLEY].

The roll call was concluded.

Mr. MONEY. I wish to announce that if my colleague [Mr. MCLAURIN] were present, he would "yea." His pair has been announced by the Senator from Washington [Mr. FOSTER].

The result was announced—yeas 35, nays 37, as follows:

YEAS—35.

| | | | |
|---|---|---|---|
| Bacon | Clay | McCreary | Overman |
| Bailey | Cockrell | McCumber | Perkins |
| Bard | Culberson | McEnery | Pettus |
| Bate | Dubois | Mallory | Scott |
| Berry | Foster, La. | Martin | Simmons |
| Blackburn | Gamble | Mitchell | Stone |
| Carmack | Gorman | Money | Taliaferro |
| Clapp | Heyburn | Nelson | Tillman |
| Clark, Wyo. | Kittredge | Newlands | |

NAYS—37.

| | | | |
|---|---|---|---|
| Aldrich | Cullom | Frye | Proctor |
| Alger | Dick | Fulton | Quarles |
| Allee | Dietrich | Gallinger | Smoot |
| Allison | Dillingham | Kean | Spooner |
| Ankeny | Dolliver | Knox | Stewart |
| Ball | Dryden | Lodge | Warren |
| Beveridge | Elkins | Long | Wetmore |
| Burnham | Fairbanks | McComas | |
| Burrows | Foraker | Platt, Conn. | |
| Crane | Foster, Wash. | Platt, N. Y. | |

NOT VOTING—18.

| | | | |
|---|---|---|---|
| Burton | Gibson | Kearns | Patterson |
| Clark, Mont. | Hale | Latimer | Penrose |
| Clarke, Ark. | Hansbrough | McLaurin | Teller |
| Daniel | Hawley | Milliard | |
| Depew | Hopkins | Morgan | |

So the amendment to the amendment was rejected.

Mr. SPOONER. The Senator from Virginia [Mr. MARTIN] has suggested to me an amendment which will improve the text of my amenment. In accordance with his suggestion, I move, on page 4, line 18, of my amendment, before the first word "whose," to insert "the interest on."

The amendment to the amendment was agreed to.

Mr. BURROWS. I wish to call the attention of the Senator from Wisconsin to page 3, line 8, of the amendment, and to inquire if he desires it to read:

The contract of guaranty shall be in substance indorsed upon said bonds and signed by the treasurer of said islands.

Instead of "islands," the word "government," I think, should be inserted, so as to read:

Signed by the treasurer of said government.

Mr. SPOONER. That was suggested by Governor Taft. I think the word "government" is better. I move to strike out "islands" and insert "government."

The PRESIDENT pro tempore. The amendment to the amendment proposed by the Senator from Wisconsin will be stated.

The SECRETARY. On page 3, line 8, after the word "said," it is proposed to strike out the word "islands" and insert "government."

The amendment to the amendment was agreed to.

Mr. NEWLANDS. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. Is it an amendment to the pending amendment?

Mr. NEWLANDS. It is.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to add at the end of the amendment the following:

*Provided further*, That after the construction of any railroad under this section, such railroad shall pay to the general government of the Philippine Islands an annual tax of 1 per cent upon the gross receipts of such railroads for freights and fares for the period of five years, and thereafter such tax shall be increased at the rate of one-quarter of 1 per cent per annum until it reaches a total of 5 per cent per annum. That such tax shall be in lieu of all taxes, general, provincial, or municipal, and shall be in lieu of all taxes upon either the railroad itself and the property connected therewith, or on the stock and bonds issued by the corporation owning such road.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Nevada [Mr. NEWLANDS] to the amendment.

The amendment to the amendment was rejected.

Mr. BAILEY. I desire to offer an amendment, and it may just as well come at the conclusion of the pending amendment after the word "hereof," at the end of page 5.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to add to the pending amendment the following:

That before any guaranty of interest as herein authorized shall be made the railroad company desiring to avail itself of such guaranty shall include in its charter or articles of incorporation an express agreement that the general government of the Philippine Islands shall always possess and exercise the right of regulating charges for freight and passenger service; and no railroad company, the interest for which is guaranteed under the provisions of this act, shall issue or sell any stock or bonds, except at their par value, to be paid for in cash or in property at its actual value; and before such stocks or bonds can be issued or sold they shall be authorized and approved by the Philippine Commission, whose duty it shall be to closely supervise the issuance of such stock and bonds and to strictly enforce this act in respect to the same.

The PRESIDENT pro tempore. The question is on the amendment to the amendment. [Putting the question.] By the sound, the "noes" have it.

Mr. BAILEY. I should like to have a yea-and-nay vote on that amendment to the amendment.

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

Mr. FOSTER of Washington (when his name was called). I have a general pair with the Senator from Mississippi [Mr. MCLAURIN], and the Senator from Louisiana [Mr. MCENERY] has a general pair with the Senator from New York [Mr. DEPEW]. Those pairs have been transferred, so that the Senator from Louisiana and I are at liberty to vote. I vote "nay." I make this announcement to apply to all votes for the day.

The roll call was concluded.

Mr. PLATT of Connecticut. I wish at this time to state, so that I may not be under the necessity of repeating it, that upon all amendments and upon the bill itself my colleague [Mr. HAWLEY] is paired with the Senator from Alabama [Mr. MORGAN].

Mr. BEVERIDGE. I perhaps should have stated, for the information of the Senate, in view of the fact that I have been

voting upon this and other amendments, that I have a general pair with the senior Senator from Montana [Mr. CLARK], but I have been notified by that Senator that he places no restrictions upon me on account of that pair upon this bill. I therefore am at liberty to vote.

Mr. GORMAN. The statement of the Senator from Indiana is, of course, exactly accurate, and he has a right to vote. The Senator from Virginia [Mr. DANIEL] is paired with the Senator from North Dakota [Mr. HANSBROUGH].

Mr. LODGE. The Senator from Montana [Mr. CLARK] stands paired on all these votes. I have the list of pairs here.

Mr. BEVERIDGE. I merely made the statement because I have a standing pair with the Senator from Montana [Mr. CLARK], but I was relinquished from that pair and therefore have been voting.

The result was announced—yeas 33, nays 39, as follows:

YEAS—33.

| | | | |
|---|---|---|---|
| Bacon | Cockrell | McCreary | Perkins |
| Bailey | Culberson | McCumber | Pettus |
| Bard | Dubois | McEnery | Simmons |
| Bate | Foster, La. | Mallory | Stone |
| Berry | Gamble | Martin | Taliaferro |
| Blackburn | Gorman | Money | Tillman |
| Carmack | Heyburn | Nelson | |
| Clapp | Kittredge | Newlands | |
| Clay | Knox | Overman | |

NAYS—39.

| | | | |
|---|---|---|---|
| Aldrich | Crane | Foster, Wash. | Platt, N. Y. |
| Alger | Cullom | Frye | Proctor |
| Allee | Dick | Fulton | Quarles |
| Allison | Dietrich | Gallinger | Scott |
| Ankeny | Dillingham | Kean | Smoot |
| Ball | Dolliver | Lodge | Spooner |
| Beveridge | Dryden | Long | Stewart |
| Burnham | Elkins | McComas | Warren |
| Burrows | Fairbanks | Mitchell | Wetmore |
| Clark, Wyo. | Foraker | Platt, Conn. | |

NOT VOTING—18.

| | | | |
|---|---|---|---|
| Burton | Gibson | Kearns | Patterson |
| Clark, Mont. | Hale | Latimer | Penrose |
| Clarke, Ark. | Hansbrough | McLaurin | Teller |
| Daniel | Hawley | Millard | |
| Depew | Hopkins | Morgan | |

So the amendment of Mr. BAILEY to the amendment of Mr. SPOONER as amended was rejected.

Mr. CULBERSON. Mr. President, I offer an amendment to the amendment, on page 2, line 19, after the word "amount," by inserting "of $35,000 per mile of railroad." I ask the Secretary to read the paragraph as it will stand if the proposed amendment be adopted.

The SECRETARY. On page 2 of the amendment, in line 19, after the word "amount," it is proposed to insert "of $35,000 per mile of railroad;" so that if amended the paragraph will read:

First. That the total amount of bonds the interest upon which is to be guaranteed shall in no event exceed the amount of $35,000 per mile of railroad actually invested in cash in the construction and equipment of such railroad, to be determined as hereinafter provided.

The amendment to the amendment was rejected.

Mr. CLAY. On page 4 of the amendment offered by the Senator from Wisconsin [Mr. SPOONER], in line 5, the paragraph which guarantees the payment of interest for the period of thirty years, I move to strike out the word "thirty" and insert "twenty."

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 4, line 5, of the amendment, before the word "years," it is proposed to strike out "thirty" and insert "twenty."

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question recurs on the amendment offered by the Senator from Wisconsin as amended.

Mr. NELSON. I ask for the yeas and nays on the adoption of the amendment as amended.

The yeas and nays were ordered.

Mr. LODGE. Is this the amendment of the Senator from Wisconsin as amended?

The PRESIDENT pro tempore. It is.

Mr. LODGE. I will say that the committee favor it.

Mr. BACON. I understand that if the amendment is adopted as in Committee of the Whole we can move to strike it out when the bill comes into the Senate. That, I understand, would still be in order.

The PRESIDENT pro tempore. In the Senate?

Mr. BACON. Yes; in the Senate.

The PRESIDENT pro tempore. That will be in order in the Senate.

The Secretary proceeded to call the roll.

Mr. HOPKINS (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. LATIMER]. As he is not present, I withhold my vote.

The roll call was concluded.

Mr. DANIEL. I have a general pair with the Senator from North Dakota [Mr. HANSBROUGH], but I feel free to vote on this amendment. I vote "yea."

The result was announced—yeas 62, nays 8, as follows:

YEAS—62.

| | | | |
|---|---|---|---|
| Aldrich | Clay | Fulton | Pettus |
| Alger | Cockrell | Gallinger | Platt, Conn. |
| Allee | Crane | Gorman | Platt, N. Y. |
| Allison | Culberson | Heyburn | Proctor |
| Ankeny | Cullom | Kean | Quarles |
| Bacon | Daniel | Knox | Scott |
| Bailey | Dick | Lodge | Simmons |
| Ball | Dietrich | Long | Smoot |
| Bate | Dillingham | McComas | Spooner |
| Berry | Dolliver | McCreary | Stewart |
| Beveridge | Dryden | Mallory | Stone |
| Blackburn | Elkins | Martin | Tillman |
| Burnham | Fairbanks | Mitchell | Warren |
| Burrows | Foraker | Money | Wetmore |
| Carmack | Foster, Wash. | Newlands | |
| Clark, Wyo. | Frye | Overman | |

NAYS—8.

| | | | |
|---|---|---|---|
| Bard | Gamble | McCumber | Nelson |
| Clapp | Kittredge | McEnery | Perkins |

NOT VOTING—20.

| | | | |
|---|---|---|---|
| Burton | Foster, La. | Hopkins | Morgan |
| Clark, Mont. | Gibson | Kearns | Patterson |
| Clarke, Ark. | Hale | Latimer | Penrose |
| Depew | Hansbrough | McLaurin | Taliaferro |
| Dubois | Hawley | Millard | Teller |

So the amendment of Mr. SPOONER, as amended, was agreed to.

Mr. STONE. I offer the amendment, which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In section 1, page 2, at the end of line 8, after the words "Porto Rico," it is proposed to insert the following:

*Provided*, That nothing in this act shall be so construed as to make or hold the Government of the United States in any manner liable to pay any bonds that may be issued by the government of the Philippine Islands, or any municipal or other subdivision thereof, under the provisions of this act.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Missouri [Mr. STONE].

Mr. BERRY and Mr. STONE. Let us have the yeas and nays.

The yeas and nays were ordered; and having been taken, resulted—yeas 28, nays 41, as follows:

YEAS—28.

| | | | |
|---|---|---|---|
| Bacon | Clay | Kittredge | Nelson |
| Bailey | Cockrell | McCreary | Overman |
| Bate | Culberson | McEnery | Pettus |
| Berry | Dubois | Mallory | Simmons |
| Blackburn | Foster, La. | Martin | Stone |
| Carmack | Gamble | Mitchell | Taliaferro |
| Clapp | Gorman | Money | Tillman |

NAYS—41.

| | | | |
|---|---|---|---|
| Aldrich | Crane | Fulton | Proctor |
| Alger | Cullom | Gallinger | Quarles |
| Allee | Dick | Heyburn | Scott |
| Allison | Dietrich | Kean | Smoot |
| Ankeny | Dillingham | Knox | Spooner |
| Ball | Dolliver | Lodge | Stewart |
| Bard | Dryden | Long | Warren |
| Beveridge | Fairbanks | McComas | Wetmore |
| Burnham | Foraker | McCumber | |
| Burrows | Foster, Wash. | Platt, Conn. | |
| Clark, Wyo. | Frye | Platt, N. Y. | |

NOT VOTING—21.

| | | | |
|---|---|---|---|
| Burton | Gibson | Latimer | Penrose |
| Clark, Mont. | Hale | McLaurin | Perkins |
| Clarke, Ark. | Hansbrough | Millard | Teller |
| Daniel | Hawley | Morgan | |
| Depew | Hopkins | Newlands | |
| Elkins | Kearns | Patterson | |

So Mr. STONE's amendment was rejected.

Mr. McCOMAS. I now offer an amendment to strike out section 5 and insert in lieu thereof what I send to the desk. The chairman of the committee has already agreed to accept it.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to strike out section 5 and in lieu thereof to insert the following:

SEC. 5. That the Philippine Commission, and any succeeding legislature of the Philippine Islands, subject to subsequent repeal or modification by Congress, shall have power, from time to time, to amend the act entitled "An act to revise and amend the tariff laws of the Philippine Archipelago:" *Provided, however*, That any amendment or modification of the existing tariff made hereunder shall not take effect until it shall be transmitted by the Commission, or any subsequent Philippine legislature, to the Secretary of War, who shall, after due advertisement, grant hearings to any person interested in respect to the proposed amendment or modification, and until it shall have been thereafter approved by the Secretary of War by authority of the President.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Maryland [Mr. McCOMAS]. [Putting the question.] By the sound the "noes" have it. The amendment is rejected.

Mr. McCOMAS. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. CULBERSON. I rise to a parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. CULBERSON. Is a motion to strike out the amendment of the Senator from Wisconsin [Mr. SPOONER] now in order?

The PRESIDENT pro tempore. It is not. But, if the Senator will allow the Chair to state, there is no necessity for now making that motion. When the bill comes into the Senate, a separate vote can be demanded on the amendment.

Mr. BACON. Not only was that matter stated once, but twice, when we were in the Committee of the Whole.

The PRESIDENT pro tempore. The motion can be made. The Chair is simply saying there is no necessity for it, as a separate vote can be had.

Mr. BACON. It is in order to move to strike it out?

The PRESIDENT pro tempore. It will be in the Senate, not now.

Mr. BACON. Is not the bill in the Senate?

The PRESIDENT pro tempore. The bill is not.

Mr. BACON. I beg your pardon. I thought the Chair declared that the bill was in the Senate.

The PRESIDENT pro tempore. No; the bill is in the committee.

Mr. DIETRICH. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The Senator from Nebraska offers an amendment, which will be stated.

The SECRETARY. On page 5, section 5, line 14, after the word "island," insert:

That all officers of the United States Army, Navy, Marine Corps, and constabulary officers of the Philippine government shall have privilege of free entry of all articles, including used household goods, uniforms, and articles for equipment and service, forming a part of the official equipment of the United States Army, Navy, Marine Corps, and constabulary officers of the Philippine government, imported for their own use and benefit, and not for barter or sale, upon the personal certificate of such an officer that they fulfill the above conditions.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. Is there a wish to reserve a separate vote on any of the amendments?

Mr. GORMAN. I desire to reserve section 4.

Mr. BERRY. There is a motion to strike it out.

Mr. CULBERSON. I intimated a while ago my desire, when the bill was in the Senate, to make a motion to strike out section 4 as amended on motion of the Senator from Wisconsin.

The PRESIDENT pro tempore. Is there a wish for a separate vote on any other amendment? The Chair hears none, and the other amendments will be considered as concurred in in the Senate. The Senator from Texas moves to strike out section 4 as amended.

Mr. McCUMBER. Does that motion cover what was contemplated by my amendment?

Mr. CULBERSON. Precisely.

The PRESIDENT pro tempore. It does. It covers the whole.

Mr. CULBERSON. Upon that motion I ask for the yeas and nays.

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

Mr. DANIEL (when his name was called). I am paired with the Senator from North Dakota [Mr. HANSBROUGH]. I beg leave to ask that this statement be taken to apply to all votes on the pending bill.

The roll call having been concluded, the result was announced—yeas 32, nays 39, as follows:

YEAS—32.

| | | | |
|---|---|---|---|
| Bacon | Clay | McCreary | Overman |
| Bailey | Cockrell | McCumber | Perkins |
| Bard | Culberson | McEnery | Pettus |
| Bate | Dubois | Mallory | Quarles |
| Berry | Foster, La. | Martin | Simmons |
| Blackburn | Gamble | Money | Stone |
| Carmack | Gorman | Nelson | Taliaferro |
| Clapp | Kittredge | Newlands | Tillman |

NAYS—39.

| | | | |
|---|---|---|---|
| Aldrich | Crane | Foster, Wash. | Mitchell |
| Alger | Cullom | Frye | Platt, Conn. |
| Allee | Dick | Fulton | Proctor |
| Allison | Dietrich | Gallinger | Scott |
| Ankeny | Dillingham | Heyburn | Smoot |
| Ball | Dolliver | Kean | Spooner |
| Beveridge | Dryden | Knox | Stewart |
| Burnham | Elkins | Lodge | Warren |
| Burrows | Fairbanks | Long | Wetmore |
| Clark, Wyo. | Foraker | McComas | |

NOT VOTING—19.

| | | | |
|---|---|---|---|
| Burton | Gibson | Kearns | Patterson |
| Clark, Mont. | Hale | Latimer | Penrose |
| Clarke, Ark. | Hansbrough | McLaurin | Platt, N. Y. |
| Daniel | Hawley | Millard | Teller |
| Depew | Hopkins | Morgan | |

So Mr. CULBERSON's motion was not agreed to.

Mr. NEWLANDS. I desire to ask whether it be in order to move to strike out section 4 and substitute therefor the section which I offered, providing for the construction and ownership of these railroads by the Philippine government.

The PRESIDENT pro tempore. No; it would not be in order, because the amendment has been adopted in the Senate, and a motion to strike out the entire paragraph has already been defeated by a vote of the Senate.

Mr. CULBERSON. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The Senator from Texas offers an amendment, which will be stated.

The SECRETARY. It is proposed to amend by inserting as a new section the following:

SEC. 12. One-half of the entire unappropriated public domain in the Philippine Islands is hereby set apart as a permanent school fund for the inhabitants of said islands, and no part of said land shall at any time be granted, sold, or in any other manner disposed of, unless at the same time an equal quantity shall be set apart and segregated in the manner to be prescribed by general law by the Philippine government as a permanent school fund for the inhabitants of said islands.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Texas.

Mr. CULBERSON. On that I ask for the yeas and nays.

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

Mr. PETTUS (when his name was called). I have a general pair with the junior Senator from Massachusetts [Mr. CRANE]. If he were present, I should vote "yea."

The roll call having been concluded, the result was announced—yeas 24, nays 44, as follows:

YEAS—24.

| | | | |
|---|---|---|---|
| Bacon | Clay | Gallinger | Money |
| Bailey | Cockrell | Gorman | Overman |
| Bate | Culberson | McCreary | Simmons |
| Berry | Dolliver | McEnery | Stone |
| Blackburn | Dubois | Mallory | Taliaferro |
| Carmack | Foster, La. | Martin | Tillman |

NAYS—44.

| | | | |
|---|---|---|---|
| Aldrich | Clark, Wyo. | Fulton | Nelson |
| Alger | Cullom | Gamble | Perkins |
| Allee | Dick | Heyburn | Platt, Conn. |
| Allison | Dietrich | Kean | Proctor |
| Ankeny | Dillingham | Kittredge | Quarles |
| Ball | Dryden | Knox | Scott |
| Bard | Elkins | Lodge | Smoot |
| Beveridge | Fairbanks | Long | Spooner |
| Burnham | Foraker | McComas | Stewart |
| Burrows | Foster, Wash. | McCumber | Warren |
| Clapp | Frye | Mitchell | Wetmore |

NOT VOTING—22.

| | | | |
|---|---|---|---|
| Burton | Gibson | Latimer | Penrose |
| Clark, Mont. | Hale | McLaurin | Pettus |
| Clarke, Ark. | Hansbrough | Millard | Platt, N. Y. |
| Crane | Hawley | Morgan | Teller |
| Daniel | Hopkins | Newlands | |
| Depew | Kearns | Patterson | |

So Mr. CULBERSON's amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

Mr. GORMAN. On the passage of the bill I ask for the yeas and nays.

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

Mr. BACON (when his name was called). The junior Senator from Connecticut [Mr. PLATT] has been unavoidably called from the Chamber, and I have agreed to stand paired with him on this vote. If he were present, he would vote "yea" and I should vote "nay."

Mr. KNOX (when Mr. PENROSE's name was called). My colleague [Mr. PENROSE] stands paired on this bill with the junior Senator from Colorado [Mr. PATTERSON]. If present, he would vote "yea."

The roll call was concluded.

Mr. PETTUS. I desire to state, sir, that the senior Senator from Alabama [Mr. MORGAN] is absent. If present, he would vote against this bill.

Mr. MONEY. My colleague [Mr. McLAURIN] is absent and paired. If present, he would vote "nay."

The result was announced—yeas 44, nays 23, as follows:

YEAS—44.

| | | | |
|---|---|---|---|
| Aldrich | Clark, Wyo. | Frye | Mitchell |
| Alger | Cullom | Fulton | Nelson |
| Allee | Dick | Gallinger | Perkins |
| Allison | Dietrich | Gamble | Proctor |
| Ankeny | Dillingham | Heyburn | Quarles |
| Ball | Dolliver | Kean | Scott |
| Bard | Dryden | Kittredge | Smoot |
| Beveridge | Elkins | Knox | Spooner |
| Burnham | Fairbanks | Lodge | Stewart |
| Burrows | Foraker | Long | Warren |
| Clapp | Foster, Wash. | McComas | Wetmore |

NAYS—23.

| | | | |
|---|---|---|---|
| Bailey | Cockrell | McCumber | Overman |
| Bate | Culberson | McEnery | Simmons |
| Berry | Dubois | Mallory | Stone |
| Blackburn | Foster, La. | Martin | Taliaferro |
| Carmack | Gorman | Money | Tillman |
| Clay | McCreary | Newlands | |

NOT VOTING—23.

| | | | |
|---|---|---|---|
| Bacon | Depew | Kearns | Penrose |
| Burton | Gibson | Latimer | Pettus |
| Clark, Mont. | Hale | McLaurin | Platt, Conn. |
| Clarke, Ark. | Hansbrough | Millard | Platt, N. Y. |
| Crane | Hawley | Morgan | Teller |
| Daniel | Hopkins | Patterson | |

So the bill was passed.

EXECUTIVE SESSION.

Mr. HEYBURN. I move that the Senate proceed to the consideration of House bill 6295, known as the "pure-food bill;" and on the question of agreeing to that motion I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Idaho moves that the Senate proceed to the consideration of a bill the title of which will be stated.

The SECRETARY. A bill (H. R. 6295) for preventing the adulteration or misbranding of foods or drugs, and for regulating traffic therein, and for other purposes.

Mr. LODGE. Pending that, I move that the Senate proceed to the consideration of executive business.

Mr. HEYBURN. I have asked for the yeas and nays on my motion.

Mr. LODGE. That does not make any difference.

The PRESIDENT pro tempore. The Senator from Massachusetts moves that the Senate proceed to the consideration of executive business.

Mr. McCUMBER. I demand the yeas and nays on that motion.

Mr. HEYBURN. I ask for the yeas and nays.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Massachusetts that the Senate proceed to the consideration of executive business, on which the yeas and nays are demanded. Is there a second?

The yeas and nays were not ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-eight minutes spent in executive session the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until Monday, December 19, 1904, at 12 o'clock meridian.

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## NOMINATIONS.

*Executive nominations received by the Senate December 16, 1904.*

CONSUL.

George Horton, of Illinois, to be consul of the United States at Athens, Greece, vice Daniel E. McGinley, deceased.

CHIEF JUSTICE OF COURT OF APPEALS OF DISTRICT OF COLUMBIA.

Seth Shepard, of the District of Columbia, now serving as associate justice of the court of appeals of the District of Columbia, to be chief justice of the court of appeals of the District of Columbia, vice Richard H. Alvey, whose resignation has been accepted to take effect January 1, 1905.

ASSOCIATE JUSTICE OF COURT OF APPEALS OF DISTRICT OF COLUMBIA.

Charles H. Duell, of New York, to be associate justice of the court of appeals of the District of Columbia, vice Seth Shepard, nominated to be chief justice of the court of appeals of the District of Columbia.

PROMOTIONS IN THE ARMY.

*With the rank of brigadier-general from April 23, 1904.*

Col. Galusha Pennypacker, retired.
Col. David Perry, retired.
Col. Clarence M. Bailey, retired.
Col. Charles D. Viele, retired.
Col. Henry W. Wessells, jr., retired.
Col. William M. Van Horne, retired.
Col. Richard H. Pratt, retired.
Col. Isaac S. Catlin, retired.
Col. Henry B. Carrington, retired.
Col. Theophilus F. Rodenbough, retired.
Col. George A. Woodward, retired.
Col. James Van Voast, retired.
Col. John F. Head, retired.
Col. John Campbell, retired.
Col. John E. Summers, retired.
Col. Luther P. Bradley, retired.
Col. Marcus D. L. Simpson, retired.
Col. Rufus Saxton, retired.
Col. Elisha I. Baily, retired.
Col. John C. Tidball, retired.
Col. David L. Magruder, retired.
Col. Nathan A. M. Dudley, retired.
Col. Alfred L. Hough, retired.
Col. Horatio G. Gibson, retired.
Col. Joseph G. Tilford, retired.
Col. Henry R. Mizner, retired.
Col. George Bell, retired,
Col. George L. Andrews, retired.
Col. Anthony Heger, retired.
Col. Alexander J. Perry, retired.
Col. Rodney Smith, retired.
Col. Charles Page, retired.
Col. Bernard J. D. Irwin, retired.
Col. Matthew M. Blunt, retired.
Col. Charles H. Tompkins, retired.
Col. Loomis L. Langdon, retired.
Col. Henry M. Lazelle, retired.
Col. John G. Chandler, retired.
Col. Henry C. Hodges, retired.
Col. Cyrus B. Comstock, retired.
Col. Joseph R. Smith, retired.
Col. Judson D. Bingham, retired.
Col. Henry L. Abbot, retired.
Col. Edwin F. Townsend, retired.
Col. David S. Gordon, retired.
Col. Daingerfield Parker, retired.
Col. Henry C. Wood, retired.
Col. John W. Barriger, retired.
Col. Henry W. Closson, retired.
Col. Richard Lodor, retired.
Col. Thomas M. Vincent, retired.
Col. James Biddle, retired.
Col. Charles T. Alexander, retired.
Col. Henry C. Cook, retired.
Col. Daniel W. Benham, retired.
Col. Henry Carroll, retired.
Col. Charles E. Compton, retired.
Col. Alfred T. Smith, retired.
Col. Evan Miles, retired.
Col. Michael Cooney, retired.
Col. Edwin M. Coates, retired.
Col. James M. Whittemore, retired.
Col. Charles H. Alden, retired.
Col. Edward B. Williston, retired.
Col. James G. C. Lee, retired.
Col. James W. Scully, retired.
Col. Albert Hartsuff, retired.
Col. Augustus W. Corliss, retired.
Col. Alfred A. Woodhull, retired.
Col. Ezra P. Ewers, retired.
Col. John G. Gilmore, retired.
Col. Wirt Davis, retired.
Col. Charles I. Wilson, retired.
Col. Charles C. Byrne, retired.
Col. Henry Jackson, retired.
Col. Thomas McGregor, retired.
Col. Richard Comba, retired.
Col. James M. Moore, retired.
Col. Henry E. Noyes, retired.
Col. James N. Wheelan, retired.
Col. Charles R. Greenleaf, retired.
Col. Edward Moale, retired.
Col. E. Van Arsdale Andruss, retired.
Col. James B. Burbank, retired.
Col. Argalus G. Hennisee, retired.
Col. Justus M. Brown, retired.
Col. Eugene D. Dimmick, retired.
Col. William P. Vose, retired.

*With the rank of colonel from April 23, 1904.*

Lieut. Col. James H. Bradford, retired.
Lieut. Col. Edward Field, retired.
Lieut. Col. Andrew N. Damrell, retired.
Lieut. Col. Thomas Shea, retired.
Lieut. Col. Robert Avery, retired.
Lieut. Col. Henry L. Chipman, retired.
Lieut. Col. Edward Collins, retired.
Lieut. Col. Benjamin C. Card, retired.
Lieut. Col. Leslie Smith, retired.
Lieut. Col. John Green, retired.
Lieut. Col. George A. Forsyth, retired.
Lieut. Col. Blencowe E. Fryer, retired.
Lieut. Col. John A. Wilcox, retired.
Lieut. Col. John H. Janeway, retired.
Lieut. Col. George B. Dandy, retired.
Lieut. Col. Samuel M. Horton, retired.
Lieut. Col. Jeremiah H. Gilman, retired.
Lieut. Col. Joseph R. Gibson, retired.
Lieut. Col. James F. Randlett, retired.
Lieut. Col. Francis E. Lacey, retired.
Lieut. Col. James Jackson, retired.
Lieut. Col. Augustus H. Bainbridge, retired.
Lieut. Col. Wells Willard, retired.
Lieut. Col. Johnson V. D. Middleton, retired.
Lieut. Col. William D. Wolverton, retired.
Lieut. Col. Stevens T. Norvell, retired.
Lieut. Col. Henry Wagner, retired.
Lieut. Col. John N. Coe, retired.
Lieut. Col. Henry R. Tilton, retired.
Lieut. Col. Egon A. Koerper, retired.
Lieut. Col. John H. Calef, retired.
Lieut. Col. William H. Clapp, retired.
Lieut. Col. Henry R. Brinkerhoff, retired.
Lieut. Col. William H. Boyle, retired.
Lieut. Col. Lyster M. O'Brien, retired.
Lieut. Col. James M. Ingalls, retired.
Lieut. Col. Joel T. Kirkman, retired.
Lieut. Col. Ezra Woodruff, retired.
Lieut. Col. David B. Wilson, retired.
Lieut. Col. Charles K. Winne, retired.
Lieut. Col. Selden A. Day, retired.
Lieut. Col. Almon L. Varney, retired

*With the rank of lieutenant-colonel from April 23, 1904.*

Maj. Alexander S. B. Keyes, retired.
Maj. John S. Loud, retired.
Maj. Edmond G. Fechét, retired.
Maj. Harry G. Cavenaugh, retired.
Maj. Leopold O. Parker, retired.
Maj. Marshall W. Wood, retired.
Maj. Benjamin P. Runkle, retired.
Maj. Jacob E. Burbank, retired.
Maj. Herbert M. Enos, retired.
Maj. Alfred E. Latimer, retired.
Maj. Edwin D. Judd, retired.
Maj. William Hawley, retired.
Maj. James McMillan, retired.
Maj. Frank Bridgman, retired.
Maj. Theodore J. Eckerson, retired.
Maj. Edwin Bentley, retired.
Maj. Asa Bird Gardiner, retired.
Maj. Gerald Russell, retired.
Maj. Albert B. Kauffman, retired.
Maj. Julius H. Patzki, retired.
Maj. Daniel R. Larned, retired.
Maj. De Witt C. Poole, retired.
Maj. Thomas E. Rose, retired.
Maj. John H. Bartholf, retired.
Maj. Charles Bentzoni, retired.
Maj. Frederick M. Crandal, retired.
Maj. Henry M. Cronkhite, retired.
Maj. Richard S. Vickery, retired.
Maj. Daniel G. Caldwell, retired.
Maj. George F. Robinson, retired.
Maj. John A. Darling, retired.
Maj. Otis W. Pollock, retired.
Maj. Lewis Smith, retired.
Maj. William H. Rexford, retired.
Maj. George W. H. Stouch, retired.
Maj. Ira Quinby, retired.
Maj. John Murphy, retired.
Maj. John S. Witcher, retired.
Maj. William Gerlach, retired.
Maj. John W. Summerhayes, retired.
Maj. William H. Hamner, retired.
Maj. Frederick Fuger, retired.
Maj. John C. Scantling, retired.
Maj. Frank W. Hess, retired.
Maj. Francis B. Jones, retired.
Maj. John P. Baker, retired.
Maj. Eaton A. Edwards, retired.
Maj. Charles Newbold, retired.
Maj. William W. Gilbert, retired.

*With the rank of major from April 23, 1904.*

Capt. George McGown, retired.
Capt. Henry C. Morgan, retired.
Capt. William P. Huxford, retired.
Capt. Theodore A. Dodge, retired.
Capt. Wellington G. Sprague, retired.
Capt. Thomas H. Norton, retired.
Capt. James A. Bates, retired.
Capt. Charles T. Greene, retired.
Capt. Frederick C. Von Schirach, retired.
Capt. John M. Hoag, retired.
Capt. John Kelliher, retired.
Capt. Richard W. Tyler, retired.
Capt. William P. Atwell, retired.
Capt. Edward S. Meyer, retired.
Capt. William Nelson, retired.
Capt. Benjamin F. Rittenhouse, retired.
Capt. Peter M. Boehm, retired.
Capt. John L. Johnston, retired.
Capt. James S. Tomkins, retired.
Capt. Charles C. MacConnell, retired.
Capt. D. Mortimer Lee, retired.
Capt. George A. Armes, retired.
Capt. John C. White, retired.
Capt. Charles E. Morse, retired.
Capt. James H. Spencer, retired.
Capt. Lemuel A. Abbott, retired.
Capt. Mason Jackson, retired.
Capt. John S. McNaught, retired.
Capt. George M. Downey, retired.
Capt. Dwight H. Kelton, retired.
Capt. Robert G. Smither, retired.
Capt. Thomas G. Troxel, retired.
Capt. Thomas M. McDougall, retired.
Capt. Thomas H. Logan, retired.
Capt. William A. Miller, retired.
Capt. Gilbert E. Overton, retired.
Capt. William R. Maize, retired.
Capt. George G. Lott, retired.
Capt. John Conline, retired.
Capt. Thomas F. Tobey, retired.
Capt. Samuel T. Hamilton, retired.
Capt. Will W. Daugherty, retired.
Capt. John P. Thompson, retired.
Capt. Joshua A. Fessenden, retired.
Capt. Edmund L. Zalinski, retired.
Capt. John Anderson, retired.
Capt. Alexander H. M. Taylor, retired.
Capt. Edmund Luff, retired.
Capt. Frazier A. Boutelle, retired.
Capt. James D. Nickerson, retired.
Capt. Joseph L. Tidball, retired.
Capt. Charles C. Churchill, retired.
Capt. Charles Holmes, retired.
Capt. Henry B. Hendershott, retired.
Capt. Alexander Murry, retired.
Capt. Thomas T. Brand, retired.
Capt. Josiah H. Kellogg, retired.
Capt. Thomas C. J. Bailey, retired.
Capt. John McDonald, retired.
Capt. John H. Butler, retired.
Capt. George E. Judd, retired.
Capt. William R. Smedberg, retired.
Capt. Albert Barnitz, retired.
Capt. Jacob W. Keller, retired.
Capt. William R. Bourne, retired.
Capt. George H. McLoughlin, retired.
Capt. Wright Rives, retired.
Capt. Edwin J. Conway, retired.
Capt. Samuel E. Armstrong, retired.
Capt. John Miller, retired.
Capt. James Stewart, retired.
Capt. Herman Schreiner, retired.
Capt. Michael J. Fitz-Gerald, retired.
Capt. Joel G. Trimble, retired.

Capt. Benjamin H. Gilbreth, retired.
Capt. William Falck, retired.
Capt. Charles Steelhammer, retired.
Capt. Deane Monahan, retired.
Capt. Sebastian Gunther, retired.
Capt. Frederic A. Kendall, retired.
Capt. Charles Harkins, retired.
Capt. George Shorkley, retired.
Capt. Henry M. Benson, retired.
Capt. George F. Foote, retired.
Capt. William R. Parnell, retired.
Capt. John Hamilton, retired.
Capt. Frederic C. Nichols, retired.
Capt. William Fletcher, retired.
Capt. John T. Morrison, retired.
Capt. David Schooley, retired.
Capt. Byron Dawson, retired.
Capt. Eugene A. Bancroft, retired.
Capt. Charles Wheaton, retired.
Capt. Michael Leahy, retired.
Capt. Daniel Robinson, retired.
Capt. George F. Barstow, retired.
Capt. William N. Sage, retired.
Capt. John W. Bean, retired.
Capt. Edwin J. Stivers, retired.
Capt. Matthew Markland, retired.
Capt. William R. Steinmetz, retired.
Capt. Max Wesendorff, retired.
Capt. David R. Burnham, retired.
Capt. Daniel F. Callinan, retired.
Capt. Henry S. Howe, retired.
Capt. Frank D. Garretty, retired.
Capt. Thomas F. Quinn, retired.
Capt. Algernon S. M. Morgan, retired.
Capt. William Conway, retired.
Capt. William Hoffman, retired.
Capt. Levi F. Burnett, retired.
Capt. Gerhard L. Luhn, retired.
Capt. George A. Drew, retired.
Capt. John J. O'Brien, retired.
Capt. James Ulio, retired.
Capt. Charles C. De Rudio, retired.
Capt. Jacob F. Munson, retired.
Capt. Henry Romeyn, retired.
Capt. Alfred Morton, retired.
Capt. Mason Carter, retired.
Capt. Sidney E. Clark, retired.
Capt. John S. Bishop, retired.
Capt. Charles D. A. Loeffler, retired.
Capt. Jonathan N. Patton, retired.
Chaplain Francis H. Weaver, retired.
Chaplain Delmar R. Lowell, retired.
Chaplain William H. Pearson, retired.
Chaplain William F. Hubbard, retired.
Chaplain Henry H. Hall, retired.
Chaplain Daniel Kendig, retired.
Chaplain George W. Collier, retired.
Chaplain Stephen G. Dodd, retired.
Chaplain Osgood E. Herrick, retired.
Chaplain Sherman M. Merrill, retired.
Chaplain Winfield Scott, retired.
Chaplain John H. Macomber, retired.
Chaplain Brant C. Hammond, retired.
Chaplain Bernard Kelly, retired.
Chaplain Dudley Chase, retired.

*With the rank of captain from April 23, 1904.*

First Lieut. Walter F. Halleck, retired.
First Lieut. Richard C. Du Bois, retired.
First Lieut. Hugh D. Bowker, retired.
First Lieut. Frank R. Rice, retired.
First Lieut. David H. Cortelyou, retired.
First Lieut. Robert G. Carter, retired.
First Lieut. Henry Marcotte, retired.
First Lieut. George E. Albee, retired.
First Lieut. William H. Miller, retired.
First Lieut. Charles C. Cresson, retired.
First Lieut. Asa T. Abbott, retired.
First Lieut. Louis H. Orleman, retired.
First Lieut. John F. Trout, retired.
First Lieut. David J. Gibbon, retired.
First Lieut. Robert H. Young, retired.
First Lieut. Stephen J. Mulhall, retired.
First Lieut. Herbert Cushman, retired.
First Lieut. George Williams, retired.
First Lieut. William G. Fitch, retired.
First Lieut. Ransom Kennicott, retired.
First Lieut. Edmund R. P. Shurly, retired.
First Lieut. Charles A. Curtis, retired.
First Lieut. James R. Mullikin, retired.
First Lieut. Michael J. Hogarty, retired.
First Lieut. Charles W. Keyes, retired.
First Lieut. Henry B. Mellen, retired.
First Lieut. James H. Rice, retired.
First Lieut. Freeman E. Olmstead, retired.
First Lieut. Henry R. Jones, retired.
First Lieut. Robert G. Rutherford, retired.
First Lieut. George W. Budd, retired.
First Lieut. Benjamin D. Boswell, retired.
First Lieut. Royal E. Whitman, retired.
First Lieut. William H. Nelson, retired.
First Lieut. Granville Lewis, retired.
First Lieut. James H. Sands, retired.
First Lieut. John Bannister, retired.
First Lieut. Thomas B. Briggs, retired.

*With the rank of first lieutenant from April 23, 1904.*

Second Lieut. William P. Hogarty, retired.
Second Lieut. Frank Madden, retired.
Second Lieut. Gustave Magnitzky, retired.
Second Lieut. James Davison, retired.
Second Lieut. Thomas B. Reed, retired.
Second Lieut. William N. Williams, retired.

*With the rank of brigadier-general.*

Col. Anthony W. Vogdes, retired, with rank from May 20, 1904.
Col. Charles W. Raymond, retired, with rank from June 11, 1904.
Col. Joshua W. Jacobs, retired, with rank from June 25, 1904.
Col. John R. McGinness, retired, with rank from September 17, 1904.

*With the rank of colonel.*

Lieut. Col. Edwin F. Gardner, retired, with rank from August 3, 1904.

*With the rank of lieutenant-colonel.*

Maj. Ezra B. Fuller, retired, with rank from May 13, 1904.
Maj. Jerome A. Watrous, retired, with rank from September 6, 1904.

*With the rank of lieutenant-colonel.*

Capt. Theodore Sternberg, retired, with rank from September 15, 1904.

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## CONFIRMATIONS.

*Executive nominations confirmed by the Senate December 16, 1904.*

DISTRICT JUDGE OF PORTO RICO.

Charles F. McKenna, of Pennsylvania, to be United States district judge for the district of Porto Rico.

COMMISSIONER OF LABOR, DEPARTMENT OF COMMERCE AND LABOR.

Charles P. Neill, of the District of Columbia, to be Commissioner of Labor in the Department of Commerce and Labor.

ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Charles F. Larrabee, of Portland, Me., to be Assistant Commissioner of Indian Affairs.

ASSISTANT APPRAISER OF MERCHANDISE.

Rufus A. Flanders, of Massachusetts, to be assistant appraiser of merchandise in the district of Boston and Charlestown, in the State of Massachusetts.

COLLECTORS OF INTERNAL REVENUE.

Edgar O. Crossman, of New Hampshire, to be collector of internal revenue for the district of New Hampshire.

Frank L. Smith, of Illinois, to be collector of internal revenue for the eighth district of Illinois.

Charles W. Roberts, of Missouri, to be collector of internal revenue for the sixth district of Missouri.

INDIAN AGENTS.

Capt. John McA. Webster, United States Army, retired, of Mackinac Island, Mich., who was appointed June 20, 1904, during the recess of the Senate, to be agent for the Indians of the Colville Agency, in Washington.

Samuel Bellew, of Missoula, Mont., who was appointed June 30, 1904, during the recess of the Senate, to be agent for the Indians of the Flathead Agency, in Montana.

Frank Frantz, of Enid, Okla., who was appointed June 3, 1904, during the recess of the Senate, to be agent for the Indians of the Osage Agency, in Oklahoma.

APPOINTMENTS IN THE MARINE CORPS.

*To be second lieutenants in the Marine Corps from the 3d day of December, 1904, to fill vacancies existing in that grade on that date.*

Henry N. Manney, jr., a citizen of New York;
Clifford P. Meyer, a citizen of Louisiana;
Franklin B. Garrett, a citizen of Louisiana;
Samuel W. Bogan, a citizen of Maryland;
Calvin B. Matthews, a citizen of Tennessee;
Frederick A. Gardener, a citizen of Michigan;
Edward P. Dieter, a noncommissioned officer of the Marine Corps;
Albert E. Randall, a citizen of Nebraska;
Arthur A. Racicot, jr., a citizen of Massachusetts;
James R. N. Boyd, a citizen of Virginia;
Ross S. Kingsbury, a citizen of Idaho;
Tom Dustin Barber, a citizen of Vermont; and
Hermann T. Vulte, a citizen of New York.

PROMOTION IN THE MARINE CORPS.

Lieut. Col. Paul St. C. Murphy to be a colonel in the Marine Corps from the 9th day of December, 1904.

PROMOTIONS IN THE PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. Carroll Fox, of Pennsylvania, to be a passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from July 27, 1904.

Asst. Surg. Joseph Goldberger, of Pennsylvania, to be a passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from July 27, 1904.

Asst. Surg. Dunlop Moore, of Pennsylvania, to be a passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from June 4, 1904.

Asst. Surg. Clarence W. Wille, of Pennsylvania, to be a passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from November 25, 1904.

PROMOTIONS IN THE NAVY.

Lieut. Commander William H. Allen to be a commander in the Navy from the 23d day of November, 1904.

Lieut. (Junior Grade) Hilary H. Royall to be a lieutenant in the Navy from the 6th day of December, 1904.

Asst. Surg. Paul E. McDonnold to be a passed assistant surgeon in the Navy from the 2d day of July, 1904, upon the completion of three years' service.

Lieut. (Junior Grade) Claude C. Bloch to be a lieutenant in the Navy from the 8th day of November, 1904.

Capt. Royal B. Bradford to be a rear-admiral in the Navy from the 23d day of November, 1904.

Commander William H. Beehler to be a captain in the Navy from the 23d day of November, 1904.

Gunner Charles E. Jaffee to be a chief gunner in the Navy from the 11th day of July, 1904, upon the completion of six years' service in accordance with an act of Congress approved April 27, 1904.

Gunner Herbert Campbell to be a chief gunner in the Navy from the 27th day of April, 1904, after having completed six years' service in accordance with the provisions of an act of Congress approved April 27, 1904.

Gunner Patrick Hill to be a chief gunner in the Navy from the 28th day of October, 1904, upon the completion of six years' service in accordance with the provisions of an act of Congress approved April 27, 1904.

PROMOTIONS IN THE ARMY.

*With the rank of brigadier-general from April 23, 1904.*

Col. Galusha Pennypacker, retired.
Col. David Perry, retired.
Col. Clarence M. Bailey, retired.
Col. Charles D. Viele, retired.
Col. Henry W. Wessells, jr., retired.
Col. William M. Van Horne, retired.
Col. Richard H. Pratt, retired.
Col. Isaac S. Catlin, retired.
Col. Henry B. Carrington, retired.
Col. Theophilus F. Rodenbough, retired.
Col. George A. Woodward, retired.
Col. James Van Voast, retired.
Col. John F. Head, retired.
Col. John Campbell, retired.
Col. John E. Summers, retired.
Col. Luther P. Bradley, retired.
Col. Marcus D. L. Simpson, retired.
Col. Rufus Saxton, retired.
Col. Elisha I. Baily, retired.
Col. John C. Tidball, retired.
Col. David L. Magruder, retired.
Col. Nathan A. M. Dudley, retired.
Col. Alfred L. Hough, retired.
Col. Horatio G. Gibson, retired.
Col. Joseph G. Tilford, retired.
Col. Henry R. Mizner, retired.
Col. George Bell, retired.
Col. George L. Andrews, retired.
Col. Anthony Heger, retired.
Col. Alexander J. Perry, retired.
Col. Rodney Smith, retired.
Col. Charles Page, retired.
Col. Bernard J. D. Irwin, retired.
Col. Matthew M. Blunt, retired.
Col. Charles H. Tompkins, retired.
Col. Loomis L. Langdon, retired.
Col. Henry M. Lazelle, retired.
Col. John G. Chandler, retired.
Col. Henry C. Hodges, retired.
Col. Cyrus B. Comstock, retired.
Col. Joseph R. Smith, retired.
Col. Judson D. Bingham, retired.
Col. Henry L. Abbot, retired.
Col. Edwin F. Townsend, retired.
Col. David S. Gordon, retired.
Col. Daingerfield Parker, retired.
Col. Henry C. Wood, retired.
Col. John W. Barriger, retired.
Col. Henry W. Closson, retired.
Col. Richard Lodor, retired.
Col. Thomas M. Vincent, retired.
Col. James Biddle, retired.
Col. Charles T. Alexander, retired.
Col. Henry C. Cook, retired.
Col. Daniel W. Benham, retired.
Col. Henry Carroll, retired.
Col. Charles E. Compton, retired.
Col. Alfred T. Smith, retired.
Col. Evan Miles, retired.
Col. Michael Cooney, retired.
Col. Edwin M. Coates, retired.
Col. James M. Whittemore, retired.
Col. Charles H. Alden, retired.
Col. Edward B. Williston, retired.
Col. James G. C. Lee, retired.
Col. James W. Scully, retired.
Col. Albert Hartsuff, retired.
Col. Augustus W. Corliss, retired.
Col. Alfred A. Woodhull, retired.
Col. Ezra P. Ewers, retired.
Col. John C. Gilmore, retired.
Col. Wirt Davis, retired.
Col. Charles I. Wilson, retired.
Col. Charles C. Byrne, retired.
Col. Henry Jackson, retired.
Col. Thomas McGregor, retired.
Col. Richard Comba, retired.
Col. James M. Moore, retired.
Col. Henry E. Noyes, retired.
Col. James N. Wheelan, retired.
Col. Charles R. Greenleaf, retired.
Col. Edward Moale, retired.
Col. E. Van Arsdale Andruss, retired.
Col. James B. Burbank, retired.
Col. Argalus G. Hennisee, retired.
Col. Justus M. Brown, retired.
Col. Eugene D. Dimmick, retired.
Col. William P. Vose, retired.

*With the rank of colonel from April 23, 1904.*

Lieut. Col. James H. Bradford, retired.
Lieut. Col. Edward Field, retired.
Lieut. Col. Andrew N. Damrell, retired.
Lieut. Col. Thomas Shea, retired.
Lieut. Col. Robert Avery, retired.
Lieut. Col. Henry L. Chipman, retired.
Lieut. Col. Edward Collins, retired.
Lieut. Col. Benjamin C. Card, retired.
Lieut. Col. Leslie Smith, retired.
Lieut. Col. John Green, retired.
Lieut. Col. George A. Forsyth, retired.
Lieut. Col. Blencowe E. Fryer, retired.

Lieut. Col. John A. Wilcox, retired.
Lieut. Col. John H. Janeway, retired.
Lieut. Col. George B. Dandy, retired.
Lieut. Col. Samuel M. Horton, retired.
Lieut. Col. Jeremiah H. Gilman, retired.
Lieut. Col. Joseph R. Gibson, retired.
Lieut. Col. James F. Randlett, retired.
Lieut. Col. Francis E. Lacey, retired.
Lieut. Col. James Jackson, retired.
Lieut. Col. Augustus H. Bainbridge, retired.
Lieut. Col. Wells Willard, retired.
Lieut. Col. Johnson V. D. Middleton, retired.
Lieut. Col. William D. Wolverton, retired.
Lieut. Col. Stevens T. Norvell, retired.
Lieut. Col. Henry Wagner, retired.
Lieut. Col. John N. Coe, retired.
Lieut. Col. Henry R. Tilton, retired.
Lieut. Col. Egon A. Koerper, retired.
Lieut. Col. John H. Calef, retired.
Lieut. Col. William H. Clapp, retired.
Lieut. Col. Henry R. Brinkerhoff, retired.
Lieut. Col. William H. Boyle, retired.
Lieut. Col. Lyster M. O'Brien, retired.
Lieut. Col. James M. Ingalls, retired.
Lieut. Col. Joel T. Kirkman, retired.
Lieut. Col. Ezra Woodruff, retired.
Lieut. Col. David B. Wilson, retired.
Lieut. Col. Charles K. Winne, retired.
Lieut. Col. Selden A. Day, retired.
Lieut. Col. Almon L. Varney, retired.

*With the rank of lieutenant-colonel from April 23, 1904*

Maj. Alexander S. B. Keyes, retired.
Maj. John. S. Loud, retired.
Maj. Edmond G. Fechét, retired.
Maj. Harry G. Cavenaugh, retired.
Maj. Leopold O. Parker, retired.
Maj. Marshall W. Wood, retired.
Maj. Benjamin P. Runkle, retired.
Maj. Jacob E. Burbank, retired.
Maj. Herbert M. Enos, retired.
Maj. Alfred E. Latimer, retired.
Maj. Edwin D. Judd, retired.
Maj. William Hawley, retired.
Maj. James McMillan, retired.
Maj. Frank Bridgman, retired.
Maj. Theodore J. Eckerson, retired.
Maj. Edwin Bentley, retired.
Maj. Asa Bird Gardiner, retired.
Maj. Gerald Russell, retired.
Maj. Albert B. Kauffman, retired.
Maj. Julius H. Patzki, retired.
Maj. Daniel R. Larned, retired.
Maj. De Witt C. Poole, retired.
Maj. Thomas E. Rose, retired.
Maj. John H. Bartholf, retired.
Maj. Charles Bentzoni, retired.
Maj. Frederick M. Crandal, retired.
Maj. Henry M. Cronkhite, retired.
Maj. Richard S. Vickery, retired.
Maj. Daniel G. Caldwell, retired.
Maj. George F. Robinson, retired.
Maj. John A. Darling, retired.
Maj. Otis W. Pollock, retired.
Maj. Lewis Smith, retired.
Maj. William H. Rexford, retired.
Maj. George W. H. Stouch, retired.
Maj. Ira Quinby, retired.
Maj. John Murphy, retired.
Maj. John S. Witcher, retired.
Maj. William Gerlach, retired.
Maj. John W. Summerhayes, retired.
Maj. William H. Hamner, retired.
Maj. Frederick Fuger, retired.
Maj. John C. Scantling, retired.
Maj. Frank W. Hess, retired.
Maj. Francis B. Jones, retired.
Maj. John P. Baker, retired.
Maj. Eaton A. Edwards, retired.
Maj. Charles Newbold, retired.
Maj. William W. Gilbert, retired.

*With the rank of major from April 23, 1904.*

Capt. George McGown, retired.
Capt. Henry C. Morgan, retired.
Capt. William P. Huxford, retired.
Capt. Theodore A. Hodge, retired.
Capt. Wellington G. Sprague, retired.
Capt. Thomas H. Norton, retired.
Capt. James A. Bates, retired.
Capt. Charles T. Greene, retired.
Capt. Frederick C. Von Schirach, retired.
Capt. John M. Hoag, retired.
Capt. John Kelliher, retired.
Capt. Richard W. Tyler, retired.
Capt. William P. Atwell, retired.
Capt. Edward S. Meyer, retired.
Capt. William Nelson, retired.
Capt. Benjamin F. Rittenhouse, retired.
Capt. Peter M. Boehm, retired.
Capt. John L. Johnston, retired.
Capt. James S. Tomkins, retired.
Capt. Charles C. MacConnell, retired.
Capt. D. Mortimer Lee, retired.
Capt. George A. Armes, retired.
Capt. John C. White, retired.
Capt. Charles E. Morse, retired.
Capt. James H. Spencer, retired.
Capt. Lemuel A. Abbott, retired.
Capt. Mason Jackson, retired.
Capt. John S. McNaught, retired.
Capt. George M. Downey, retired.
Capt. Dwight H. Kelton, retired.
Capt. Robert G. Smither, retired.
Capt. Thomas G. Troxel, retired.
Capt. Thomas M. McDougall, retired.
Capt. Thomas H. Logan, retired.
Capt. William A. Miller, retired.
Capt. Gilbert E. Overton, retired.
Capt. William R. Maize, retired.
Capt. George G. Lott, retired.
Capt. John Conline, retired.
Capt. Thomas F. Tobey, retired.
Capt. Samuel T. Hamilton, retired.
Capt. Will W. Daugherty, retired.
Capt. John P. Thompson, retired.
Capt. Joshua A. Fessenden, retired.
Capt. Edmund L. Zalinski, retired.
Capt. John Anderson, retired.
Capt. Alexander H. M. Taylor, retired.
Capt. Edmund Luff, retired.
Capt. Frazier A. Boutelle, retired.
Capt. James D. Nickerson, retired.
Capt. Joseph L. Tidball, retired.
Capt. Charles C. Churchill, retired.
Capt. Charles Holmes, retired.
Capt. Henry B. Hendershott, retired.
Capt. Alexander Murry, retired.
Capt. Thomas T. Brand, retired.
Capt. Josiah H. Kellogg, retired.
Capt. Thomas C. J. Bailey, retired.
Capt. John McDonald, retired.
Capt. John H. Butler, retired.
Capt. George E. Judd, retired.
Capt. William R. Smedberg, retired.
Capt. Albert Barnitz, retired.
Capt. Jacob W. Keller, retired.
Capt. William R. Bourne, retired.
Capt. George H. McLoughlin, retired.
Capt. Wright Rives, retired.
Capt. Edwin J. Conway, retired.
Capt. Samuel E. Armstrong, retired.
Capt. John Miller, retired.
Capt. James Stewart, retired.
Capt. Herman Schreiner, retired.
Capt. Michael J. Fitz-Gerald, retired.
Capt. Joel G. Trimble, retired.
Capt. Benjamin H. Gilbreth, retired.
Capt. William Falck, retired.
Capt. Charles Steelhammer, retired.
Capt. Deane Monahan, retired.
Capt. Sebastian Gunther, retired.
Capt. Frederic A. Kendall, retired.
Capt. Charles Harkins, retired.
Capt. George Shorkley, retired.
Capt. Henry M. Benson, retired.
Capt. George F. Foote, retired.
Capt. William R. Parnell, retired.
Capt. John Hamilton, retired.
Capt. Frederic C. Nichols, retired.
Capt. William Fletcher, retired.

Capt. John T. Morrison, retired.
Capt. David Schooley, retired.
Capt. Byron Dawson, retired.
Capt. Eugene A. Bancroft, retired.
Capt. Charles Wheaton, retired.
Capt. Michael Leahy, retired.
Capt. Daniel Robinson, retired.
Capt. George F. Barstow, retired.
Capt. William N. Sage, retired.
Capt. John W. Bean, retired.
Capt. Edwin J. Stivers, retired.
Capt. Matthew Markland, retired.
Capt. William R. Steinmetz, retired.
Capt. Max Wesendorff, retired.
Capt. David R. Burnham, retired.
Capt. Daniel F. Callinan, retired.
Capt. Henry S. Howe, retired.
Capt. Frank D. Garretty, retired.
Capt. Thomas F. Quinn, retired.
Capt. Algernon S. M. Morgan, retired.
Capt. William Conway, retired.
Capt. William Hoffman, retired.
Capt. Levi F. Burnett, retired.
Capt. Gerhard L. Luhn, retired.
Capt. George A. Drew, retired.
Capt. John J. O'Brien, retired.
Capt. James Ulio, retired.
Capt. Charles C. De Rudio, retired.
Capt. Jacob F. Munson, retired.
Capt. Henry Romeyn, retired.
Capt. Alfred Morton, retired.
Capt. Mason Carter, retired.
Capt. Sidney E. Clark, retired.
Capt. John S. Bishop, retired.
Capt. Charles D. A. Loeffler, retired.
Capt. Jonathan N. Patton, retired.
Chaplain Francis H. Weaver, retired.
Chaplain Delmar R. Lowell, retired.
Chaplain William H. Pearson, retired.
Chaplain William F. Hubbard, retired.
Chaplain Henry H. Hall, retired.
Chaplain Daniel Kendig, retired.
Chaplain George W. Collier, retired.
Chaplain Stephen G. Dodd, retired.
Chaplain Osgood E. Herrick, retired.
Chaplain Sherman M. Merrill, retired.
Chaplain Winfield Scott, retired.
Chaplain John H. Macomber, retired.
Chaplain Brant C. Hammond, retired.
Chaplain Bernard Kelly, retired.
Chaplain Dudley Chase, retired.

*With the rank of captain from April 23, 1904.*

First Lieut. Walter F. Halleck, retired.
First Lieut. Richard C. Du Bois, retired.
First Lieut. Hugh D. Bowker, retired.
First Lieut. Frank R. Rice, retired.
First Lieut. David H. Cortelyou, retired.
First Lieut. Robert G. Carter, retired.
First Lieut. Henry Marcotte, retired.
First Lieut. George E. Albee, retired.
First Lieut. William H. Miller, retired.
First Lieut. Charles C. Cresson, retired.
First Lieut. Asa T. Abbott, retired.
First Lieut. Louis H. Orleman, retired.
First Lieut. John F. Trout, retired.
First Lieut. David J. Gibbon, retired.
First Lieut. Robert H. Young, retired.
First Lieut. Stephen J. Mulhall, retired.
First Lieut. Herbert Cushman, retired.
First Lieut. George Williams, retired.
First Lieut. William G. Fitch, retired.
First Lieut. Ransom Kennicott, retired.
First Lieut. Edmund R. P. Shurly, retired.
First Lieut. Charles A. Curtis, retired.
First Lieut. James R. Mullikin, retired.
First Lieut. Michael J. Hogarty, retired.
First Lieut. Charles W. Keyes, retired.
First Lieut. Henry B. Mellen, retired.
First Lieut. James H. Rice, retired.
First Lieut. Freeman E. Olmstead, retired.
First Lieut. Henry R. Jones, retired.
First Lieut. Robert G. Rutherford, retired.
First Lieut. George W. Budd, retired.
First Lieut. Benjamin D. Boswell, retired.
First Lieut. Royal E. Whitman, retired.
First Lieut. William H. Nelson, retired.
First Lieut. Granville Lewis, retired.
First Lieut. James H. Sands, retired.
First Lieut. John Bannister, retired.
First Lieut. Thomas B. Briggs, retired.

*With the rank of first lieutenant from April 23, 1904.*

Second Lieut. William P. Hogarty, retired.
Second Lieut. Frank Madden, retired.
Second Lieut. Gustave Magnitzky, retired.
Second Lieut. James Davison, retired.
Second Lieut. Thomas B. Reed, retired.
Second Lieut. William N. Williams, retired.

*With the rank of brigadier-general.*

Col. Anthony W. Vogdes, retired, with rank from May 20, 1904.
Col. Charles W. Raymond, retired, with rank from June 11, 1904.
Col. Joshua W. Jacobs, retired, with rank from June 25, 1904.
Col. John R. McGinness, retired, with rank from September 17, 1904.

*With the rank of colonel.*

Lieut. Col. Edwin F. Gardner, retired, with rank from August 3, 1904.

*With the rank of lieutenant-colonel.*

Maj. Ezra B. Fuller, retired, with rank from May 13, 1904.
Maj. Jerome A. Watrous, retired, with rank from September 6, 1904.

*With the rank of major.*

Capt. Theodore Sternberg, retired, with rank from September 15, 1904.

POSTMASTERS.

CALIFORNIA.

Josiah R. Baker to be postmaster at Antioch, in the county of Contra Costa and State of California.
George W. Stevens to be postmaster at Benicia, in the county of Solano and State of California.

FLORIDA.

Newell B. Hull to be postmaster at Starke, in the county of Bradford and State of Florida.

ILLINOIS.

Henry C. Bogue to be postmaster at Vermont, in the county of Fulton and State of Illinois.
Swan J. Chilberg to be postmaster at Cambridge, in the county of Henry and State of Illinois.
Oscar H. Harpham to be postmaster at Havana, in the county of Mason and State of Illinois.
Charles G. Watrous to be postmaster at Waukegan, in the county of Lake and State of Illinois.

INDIAN TERRITORY.

Stephen A. Douglas to be postmaster at Ardmore, in District 21, Indian Territory.

MASSACHUSETTS.

William F. Wiley to be postmaster at Peabody, in the county of Essex and State of Massachusetts.

MINNESOTA.

Lewis O. Norheim to be postmaster at Montevideo, in the county of Chippewa and State of Minnesota.

MISSOURI.

Edward D. Lowe to be postmaster at Cuba, in the county of Crawford and State of Missouri.
Edgar W. Prentiss to be postmaster at Bethany, in the county of Harrison and State of Missouri.

NEW JERSEY.

Charlotte Ketcham to be postmaster at Belvidere, in the county of Warren and State of New Jersey.

NEW YORK.

F. A. Davis to be postmaster at Fort Edward, in the county of Washington and State of New York.
Melvin D. Herriman to be postmaster at Sandy Creek, in the county of Oswego and State of New York.
Annie Larrabee to be postmaster at Oyster Bay, in the county of Nassau and State of New York.
William Purcell to be postmaster at Scottsville, in the county of Monroe and State of New York.
Charles N. Wood to be postmaster at Angola, in the county of Erie and State of New York.

NORTH DAKOTA.

Francis R. Cruden to be postmaster at McHenry, in the county of Foster and State of North Dakota.

Millard F. Kepner to be postmaster at New Rockford, in the county of Eddy and State of North Dakota.

OHIO.

Milton B. Dickerson to be postmaster at Marion, in the county of Marion and State of Ohio.

John A. Koeper to be postmaster at New Bremen, in the county of Auglaize and State of Ohio.

Edmund L. McCalley to be postmaster at Middletown, in the county of Butler and State of Ohio.

William B. Wallace, to be postmaster at Oxford, in the county of Butler and State of Ohio.

PENNSYLVANIA.

R. C. Keefer to be postmaster at Clairton, in the county of Allegheny and State of Pennsylvania.

William P. McMasters to be postmaster at Munhall, in the county of Allegheny and State of Pennsylvania.

SOUTH DAKOTA.

William F. Bancroft to be postmaster at Wessington Springs, in the county of Jerauld and State of South Dakota.

VERMONT.

Lewis A. Skiff to be postmaster at Middlebury, in the county of Addison and State of Vermont.

WEST VIRGINIA.

Grace O. Montgomery to be postmaster at Tunnelton, in the county of Preston and State of West Virginia.

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## HOUSE OF REPRESENTATIVES.

FRIDAY, *December 16, 1904.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

SUNDRY BILLS TABLED.

The SPEAKER. The Chair desires to lay before the House certain bills on the House Calendar and also certain bills on the Union Calendar. Senate bills similar to the same were passed at the last session, by the Senate and by the House, and as the Chair is informed became law. These bills still remain on the Calendar and should be laid on the table.

The Clerk will report the following bills, by number:

The Clerk read as follows:

A bill (H. R. 14968) permitting the Ozark and Cherokee Central Railroad Company and the Arkansas Valley and Western Railroad Company, and each or either of them, to sell and convey their railroads and other property in the Indian Territory to the St. Louis and San Francisco Railroad Company, or to the Chicago, Rock Island and Pacific Railway Company, and for other purposes.

A bill (H. R. 2513) to further amend an act entitled "An act to reimburse the governors of States and Territories for expenses incurred by them in aiding the United States to raise and organize and supply and equip the Volunteer Army of the United States in the existing war with Spain," approved July 8, 1898, and amendment thereto, approved March 3, 1899, and for other purposes.

A bill (H. R. 1975) to amend section 1225 of Revised Statutes so as to provide for detail of retired officers of the Army and Navy to assist in military instruction in schools.

The House joint resolution (H. J. Res. 147) requesting the Secretary of the Interior to institute an investigation relative to the use of the waters of the Colorado River for irrigation, and to report to Congress thereon.

The SPEAKER. Without objection, the bills will lie on the table. [After a pause.] The Chair hears no objection.

The following bills are in Committee of the Whole House.

The Clerk read as follows:

The bill (H. R. 13130) for the relief of James T. Barry and Richard Cushion, executors of the last will and testament of Martin Dowling, deceased.

The bill (H. R. 5335) to provide an American register for the British ship *Pyrenees*.

The House joint resolution (H. J. Res. 122) permitting Maj. Thomas W. Symons, Corps of Engineers, to assist the State of New York by acting as a member of an advisory board.

The SPEAKER. Without objection, the Committee of the Whole will be discharged from further consideration, and the bills will lie on the table.

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had passed without amendment a bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 16445. An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal yaer ending June 30, 1905, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 2972. An act granting an increase of pension to Thomas Boyle—to the Committee on Invalid Pensions.

S. 3742. An act granting an increase of pension to Juliet A. B. Hoff—to the Committee on Invalid Pensions.

S. 4208. An act granting an increase of pension to Bessy Forsyth Bache—to the Committee on Invalid Pensions.

S. 2286. An act granting an increase of pension to James Thompson—to the Committee on Invalid Pensions.

S. 5738. An act granting an increase of pension to Enoch Russell—to the Committee on Invalid Pensions.

S. 2493. An act granting an increase of pension to Alfred Tichurst—to the Committee on Invalid Pensions.

S. 2890. An act granting an increase of pension to Andrew C. Kemper—to the Committee on Invalid Pensions.

S. 2333. An act granting a pension to Benjamin F. Hall—to the Committee on Invalid Pensions.

S. 4199. An act granting a pension to William Rufus Kelly—to the Committee on Invalid Pensions.

S. 316. An act granting an increase of pension to Elmore Y. Chase—to the Committee on Invalid Pensions.

S. 266. An act granting a pension to Emma S. Harney—to the Committee on Invalid Pensions.

S. 342. An act for the improvement of the Mount Rainier National Park, in the State of Washington—to the Committee on Appropriations.

STATUE OF JOHN J. INGALLS.

Mr. CURTIS. Mr. Speaker, I offer the following resolution, and ask unanimous consent for its present consideration.

The Clerk read as follows:

*Resolved,* That the exercises appropriate to the reception and acceptance from the State of Kansas of the statue of John J. Ingalls, erected in the old Hall of the House of Representatives, be made the special order for Saturday, January 21, 1905, at 3.30 o'clock p. m.

The SPEAKER. Is there objection to the present consideration? [After a pause.] The Chair hears none.

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

BILLS ON THE PRIVATE CALENDAR.

Mr. GRAFF. Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole House on the state of the Union to consider bills on the Private Calendar, in accordance with the special order in that behalf.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House, with Mr. CAMPBELL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House for the consideration of bills on the Private Calendar under special order. The Clerk will report the first bill.

ILLINOIS CENTRAL RAILROAD COMPANY.

The Clerk read the bill, as follows:

A bill (H. R. 11664) to reimburse the Illinois Central Railroad Company for damage to union depot at Louisville, Ky., by blasting in the Ohio River.

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Illinois Central Railroad Company, out of any money in the Treasury not otherwise appropriated, the sum of $60.82 for reimbursement of damages to the roof of the union depot and train shed at Seventh and River streets, Louisville, Ky., by blasting operations conducted by the Government in connection with the improvement of the Ohio River.

Mr. PAYNE. I would like to ask the gentleman from Illinois, the chairman of the committee, a question. I understand this bill calls for an appropriation of $60. Why is this enormous sum asked of the United States by a great and rich corporation?

Mr. GRAFF. Because there is no other way to obtain it. [Laughter.] The parties are entitled to it; it is recommended by the Department because the damage was caused by the United States; because the railroad company suffered the loss or damage, and because the amount has been ascertained and because there is no question about the claim.

Mr. PAYNE. The gentleman states that the United States caused this great damage?

Mr. GRAFF. Yes.

Mr. PAYNE. And the gentleman has no doubt that the amount is not excessive? [Laughter.]

Mr. GRAFF. No, sir.

The bill was laid aside to be reported to the House with a favorable recommendation.

ADOLPH SPIEGEL.

The next business on the Private Calendar was the bill (H. R. 11802) for the relief of Adolph Spiegel, as the successor of the firm of Spiegel, Finkelstein & Co.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Adolph Spiegel, as the successor of the firm of Spiegel, Finkelstein & Co., the sum of $530.08, out of any money in the United States Treasury not otherwise appropriated, to refund duties erroneously assessed and charged on merchandise shipped from New York to Porto Rico to the firm of Spiegel, Finkelstein & Co. after April 11, 1899.

Mr. GOLDFOGLE. Mr. Chairman, the firm of Spiegel, Finkelstein & Co., shipping merchants, shipped goods from New York to Porto Rico from time to time, and upon that shipment paid $530.08 as customs duty collected by the Government. At the time that these goods were shipped the goods were not dutiable, and it is conceded by the Treasury Department that the moneys were improperly collected. The money was paid into the Treasury, and there it is withheld from one of our citizens. The recommendation of the Treasury Department appears on the second page of the report of the Committee on Claims. The receipts for the money are likewise embodied in the report of the committee. I move that the bill be laid aside with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, I would like to ask a question. I believe there was a general law passed for the relief of this class of claimants?

Mr. GOLDFOGLE. That I do not know. The Treasury Department recommends the passage of this special act. The fact is the Government holds this money, and there is no question but that the Government ought to repay to its citizens money improperly collected.

Mr. PAYNE. Of course, Mr. Chairman, these duties were paid under the impression that the Government and the Treasury Department then had—that they were assessable under the Dingley law.

Mr. GOLDFOGLE. Certainly.

Mr. PAYNE. And the Supreme Court of the United States afterwards held that they were not assessable under that act, and that no duties could be collected until Congress took action on the subject.

Mr. GOLDFOGLE. Yes.

Mr. PAYNE. And that is the reason this claim comes here. Now, my recollection is that we passed a general statute for the refunding of these duties. Of course, if the gentleman has a certificate of the Treasury Department that these people have not had relief under that general act, there is no reason why they should not get the relief now. I presume that the reason is that the time elapsed before they presented their claims to the Treasury Department, and for that reason they did not get in under the general blanket decision?

Mr. GOLDFOGLE. Yes. I appreciate the gentleman's frankness and fairness.

The CHAIRMAN. The question is on the committee amendment.

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

The bill was ordered to be laid aside with a favorable recommendation.

NOAH DILLARD.

The next business on the Private Calendar was the bill (H. R. 3109) for the relief of Noah Dillard.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury of the United States of America be, and he is hereby, authorized and directed to pay to Noah Dillard, one-half out of any moneys not otherwise appropriated and one-half out of the revenues of the District of Columbia, the sum of $303.12, or so much thereof as may be found due him, for labor performed and material furnished under contracts dated July, 1872, and August 7, 1873, and entered into by the board of public works of the District of Columbia and Noah Dillard and Parker Moulton, contractors, which contracts were numbered, respectively, No. 388 and No. 821, and now on file in the office of the Commissioners of the District of Columbia, together with all extensions and assignments of said contracts known and of record as aforesaid, numbered 388 and 821: *Provided*, That the acceptance by the claimant of the amount herein appropriated shall be taken and considered as a full discharge and acquittance of the District of Columbia of all and every obligation of whatsoever character under and on account of contracts numbered 388 and 821 as aforesaid, and every extension of the same.

Mr. PAYNE. Mr. Chairman, I did not quite catch the name of this claimant, but the language of the bill reminds me somewhat of an old friend we had in the House six or eight years ago. At that time the House rejected the claim. I don't know whether this is the same bill or not, but I shall have to ask for the reading of the report in my time in this case, so that the House can see whether this is the same.

Mr. GRAFF. Mr. Chairman, I think I can save the time of the committee, if the gentleman will permit me to read the official letter pertaining to the subject, which is as follows:

OFFICE OF THE AUDITOR OF THE DISTRICT OF COLUMBIA,
*Washington, February 13, 1902.*

GENTLEMEN: I have the honor to submit the following report on bill H. R. 3728, Fifty-seventh Congress, first session, for the relief of Noah Dillard:

The records show that on August 17, 1873, the board of public works entered into contract, No. 821, with George W. Goodall, in part, for the construction of a 12-inch pipe sewer in square No. 624. Afterwards, under date of January 15, 1875, the contract aforesaid was assigned by George W. Goodall to Noah Dillard on condition that the latter comply "with all requirements as may be ordered by Lieut. R. L. Hoxie, engineer of the District of Columbia."

When the work under this contract was completed, July 20, 1875, certificates exchangeable for 3.65 bonds were duly issued in payment by the board of audit which, under the act of June 20, 1874, was charged with the settlement of all outstanding obligations of the board of public works at the time of its dissolution.

In the final adjustment of the accounts under contract 821, in square 624, on July 20, 1875, a retention amounting to $144.93, which had been withheld as a temporary guaranty fund, was omitted, and a recent examination of the records fails to show any subsequent payment of the amount thus retained. I am therefore of opinion that the amount claimed by Mr. Dillard should be allowed; provided, however, that it be accepted by him as a full acquittance of all and every obligation of whatsoever character on the part of the District of Columbia under contract 821 and any extension of the same.

With this proviso, I have the honor to suggest that the bill hereinbefore mentioned be returned with a recommendation for favorable action thereon by Congress.

Very respectfully,
J. T. PETTY,
*Auditor District of Columbia.*

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

I will state that the claimant is an old colored man, who came into the committee frequently, and finally Mr. Petty, the auditor, told me that this amount was upon the books, that the old man did not have anybody whom he could interest in the claim, and that it was clearly due him and ought to be passed. So Mr. HENRY, the gentleman from Connecticut, introduced the bill.

Mr. PAYNE. It has never been paid to the original contractor?

Mr. GRAFF. Oh, no.

Mr. PAYNE. Mr. Chairman, that is a different case from the one I had in mind.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and the bill was ordered to be laid aside with a favorable recommendation.

A. M. SHORT.

The next business on the Private Calendar was the bill (S. 3199) for the relief of A. M. Short.

The bill was read, as follows:

*Be it enacted, etc.*, That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $100; and the Secretary of the Treasury is hereby authorized and directed to pay to A. M. Short, of Stillwater, Minn., the said sum of $100.

Mr. PAYNE. Mr. Chairman, I would like to have some explanation of the reason for the payment of $100 to Mr. Short.

Mr. STEVENS of Minnesota. Mr. Chairman, I can explain the matter. As I remember it, Mr. Short is the owner of a steam vessel plying on the Mississippi and St. Croix rivers. For some reason he was fined $100 for some violation of the rules of the Steamboat-Inspection Service. Subsequently it was found that there was an error, and the Department recommended that the fine be remitted, but it was found that it could not be done for some reason. I have not read the report since last spring, and I do not now recall what that reason was. In any event, the Steamboat-Inspection Service found there was an error. They recommended that this fine be remitted, and this bill remits the fine and pays him back what he paid. That is the substance of it. The bill is favorably recommended by the Department and by the committee, and has already passed the Senate.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and the bill was ordered to be laid aside with a favorable recommendation.

DAVID V. HOWELL.

The next business on the Private Calendar was the bill (H. R. 3619) for the relief of David V. Howell.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and empowered to return and repay to David V. Howell, of Monroe, Orange County, N. Y., the sum of $1,742, being a part of the penalties assessed against the said David V. Howell for his alleged failure to complete in time certain contracts for work done at Bridgeport Harbor, Connecticut, light-house; Plum Island, New York, light-house, and at Point Comfort, New Jersey, light station; and that said sum of $1,742 is hereby appropriated out of any other fund or funds in the Treasury not otherwise appropriated.

Mr. GOLDFOGLE. Mr. Chairman, this bill was introduced at the suggestion of the Secretary of the Treasury in the second session of the Fifty-sixth Congress. The Secretary of the

Treasury then recommended the passage of the bill. I send to the Clerk's desk the letter of the Secretary and ask that it be read.

Mr. HEPBURN. Mr. Chairman, I will ask that the whole report be read.

Mr. GOLDFOGLE. I have no objection.

The CHAIRMAN. The Clerk will read the report.

The Clerk read as follows:

The Committee on Claims, having had under consideration the bill (H. R. 3619) for the relief of David V. Howell, beg leave to report the bill favorably, without amendment, to the House with the recommendation that it do pass.

The report of the Committee on Claims in the same case, in the Fifty-seventh Congress, is made a part of this report, as follows:

"The Committee on Claims, to whom was referred the bill (H. R. 4233) for the relief of David V. Howell, beg leave to submit the following report and recommend that said bill do pass without amendment.

"As the present bill has been introduced in accordance with the language recommended by the Secretary of the Treasury, in the second session of the Fifty-sixth Congress, we append the report made on that bill and make it a part of this report.

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[House Report No. 2356, Fifty-sixth Congress, second session.]

"The Committee on Claims, to whom was referred the bill (H. R. 6032) for the relief of David V. Howell, submit the following report and recommend that the bill do pass with the following amendment:

"Strike out all after the enacting clause and insert the following:

"'That the Secretary of the Treasury be, and hereby is, authorized and empowered to pay David V. Howell, of Monroe, Orange County, N. Y., the sum of $1,742, in full satisfaction of all claims of the said David V. Howell arising out of the contracts for work done at Bridgeport Harbor, Connecticut, light-house; Plumb Island, New York, light-house, and Point Comfort, New Jersey, light station; and that said sum of $1,742 is hereby appropriated out of any other fund or funds in the Treasury not otherwise appropriated.'

"Mr. Howell's claim against the Government was for $2,392, growing out of certain contracts for the building of walls, wharves, ripraps, and stone jetties at Point Comfort light station, New Jersey, and Bridgeport Harbor light-house, Connecticut, and landing wharf at Plumb Island light-house, New York. The claim is for extra work and materials concededly ordered by the Treasury Department, and supplied and performed by Mr. Howell, and for demurrage charged against the contractor for delays which were the result of severe and unusual weather and unusual high seas which interfered with the work, while he, with his men, materials, and appliances, were ready to work.

"All of the work contracted for was well performed and properly done, to the satisfaction of the Government.

"The bill was introduced at the suggestion of the Secretary, because there was no appropriation available for the purpose of paying the claim.

"Your committee communicated with the Secretary of the Treasury in respect to the matter, and received in reply the following communication:

"TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
"*Washington, March 30, 1900.*

"SIR: This Department has the honor to acknowledge the receipt of a letter from your committee, dated March 29, 1900, inclosing a copy of the bill (H. R. 6032) for the relief of David V. Howell, and requesting the facts and information relative to the matter and an opinion as to the merits and justice of the claim.

"The claim of Mr. Howell arises out of certain contracts made between himself and the Light-House Board, and the Board, to which the matter was referred, reports that all claims of Mr. Howell on account of work done under his several contracts with the Board have been very carefully considered at various times at regular meetings of the Board, with the result that the sum of $1,742 has been found by the Board to be equitably due Mr. Howell on account of these claims, but that no appropriation is available for payment.

"It is the opinion of the Light-House Board, in which the Department concurs, that the bill (H. R. 6032) should be amended as follows: Strike out all after the enacting clause and insert the following:

"That the Secretary of the Treasury be, and hereby is, authorized and empowered to pay David V. Howell, of Monroe, Orange County, N. Y., the sum of $1,742, in full satisfaction of all claims of the said David V. Howell arising out of the contracts for work done at Bridgeport Harbor, Connecticut, light-house; Plum Island, New York, light-house, and Point Comfort, New Jersey, light station; and that said sum of $1,742 is hereby appropriated out of any other fund or funds in the Treasury not otherwise appropriated.

"Respectfully,

"L. J. GAGE, *Secretary.*

"The CHAIRMAN OF THE COMMITTEE ON CLAIMS,
"*House of Representatives.*

"Your committee consider the claim a just and equitable one, and recommend that the bill as amended be passed."

Mr. HEPBURN. Mr. Chairman, I would like to have some explanation about this. In what does this equitable claim arise?

Mr. GOLDFOGLE. It is not only an equitable claim, but it is assuredly a legal claim. Howell, the claimant, rendered the service upon the request of the Government authorities. It seems that the work that he performed and materials that he furnished were furnished and performed upon the express request of those in charge of the work for the Government. The Treasury officials, after having examined the work, found the bills rendered to be correct, approved the work, and recommended payment. For want of appropriation, of course, the claim comes here.

Mr. PERKINS. Mr. Chairman, will the gentleman allow me a question?

The CHAIRMAN. Will the gentleman from New York allow his colleague a question?

Mr. GOLDFOGLE. Certainly.

Mr. PERKINS. What authority had these light-house officials to order work in excess of the appropriation?

Mr. GOLDFOGLE. It was absolutely necessary, so says the claimant.

Mr. PERKINS. I have no doubt he does.

Mr. GOLDFOGLE. But it was absolutely necessary that this work should be properly performed, that this extra service not included in the contract should be rendered, else the work would be valueless to the Government. They had to finish the work and put the light-house in proper condition; they had to put these ripraps in proper condition.

Mr. PERKINS. If an appropriation is not sufficient for any Government work an additional appropriation is made by Congress.

Mr. GOLDFOGLE. Not if it was necessary to complete a work such as this. Not if the work was absolutely required for the efficient service. You could not delay this work, you could not delay the completion of the light-house, you could not delay the completion of the ripraps and wait until Congress met and a bill was passed through here.

Mr. PERKINS. The gentleman might just as well say if they were building a court-house and it was necessary to spend $100,000 in excess of the appropriation that some Government official could give an order for work to be done in excess of the appropriation.

Mr. GOLDFOGLE. No, sir; building a court-house and building a light-house are two different things.

Mr. PERKINS. What is the difference?

Mr. GOLDFOGLE. You may delay the building of a court-house and the Government suffer no injury; court might be held anywhere; but if you delay the completion of a light-house that is absolutely necessary for the safety of those who sail upon the waters where danger may well be apprehended——

Mr. PERKINS. What have they done all these years when they did not have this light-house for a century or more?

Mr. GOLDFOGLE. They took risks that ought not to have been taken by the Government.

Mr. PALMER. This report says it is on account of unusual weather.

Mr. GRAFF. I can not see how there can be any serious objection to this claim for this reason. Everybody knows, at least it is my experience, the Departments are not unduly liberal about recommending the payment of claims, that come from my committee at least, and they always make known any valid objections that there might be to the payment of a claim. This recommendation is unusual in the fact that the Department itself, in reply to our inquiry as to the merits of the bill, a copy of which was sent them, sent back a proposed form of bill reducing the amount to the exact amount that the Department finds is due to the claimant and recommended unconditionally that it be paid. They say that the Government has received this extra work—it was for extra work and material—that the matter has been carefully examined, and then they recommend a change in the bill and the changes are made. The Government has had the advantage of the work and material, and this man was out for it.

Mr. PERKINS. But will the gentleman allow a question? I do not quite understand the facts as the gentleman has stated them. It says here the charge is for extra work and material.

Mr. GRAFF. Yes.

Mr. PERKINS. That is one of the items, the amount of which is not stated. Then comes the other item for demurrage lodged against the contractor for delays caused as the result of severe and unusual weather. What is there about that?

Mr. GRAFF. The demurrage is the amounts deducted from the contract price for delays in completion. Undoubtedly the Light-House Board which passed on those demurrage deductions is the same Board which, upon a reexamination, prompted the recommendations now made by the letter of the Secretary of the Treasury, written in 1902, and incorporated in the report.

Mr. PERKINS. Was this demurrage charged against him?

Mr. GRAFF. The Light-House Board is under the direction of the Secretary of the Treasury, and this letter undoubtedly was formulated and probably written in the Light-House Board itself and afterwards signed by the Secretary of the Treasury.

Mr. PERKINS. How much demurrage was charged against him?

Mr. GRAFF. I can not give the gentleman the amount; I can only give the facts stated here.

Mr. PERKINS (to Mr. GOLDFOGLE). Can you state how much it was?

Mr. GOLDFOGLE. I can not. This bill was introduced by the gentleman from New York [Mr. BRADLEY] and examined by us in the Committee on Claims.

Mr. BRADLEY. Mr. Chairman, David V. Howell is an old gentleman, about 83 years of age, who fifteen years ago built for the United States some three light-houses on the Atlantic coast. By reason of extraordinary weather and fierce storms he suffered great loss. At the conclusion of the work a considerable amount—thousands of dollars—were deducted for demurrage and delay. A bill was introduced in the House of Representatives some ten years ago asking for something between six and seven thousand dollars. It lingered along without action and was finally referred to the Treasury Department, and the recommendation of the Light-House Board was sent back to the Committee on Claims. The bill for the original sum was withdrawn and a bill introduced for exactly the amount that the Light-House Board—the representatives of the Government—say is owing to this old man. I do not appeal to this House for sympathy, but I merely state that if this little claim, which in my opinion is a just and honest and an equitable one, could have been paid at the last session of Congress this old man would have been enabled to save the old homestead in which he was born.

Mr. MADDOX. I want to ask the chairman of the committee a question, so that we may understand this proposition.

Mr. GRAFF. Very well.

Mr. MADDOX. This appropriation is to pay a debt that was created by order of the Light-House Board?

Mr. GRAFF. Yes.

Mr. MADDOX. Without any authority from Congress?

Mr. GRAFF. No.

Mr. MADDOX. That is what I want to find out.

Mr. GRAFF. I can not give the general bill of particulars which make up the $1,700. It is partially for extra work and demurrage. I am just informed by the gentleman who introduced this bill that there was, some ten years ago, a bill introduced for $6,000, and it was not acted upon. Some four years ago a bill was introduced and, in the usual order of things, we referred it to the Secretary of the Treasury, because that Department had the Light-House Board under it, and in reply to the inquiry that we made as to the merits of the bill we got this letter which is incorporated in the report.

Mr. MADDOX. I simply want to make this suggestion. This claim, which may be an equitable one, certainly is not a legal one. Now, as I understand, there is a large amount of work going on connected with the construction of locks and dams, and work which has already been done is going to destruction, and yet the officers in charge dare not spend a dollar until authorized to do so. Now, if we permit officers to incur these debts without being authorized, it looks to me that it is a bad precedent that we are about to set.

Mr. GRAFF. I think the gentleman is laboring under a misapprehension. The item in the bill that makes up most of the $1,700 is for demurrage, which was unjustly held against the contractor at the time of the execution of the work.

Mr. MADDOX. Does this give that amount?

Mr. GRAFF. That was stated by the gentleman who introduced the bill a few minutes ago. This question of taxing this demurrage against the claimant was undoubtedly taken up by the Light-House Board when our letter was addressed to the Secretary of the Treasury, and this letter, which comes to us in reply and is incorporated in the report, emanates from the same Board, in which they concluded that they would not allow him the amount which he claimed, but they find the sum of $1,700 is justly due. Of course, they could not take from an appropriation on a reexamination and readjustment of the case several years afterwards. They could not use legally the general appropriation for the purpose of paying a claim of that sort. I want to say to the gentleman from Georgia [Mr. MADDOX] that never in my experience has the Department shown any disposition to conceal any fact against any claimant. We write letters to the Department for the purpose of finding out whether there are any reasons for not allowing a claim.

Mr. MADDOX. I trust you did not understand me as suggesting anything of that sort.

Mr. GRAFF. How is that?

Mr. MADDOX. I did not suggest anything of that sort.

Mr. GRAFF. I want to suggest to the gentleman what I believe ought to be the force placed upon a recommendation of this character. The Light-House Board has all of the facilities for examining into the merits of this matter.

Mr. MADDOX. I admit all that. However, getting down to the gist of the matter, my point is this: I understand that these people had gone forward and contracted this indebtedness without the authority of the law.

Mr. GRAFF. That is not true. The gentleman from New York [Mr. BRADLEY] advises me it was made by demurrage.

Mr. CLARK. I would like to ask a question in relation to this damage business. Is this claim to recompense this man for money which he did not make or for the money he thought he was going to make?

Mr. GRAFF. No, sir; they simply deducted from the amount that was due him for the actual work that was done under the provisions of the contract. They were penalties for alleged delay in the work, which they found afterwards was due to stress of weather and things of that kind which surround the work of that nature in building light-houses. I am informed by the gentleman who introduced the bill, and who has just spoken, that this man lost his home last year and that he is a poor man. He had built three of these light-houses some ten years ago. The amounts fixed by the Light-House Board in making these arbitrary deductions under the head of demurrage for alleged delay. is not, of course, the amount he received. He did not obtain an extra amount, but it was a deduction of the regular amount.

Mr. CLARK. Then this contract provided that if he did not finish up this work by a certain day he could be fined a specified amount each day. That is the plain English of it, is it not?

Mr. GRAFF. That is the idea of it.

Mr. CLARK. And he did not do it?

Mr. GRAFF. Of course the question comes, as you will readily infer, as to whether it was his fault or not; whether it was possible for him to carry the contract out or not; that is all.

Mr. CLARK. There is a part of this money intended to pay some of his accounts because he made bad contracts?

Mr. GRAFF. It is simply to pay him that which they withheld from him on the contract.

Mr. CLARK. It is not like the Smithmeyer case, then?

Mr. BRADLEY. The claim for damage and delay, amounting to something between $6,000 and $7,000, is entirely abandoned. This bill simply asks for what the Light-House Board says this man is entitled to for extra work beyond his contract, and by the order of the Light-House Board in the name of the Government. There were extraordinary storms that changed the situation and which made this work necessary, and it was absolutely desirable that it be done quickly.

Mr. CLARK. I would like to ask the gentleman from New York [Mr. BRADLEY] a question. You put this claim on an entirely different ground from that upon which the chairman of the committee based it. Which is right?

Mr. BRADLEY. I am right.

Mr. CLARK. When doctors disagree, how do the laymen come out?

Mr. BRADLEY. I want to say to the gentleman from Missouri [Mr. CLARK] that the chairman of the Committee on Claims and the gentleman from New York do not disagree on the merits of this claim.

Mr. CLARK. I know you agree on the essential fact that he ought to get the money, but you put it on different grounds.

Mr. GRAFF. Well, I will say to the gentleman that the fact is that it was made up of several items, demurrage and extra work; but he had $6,000 deducted as demurrage, and that is three times as much as this appropriation is.

Mr. CLARK. Has it been the custom to modify these contracts by what is called the act of God, or not?

Mr. GRAFF. Well, I do not know what the gentleman means.

Mr. CLARK. I mean bad weather, or earthquakes, or anything of that sort.

Mr. GRAFF. Usually. I have seen some of the contracts in examining claims before this, and they always have a provision covering cases where the delay occurs without the fault of the contractor. Of course, then it becomes a matter of evidence.

Mr. CLARK. Have you the report there in your hand?

Mr. GRAFF. Yes.

Mr. CLARK. I wish you would read it.

Mr. GRAFF. I have already read it, and I will say to the gentleman from Missouri that I really wish he would waste time on some other bill that is less meritorious.

Mr. CLARK. I am not certain that there is any merit in this one.

Mr. HEPBURN. Will the gentleman from Illinois yield to me for a moment?

Mr. GRAFF. I will.

Mr. HEPBURN. It seems to me that this claim is remarkable, looking at it from one point of view, namely, it is remarkable for the things that seem not to be known. The chairman of the committee [Mr. GRAFF] a little while ago said that he did not know how much of this aggregate of $1,746 was for demurrage, and how much was for extra material, etc.

Mr. GRAFF. That is a fact.

Mr. HEPBURN. So he seems not to know about the facts.

Mr. GRAFF. I do not say I do not know generally about the facts.

Mr. HEPBURN. Now, the gentleman from New York [Mr. GOLDFOGLE] does not seem to know about the law, for he repudiates the idea suggested by his colleague [Mr. BRADLEY] that this is entirely or largely a claim of sentiment, resting on the fact that the old gentleman has been dispossessed of his home. He refuses to believe that it is an equitable claim, but he says that it is a legal claim against the United States. I think he is mistaken about the law.

Mr. GOLDFOGLE. Will the gentleman yield for a moment? I am afraid the gentleman misunderstood me when I had the floor. I meant to say this——

Mr. HEPBURN. Oh, well, now, I am not going to be limited by what the gentleman meant to say.

Mr. GOLDFOGLE. Well, I did say in substance that if the Treasury Department changed the plans or specifications, and directed certain work to be done, and certain materials to be furnished that were not called for in the original contract, and if such materials were furnished and such work was done by the claimant, then the claimant had a claim against the Government; especially, too, if it was necessary in consequence of stress of weather and unusual storms to proceed diligently with that work.

Mr. HEPBURN. Mr. Chairman, in the absence of information as to the facts in regard to this claim, I am not prepared to admit the last statement of the gentleman from New York [Mr. GOLDFOGLE]. I understand the situation to be about this: This man made a contract with the Government to do certain things, to complete work to be affected naturally and probably by weather conditions. The report says that because of storms he was compelled to go to additional expense, as contemplated by him. I assume under these statements of fact that some portion of the work during its progress was washed away, perhaps destroyed, and that additional materials were necessary in order that he might complete that work, and additional labor had to be performed, contingencies that ought to have been and probably were covered by his contract and the bid that he made. Now he comes to the Government and asks to recoup from the Government because of these losses, because he did not put his figures sufficiently high. Of course he had to complete his contract. Of course these additional materials he was required by the board to furnish; but does that create a legal obligation on the part of the Government to pay for that? I understand these matters are always taken into consideration when contracts are let and when bids are made. I think that this is the suggestion of a new principle, and that hereafter, whenever a man finds that he has made a bid which he discovers is too low, and that there are expenses which he has not contemplated, he can come to Congress and ask for the reformation if his contract and for the payment to him of an exaggerated sum.

Mr. GOLDFOGLE. That is not this case.

Mr. HEPBURN. If this is to be adopted as a rule, I am not quarreling with the equities of it. I am not responding to the sympathy-moving suggestion of the gentleman from New York [Mr. BRADLEY].

But if there is to be a new departure of this kind it is wise to have it advertised generally, because there may be other men who have been unfortunate in the contracts they have made for which work can be accomplished, or who have been guided too much by the Weather Bureau. I would like to know if the Government is to make good hereafter the prognostications of the Weather Bureau in its contracts.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. MADDOX. Before that question is taken, Mr. Chairman, I want to ask the gentleman a question. Is the bill put in here for demurrage or for work done?

Mr. GOLDFOGLE. It is for both.

Mr. GRAFF. Both. I do not want to intimate that so distinguished gentlemen as the gentlemen here would waste the valuable time of the United States by trifling over so insignificant a measure that has been submitted in the usual form to the Department; the Department who decides and states in the letter that this man is justly entitled to a return of a portion of the $7,000 which they withheld from him on a contract for alleged delays, having concluded that not the whole $7,000 which was withheld from him under that contract ought to have been withheld, and which under this contract he would have been entitled to entirely, if it had not been for the alleged delay, and that he is entitled to the pitiful sum of $1,700 out of the $7,000.

Mr. PAYNE. May I ask the gentleman a question?

Mr. GRAFF. Certainly.

Mr. PAYNE. I see that the report says that Mr. Howell's claim against the Government was $2,392, growing out of certain contracts for building the walls, wharves, ripraps, stone jetties, and so forth. The claim is "for extra work and material concededly ordered by the Treasury Department and supplied and performed by Mr. Howell, and for demurrage charged against the contractor for delays which were the result of severe and unusual weather and unusual high seas which interfered with the work, while he, with his men, materials, and appliances were ready to work."

Now, this was the whole sum of $2,392. The committee recommends the payment of $1,742. I want to ask if this reduction was made on account of demurrage, or on account of extra work, or on account of what?

Mr. GRAFF. It was made on account of an examination and conclusions by the Department.

Mr. PAYNE. That does not answer the question. The gentleman from New York [Mr. BRADLEY] says it was on account of demurrage.

Mr. GOLDFOGLE. Will the gentleman from New York read the second paragraph of the letter from the Secretary of the Treasury, which states it more clearly than I can?

Mr. PAYNE. I was not reading from the letter then, and I do not know what the gentleman refers to. However, I will read the paragraph the gentleman refers to:

The claim of Mr. Howell arises out of certain contracts made between himself and the Light-House Board, and the Board, to which the matter was referred, reports that all claims of Mr. Howell on account of work done under his several contracts with the Board have been very carefully considered at various times at regular meetings of the Board, with the result that the sum of $1,742 has been found by the Board to be equitably due Mr. Howell on account of these claims, but that no appropriation is available for payment.

That would seem to bear out the statement made by my colleague, Mr. BRADLEY, and against the statement of the chairman of the committee, who perhaps had overlooked the statement in the letter of the Secretary of the Treasury.

Mr. HEPBURN. Mr. Chairman, it is important for another matter that the committee themselves base this claim entirely on equitable grounds. They disagree with the gentleman who made the report, who insists that it is a legal obligation on the part of the Government.

Mr. CLARK. Mr. Chairman, it is hard to tell on which of three grounds this claim arises, whether it is for demurrage or for extra work or whatever it is, or because the claimant did not make what he thought he was going to make. Now, if it is for demurrage, then somebody ought to explain what the contract was. If the contract provided against bad weather, etc., then he is undoubtedly entitled to anything that he can show by way of demurrage. If the proper authorities ordered extra work and stuff to be used, then he is entitled to that. But if it is the case where he did not make something when he thought he was going to make something and simply wants to recoup, then I am opposed to it or any other bill like it, and it ought not to be allowed to pass here. Because there is nobody else on the face of the earth that I ever heard of except the United States Government that was supposed by anybody that had any sense to be responsible where the contractor loses a contract that he has underbid.

Mr. GOLDFOGLE. The gentleman does not understand.

Mr. CLARK. If we ever enter on that line of conduct once, then you simply make an insurance company out of the United States Government every time a fellow takes a contract. There is no end to it—no bottom to it.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. JAMES) there were—ayes 58, noes 7.

So the bill was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

HANS PETER GUTTORMSEN.

The next business on the Private Calendar was House resolution No. 20, which the Clerk read, as follows:

*Resolved*, That the bill (H. R. 2053) entitled "A bill for the relief of Hans Peter Guttormsen," now pending in the House of Representatives, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887; and the said court shall proceed with the same in accordance with the provisions of such act, and report to the House of Representatives in accordance therewith.

Mr. PAYNE. Mr. Chairman, I would like to have some explanation in respect to this.

Mr. GRAFF. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. COOPER], who introduced the bill.

Mr. COOPER of Wisconsin. Mr. Chairman, this is a resolu-

tion referring the bill (H. R. 2053) for the relief of Hans Peter Guttormsen to the Court of Claims for report. Hans Peter Guttormsen was for many years in the employ of the War Department as a laborer. He was employed at one time on a breakwater of the Mississippi River near Moline, Ill. He was directed, in company with another laborer, to carry some heavy planks across a scaffolding about 40 feet from the ground. The scaffolding was made of defective material. It broke and precipitated him quite a distance below and he struck upon the edge of a mortar box, breaking five ribs, breaking his left leg in three places, and severely bruising his head, tearing the flesh on his face, and rendering him unconscious. He was in bed the better part of a year thereafter and has been a cripple ever since. He is to-day practically incapable of manual labor. He is a poor man. This resolution refers the bill, which proposes to give him $5,000 for the injuries, to the Court of Claims, which court is to proceed in accordance with the provisions of the act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887. I know Mr. Guttormsen well. He is a temperate, thoroughly honest, well-meaning man, and up to and at the time of this injury was a hard-working laborer. The claim is a just one, and I hope the resolution will be laid aside with a favorable recommendation.

*Mr. DALZELL.* Mr. Chairman, as I understand it, this is a claim for damages arising out of negligence.

Mr. COOPER of Wisconsin. Yes.

Mr. DALZELL. I ask for information. Has the Court of Claims jurisdiction in such a case?

Mr. COOPER of Wisconsin. I think it has, and the Committee on Claims, after investigation, finds that it has.

Mr. PERKINS. Does this resolution send it to the Court of Claims to pass upon the question of liability?

Mr. GRAFF. No; this resolution sends it to the Court of Claims, as I understand it, for the purpose of making findings of facts and reporting the same to Congress. Then Congress will take such action as it sees fit in the premises, after the facts have been ascertained by the court.

Mr. DALZELL. The gentleman is satisfied that the court has jurisdiction in such a case?

Mr. GRAFF. I think so.

Mr. HEPBURN. Would there be any objection to enlarging the power of the court and require it to report upon the question of the legal liability of the United States?

Mr. GRAFF. Well, the gentleman from Iowa [Mr. HEPBURN] is a very able lawyer, and he knows that the United States could not be sued in a personal-injury case unless there was special authority by law, because there is no general law permitting it.

Mr. HEPBURN. Well, suppose that suit might be brought, would the United States be liable, in the opinion of the gentleman, in a case like this, as he understands it?

Mr. GRAFF. I will ask the gentleman from Wisconsin [Mr. COOPER] to answer that.

Mr. HEPBURN. But I would like to have the opinion of the chairman of the committee.

Mr. GRAFF. Of course the question before us was not upon the question presented by the gentleman from Iowa [Mr. HEPBURN], but upon the question of whether the committee was willing to pass the resolution as introduced, and we could not see any objection to it, but could see a great many reasons why we should refer the case to the Court of Claims and have that court ascertain what the facts were, when the committee would be advised of the fact coming from a judicial inquiry. I have no objection to the bill being amended so as to include a request that the court find whether the United States would be liable if the United States stood in the place of a person or an ordinary corporation.

Mr. COOPER of Wisconsin. Mr. Chairman, I am willing to consent to that amendment.

Mr. GRAFF. If the gentleman from Iowa [Mr. HEPBURN] will propose an amendment of that kind, we will accept it.

Mr. HEPBURN. That would be to the bill, which is not here.

Mr. GRAFF. I think you can make the amendment to the resolution.

Mr. MADDOX. Is it not true that in the Ford's Theater case the House established a precedent by which it proposed to pay for the injuries done on that occasion, and we did so and tried those cases here by a commission established by Congress?

Mr. GRAFF. Yes; that is true in that case.

Mr. HEPBURN. Mr. Chairman, I would like to move to strike out the words "in accordance therewith" and insert "and report to the House of Representatives their findings of fact and law."

The CHAIRMAN. The question is upon the amendment of the gentleman from Iowa.

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

Mr. COOPER of Wisconsin. Mr. Chairman, I move that the resolution as amended be laid aside with a favorable recommendation.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

J. B. M'RAE.

The Clerk read as follows:

A bill (H. R. 6351) to pay J. B. McRae $99, for services as hospital steward, etc.

*Be it enacted, etc.*, That the Treasurer of the United States is hereby authorized and directed to pay, out of any funds in the United States Treaury not otherwise appropriated, the sum of $99 to J. B. McRae, of Jackson, N. C , for services rendered as hospital steward of the Second Regiment North Carolina Volunteers, from June 6, 1898, to July 31, 1898, in full satisfaction for services rendered.

Mr. PAYNE. Mr. Chairman, I hope we will have an explanation of this bill.

Mr. CLAUDE KITCHIN. Mr. Chairman, this is to pay J. B. McRae, who was appointed by the colonel of a volunteer regiment in the late war with Spain as hospital steward. He served two months, paid his traveling expenses, paid for his clothes, and when they went to go to Cuba it was decided he was too old, and he has never been paid anything for it. The affidavit and all proofs, from the colonel of the regiment down, are on file. I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is upon laying the bill aside with a favorable recommendation.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

CHARLES BLAKE.

The Clerk read as follows:

An act (S. 1753) for the relief of Pay Clerk Charles Blake, United States Navy.

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to Charles Blake, pay clerk, United States Navy, the sum of $700, said sum to be a payment in full of all losses of personal property incurred by him by reason of the destruction by fire of the Windsor House, at Yokohama, Japan, on the morning of February 8, 1886.

Mr. PAYNE. Mr. Speaker, I would like to hear the report of that case.

Mr. GRAFF. The gentleman from Pennsylvania will make an explanation——

Mr. BUTLER of Pennsylvania. Does the gentleman yield to me?

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. BUTLER of Pennsylvania. The gentleman from New York yielded to me. I asked permission of the chairman of the committee to speak on the pending bill. Blake was a paymaster's clerk in the Navy and is still a paymaster's clerk in the Navy. He was assigned to duty with Paymaster Tolfree several years ago—as I recollect the testimony it was in 1886—to serve on the Asiatic Squadron. He was assigned to duty on a ship, I think the *Trenton*. Be it as it may, it was one of the American ships of war. He arrived at Yokohama with Paymaster Tolfree, and the officer in charge of the ship was unable to give to the paymaster and his clerk the accommodation that they should have on the ship. Indeed, the captain of the ship was unable to give the paymaster and his clerk any accommodation. That fact appeared satisfactorily proven to the Committee on Claims. They then took up their temporary residence in a hotel at Yokohama close by where the ship was lying; no other accommodation could be found and no other was afforded them. While they were living temporarily in this hotel a fire occurred which burned up all the property of the paymaster and his clerk Blake, whose bill is now presented for your consideration. It appeared to the Navy Department, and was reported to the Committee on Claims, that there had been no negligence whatever in either the paymaster or his clerk. That the property of the Government which was in their possession at the time of the conflagration was entirely destroyed and both of these men were relieved from responsibility. Two years ago in this House a bill was passed to pay to Paymaster Tolfree the amount of damage which occurred to him, paying him for the property which he lost.

This bill was reported at the time, but was not reached for consideration. Paymaster-General Tolfree was paid by Congress for the loss of all his outfit, I think, four or five thousand dollars. The outfit of the clerk cost him $700. That does not include his ordinary wearing apparel. The sum includes only his uniforms and such other paraphernalia as the rules of the

Navy Department required him to have. Secretary Whitney, in a communication addressed to Senator Cameron several years ago, exempted these officers from responsibility and stated that it was reported to him that all of their wearing apparel and everything necessary for their use as officers of the Navy were destroyed in this fire. The claim presented for the relief of Blake amounts to $1,015. The amount included his civilian clothing, which has been deducted.

Secretary Whitney sets out in his letter to Senator Cameron that these men had provided themselves with a full outfit, according to the regulations of the Navy Department, for a cruise of three years. The cruise having just begun, you will readily understand that clerk's loss is not overstated in the sum of $700, when you reflect that it includes his uniforms and every other article of wearing apparel he was required to have. This is not an unusual case, it is not an unusual request to make of Congress. Similar bills have frequently been paid. I am told bills for paymasters' clerks have been paid, for the reason that they are required by naval regulations to wear uniforms. Mr. Chairman, I should be glad to answer any question gentlemen may desire to ask.

Mr. GILLETT of Massachusetts. Supposing this man had been living on board a ship and the ship had been burned up, would he have had a claim?

Mr. BUTLER of Pennsylvania. I wish I could answer you more directly, but I undertake to say that he would.

Mr. GILLETT of Massachusetts. I do not see why the fact that he was on land should give him any special claim for damages over what he would have if the ship were destroyed.

Mr. BUTLER of Pennsylvania. I presume the statement was made in the letter addressed by Secretary Whitney to Senator Cameron because it was unusual for paymasters and paymasters' clerks to be ashore—that they can not remain ashore without orders from the Department; but we find that these men were compelled to be on shore and compelled to live in this hotel.

Mr. GILLETT of Massachusetts. Whenever a naval ship is destroyed in war, have the officers the right to recover for their uniforms, etc., destroyed?

Mr. BUTLER of Pennsylvania. I am very much pleased to answer my friend from Massachusetts from a suggestion made to me by the gentleman from Pennsylvania [Mr. PALMER], who says that the officers of the Ninth Pennsylvania Regiment were paid for their uniforms which were consumed by fire. Furthermore, this House generously and cheerfully passed a concurrent resolution paying the officers and men of the Navy for the uniforms destroyed with the *Maine* in Habana Harbor. All the men were paid for their losses sustained at that time. It is not an unusual claim and is entirely within the precedents of this House.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois, that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

WALES ISLAND PACKING COMPANY.

The next business on the Private Calendar was Senate joint resolution 45, directing inquiry into the claim of the Wales Island Packing Company.

The joint resolution was read, as follows:

Joint resolution (S. R. 45) directing inquiry into the claim of the Wales Island Packing Company.

Whereas the establishments and interests on Wales Island, in Portland Canal, of the Wales Island Packing Company, a corporation organized under the laws of the State of New York by citizens of the United States, have, by decision of the Alaskan Boundary Tribunal, been placed on the Canadian side of the boundary, and said company claims that under existing conditions it is thereby prevented from continuing its business and that its property is rendered valueless; and

Whereas the Department of State has earnestly invited the attention of Congress to the grounds upon which relief is sought by said company, set forth in the memorial transmitted to Congress by the Department of State (H. Doc. No. 510, 58th Cong. 2d sess.); and

Whereas the Secretary of the Department of Commerce and Labor is charged with the supervision and control of the Alaskan fisheries: Therefore, be it

*Resolved, etc.*, That the Secretary of the Department of Commerce and Labor be, and he is hereby, directed to inquire into the effect the decision of said Alaskan Boundary Tribunal has had on the Wales Island Packing Company, and if it be found that said company under such decision is unable, as claimed, to continue its business as formerly conducted, or has otherwise suffered damage thereby, to report to Congress the amount of damages, if any, suffered by said company.

Mr. PAYNE. Mr. Chairman, I am opposed to Congress giving this claim any sort of status whatever. My attention was called to it by the attorney for the claimants a year or two ago, and the facts were stated then as they are stated in the preamble of the resolution. This packing company built their packing house on Wales Island while the United States was claiming title to that island. They were citizens of the United States, I believe; and by the award of the Alaskan tribunal it was found that Wales Island was within British territory, and, being within British territory, they could not pursue their work of fishing on Wales Island. Now, this was in disputed territory all the time, and, of course, these gentlemen must have known it when they established their factory. I can not see on what principle of law or of justice the United States should ever be subject to any claim of liabilities because in the award of this tribunal it had been found that this territory, which the United States claimed, belonged to Great Britain, and the business of these gentlemen had been interfered with because of the adjustment of the dispute in that way. I do not know of any precedent or any law—none was cited to me at the time—that would make the United States liable. Of course, gentlemen will say that this is simply a bill to refer it to the Department of Commerce and Labor; but, as I understand, there is not and can not be any dispute about the facts in the case. I admit it. It is simply an entering wedge; an introduction of this claim to the Congress of the United States, with a subsequent report to be made the foundation for a claim of liability; and in the course of future generations, when the facts may not be fully fresh in the minds of our successors, the claim will come in here in its enlarged form, and a liability against the United States in some way guessed out of it, so that Congress will make an appropriation, and the attorney for the claimants, who is a young man—and, I will say, a very fine young man—will in the end benefit by it. But I do not think we ought to take this first step in the wrong direction.

Mr. GRAFF. Mr. Chairman, I wish to say that I am inclined to agree with the gentleman from New York [Mr. PAYNE] on the proposition that it is exceedingly doubtful whether this company would have a right to claim any damages suffered by reason of the decision of this Alaskan boundary tribunal; but that question was not gone into by the committee, and I am not prepared to give an opinion on the subject now that would be worth anything. But in order to pass intelligently upon this measure it is not necessary to discuss that question, because this measure is simply to ascertain the facts, and there is nothing about the bill which recognizes in any way the validity of any claim which might arise under the facts. But it is admitted by the gentleman from New York [Mr. PAYNE] that these people have been injured, and injured grievously, by the decision of the tribunal or by the sequences of it; and for a further statement on the subject I yield to the gentleman from Massachusetts [Mr. TIRRELL].

Mr. TIRRELL. Mr. Chairman, by the purchase of Alaska in 1867, Wales Island became as much a part of that Territory, so far as the Administration of our Government was concerned, as any other part of that Territory. There was no question raised about it. The United States Government built storehouses there, upon which were painted the letters "U. S.," designating those storehouses as the property of the United States. Anyone going to that island had the same right to assume that it was a part of the Territory of Alaska, which was purchased by our Government, as they would have the right to assume, if they came here to the city of Washington, that it was under the jurisdiction of the United States. Administrative and executive acts of a government are recognized as the exercise of sovereignty, and no one is obligated to inquire any further than to know that the sovereignty is exercised.

That was the condition of things when a few years ago there was organized a corporation in the State of New York known as the "Wales Packing Company," for the purpose of establishing a fishery in Alaska. This company was composed entirely of American citizens and the stock was entirely owned by American citizens. For two years they searched the coast of Alaska to find a suitable spot, and the only spot south of Cape Fox which was open to American citizens for the establishment of a fishery—on account of the precipitous nature of the coast and on account of the fact that there was no harbor or fresh water anywhere else—was at Wales Island.

As I have stated, this island was under the jurisdiction of the United States at that time. So they built a great plant there, a plant which the year before the Alaska Boundary Commission passed upon these questions packed 30,000 cases of salmon, and had a capacity to and, if it had not been for this decision, would have packed 50,000 cases of fish.

But by that decision, which threw the boundary line west of Wales Island and made Wales Island and all the contiguous waters a part of the Dominion of Canada, this company, which had acted in good faith, which had the right to assume that the Government had jurisdiction over that island, which had invested a large amount of American capital in the enterprise, which had built up a great industry before being stopped by a peculiar condition of things, notwithstanding the most strenuous and vigorous opposition on the part of our representatives before that commission, was compelled to stop its business.

Now, this, Mr. Chairman, is a very peculiar condition of things. How is this great American company left? What are its rights? Should any further steps be taken by our Government to secure those rights? Has the company been damaged in any way? Has it been at fault in any way?

This is a joint resolution which comes to us from the other end of the Capitol. It has been duly considered there. In that body sits one of the commissioners who passed upon those questions and who knows all about them.

In answering the gentleman from New York [Mr. PAYNE] it is only necessary to call the attention of this House to the fact that this memorial begins with a communication from the Department of State, fully setting forth the facts that are stated in the memorial and earnestly inviting Congress to consider this situation—to consider the facts set forth in the memorial—that there shall be such action on the part of Congress as the equities of the case may warrant. This communication from the Department of State has been sent to both branches of Congress, and in accordance therewith the committee have presented this harmless bill, which does not appropriate a cent of the nation's money, which only sends to the Department of State what they have asked us to do, namely, the authority to investigate the facts. The Department of State may report that no action *should be taken* by Congress. They may report that this Wales Packing Company can not legally or equitably claim any damages.

Mr. PERKINS. How much does the Wales Packing Company claim its damages are?

Mr. TIRRELL. They have not set forth any figures.

Mr. PERKINS. Oh, well, the gentleman knows something about it. The damages claimed are very large, are they not?

Mr. TIRRELL. I would ask the gentleman, when the company has invested probably half a million of dollars in this enterprise, and by the action of the Alaskan Boundary Commission have been cut off entirely from transacting their business, and their business has been made valueless——

Mr. PERKINS. Then you claim their damage is half a million dollars?

Mr. TIRRELL. I do not know that there will be any damages allowed at all.

Mr. PERKINS. But let us assume that they claim half a million dollars.

Mr. TIRRELL. It is a question which the Department of State will investigate. Does the gentleman from New York suppose for one moment that the Department of State is going to report any other course than that which is founded in the law of justice or equity?

Mr. PERKINS. I want to ask the gentleman from Massachusetts, who is a very distinguished lawyer, a question of law. He would not for a moment claim in case a man located on a piece of land thinking it belonged to the apparent owner, and the apparent owner thought so, too, that the apparent owner would be liable for damages for that mistake? He does not claim by any possibility there would be any legal claim against the United States because a court of arbitration had decided that they did not own a certain piece of land? I know the gentleman from Massachusetts could not claim that.

Mr. TIRRELL. It is not a parallel case at all.

Mr. PERKINS. It is the case. It is not a parallel case; it is the case.

Mr. TIRRELL. The company asks that the Government of the United States shall be requested to see if there can be any relief granted according to the necessities of the case. If the Department of State is authorized to take this matter up, as it should be, then it may, by negotiations which they may enter into or by the presentation of facts connected with the whole case to the Canadian government or whoever has jurisdiction over that island, enter into relations with this company that may be entirely satisfactory.

Mr. PERKINS. We do not need a claim bill to be passed by Congress for that. The State Department does not have to procure the authority from Congress.

Mr. TIRRELL. The Department of State has requested this very thing.

Mr. PERKINS. What I fear is that this is going to be an entering wedge for claims for damages to the amount of half a million dollars which certainly rest on no legal basis.

Mr. TIRRELL. As to whether this damage ought to be paid can be determined by the Department of State after due investigation. What harm is there in the passage of this memorial to have an inquiry instituted? Is it possible that the citizens of New York who have invested large amounts of money in this enterprise can not have the matter investigated by the Department of State, which asks to have it done?

Mr. BELL of California. Is the gentleman from Massachusetts acquainted with the rule that governs when territory is ceded by one country to another? Suppose this island had been ceded out and out by the United States, could you then claim that this company would be entitled to any damages that might result from that cession? Is that the rule which prevails governing commerce of citizens in the territory ceded by one country to another?

Mr. TIRRELL. If the gentleman has the law he can read it, and then it will not be necessary to ask me further questions about it. Mr. Chairman, I move the bill be laid aside for favorable consideration.

Mr. PAYNE. The gentleman from Massachusetts [Mr. TIRRELL] says that this is a harmless resolution. Well, Mr. Chairman, no one would have had the effrontery to bring into the House anything but a resolution that could be called harmless on this subject. No one would come in here and ask the House to pass a resolution referring this matter to the Court of Claims and allow them to make findings on the subject, or, least of all, would introduce a bill giving what might be called a legal status that Congress could be bound by. The proposition itself is so abhorrent to all principles of law that no one would think of bringing it in here. Why pass it? Why put the seal of the House upon this procedure? Why give it any standing here or in any future Congress? Why must we be embarrassed when this claim comes up again by saying that Congress has already adjudicated, or already conceded by its action, that the company has some claim?

We know certain facts. There is no doubt but what this company did build a cannery there. There is no doubt but that the United States claimed to own Wales Island. There is no doubt but that these people had a right to suppose that the United States did own Wales Island when they built the cannery there. It turns out that our title was defective. It was decided by a high tribunal that it was a part of the British territory. But, Mr. Chairman, we did not warrant the title. We were not privy in any way to their establishment of this cannery there on Wales Island. We are not liable either legally or equitably under the law. Why give it any status? Why not, Mr. Chairman, recommend that it lie on the table?

I move that the resolution be laid aside, to be reported to the House with the recommendation that it lie on the table.

Mr. KNOWLAND. Mr. Chairman, I want to make a suggestion that may bring consolation to the mind of the gentleman from Massachusetts [Mr. TIRRELL]. While this may result in some injury to the American company, yet if this rule were applied to Canada it would bankrupt that government to reimburse all the citizens of that country who found that they were not on Canadian soil, but were on American soil.

The CHAIRMAN. The gentleman from New York moves that the resolution be laid aside with the recommendation that it lie on the table.

The question was taken; and on a division (demanded by Mr. PAYNE) there were—ayes 25, noes 26.

Mr. PAYNE. I ask for tellers.

Tellers were ordered.

The gentleman from New York [Mr. PAYNE] and the gentleman from Massachusetts [Mr. TIRRELL] were appointed tellers.

The House again divided; and the tellers reported that there were—ayes 30, noes 30.

So the motion was lost.

The CHAIRMAN. The question now is on laying the resolution aside to be reported to the House with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. TIRRELL) there were—ayes 46, noes 34.

So the resolution was laid aside to be reported to the House with a favorable recommendation.

JAMES F. M'INDOE.

The next business on the Private Calendar was the bill (S. 1501) for the relief of James McIndoe.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to James F. McIndoe, captain, Corps of Engineers, late first lieutenant, Corps of Engineers, United States Army, the sum of $1,142.70, being the value of his personal effects destroyed by fire on the 13th day of February, 1901, through the destruction by fire of the engineer quarters at Fort Hancock, N. J., as determined by a board of survey which met by order of Major-General Brooke at Fort Hancock, N. J., on the 15th day of March, 1901.

Mr. PAYNE. Mr. Chairman, before I ask to have the report read, I want to make a parliamentary inquiry—whether it would not be in order for the chairman of the committee, or my friend from Massachusetts [Mr. TIRRELL], to ask unanimous consent to go back to the last case and give this packing company all they think they ought to have and make an end of it.

If the Chair is unable to answer that inquiry, I ask for the report to be read in this case.

The Clerk read the report (by Mr. MILLER), as follows:

The Commitee on Claims, having had under consideration the bill (S. 1501) for the relief of James F. McIndoe, beg leave to report the same favorably to the House with the recommendation that the bill do pass.

The Senate report is herewith made a part of this report, as follows:

"The Committee on Claims, to whom was referred the bill (S. 1501) for the relief of James F. McIndoe, begs leave to report as follows:

"The purpose of this bill is to reimburse James F. McIndoe, captain, Corps of Engineers, in the sum of $1,142.70, being the value of his personal effects destroyed by fire on the 13th day of February, 1901, through the destruction by fire of the engineer quarters at Fort Hancock, N. J., as determined by a board of survey which met by order of Major-General Brooke at Fort Hancock, N. J., on the 15th day of March, 1901.

"A bill similar to this was introduced in the first session Fifty-seventh Congress, S. 5531, was favorably reported by the Committee on Claims, and passed the Senate.

"The evidence in this case shows that while Captain McIndoe was serving the United States in charge of fortification work at Fort Hancock, and while residing in the building provided by the United States for the officer charged with said duties, the same was totally destroyed by fire on the morning of February 13, 1901, due to defective construction of a chimney and to inflammable materials entering into the construction of the house. It appears from the testimony in the case that the fire originated from a defect in the chimney of the house. The fire burned very rapidly, and, according to the testimony of the witnesses, in twenty minutes after the fire was discovered access to the second floor was impossible.

"Captain McIndoe testifies that every possible effort was made to save the building and property belonging to the United States; that owing to the efforts made to save the property of the United States the property of his own was destroyed of the value set out in this bill. The testimony of Captain McIndoe is corroborated by a number of other witnesses as to the origin of the fire and the speed with which it consumed the building occupied by him as a home. It further appears from the testimony of witnesses that owing to the high wind prevailing Captain McIndoe ordered the men under his control to desist from the efforts in saving his own property in order that their services might be used in preventing the ignition of other buildings belonging to the Government close at hand and in which valuable supplies were stored.

"In the opinion of the board of survey Captain McIndoe sacrificed his personal property, which could probably have been saved, since the fire started in the attic of the building which he occupied, to save the Government property. The board of survey fixes the value of the property destroyed at the amount claimed in this bill, and which they claim was an amount of personal property reasonably useful, necessary, and proper for the claimant to have in the public service in the line of duty, and had Captain McIndoe, instead of trying to save the Government property, cared for his personal belongings, he could have saved them. They were therefore, in the opinion of the board, lost while the claimant was protecting Government property, and they recommend that he be reimbursed in the amount of $1,142.70.

"The claim was presented to the Auditor for the War Department and by him disallowed upon the ground that the destruction of the property for which reimbursement is claimed was not caused by an exigency of the military service, whereby the claimant was deprived of the control over said property which he would have had in civil life, or whereby the property was subjected to dangers not ordinarily incident to its use in civil life, and on the further ground that it did not appear that the destruction was caused by this claimant giving his attention to the saving of the property belonging to the United States.

"As pointed out above, it appears to your committee that the testimony in this case shows that this property was lost while this claimant was giving his attention to the saving of the property of the United States. The law authorizing a recovery in cases of this character provides that the proper officers of the Treasury shall 'determine the value of the private property belonging to officers and enlisted men in the military service of the United States which has been, or may hereafter be, lost or destroyed in the military service, under the following circumstances:

"'First. When such loss or destruction was without fault or negligence on the part of the claimant.'

"(The second item has no application to this case.)

"'Third. Where it appears that the loss or destruction of the private property of the claimant was in consequence of his having given his attention to the saving of the property belonging to the United States which was in danger at the time and under similar circumstances.'

"The testimony in this case shows that the property of claimant was in an extra hazardous position by exigency of the military service. It appears from the testimony that the quarters occupied were the only quarters at Fort Hancock provided for the engineer officers on duty there. It further appears that the location of the building was outside of the limits of every protection provided at the post against fire, and beyond adequate water supply for extinguishing fires. The testimony also shows that Captain McIndoe and others who were assisting him in efforts to put out the fire were compelled to carry water in pails for that purpose.

"It appears to your committee that if Captain McIndoe had been at liberty to select his own place of residence he would have exercised ordinary care, and would have selected a place surrounded by the usual protection against fire.

"After considering all of the testimony presented and the findings of the board of survey, and noting the recommendation of the said board, your committee is of the opinion that the demand of this claimant is just and that this bill should pass."

Mr. PAYNE. Mr. Chairman, the report of the committee shows every reason why a prudent, reasonable man should have insured this property, there being so many insurance companies and the premiums so low. The report states that the building was exposed to fire more or less. There were no proper means of putting out a fire if one should occur. This man went there with his eyes open to all of those facts. The law is that he must be free from negligence on his own part. I fail to see that he was not negligent in not insuring this property when he went there. Of course, in a case of this kind it is always found that the party has taken care of the Government property instead of his own. It does not appear that he saved much Government property. The Government would not have been the loser if he had left the Government property alone and saved his own, if we have to pay this bill for the loss. In fact, it makes the Government of the United States the insurer of the property of officers of the Army whenever they go into quarters, provided by the United States, at immense expense, for their residence in these forts or military reservations. I do not think such a bill ought to pass. Of course, I see around me a great many gentlemen who are interested in claims upon this Calendar. I notice that those gentlemen always find the case so clear when it comes to a vote that they are recorded on one side of the question. The House is slim and thin, and after the passage of the last claim through this committee—a claim more unjustifiable and without even the shadow of an excuse for going through than any I recall during my experience, and I have always given attention to claims that come before the House—I do not know that it is of any use to make any opposition to these claims at all, more than the mere uttering of a protest. It does not seem to me that the Government of the United States ought to insure the personal property of the Army.

Mr. LIND. Mr. Chairman, I just wish to say that I was a member of the committee when this bill was reported, and that the considerations that actuated the committee were the facts that the Congress has almost universally reimbursed officers in cases like this. I feel very much as the gentleman from New York [Mr. PAYNE] expressed himself on the general proposition, but I think the Congress should decisively say whether or not it will continue to pay these claims. Other claims no more meritorious than this have been paid right along every session of Congress, and of identically the same character. That is the best and strongest argument which can be made in favor of this one.

Mr. PAYNE. Because we have done wrong a great many times before this, we should continue doing so?

Mr. LIND. Oh, I do not say that.

Mr. PAYNE. I think it is time to give these officers notice that they should get their property insured and pay a little insurance money, as ordinary people do, instead of relying upon the Government to become an insurer of their property.

Mr. LIND. Then we ought to say so. I agree with the gentleman in that.

Mr. PAYNE. And I think we would say so pretty emphatically if we sat down on this claim.

Mr. MADDOX. Did the gentleman ever hear of a private being paid anything for the loss of his clothing or anything else, in battle or elsewhere?

Mr. PAYNE. I do not recall. Perhaps the gentleman from Minnesota [Mr. LIND] can say.

Mr. LIND. No; I never did, and I don't think there is an instance of that kind on record.

Mr. LACEY. Oh, yes; we paid for the loss of privates in shipwrecks—made a full invoice of everything they lost and paid them.

Mr. LIND. But they can not procure insurance.

Mr. MILLER. Mr. Chairman, I feel, as a member of the subcommittee that reported this bill, that I ought to say this in respect to the matter: This entire matter was referred to the board of survey, and that board recommended the payment of the claim and put it upon the ground of the fact that this man in attempting to save the Government property sacrificed his own. He would have saved his own property had it not been for this attempt that he made to save the Government property. The evidence is clear and conclusive on that proposition.

Mr. PAYNE. What was the Government property—a house or buildings?

Mr. GRAFF. Buildings. I call the attention of the gentleman to the sentence at the end of the first page of the report:

It further appears from the testimony of witnesses that owing to the high winds prevailing Captain McIndoe ordered the men under his control to desist from the effort in saving his own property in order that their services might be used in preventing the ignition of other buildings belonging to the Government close at hand, and in which valuable supplies were stored.

Mr. BAKER. Would the gentleman consider that the saving of his property—by taking men away from the protection of the property of the United States to save his own property—to be justifiable?

Mr. GRAFF. The gentleman is right, save that he is wrong.

Mr. BAKER. I thank the gentleman. That is usually the case, I assume. [Laughter.]

Mr. GRAFF. If that is the gentleman's normal condition, I am sure that it is not intentionally so.

Mr. BAKER. Certainly that was my construction.

Mr. GRAFF. The sentence I attempted to read correctly says that he turned his back to his own property and neglected that, and ordered his men to save——

Mr. BAKER. His men?

Mr. GRAFF. That is, the men under him.

Mr. BAKER. Exactly.

Mr. GRAFF. Under his command, to prevent the ignition of United States buildings adjoining, which contained valuable Government stores.

Mr. BAKER. Which were not actually then ignited.

Mr. GRAFF. And which had not yet started to burn.

Mr. BAKER. The fire had not yet reached them.

Mr. GRAFF. The fire had not yet reached them; yes.

Mr. MILLER. I will say, in addition to what has already been said, that so far as the statement made by the gentleman from New York is concerned I agree with him in reference to this class of claims, but there is no reason why this particular individual should be singled out and we should say he should not be permitted to recover when every claim of this character that has been presented to the Congress of the United States has been allowed; and this committee has just reported with favorable recommendation a bill allowing a clerk to a captain pay for his loss sustained in a case almost similar to this, and I think there is no réason why this claim should not be laid aside with a recommendation that it should be passed.

Mr. PAYNE. May I ask my friend from Kansas——

Mr. MILLER. Certainly.

Mr. PAYNE. How are we ever going to stop this thing?

Mr. MILLER. The probabilities are it is going to stop some time, but I do not think it ought to stop on this particular case, which in my judgment is one of the most meritorious cases that has ever been presented here. It is not only simply a case of his losing his property by fire, but he lost it because he was engaged in trying to save the property of the United States Government.

Mr. PAYNE. It is true there is some statute on the subject.

Mr. MILLER. There is a statute on the subject.

Mr. PAYNE. Why would it not be well for this Committee on Claims, being perfectly familiar with the facts, to bring a bill in here disallowing any claim under the statute where the party failed to get insurance on his property?

Mr. MILLER. I will say to the gentleman from New York, so far as I am concerned, I would be glad to agree with my colleagues on that committee on a proposition of that kind. I want to say further to him, so far as the question he raises with reference to insurance of property is concerned, there is some hardship in that. If every officer, whether captain or private, was required to insure his property, moving from place to place as he is, insuring property to-day in New York, tomorrow in Kansas, and the next week in San Francisco——

Mr. PAYNE. Well, they do not move quite as rapidly as that. When they get a good berth they generally stay for three years, and when they accumulate property they seldom stay less than a year, and the usual time for insurance is from one to three years, so that would not be any great hardship.

Mr. MILLER. That is true in many instances, but in many instances they are required to change from place to place, and frequently, too; and I say the most meritorious case presented in this Congress of this kind is the one presented here, and every one of the others have been favorably reported to the House and passed.

Mr. PAYNE. Well, my friend from Kansas removes all glimmer of hope that we can ever stop this thing, because when I suggest that we put the statute that allows the board of survey to pay these claims in some instances the further provision that no claim should be paid when the officer neglects to get insurance he presents the astounding obstacle to anything of that kind that because sometimes these gentlemen move often and at short notice it would be a hardship to require them to insure their property rather than to have the Government of the United States insure it, so I suppose we will go on in the same old hopeless way in regard to this matter.

Mr. MILLER. Mr. Chairman, in order that the last glimmer of hope may not be taken away from the gentleman from New York I want to say to him frankly that if he will formulate legislation such as suggested it will receive my hearty indorsement and active support.

The CHAIRMAN. The question is on laying aside the bill with a favorable recommendation.

The question was taken; and the Chairman announced that the noes seem to have it.

Mr. MILLER. Division, Mr. Chairman.

The committee proceeded to divide.

Mr. MADDOX. Mr. Chairman, it looks to me there ought to be a hundred men to see this fun going on—at least a hundred.

The CHAIRMAN. The Chair will count.

Mr. PAYNE. If the gentleman will allow me, I hope that we shall not get into any tangle over the question of no quorum at this time.

Mr. MADDOX. I believe we ought to have it.

Mr. PAYNE. That question can come up when we get out of committee. A number of gentlemen have come to me very anxious to know whether we are going to adjourn over until Monday. I told them I was going to make that motion, and some gentlemen have gone away from the House on account of the assurance that I have given them, and I ask the gentleman to withdraw the point of no quorum, so that the committee may rise, and then I will make the motion, and the House can go back into committee.

Mr. MADDOX. I did not make the point to obstruct business. I think the other gentlemen ought to be here.

Mr. PAYNE. Will the gentleman withdraw his point temporarily, and allow the chairman of the committee to move the committee rise?

Mr. MADDOX. I withdraw it.

Mr. GRAFF. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. PALMER having assumed the chair as Speaker pro tempore, Mr. CAMPBELL, Chairman of the Committee of the Whole House, reported that that committee had had under consideration sundry bills upon the Private Calendar and had come to no resolution thereon.

ADJOURNMENT OVER UNTIL MONDAY.

Mr. PAYNE. Mr. Speaker, I move that when the House adjourn to-day it adjourn to meet on Monday next.

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

ORDER OF BUSINESS.

Mr. GRAFF. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House, Mr. CAMPBELL in the chair.

JAMES F. M'INDOE.

The CHAIRMAN. The gentleman from Georgia makes the point that a quorum has not voted.

Mr. MADDOX. I withdraw it, as I see some others have come in.

The CHAIRMAN. The gentleman withdraws the point of order; the ayes have it, and the bill is laid aside with a favorable recommendation.

AGNES W. HILLS AND SARAH J. HILLS.

The next business on the Private Calendar was the bill (H. R. 8113) for the relief of Agnes W. Hills and Sarah J. Hills.

The bill was read, as follows:

A bill (H. R. 8113) for the relief of Agnes W. Hills and Sarah J. Hills.

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Agnes W. Hills and Sarah J. Hills the sum of $7,561.80, out of any money in the Treasury not otherwise appropriated, the value of personal property belonging to Albert G. Hills and Alfred C. Hills, both deceased, taken and converted to the use of the United States by the military forces of the United States.

Mr. PAYNE. I call for the reading of the report, Mr. Chairman, in my time.

The report, by Mr. TIRRELL, was read as follows:

The Committee on Claims, to whom was referred the bill (H. R. 8113) for the relief of Sarah J. Hills and Agnes W. Hills, report as follows:

It appears from the papers in the case, which are very voluminous, that General Butler, while in command at New Orleans, suppressed and took possession of the True Delta newspaper for a violation of a proclamation, and that the property was occupied and used for printing purposes for the Army, and a paper issued publishing orders, proclamations, etc.

General Butler was finally succeeded in command at New Orleans by Gen. N. P. Banks, who, by Special Order No. 40, dated February 9, 1863, granted permission to the workmen employed on the Daily Delta to continue its publication until further orders, under the management of its foreman, one Henry Green.

On the following day, by Special Orders, No. 41, General Banks directed:

"Paragraph 10. The newspaper and job office of the Daily Delta, together with the presses, paper, type, ink, materials, etc., will be turned over to Lieut. Col. Alfred C. Hills, Fourth Regiment Louisiana Native Guards, and to Albert G. Hills, esq., who are charged with the publication of the Daily Delta newspaper and the management of the job office from this date."

On March 5, 1863, by Special Orders, No. 64, General Banks directed:

"Paragraph 6. Lieut. Col. Alfred C. Hills, Fourth Louisiana Native Guards, and First Lieut. Albert G. Hills, Fourth Louisiana Native Guards, are detailed for special duty in this city (New Orleans) to take charge of the Era newspaper and job office, to date, the former from the 23d and the latter from the 20th ultimo (February)."

It appears from the papers that these officers remained in the service,

one until May, 1863, and the other until July, 1863, at which dates they resigned their commissions. But they continued in the management and charge of the Era. The Era was the same establishment as the Daily Delta, the name only having been changed.

In October, 1863, under the orders of the President of the United States directing captured and abandoned property, not required for military purposes, to be turned over to the military authorities to the special agents of the Treasury Department, General Banks's quartermaster, Colonel Holabird, turned over this property to B. F. Flanders, special agent of the Treasury Department, but on the 25th of October, 1863, General Banks, by a letter to Mr. Flanders, setting forth the necessity of having a newspaper for the publication of his proclamations, orders, etc., withdrew the property from Flanders, revoking Colonel Holabird's action.

On the 16th of March, 1864, General Banks, by Special Orders, No. 67, directed:

"Paragraph 3. The editors of the Era, Messrs. Hills & Hills, being unable to continue the business of publication together, are relieved from the operations of the order issued in regard to the management of the Era. The conducting of the paper is hereby assigned to Messrs. J. W. Fairfax and T. G. Tracy, employees in the office, to be conducted under the same general regulations and instructions given to the Messrs. Hills by paragraph 10 of Special Order 41, of 1863, from these headquarters, and by letter dated February, 1863. Capt. Stephen Hoyt, mayor; Col. Frank E. Howe, and James T. Tucker are hereby appointed to settle the affairs of the concern, and will report their judgment to these headquarters for confirmation."

On the 7th of April, 1864, the Commission named above made a report, which is as follows:

"The undersigned, appointed a Commission by Special Order 67, Department of the Gulf, a copy of which is herewith inclosed, to settle the affairs of the Era concern, have the honor to respectfully report that, after an investigation into the affairs of the Era, they recommend that the management and conducting of the paper known as the Era be turned over to Messrs. J. W. Fairfax and T. G. Tracy, now and for a long time past employees of the Era; it, however, being understood that the status of the Government in regard to the management of the paper and the office is in no way changed by the action of the Commission, or rather by its recommendation. We do this because we believe that it is impossible and impracticable to settle the differences between the Messrs. Hills & Hills. To do this it seems to be necessary for the Government to advance to the Messrs. Hills & Hills, as due them at the date of the order (March 16, 1864), for stock in the office as below mentioned, exclusive, of course, of all the type and material in the office belonging to the Government, or as left by Messrs. Clark & Brown at the time of the possession given to Hills & Hills, the sum of $7,561.80."

Mr. PAYNE (interrupting the reading). Mr. Chairman, I did not hear the bill read; but from what has been read of the report it appears that this is a war claim, and I make the point of order that this bill is not in order to-day, although it is reported from the Committee on Claims. I do not know that the point is well taken, looking at the order which provides that bills reported from the Committee on Claims are in order to-day. It is reported by that committee, but I do not see why the point of order would not be tenable under that language. The rule, I want to say, Mr. Chairman, to-day, under this special order, is for bills reported from the Committee on Claims. Under the call of committees a bill is in order that is on the House Calendar, and when it is found that it is improperly on the House Calendar and a point of order is made that it should be considered in Committee of the Whole, it immediately goes to the Committee of the Whole. From the reading of the report thus far it appears that this is a war claim and ought not to come here under this order.

Mr. GRAFF. I think if the gentleman from New York will look into it more fully he will see that it is not a claim arising out of property seized in consequence of the war; but it arose——

Mr. PAYNE. It arose under the military occupation of New Orleans by the army under General Butler.

Mr. GRAFF. A sort of contractual relation existed between the claimants and the Government.

Mr. PAYNE. Yes.

Mr. GRAFF. And the officers were under the command of the Government; and that being true, it would not be a war claim.

Mr. PAYNE. Was not this property taken and the men put in charge?

Mr. GRAFF. It was retained.

Mr. PAYNE. It was retained by the Government.

Mr. GRAFF. The property was not seized. It was retained.

Mr. PAYNE. By the Government?

Mr. GRAFF. Yes.

Mr. PAYNE. That is a war claim.

Mr. GRAFF. I think there would be a distinction.

Mr. TIRRELL. This bill has been before Congress a number of times in both branches and has been referred to the Committee on Claims, the reports have been made, and no objection heretofore of this character has ever been raised against the bill.

Mr. PAYNE. Has the bill ever been reached before?

Mr. TIRRELL. It has been passed upon by this House and failed, because of lack of time, to be passed upon by the other branch, and vice versa. I will call the attention of the gentleman from New York to the fact that during the last Congress the ice bill, which was for ice furnished the military authorities during the war, was a bill on which he argued so ably and vigorously.

Mr. PAYNE. And so unavailingly.

I want to call the gentleman's attention to the distinction between this and the ice bill. There was no claim that the Government had ever retained the ice. In fact, it was dubious whether there was any ice at all. But in this case these gentlemen furnished the material with which to run this printing office in the military district under the command of General Butler. Then, as the chairman of the committee says, and the report seems to indicate, the United States authorities retained the property and converted it to their own use. Now, does the gentleman see the distinction between the ice, in the bill to which he has referred, and the paraphernalia for a newspaper office, under these circumstances?

Mr. TIRRELL. And if the gentleman was more familiar with the bill, he would know that both of these claims arose under contracts which were made with civilians.

Mr. PAYNE. But the Government took possession of the property. It does not make any difference whether the property came in pursuance of a contract made by the Government or was the property of a resident of New Orleans during the war. The claim is for the Government detaining the property.

The CHAIRMAN. It appears by the reading of the bill that it is a war claim. Reference to the Committee on Claims under the precedents of this House does not give jurisdiction to that committee. It appears that the precedent is as follows:

The erroneous reference of a private bill to a committee not entitled to jurisdiction does not confer it, and a point of order is good when the bill comes up for consideration, either in the House or in Committee of the Whole.

So it is evident that the bill can not be considered at this time, and will have to be sent back.

Mr. TIRRELL. Will the Chair hear me for a moment on that question?

The CHAIRMAN. What is the question of the gentleman from Massachusetts?

Mr. TIRRELL. That of the ground upon which the decision is based, that it is a war claim; the report has presented to the House the facts in this case which determine that fact.

The CHAIRMAN. The Chair bases his decision that this is a war claim upon the language in the bill beginning in line 8, "belonging to Albert G. Hills and Alfred C. Hills, both deceased, taken and converted to the use of the United States by the military forces of the United States."

Mr. GRAFF. May I say a word in reference to the point of order?

The CHAIRMAN. Answering further the gentleman from Massachusetts [Mr. TIRRELL], the rule of jurisdiction over claims arising out of any war in which the United States has been engaged is that they must be referred to the Committee on War Claims.

Mr. GRAFF. Mr. Chairman, may I make a single suggestion to the Chair? That is, I understand the precedents are that when there has been debate intervening between the reading of the bill and the point of order, the point of order is not well taken. The facts in this case are that when the bill was read the gentleman from New York arose and asked that the report be made in his time, which would be tantamount to the gentleman from New York making a speech upon the merits of the claim, and during the reading of the report there was an interruption, made, I believe, by the gentleman from Massachusetts [Mr. TIRRELL], and the gentleman from Massachusetts took part in the debate on the merits of the claim, and I think the record will show that he was followed by the gentleman from New York, who again participated in the debate.

Mr. PAYNE. The gentleman from Illinois [Mr. GRAFF] is not quite right about the facts. I asked for a reading of the report. I did not find that the bill was a war claim until I heard a part of the report read.

Mr. GRAFF. At all events there had been debate upon the subject.

Mr. PAYNE. I want to say to the gentleman that no objection of this kind was made, and the Chair has already decided that the bill is out of order. It is too late now to change that.

The CHAIRMAN. The Chair will say to the gentleman from Illinois [Mr. GRAFF] that that is the general rule; but it would only have been fair to the Chair to have called his attention to that fact prior to his decision. The decision of the Chair was made upon what the Chair understands to be the precedents of the House, and on the case that was made upon the floor. The point of order made by the gentleman from Illinois

[Mr. GRAFF] was not made in time. The Chair stands by his ruling.

LINDLEY C. KENT AND JOSEPH JENKINS.

The next business on the Private Calendar was the bill (S. 1352) for the relief of Lindley C. Kent and Joseph Jenkins as the sureties of Frank A. Webb.

The bill was read, as follows:

*Be it enacted, etc.*, That Lindley C. Kent and Joseph Jenkins, sureties upon the bond of Frank A. Webb for the faithful performance of his contract for the construction, erection, and delivery of buildings for the new Port Penn light station, Delaware (fourth light-house district), having, by failure on the part of said Webb, been obliged to complete said contract themselves for said Webb, but at their own expense, and having by such unexpected failure of said contractor not only been put to great extra cost in such work, but also been, by the terms of the contract, subjected to a very heavy penalty for delayed completion of the work, due to the said Webb's failure and not to any fault of their own, a penalty far in excess of the actual extra expense thereby caused to the United States, be, and they are hereby, released from so much of said penalty as is in excess of the actual extra expense to the United States by reason of said delays; and that the engineer of the fourth light-house district be, and he is hereby, authorized and directed to pay to the said Lindley C. Kent and Joseph Jenkins the unpaid balance of the full amount of said contract, less the aforesaid actual extra expense to the United States by reason of said delays: *Provided, however*, That such payment shall not be made until said engineer is satisfied that all materials used and all labor employed in the construction of said buildings have been duly paid for.

Mr. LIND. Mr. Chairman, instead of calling for the reading of the report, I trust the gentleman from New York [Mr. PAYNE] will accept a brief statement of the facts.

A gentleman by the name of Webb took the contract to build a light-house at Port Penn, Del. The contract price was some $4,400. The contractor gave the usual bond, with two sureties. Shortly after taking the contract he absconded. The bondsmen proceeded to complete the building, and, as returned by the Government engineers, actually expended over $6,000 in completing the structure. They were delayed beyond the contract period seventy-seven days. The contract called for a penalty of $20 a day, which the accounting officer of the Government exacted. The Government was put to no extra expense on account of this delay, except in the sum of $500. Now, the sureties of the absconding contractor simply ask that the portion of the penalty withheld be allowed them, less the extra expense incurred by the Government for delay, supervision, and examination.

The bill is so eminently fair that I do not believe anyone can object to its payment.

Mr. PAYNE. How much were they delayed by the absconding principal?

Mr. LIND. Seventy-seven days.

Mr. PAYNE. They were delayed by reason of his absence seventy-seven days?

Mr. LIND. He absconded.

Mr. PAYNE. They went at it as quickly as they reasonably could?

Mr. LIND. They went at it and expended nearly $2,000 of their own funds and materials in excess of the contract price.

On motion of Mr. GRAFF, the bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

W. R. AKERS.

The next business on the Private Calendar was the bill (H. R. 3950) for the relief of W. R. Akers, of Alliance, Nebr.

The bill was read, as follows:

Whereas the register and receiver of the United States land office at Alliance, Nebr., were duly authorized by the honorable Commissioner of the General Land Office of the United States to employ a stenographer and typewriter operator as a contest clerk in said United States land office at Alliance, Nebr., in 1892, and pursuant thereto did employ one W. G. Buehner as such, and said W. G. Buehner earned the sum of $79.50 by the performance of such duties for one quarter, and W. R. Akers, as receiver of said United States land office, rightfully paid to said W. G. Buehner said sum of $79.50 for said services, but overlooked obtaining a voucher therefor, and the whereabouts of said W. G. Buehner are unknown, and said register and receiver did not keep a record showing the precise number of words reduced to writing by said W. G. Buehner as such contest clerk during his service; and

Whereas the honorable Commissioner of the General Land Office of the United States, under the rules and regulations governing him, has declined to reimburse the said W. R. Akers for the payment of said $79.50 to said W. G. Buehner, by reason of the nonproduction of a voucher, duly executed by said W. G. Buehner, for such payment to him by said W. R. Akers, and for the further reason that said register and receiver did not keep a record of the precise number of words reduced to writing by said contest clerk in each particular case, and the honorable Commissioner of the General Land Office of the United States grant that said W. R. Akers is entitled to equitable relief in the full amount of his claim for $79.50: Therefore,

*Be it enacted, etc.*, That the accounting officers of the Treasury be, and they are hereby, authorized to pay, out of any moneys not otherwise appropriated, to the said W. R. Akers the sum of $79.50, to reimburse and satisfy him for that amount paid by him for the Government to W. G. Buehner for his salary as contest clerk in the United States land office at Alliance, Nebr., for salary for a one-quarter service in the year 1902.

Mr. PAYNE. I hope we will have an explanation of this bill.

Mr. GRAFF. I yield to the gentleman from Nebraska [Mr. KINKAID].

Mr. KINKAID. Mr. Chairman, the bill explains itself. It is for the relief of a receiver of the United States land office, who paid a debt of the Government and now desires to be reimbursed by this method. It came about under these circumstances: The law authorizes the receiver and register to employ contest clerks when the business of the office will justify it, and there was no question but that the business of the office justified it in this case. This contest clerk was employed. The litigants, the contestants, and contestees pay for the services of the contest clerks. The money thus paid goes to the credit of the Government, and the officers are authorized by the law to pay out of this fund the salary of the contest clerk. That was done in this case; there is no question about that; but the rules and regulations of the Department require that an account must be kept of the exact number of words written by the contest clerk, and that was not observed in this case. That could have been remedied if a voucher could have been furnished, signed by the contest clerk. That voucher could not be furnished, because the contest clerk removed to parts unknown, and his whereabouts have not since been ascertained.

Mr. GRAFF. May I ask the gentleman from Nebraska a question?

Mr. KINKAID. Yes.

Mr. GRAFF. This contest clerk is an officer of the Government? He is not a private employee of the official?

Mr. KINKAID. He is a servant of the Government.

Mr. GRAFF. Now, under the law it is the duty of the official who has the authority to appoint the contest clerk to report to the Government the amount of work that he does, so that the Government can make up his account and pay him?

Mr. KINKAID. Yes, sir; he would have done that in this case, except that the contest clerk left too soon for him to secure from him a voucher as to the number of words, and the Department requires a voucher from its clerks as to the number of words.

Mr. GRAFF. Do I understand that the claimant here is the contest clerk?

Mr. KINKAID. No, sir; it is the receiver of the land office that is the claimant here. He paid the contest clerk. There is no doubt about that; but he did not secure the voucher of the contest clerk, overlooking it. When he thought of it the contest clerk had gone.

Mr. GRAFF. This is simply to reimburse him for money he paid out for the United States Government for which he was unable to obtain a voucher in the regular way because the employee had left before he could secure a voucher.

Mr. KINKAID. Yes; before he could secure a voucher.

Mr. BUTLER of Pennsylvania. The Land Commissioner concedes all that.

Mr. KINKAID. The Department recognizes this fact and recommends this relief which is now sought by this bill of $79.50.

Mr. GRAFF. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

GEORGE M'GHEHEY.

The next business on the Private Calendar was the bill (H. R. 9758) for the relief of the heirs of George McGhehey for services rendered as mail contractor.

The clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, directed to pay to the heirs of George McGhehey, deceased, the per balance to credit of said George McGehey, for service found due tractor on routes No. 7870 and No. 7871, Arkansas, during 1861, as per balance to credit of said George McGehey, for service found due from January 1 to March 31, 1861, the date to which said service was certified.

Mr. HERMANN. Mr. Chairman, I wish to make a very brief explanation as to this small amount allowed in this bill, $137.39. The account arises upon a mail contract which was in existence as far back as 1858 and continued until July 1, 1861, when the war opened up and the Postmaster-General discontinued and canceled all contracts previous to May 31, 1861. This party had received his pay for his contract up to January 1, 1861. So that there remains from that time, May 31, 1861, a balance due him; the Department only had certified to a balance for the first quarter of that year—that is, from January 1 to March 31, amounting to $137.39. This has been reported favorably by the Postmaster-General, who states that the records of his Department show that George McGhehey, of Powhatan, Ark., was contractor

on routes 7870, Powhatan to Batesville, and 7871, Powhatan to Gainesville, Ark., for the contract term beginning July 1, 1858. By an order of the Postmaster-General all service on these and other routes in the Southern States was discontinued May 31, 1861.

The matter was referred to the Treasury Department, and the Acting Auditor also certified that the records of his office show that George McGhehey, of Powhatan, Ark., was the contractor for carrying the mails on routes 7870 and 7871, Arkansas, during 1861, and that there is a balance of $137.39 standing to the credit of his account for service from January 1 to March 31, 1861, the date to which the service was certified.

There is also, Mr. Chairman, an affidavit from the claimant to the effect that no portion of this amount has been received by him.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken; and the bill was ordered to be laid aside with a favorable recommendation.

ITALIAN-SWISS AGRICULTURAL COLONY.

The next business on the Private Calendar was the bill (H. R. 11370) to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire.

The clerk read the bill, as follows:

*Be it enacted, etc.*, That the Italian-Swiss Agricultural Colony, a corporation organized and existing under the laws of the State of California, be relieved from the payment of an assessment, or any part or portion thereof, made against the aforesaid corporation by the Commissioner of Internal Revenue, amounting to the sum of $956.89, said assessment having been placed against said corporation on account of the accidental destruction by fire of ten barrels of spirits, commonly called grape brandy, while being transported by rail from fruit distillery No. 108, located at Asti, Cal., to winery No. 109, located near Madera, Cal., and before said spirits could be used in said winery for fortifying pure sweet wine. The Commissioner of Internal Revenue is hereby authorized and directed to cancel the said assessment without the payment of the aforesaid tax or any part or portion thereof.

SEC. 2. That this act shall take effect immediately after its passage and approval.

Mr. BELL of California. Mr. Chairman, the object of this bill is plainly stated in the body of the measure. This grape brandy withdrawn from the company's distillery at Asti, Cal., was shipped by the Italian-Swiss colony from that place to Madera for the purpose of fortifying sweet wines. On its arrival at Madera, and before it was removed from the car, some 10 barrels were destroyed by fire. One of the barrels dropped to the floor, broke open, and when a train hand went into the car with his lantern it ignited the gas and an explosion occurred and 10 barrels were destroyed. Under the law this brandy would not have been required to pay a tax if it had been used for the purpose of fortifying their wine. It has been destroyed by fire, and there is no way by which the Internal-Revenue Commissioner can relieve them, as they are informed, from this assessment without an act of Congress. The present Commissioner of Internal-Revenue recommends the passage of this measure. The United States will not suffer any loss, but these people will be simply relieved from the damage they have sustained.

Mr. GRAFF. The goods were shipped in bond, were they not?

Mr. BELL of California. Yes.

Mr. GRAFF. So that there was no tax actually paid by them, but if the goods had reached their destination and were used for the purpose for which they were intended there would never have been any tax paid or due.

Mr. BELL of California. No tax would have been collectible at all.

Mr. GRAFF. The bond was given simply as an assurance that the goods would not be taken and used for some other purpose.

Mr. BELL of California. That is the exact situation.

Mr. PAYNE. Had the brandy passed out of the custody of the officers?

Mr. BELL of California. Of the internal-revenue officers?

Mr. PAYNE. Yes.

Mr. LIND. The goods were in a bonded car.

Mr. BELL of California. Of course constructively it was still in the possession of the internal-revenue officers.

Mr. PAYNE. Is there any recommendation that the bill should pass from the Secretary of the Treasury or the Commissioner of Internal Revenue?

Mr. BELL of California. Yes; from the Commisssioner of Internal Revenue.

Mr. PAYNE. Does he recommend the passage of this bill?

Mr. BELL of California. Yes.

Mr. PAYNE. In cases of this kind the Treasury Department has always made a distinction when the spirits were out of the control of the United States Government and under the control of the individual. If the spirits were under the control of the Government at the time the fire occurred, then we have always paid the claim or remitted it, but we have refused to pay where the goods have passed out of the control of the Government and into the hands of the individuals. Of course they have then to become their own insurers.

Mr. LIND. These barrels were in a bonded car.

Mr. PAYNE. I think that is under the control of the Government, because under the law the Government has to have an agent there at the winery, as I understand.

Mr. BELL of California. Yes.

Mr. GRAFF. I desire to go on record at this time by saying that it has been the disposition of the committee, so far as I have served on it, to refuse to report bills—and there have been a number of them—where the goods have been taken out of the distillery and the tax paid and where they were in the possession of the parties who were shipping them, and shipping them away for the purposes of use. In those cases we have refused to remit the taxes in case of destruction.

Mr. LIND. This is not a refundment.

Mr. BELL of California. This simply cancels the assessment that now stands against the spirits. It is not to refund anything.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

RAMON O. WILLIAMS AND JOSEPH A. SPRINGER.

The next business on the Private Calendar was the bill (H. R. 2052) for the relief of Ramon O. Williams and Joseph A. Springer.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ramon O. Williams, late consul-general at Habana, the amounts necessarily expended by him for clerk hire in excess of his allowances between July 1, 1892, and June 5, 1896, $2,222.08; and to Joseph A. Springer, late vice-consul-general at Habana, the amounts necessarily expended by him for clerk hire in excess of his allowances between October, 1892, and June 30, 1895, $200.54; both amounts as shown on the records of the State Department and as recommended for payment by the State Department to the Fifty-fifth and Fifty-sixth Congresses, and reported to the House and passed by the Senate in the Fifty-seventh Congress.

Mr. PAYNE. Mr. Chairman, I would like to hear the report on this bill.

The Clerk read the report, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 2052) for the relief of Ramon O. Williams and Joseph A. Springer, have carefully examined the same and now report it back to the House with the recommendation that it do pass without amendment, and make the report of the Senate in the Fifty-eighth Congress on a bill (S. 747) of the same tenor a part of this report, as follows:

"The bill provides for the payment of the following sums to the two claimants named:

| | |
|---|---|
| To Ramon O. Williams | $2,222.08 |
| To Joseph A. Springer | 200.54 |

"These claims were proposed in the Senate as amendments to the deficiency appropriation bills of the second and third sessions of the Fifty-fifth Congress, and in both of said sessions the amendments were favorably reported and passed the Senate, but were stricken out in conference. A bill covering the same claims was introduced in the Senate in the first session of the Fifty-seventh Congress, was favorably reported (S. Rept. No. 1261, 57th Cong., 1st sess.), passed the Senate, and was favorably reported from the Committee on Claims of the House of Representatives. (H. Rept. No. 1832, 57th Cong., 1st sess.) A similar bill which had been introduced in the House in the same session was also favorably reported. (H. Rept. No. 1705, 57th Cong., 1st sess.)

"In addition to the favorable history of these claims, as cited above, your committee submit, as further support of their action, the following estimate from the Treasury Department, as set forth in House Document No. 354, Fifty-eighth Congress, second session:

"TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
"*Washington, January 5, 1904.*

"SIR: I have the honor to transmit herewith for the consideration of Congress a communication from the Secretary of State of the 4th instant, recommending certain increases in the estimates and items for insertion and consideration in connection with the diplomatic and consular appropriation bill for the fiscal year ending June 30, 1905.

"Respectfully,

H. A. TAYLOR, *Acting Secretary.*

"The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

"DEPARTMENT OF STATE,
"*Washington, January 4, 1904.*

"SIR: I have the honor to request that the following recommendations be communicated to Congress for insertion in the estimates submitted by this Department for the diplomatic and consular service for the fiscal year beginning July 1, 1904:

* * * * * * *

"CLAIMS.

"An appropriation of $2,222.08 to Ramon O. Williams while consul-general of the United States at Habana, Cuba, for expenditures necessarily incurred by him for extra clerical assistance during the years 1892 to 1896, and to Joseph A. Springer $200.54 for the same purpose while he was in charge of the Habana office at various times from 1892 to 1895. In this connection attention is called to a letter of this Department of February 21, 1902, to the Committee on Claims, House of Representatives, and one of March 6, 1902, to the Committee on Claims, United States Senate. These letters contain a full statement with reference to these two claims, the payment of which is earnestly urged by this Department.

* * * * * * *

"FRANCIS B. LOOMIS,
"*Acting Secretary.*

"The SECRETARY OF STATE:

"The letters of February 21, 1902, and March 6, 1902, above referred to, contained a full and complete statement of the facts in the case, and were identical in substance. Your committee quote the letter addressed to their chairman, which was as follows:

"DEPARTMENT OF STATE,
"*Washington, March 6, 1902.*

"SIR: I have the honor to acknowledge the receipt of your letter, dated the 4th instant, requesting a statement with reference to Senate bill No. 3967 for the relief of Ramon O. Williams and Joseph A. Springer.

"In reply I have to say that the amounts named in the bill were paid by Mr. Williams when consul-general of the United States at Habana, Cuba, and by Mr. Springer, vice-consul-general, when in charge of the office during the absence of Mr. Williams, for clerical assistance over and above that for which allowances had been regularly made. Extra clerical help was absolutely necessary, largely on account of the reciprocity agreement between the United States and Spain, which gave the official at Habana an immense amount of work, especially in connection with the claims and protests presented by importers of American products (who were entitled to certain franchises under the said agreement) against the errors and misinterpretations due to mutual delay in publishing the joint repertory agreed upon by the two Governments.

"Acting under the instructions of this Department the consul-general at Habana received all such protests, not only those presented at Habana, but also those presented to other consular officers of this Government in Cuba. The reception of these protests, the preliminary consultations in connection therewith, the recording, filing, and translation of the documents and the correspondence with the fiscal authorities of Cuba, which was conducted mostly in two languages, gave the office such a vast amount of work that it was impossible to carry it on with the regular force employed.

"All the protests and claims made by importers to Cuba of American products, under the reciprocity agreement, were presented to our consular officers, and not in any case to Spanish notaries.

"It is proper to add in this connection that not a dollar was charged for any service connected with the business named, either for an official fee or for any personal service of an unofficial notarial or clerical character, nor for extra hours of labor, the sole purpose of the office being to aid in every possible way the development of our commerce with Cuba. Moreover, had not the consul-general employed tried and capable clerical assistance the detriment to American commerce would have been marked.

"On account of the long distance of Cuba from Spain the consul-general at Habana performed many services involving diplomatic or semidiplomatic functions, and the number of such services during the period covered by the claim in question was unusually large. No extra compensation was given the consul-general for work of this character done by him, which involved extra clerical help.

"In view of the foregoing facts the Department is decidedly of the opinion that the claim of Mr. Williams for $2,222.08 and of Mr. Springer for $200.54 is just and reasonable and should be allowed by Congress.

"I have the honor to be, sir, your obedient servant,
"JOHN HAY.

"Hon. FRANCIS E. WARREN,
"*Chairman Committee on Claims, United States Senate.*"

Mr. PAYNE. I did not notice the date of the letter from the Secretary of State. Can the gentleman tell me whether that letter was before the conference committee and before the House when this was struck out of the appropriation bill?

Mr. GRAFF. No; it was not.

Mr. PAYNE. It would seem, according to the report, that the Senate put it in the appropriation bill and that it came over to the House and was voted out. It then went to conference and finally went out.

Mr. GRAFF. I find the date of this is March 6, 1902.

Mr. PAYNE. What was the date of the conference?

Mr. GRAFF. That must have been three or four years ago. The letter of the Secretary of State sets out very clearly that it was necessary to have this clerical help on account of the reciprocity treaty with Spain at the time and that these amounts were absolutely paid out by the consul-general and vice-consul for necessary help incurred at that time. They have received no fees for their services, and the Secretary of State states that it was a proper bill of expense.

Mr. PAYNE. I do not think anyone who knows him would question a statement made by Mr. Williams.

Mr. GRAFF. It is simply a question of reimbursing them for this money which was paid out by them necessarily for the Government.

Mr. PAYNE. I do not like to encourage the practice of consuls incurring extra expense, and then coming to Congress for an appropriation to reimburse them. There might have been a necessity for it in this case.

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The bill was laid aside with a favorable recommendation.

R. D. ASHFORD.

The next business on the Private Calendar was the bill (H. R. 10089) for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y.

The Clerk read the bill, as follows:

A bill (H. R. 10089) for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y.

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to R. D. Ashford, of Lockport, Niagara County, N. Y., out of any money in the Treasury not otherwise appropriated, the sum of $420, that sum being for the rent of three parlors of the American Hotel, at Lockport, N. Y., and damage to carpets and furniture of said three parlors while they were occupied for post-office purposes at the time of the destruction of the Hodge Opera House, at Lockport, N. Y., on the morning of January 5, 1881, which was then partly occupied under lease by the Post-Office Department as a post-office.

Mr. PAYNE. I would like to have some statement or a reading of the report. I call for a reading of the report, if no one volunteers a statement.

Mr. GRAFF. If the gentleman from New York insists upon a reading of the report, I will ask that the bill be laid aside without prejudice.

Mr. PAYNE. Can not the gentleman make a statement?

Mr. GRAFF. The bill was introduced by Mr. WADSWORTH of New York. Mr. Hubbard, postmaster of Lockport, makes an affidavit setting forth the facts, as follows:

Richard D. Ashford filed with the Post-Office Department, at Washington, in March, 1881, for use, rent, etc., of parlors A, B, and G, in the American Hotel, in said city of Lockport, as an emergency post-office during the month of January, 1881, occasioned by the burning of the Opera House Building, in which the post-office was located.

I, as postmaster, was compelled at that time to take the first place that I could procure for the sorting and distributing of the United States mails. I procured the parlors in said hotel—as mentioned herein—of Mr. Ashford, only expecting to use them or remain there for one day; but circumstances made it necessary for me to occupy the rooms from January 5 to February 1. The reason for such occupancy for so long a time was—

First. The burning of the building in which the post-office was located.

Second. Being unable to obtain suitable rooms elsewhere at once and fit them up, I remained in the hotel until February 1.

Third. The store which was afterwards (March 1) moved into was No. 1, Central block, and had to be vacated and fitted up for the purposes of the post-office, which fitting up took January and part of February of said year.

The rental of the general post-office in this city was $600 per year. That was the amount of rent paid to Mr. Hodge for many years for the use of the post-office in the Hodge Opera House building and in No. 1 Central Block, which he furnished and fitted up. He had nothing to do with the procuring of the rooms in the American Hotel for the use of the post-office; there was no part of the money coming into my hands for rent or other purposes paid to R. D. Ashford for the use of his premises, and no money was ever sent to me or allowed by the Post-Office Department from which I could pay for the use of the same, which use was approved by me at the time and by affidavits submitted by me since that time.

I can see no reason why Mr. Ashford should not receive his pay for the use and accommodation he furnished to the United States post-office in his hotel, which occupied three of his most eligible rooms in the hotel, and which were furnished with carpets, besides the inconvenience to the people of the hotel, the rush and scramble of seekers for their mail, which was no doubt owing to the post-office being contained in said hotel for more than one day, and Mr. Ashford suffered more loss in his business and inconvenience than he could realize by his receiving the payment of his bill by the United States.

Mr. PAYNE. I see the gentleman from New York who introduced the bill is here, and I would like to ask him a question or two.

Mr. WADSWORTH. I will be very glad to answer.

Mr. PAYNE. I would like to ask if the owner of this hotel ever received any rent from the Government?

Mr. WADSWORTH. Not that I know of. I rely entirely in this matter upon the report of the Postmaster-General.

Mr. PAYNE. Does the Postmaster-General say so?

Mr. WADSWORTH. I think he does. I will say to the gentleman I have not looked at this report for a year.

Mr. PAYNE. I understand the gentleman said the Postmaster-General so reports.

Mr. MILLER. The language of the Posmaster-General, if the gentleman from New York pleases, is:

So far as the records of this office show, no claim was made by Mr. Ashford for rent of the rooms in the hotel, and it was not until January 15, 1891—nearly ten years afterwards—that Mr. Ashford filed a claim for rent. This claim was rejected by the Department apparently on the ground that it had not been presented at the proper time, and that the appropriation had lapsed and been covered into the Treasury.

Mr. PAYNE. Now, the amount of this bill is based on the $600 rental. I will ask the gentleman from Illinois, as I have

not gotten much information, how is that amount arrived at in this bill? Are we paying for carpets or for rent. How do you arrive at the amount carried in this bill?

Mr. GRAFF. I suggest that the gentleman get into a controversy with his colleague from New York about that.

Mr. WADSWORTH. I stated that I relied absolutely upon the report of the Postmaster-General. I have no knowledge whatever of the details other than it. Here is what the Postmaster-General says:

The records show conclusively that no rent was paid Mr. R. G. Ashford for rent of the three rooms in the hotel building for the month of January, 1881; and while there is no question that he was entitled to compensation, it is not possible at this time (twenty-one years afterwards) for this Department to determine the rental value of the rooms and the amount to which he is entitled. The rental paid for permanent quarters for the office at that time was at the rate of $600 per annum, increased to $1,000 per annum April 1, 1882, and it is therefore for the committee to decide what amount should be paid for rent of the three rooms, including damage to carpets and furniture, from January 5 to February 1, 1881, and whether the claimant is entitled to interest.

That is the whole thing in a nutshell, as far as the knowledge I have.

Mr. PAYNE. And this committee did not give him interest?

Mr. WADSWORTH. No; they did not.

Mr. PAYNE. Did they give him any more than the rental value?

Mr. WADSWORTH. I think not. Mr. Johnson, the First Assistant Postmaster-General, in his report says: "I will say in this connection, however, that this claim is undoubtedly meritorious, and if referred to this office will receive favorable consideration."

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois, that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

HANNAH S. CRANE AND OTHERS.

The next business on the Private Calendar was the bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

The bill was read, as follows:

A bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

*Be it enacted, etc.*, That jurisdiction be, and the same is hereby, conferred on the Court of Claims to hear the claim of Hannah S. Crane and others for the rent and value of certain real property in the city of San Francisco, in the State of California, in which they claim an undivided one-sixth interest, upon the evidence already filed in said court and such additional legal evidence as may be hereafter presented on either side; and if said court shall find that said parties acquired a valid title to said real property as claimed, said court shall award the said parties a fair and reasonable rent for the use of the undivided one-sixth part of said property for the time, if any, the same has been occupied by the United States as a branch mint, or otherwise, and also a suitable indemnity for said undivided one-sixth part of said property; and the receipt of such rent and indemnity shall thereafter bar any further claim by said parties for the use of said property, or for the value thereof. And before receiving the same, all of said parties shall execute a release to the United States for all right, title, and interest whatsoever in and to the said property, and any defense, set-off, or counterclaim may be pleaded by the United States, as defendants, as in cases within the general jurisdiction of the court, and either party shall have the same right of appeal as in such cases.

Mr. PAYNE. Mr. Chairman, it appears that this claim has been before the Court of Claims before. I hope the report is not so long but that we can get information from that, because the evidence, the oral evidence, of the living witnesses seems to be a little shaky. I do not mean in any improper sense; but gentlemen do not seem to be able to give us the facts.

Mr. GRAFF. I accept the apology of the gentleman from New York, and refer him to the gentleman from California.

Mr. NEEDHAM. Mr. Chairman, the facts in this case are briefly that in 1852 Congress passed an act for the building of a branch mint in San Francisco, and appropriated $300,000 therefor. The Secretary of the Treasury entered into a contract providing for the building of this mint in the city of San Francisco. There was also a provision in the contract which provided that an additional piece of ground, of about 20 feet, immediately adjoining where the building was being constructed, might also be acquired, with the provision that the contractor should give a good title to the United States within ninety days, This additional ground was also found to be necessary, and the Government obtained the property in this way: It was owned by three gentlemen in partnership—the contractor was one of these persons. His name was Curtis, and he executed a deed to the Government. One of the partners was on the sea at that time, and it seems that he died and his interest was never conveyed to the Government, although the Government accepted title. Subsequently the successors in interest of this partner that died brought an action in ejectment in the courts of California and also in the United States court, and their title was sustained, and it was determined by the supreme court of California, and also by the United States court, that their title was good, and they have never parted with the title—one-sixth interest in the land upon which this mint is situated.

The case was referred to the Court of Claims once before by Congress, and the Court of Claims also found that the title was in these people; but the language of the former act was not sufficiently broad to determine what damages the claimants were entitled to, and this bill is simply to re-refer, so that the claimants shall obtain the amount they are entitled to, together with whatever indemnity they are entitled to receive.

Mr. PERKINS. What damages do they claim?

Mr. NEEDHAM. They have never received anything; and also what is right for a quitclaim deed.

Mr. PERKINS. Do they claim one-sixth interest in the land?

Mr. NEEDHAM. One-sixth in the property attempted to be conveyed.

Mr. PAYNE. Is the building on that?

Mr. NEEDHAM. The United States Government occupies it to-day.

Mr. PERKINS. Is the purpose of the bill to allow them the value of this land as it is to-day, with the building on it, or the value of the land as the Government took it?

Mr. NEEDHAM. The language of the bill is:

If said court shall find that said parties acquired a valid title to said real property as claimed, said court shall award the said parties a fair and reasonable rent for the use of the undivided one-sixth part of said property for the time, if any, the same has been occupied by the United States as a branch mint.

Mr. PERKINS. What becomes of the fee?

Mr. GRAFF (reading from the bill). "And also a suitable indemnity for said undivided one-sixth part of said property."

Mr. NEEDHAM. The provision of the bill is that they should convey suitable title.

Mr. GRAFF. I do not think there is any doubt but what the court in that case will simply ascertain what the value of the property was at the time that it was taken by the United States Government, with interest, probably, from that time.

Mr. PERKINS. Then the bill providing for rent will give these people for over fifty years the rental value that has come by the erection of that building by the United States Government.

Mr. GRAFF. Oh, no; the rental of the property which they own—the ground rental value.

Mr. NEEDHAM. Of one-sixth part?

Mr. GRAFF. One-sixth part.

Mr. PERKINS. It seems to me there ought to be an amendment that will make this clear, because these people ought not to recover an unjust sum from the Government.

Mr. CRUMPACKER. This bill seems to be in conflict with the common practice for settling that kind of cases. It provides for rent up to the present time and is to determne the value of the property up to this time. This implies the value of the property at that time. The value of the property at the time it was appropriated, with interest at the legal rate, seems to be the compensation asked in this claim.

Mr. PERKINS. And just that, it seems to me.

Mr. CRUMPACKER. That is the usual rule when property is taken.

Mr. GRAFF. I think the gentleman from Indiana [Mr. CRUMPACKER] is right about that.

Mr. PAYNE. I would like to ask the chairman of the committee why this question could not be better settled by condemnation proceedings?

Mr. NEEDHAM. These people have a judgment in ejectment.

Mr. PAYNE. But suppose the Government should take proceedings to defend this title?

Mr. GRAFF. But suppose the Government does not?

Mr. NEEDHAM. They can not compel the Government to do that.

Mr. PAYNE. And they can not eject them.

Mr. GRAFF. There would be no relief for them.

Mr. PAYNE. Then, certainly, this bill ought to have safeguards to it to recover anything for the use of the betterments put on there by the United States, and also of the value of their title when the Government took it, it seems to me.

Mr. GRAFF. Mr. Chairman, I move the bill be amended by striking out all after the word "parties" in line 12, page 1, of the bill, up to and including the word "property" in line 3, page 2, and insert in lieu thereof the following: "the market value of the undivided one-sixth of said property at the time possession was taken of it by the United States, together with legal interest thereon;" and then that there be stricken out after that, all after and including the word "and," on page 2, in line 3, down to and including the word "thereof," on line 5.

Mr. PERKINS. What is the rate meant by "legal interest of California?"

Mr. BELL of California. Seven per cent.

Mr. PERKINS. Then I suggest the amendment read "7 per cent." That is enough interest for fifty years.

The CHAIRMAN. The gentleman from Illinois will please restate the latter part of the amendment, with the words to be stricken out.

Mr. GRAFF. Strike out commencing before the word "and," and including that word, and all thereafter down to and including the word "thereof" in line 5, page 2.

Mr. PERKINS. I ask that the Clerk be requested to report the entire bill with the suggested amendment, so that we can understand it.

The Clerk read as follows:

A bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

*Be it enacted, etc.*, That jurisdiction be, and the same is hereby, conferred on the Court of Claims to hear the claim of Hannah S. Crane and others for the rent and value of certain real property in the city of San Francisco, in the State of California, in which they claim an undivided one-sixth interest, upon the evidence already filed in said court and such additional legal evidence as may be hereafter presented on either side; and if said court shall find that said parties acquired a valid title to said real property as claimed, said court shall award the said parties the market value of the undivided one-sixth of said property at the time possession was taken of it by the United States, together with legal interest thereon. And before receiving the same, all of said parties shall execute a release to the United States for all right, title, and interest whatsoever in and to the said property, and any defense, set-off, or counterclaim may be pleaded by the United States, as defendants, as in cases within the general jurisidiction of the court, and either party shall have the same right of appeal as in such cases.

Mr. GRAFF. I also offer another amendment which I think would affect the bill.

Mr. PAYNE. Did I understand you to say that that is another amendment?

Mr. GRAFF. Yes. I offer another amendment, to strike out the words "for rent," on page 1, in line 5.

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

Mr. BELL of California. Mr. Chairman, I would like to have the attention of the committee during the discussion of this amendment. I am quite sure the committee will not vote to adopt this amendment after being fully advised as to the facts in the case.

Now, we are simply confronted with this situation: Hannah S. Crane and a number of other individuals in the State of California own an undivided one-sixth interest in certain land upon which the United States mint stands in the city and county of San Francisco. This one-sixth interest which they own has been adjudicated by the highest court of the State of California. After the decision of the supreme court of the State of California the United States Government sued out a writ of error and took the case to the United States Supreme Court, where the Attorney-General of the United States, after a full investigation of all the facts and circumstances, dismissed that appeal; so that Hannah S. Crane and these other parties to-day own an undivided one-sixth interest in that property.

Now, instead of pursuing the course that was plainly open to them, instead of appealing to the court of California for a writ of possession to put them in possession of their interest in this property, these people have seen fit to come to the United States Congress, and in a decent way, one that conforms to the highest duties of citizenship, and ask for relief at the hands of the United States.

Now, you undertake to say that you shall go back to 1854 and ascertain the bare value of that land at that time. Then you take one-sixth of it, and you compute the legal interest of California at 7 per cent and pay these people that amount. I want to ask you first if you take this step, if you turn this claim over to the Court of Claims to make such an award, do you as business men believe that Hannah S. Crane and her co-owners will accept such terms as that? Of course they are not entitled in equity, in morals, or in good faith to the benefit of any improvement that has been placed upon that property, and no honest man or woman would contend for that; but they have certain rights there, and I believe that we can well leave it to the Court of Claims to determine those rights under the provisions of this bill.

Now, let me go over the facts in this case very briefly, in order that you may be advised of the exact situation. The United States Government appropriated $300,000 in 1854 to establish this mint at San Francisco. The land upon which they desired to establish the mint was owned by the firm of Curtis, Perry & Ward, a copartnership. Mr. Curtis, a member of that firm, carried on the negotiations with the United States Government in his own name. He held powers of attorney from his two absent partners, but some question was raised as to the form of that power. So he conducted these negotiations. He entered into a contract with the United States Government to turn over the property, with buildings suitable for mint purposes, for the sum of $259,000. Now, at the time that contract was signed, one of these partners had died, although no one on that day, the date of the contract, knew that he was dead.

The last will and testament of Ward, the third partner, was filed for probate. He had named his other two partners, Perry and Curtis, executors of that last will and testament. One of them, Mr. Perry, qualified, but Mr. Curtis failed to qualify. In his will Ward left his wife nine-tenths of his property. The court proceeded to probate his estate, and Perry, as executor, applied to the court for an order to sell the one-third interest of Ward in the property. It was appraised at $40,000. The executor proceeded to sell out to his other partner, Curtis, the man who was negotiating with the United States, at the rate of $40,000 for the entire property, making $13,333 for the interest of Ward. Now, it is true that Mrs. Ward accepted that money, having full knowledge of all the proceedings of the court; but the law of the State of California at that time provided that Ward could not devise this property, but only one-half of it. Under the laws of the State of California one-half of this property went absolutely to the widow, and the other was subject to testamentary disposition.

The widow then ascertained that there had been some collusion or corruption in this transaction, and she immediately filed an action in the district court of the United States for the State of California, setting forth the facts of fraud and collusion, and before the United States Government had paid that man Curtis a balance of $183,000 upon his contract the United States Government was placed in possession of all these facts. Their attention was called to it. They had made one payment of $100,000 to this man Curtis, but the balance was not paid until after the United States Government was fully apprised of the claims of the widow. Now, under the law——

Mr. GRAFF. Will the gentleman permit me to interrupt him? I think the temper of the House is in favor of this measure, as far as I can see. The only question is whether these parties shall obtain rent for a long period or whether their measure of damages shall be the value of the land at the time it was appropriated, together with interest thereon from that time down to the present. What objection have you to that measure of damages?

Mr. BELL of California. I will state that——

Mr. LIND. Interest at that rate amounts to 350 per cent.

Mr. BELL of California. I will not stop to figure whether it amounts to more or less. I will state first that I do not know these people at all or anything about whether they would be disposed to accept this; but it seems to me that there is just one proposition here, and that is for the United States to clear its title to the sixth sixth of this real estate, on which the United States mint at San Francisco stands. Now, why adopt a measure——

Mr. GRAFF. This bill does not seek to deal with that question at all.

Mr. BELL of California. That is the purpose of this bill.

Mr. GRAFF. This bill is simply for the purpose of recompensing the one-sixth interest.

Mr. BELL of California. Does it not require a conveyance from these people to the United States, in order that the title may be perfected?

Mr. GRAFF. Yes.

Mr. BELL of California. Now, should we pass the measure as you suggest, with your amendment, how do you know that these people will accept this? How do you know that you are going to accomplish what we are endeavoring here to do, clear the title of the Government to that property?

Mr. GRAFF. I do not suppose we are compelled to accept the proposition of these people. We have a right to make a part of the proposition ourselves, and it seems to me that a reasonable view of it is that the same measure of damages ought to be made in this case as would be made in all other cases where property was wrongfully taken, or taken under a misapprehension of the title, and possession was taken; that the value should be determined at the time of the appropriation of the property, and interest computed thereon from that date until now.

Mr. BELL of California. Do you contend that that applies to real property?

Mr. GRAFF. I think that would be a fair way.

Mr. BELL of California. The gentleman would not contend as a principle of law that that has any application to real property?

Mr. MANN. Will the gentleman from California yield for a question?

Mr. BELL of California. Certainly.

Mr. MANN. I suppose no taxes have been paid on this property for the last fifty years?

Mr. BELL of California. Does the gentleman mean by the people that are claiming this one-sixth?

Mr. MANN. By anyone?

Mr. BELL of California. I presume not.

Mr. MANN. Under the law of California, the title having been ascertained to be in these people, can they go back and assess and collect taxes for the past fifty years?

Mr. BELL of California. I do not think they can.

Mr. MANN. I think they could in most States, but I did not know how it was in California. If they could, it would make a great difference.

Mr. LIND. There is a limitation of seven years, I think.

Mr. BAKER. I would like to ask the gentleman a question directly bearing on this matter. If the State can not recover any taxes it would have received on this land, why should the people claiming ownership in it, as they have not had to pay taxes, come here and ask the United States Government for the full value of the land and all interest which they claim to have lost during this period of years? Is that a just proposition?

Mr. BELL of California. If the gentleman from New York will pardon me, and take time to read the bill, he will find that there is no proposition to pay a certain sum. It is left to the Court of Claims to fix such indemnity as it thinks proper.

Mr. BAKER. Then I would like to ask the gentleman from California if, in his judgment, he thinks it proper to pay these people the full value of the land and interest?

Mr. BELL of California. No; that is a consideration that should be borne in mind in determining their indemnity. Now, I want to reply to the gentleman from Illinois. I will state to the gentleman that you are confronted by this situation: These people to-morrow can go into the courts of California and take out a writ of possession and claim possession of their one-sixth interest in the mint property.

Mr. PERKINS. But does not the gentleman know that the Government can take proceedings to condemn this property?

Mr. BELL of California. Let me ask the gentleman a question. Suppose the Government to-morrow institutes proceedings to condemn one-sixth interest of these people, what will be the basis of computing the amount they are to be paid?

Mr. PERKINS. I will answer the gentleman. It will be the present value of the land, but it will not be fifty-two years' rent accrued in the past and interest at 7 per cent from 1854. The gentleman must know that these people would have no right in any court to be allowed for rental further than the period provided by the statute of limitations. They could not get a rental for fifty years, and that is why they introduce this bill, which gives them more than any court would give them.

Mr. BELL of California. Under what theory of law could they not claim rent?

Mr. PERKINS. Because of the statute of limitations.

Mr. BAKER. Mr. Chairman, I understood that the gentleman from California had five minutes.

Mr. BELL of California. I will state to the gentleman from New York, who never does any talking upon the floor——

Mr. BAKER. I refuse to be insulted by the gentleman from California.

Mr. BELL of California. I beg the gentleman's pardon.

Mr. BAKER. The gentleman from California has now had the floor over twelve minutes.

The CHAIRMAN. The gentleman from New York makes the point of order that the gentleman from California has occupied more than five minutes, and the Chair sustains the point of order.

Mr. BAKER. Mr. Chairman, I ask for five minutes, in order to discuss this question.

Mr. PAYNE. If the gentleman from New York will pardon me, I want to ask three minutes for the gentleman from California. I ask unanimous consent that the gentleman from California may proceed for three minutes, and then that my colleague from New York [Mr. BAKER] may have five minutes.

The CHAIRMAN. The gentleman from New York asks that the gentleman from California may proceed for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BELL of California. Now, Mr. Chairman, I want to state my position in this matter. It is entirely a disinterested one. I do not know one of these parties. I am not interested in the bill. It was not introduced by me.

I desire simply to determine some method here by which the claims of these parties may be gotten rid of and the full title to this property vested in the United States. Now, under the provisions of this bill the Court of Claims, in making the contemplated award, may consider all these things that have been embraced in the amendment of the gentleman from Illinois. They may take into consideration the value of the property at the time it was appropriated, with interest at the legal rate in the State of California. They may take its value at that time and they may allow rental, or they may take its value at the present time without improvements. Certainly we can leave it to the Court of Claims to make such award in this case as may seem fit and proper in the premises. These people own this one-sixth interest. They could take possession to-morrow unless condemnation proceedings were begun, and if condemnation proceedings were begun to obtain their title on behalf of the United States the Government would be compelled to pay the present value of that property. So all I say is this, that we may now provide sufficient ways and means of entirely getting rid of this question by leaving it to the Court of Claims and letting that court give such award and compensation, such rent or interest, as it may deem fit and proper. I trust this amendment will not prevail.

Mr. BEALL of Texas. Mr. Chairman, will the gentleman from California yield for a question?

Mr. BELL of California. I do.

Mr. BEALL of Texas. What does the gentleman estimate would be the probable value of that property now without any improvements upon it?

Mr. BELL of California. Oh, I do not know. That property since 1854 has increased one hundredfold in value, probably.

Mr. LIND. You get 350 per cent.

Mr. BELL of California. I get 350 per cent?

Mr. LIND. In interest at 7 per cent—three and a half times.

Mr. BELL of California. Yes. I did not understand your mathematics.

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

Mr. BAKER. Mr. Chairman, this is one of the countless thousands of cases which are occupying the time of the courts of this country, taking up the time of the courts of the various States, entailing expenses and fees aggregating millions of dollars, and undoubtedly many of such cases are before the courts of the United States at this time. Now, what is the basis of this claim? The basis of this claim is that some one did not get a full recompense for his or her interest in a piece of land in the city of San Francisco some fifty years ago. No one claims that there was any labor value upon that land. No one claims that one day's energy had been expended by anyone in the production of wealth and that wealth created by labor had been taken by the people of the United States in this way. Nothing of that kind. A ground rent had been created there in the city of San Francisco by the people then residing in San Francisco. That ground rent has been enormously increased since that time. It is not the result of individual human effort.

The people who have the title to that land, or who claim title to that one-sixth of a 20-foot strip, did not create any of that land value. Nor did those from whom they claim to inherit it create one dollar more of that land value than any of the rest of the people of San Francisco, and the scores of thousands of dollars of value that may have been added since that time to that land is the direct result of increase in population; of increase in invention; of improvements in government; of improvements in transportation and exchange—in other words, all of the things which we call "civilization." Now, because the people of this country were so foolish fifty years ago as not to see the wisdom and justice of taking, in taxation, that value which they had created, therefore we who now constitute the people of the United States are called upon to go down into our pockets, the pockets of the people—we call it "taking from the Treasury," but it is delving down into the pockets of the people—and take out money to recompense these individuals for a claim that they have no justification for in morals. If the single tax had been in operation in the United States at that time this claim would never have arisen, could never have come before Congress, because there would be no margin of ground rent to sell.

The people would, by taxation, have taken every year the value of the rental, the annual value of the land, into the public treasury; and it would make no difference to Mrs. Jones or Mrs. Smith, or whatever the name of the lady may be, whether she owned a one-sixth interest or not, because she would have no margin of rent to sell and therefore would not be able to rob present day labor—for ground rent is a tax upon the laborer of to-day and not upon his predecessor of a decade or more ago, and is paid out of wealth created now, from day to day. That is the policy that ought to have been put into operation at that time. It is the policy that should be put into operation now—the quicker the better—and when once that is done you remove

all such claims as this from the State courts and the courts of the United States; you clear up litigation all over the country. By thus reducing litigation you reduce the number of lawyers, and you turn the energy of those lawyers who come into this House and argue in favor of claims of this kind, in which, of course, they are not interested, into useful channels, turn them toward useful avocations, instead of having them use their brains and energy in endeavoring to convince us that there is justice in a claim which has no moral justification whatever. [Applause on the Republican side.]

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

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

The CHAIRMAN. The question now is on the second amendment offered by the gentleman from Illinois.

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

Mr. GRAFF. Mr. Chairman, I move that the bill as amended be ordered to be laid aside with a favorable recommendation.

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

AMERICAN REGISTER FOR STEAMER BROOKLYN.

The CHAIRMAN. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 5392) to provide an American register for the steamer Brooklyn.

*Be it enacted, etc.*, That the Commissioner of Navigation is hereby authorized and directed to cause the foreign-built steamer Brooklyn, wrecked in Cuban waters and purchased by a citizen of the United States, and now under repair in a shipyard in the United States, to be registered as a vessel of the United States whenever it shall be shown to the Commissioner of Navigation that the repairs made upon said vessel have amounted to three times the purchase price of said vessel.

Mr. PAYNE. Mr. Chairman, that is a bill reported from the Committee on Merchant Marine and Fisheries, is it not? Well, I make the point of order upon it. I withdraw the point. I think it has been decided to be in order.

Mr. GRAFF. Well, I renew the point of order. I ask unanimous consent that the bill be passed without prejudice.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will report the next bill.

HENRY LEE.

The Clerk read as follows:

A bill (H. R. 6375) for the relief of the executors of the estate of Henry Lee, deceased.

*Be it enacted, etc.*, That there be paid, out of any money in the Treasury not otherwise appropriated, to the executors of the estate of Henry Lee, late a merchant in the city of Boston, in the State of Massachusetts, the sum of $3,750, being an excess of taxes improperly levied and collected on legacies and distributive shares of the personal property of the said estate, which tax was paid by the executors on March 15, 1899; said payment to be in full for all claims by reason of such assessment and collection.

Mr. GRAFF. Mr. Chairman, I ask that it be laid aside with a favorable recommendation.

Mr. PAYNE. Let us hear the report read.

Mr. GRAFF. I will ask the gentleman from New York if he will not be willing to hear from the gentleman from Massachusetts [Mr. TIRRELL]?

Mr. PAYNE. I am always glad to hear from the gentleman from Massachusettts; but he has a manner which is most persuasive.

Mr. TIRRELL. I am sure I can satisfy the gentleman from New York in this case. Under the act of Congress of June 13, 1898, making provision for the war revenue, it was provided that legacies for one's own children should be taxed, and the Treasury Department, by an erroneous construction of the law, decided that in ascertaining the per cent which should be taken out for that tax the total amount of the personal property which was left by the will should be the guide in determining the per cent instead of taking the separate legacies and determining the per cent from those legacies. Under that erroneous construction of the law in the case of the estate of Henry Lee, of Boston, which was over $1,000,000, and which by his will was distributed in part by legacies to his children, the tax upon those legacies to his children was determined by the high rate of per cent which the million-dollar estate or whole personal property would determine, so that, instead of paying a graduated rate upon the different legacies from a dollar and a fraction to a hundred up to two twenty-five, they paid the highest amount which could be paid on the total estate. Now, there were other cases of that character, and those cases went to the Supreme Court of the United States, which decided, in 178 United States Reports, in the case of Knowlton *v.* Moore, that—

The amount of each particular legacy or distributive share, and not the sum of the whole personal estate of a decedent, is the amount on which the progressive rate of tax is imposed by the war-revenue act of June, 1898, sections 29, 30, and by which the rate is determined.

Now, then, the executor——

Mr. PAYNE. I will ask the gentleman right there—perhaps we can cut that shorter, and of course I am always anxious to save the time of the House—as I understand it, the revenue law provided for a higher rate where the estate was large?

Mr. TIRRELL. Yes.

Mr. PAYNE. And a lower rate where it was smaller, and this estate was assessed for the total amount of the estate at the higher rate and tax paid on it, and the courts afterwards decided and the Internal Revenue Commissioner decided that the tax should be graduated upon the legacy to each person?

Mr. TIRRELL. That is right.

Mr. PAYNE. And that was to be the amount, and if it had been properly assessed at the lower rate they would have paid a less amount than was paid, and this bill is for the difference between the two rates?

Mr. TIRRELL. Exactly.

Mr. PAYNE. I am satisfied as far as I am concerned.

Mr. TIRRELL. I move that the bill be ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The question is upon the motion of the gentleman from Massachusetts that the bill be laid aside with a favorable recommendation.

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

UNITED STATES REGISTRY FOR STEAMER SUCCESS.

The next business on the Private Calendar was the bill (H. R. 9090) to provide United States registry for the steamer *Success*.

Mr. DUNWELL. Mr. Chairman, I was to have an opportunity for a few minutes to address the House when this bill came up for consideration. The bill was introduced by my colleague from the State of New York [Mr. GOULDEN]. He is not here to take charge of the bill, and I request that I be allowed to say a few words with regard to it.

Mr. PAYNE. The gentleman has the right.

The CHAIRMAN. When the bill has been reported the Chair will recognize the gentleman.

Mr. LIND. Mr. Chairman, this kind of claim is not entitled to consideration at this time.

The CHAIRMAN. The Chair understands the rule to be that on this day all bills may be considered except war claims and pensions and bills from the Committee on Invalid Pensions.

Mr. LIND. I was misinformed.

The bill was read, as follows:

A bill (H. R. 9090) to provide United States registry for the steamer Success.

*Be it enacted, etc.*, That the Commissioner of Navigation is hereby authorized and directed to cause the foreign-built steamer Hero wrecked at Colon, United States of Colombia, and purchased and wholly owned by John W. Chittenden, of New York City, and repaired by the Baltimore Shipbuilding and Dry Dock Company, to be registered as a vessel of the United States under the name of Success whenever it shall be shown to the Commissioner of Navigation that the repairs on the vessel amount to three-fourths of the actual cost of the wreck to her owner.

The CHAIRMAN. The Chair recognizes the gentleman from New York.

Mr. DUNWELL. Mr. Chairman, the company interested in these bills is the Merritt-Chapman Wrecking Company, of the city of New York. It is a company engaged in the salvage of ships and the saving of life. It is a company which stands in the relation to people calling upon it for their work as a physician does to his patient. They do not feel that they can refuse any request that is made upon them, and they never do. This plant, in which they have invested $1,000,000, and in which 500 skilled workmen are constantly employed, stands ready at any moment, day or night, to answer any call which is made upon them from any part of the United States coast.

Now, the only thing which is lacking in this particular case and in the one following it is the fact that these vessels were not saved in the waters of the United States. In every other particular they came within the statute; and I claim that as American citizens, having saved these ships, having spent more money upon them by many times than the value of the ships or the amount which they paid for them, they are entitled to this consideration at our hands; and I move, Mr. Chairman, that this bill be laid aside with a favorable recommendation.

Mr. PAYNE. I would like to ask my colleague this question.

Mr. DUNWELL. Certainly.

Mr. PAYNE. Who is the owner of this vessel?

Mr. DUNWELL. The owner is the Merritt-Chapman Wrecking Company, of New York.

Mr. PAYNE. Why is it that it can not be registered under the general law?

Mr. DUNWELL. Because this vessel was wrecked on the coast of Panama. They went down there, raised it, and brought it to the Baltimore Shipbuilding and Dry Dock Company's

yard, where it was repaired. The underwriters were obliged to take the vessel, because the owners abandoned it to them, and in order to save themselves and their wrecking charges this corporation had to purchase the vessel from the underwriters, which they did at an expense of $20,000, and it has cost this company nearly $70,000 for the repairs to place it in seagoing condition.

Mr. PAYNE. I understand the bill provides that it shall receive the registry when the Commissioner of Navigation is satisfied they have met the requirements of the present law in regard to the amount of repairs on that vessel.

Mr. DUNWELL. That is right.

Mr. STEVENS of Minnesota. Mr. Chairman, as a member of the Committee on Merchant Marine and Fisheries, I have consistently opposed bills like the one now under consideration. There were five bills of this kind before our committee at the last session of Congress, these two and three others. I think minority reports were filed in each one of these cases. As to whether or not a minority report was filed in this case I do not remember. I have sent for the report. The minority of the committee have uniformly opposed the passage of this sort of bill for this reason: For nearly one hundred years it has been the policy of our Government, under Republican and Democratic Administrations, that the coastwise trade of the United States should be reserved for American vessels, constructed in the United States out of our domestic material and by domestic labor.

These bills changed that policy, but since three of them have been passed by this House, after a discussion, I do not propose to offer any objection to this one.

I find that the minority have filed their views in this case, and they are contained in the report. They state as follows:

> Her purchase price was about $20,000; repairs, $68,998, and the present value of the vessel for purposes of coastwise trade about $120,000.

The law provides that three-fourths of the value of the vessel must be expended in the shipyards of the United States. I take it that part of the requirements have been complied with, so that the only question for this committee to decide is as to whether or not it proposes to change the policy of nearly one hundred years. It has decided so before, and I do not apprehend there will be any difference now. I just wished to inform the committee concerning the action of the minority of the Committee on Merchant Marine and Fisheries.

Mr. SCUDDER. I would like to ask the gentleman whether, as a matter of fact, or whether he knows it to be a fact, that Congress has passed bills similar to this under conditions similar to those prevailing here, awarding American registry to upward of 150 vessels?

Mr. STEVENS of Minnesota. I think that is right.

Mr. SCUDDER. Then I should like to ask the gentleman whether, in view of that Congressional practice which seems to have prevailed, provided it is deemed wise to reverse the practice, it would not be better to effect the change by some affirmative legislative enactment which will provide distinctly that American registry, as asked for in this bill, shall not be accorded. Affirmative notice, which such legislation would afford, would warn American citizens not to go ahead and expend large sums of money, as was done in this case, where as much as $68,000 was expended on the repairs.

The vessel, the subject of this bill, was wrecked on the coast of Panama. Had it been wrecked this year, instead of three years ago, it might have been held to have been wrecked on American territory and have come within the provisions of the general law. I wish, indeed, that Panama was United States territory. It should be. Having been wrecked on Panama, and three years ago, it can not be claimed for the vessel that it is entitled to the benefit of the general statute allowing American registry to foreign vessels meeting certain conditions. The vessel was premature in being wrecked. The point I desire to make is right here. Would it not be better to have a general statute enacted prohibiting this practice of granting American registry than to now quit granting it, after American citizens have incurred great expense, anticipating Congressional favor to be exercised in their behalf, as has been the practice?

Mr. STEVENS of Minnesota. Mr. Chairman, I am very glad that the question was raised. There is sufficient statute law now prohibiting this practice. I do think, since it has been somewhat general, that it be thought to be good public policy to continue the practice, to do so by amending the statute, after full and fair discussion. If the question was fairly presented to a Republican Congress to let no coastwise trade be done by foreigners, I do not believe any of this class of vessels would be admitted. If this Congress or any other Congress proposes to let into the coastwise trade all the vessels constructed abroad by foreign labor and built out of foreign material, we ought to say so squarely and make that a general policy instead of making it a policy of favoritism, as we do now, to encourage lobbying in the Halls here and in the committee rooms. This has been the policy for quite a number of years. This species of favoritism is injurious and of bad policy, giving public favors worth many thousands of dollars to these self-seekers. In this case this bill will be worth $40,000 or so to the owners of this vessel. The result is that there are quite a number of old wrecks in the coastwise business of the United States that ought not to be there, but which displace the vessels constructed by our own good mechanics and by our own capital and out of our own material. Now, these vessels in the coastwise trade ought to be constructed in our own yards, and the fact that they are not is the one thing we object to, and in changing the policy the Members must understand that fact, and that if the policy should be changed it ought to be changed by a general bill instead of by these special bills. We advocated that at the last session of Congress in discussing one of the other bills which appeared then.

Mr. SCUDDER. At the present time the only way it can be done is by special bills, such as this one under consideration, of which 150 have already been passed by the Congress.

Mr. STEVENS of Minnesota. One hundred and fifty have passed in about fifty years—since the law was enacted allowing any foreign-built vessels to enter our domestic trade. While I have been a member of that committee, for about six years, we have only let through a few—about five or ten—five of them at this Congress, and more than at any time previous.

Mr. PAYNE. I think this is the worst course in regard to admitting foreign vessels to American registry that could be pursued. The general law is that when a foreign vessel is wrecked in the American waters and repairs have been put on in American shipyards to the extent of three-quarters of the value, the Commissioner of Navigation can give her an American registry. This practice has let in a good many vessels, and I do not think it is good policy for the United States, because it encourages the repairing of many old wrecks and hulks that ought to be destroyed instead of trying to make vessels out of them for our coastwise trade. Now, Congress, as it has already been said, passed generally all these bills that came before it from the committee giving American registry to these vessels that had been repaired in American shipyards, and that had been wrecked in foreign waters—waters not of the United States.

A few years ago, when I had the honor to be chairman of that committee, we kept out all those bills that we could, and very few of them got in during the four years that I was in the committee. We were against that policy. I think the House has always passed these bills when they came before it; but I should dislike to see the policy of the House made any more liberal by a general law, as is proposed. I do not want to advertise to vessel owners that the hulks that are wrecked all over the globe can get into the coastwise trade of the United States if they can only keep them afloat long enough to get them into American shipyards and spend a certain amount of money on them.

I would rather see our shipyards build new ships from beginning to end. But inasmuch as we have passed these bills when reported by the committee, I shall interpose no particular objection; and especially I shall not do so in view of the fact that my ideas so seldom prevail in regard to private bills which come before the House.

Mr. SCUDDER. Mr. Chairman, will the gentleman yield for a question?

Mr. PAYNE. Yes.

Mr. SCUDDER. I think the gentleman from New York will notice that the report in this case recites the fact that this vessel was a comparatively new one. It is not one of the old hulks to which the gentleman refers.

Mr. PAYNE. I am glad to hear that, because we used to turn down vessels that were old hulks when I was connected with the committee. I am sorry to say that some of them finally got through afterwards. We turned them down because they were old hulks, and I remember that one of them, on its first voyage after it was repaired, turned over.

Mr. HUGHES of New Jersey. Turned itself down.

Mr. PAYNE. Turned turtle, or something of that kind. They finally got it upright and got it in and got it through the committee and through Congress, and an American register was given it. I can not remember the name of that vessel.

Mr. BOUTELL. The name of this one is the *Success*.

Mr. PERKINS. That is a good name.

On motion of Mr. DUNWELL, the bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

UNITED STATES REGISTRY FOR STEAMER MARIE.

The next business on the Private Calendar was the bill (H. R. 9091) to provide United States registry for the steamer *Marie*.

The bill was read, as follows:

*Be it enacted, etc.*, That the Commissioner of Navigation is hereby authorized and directed to cause the foreign-built steamer Euskaro, wrecked at Caibarien, island of Cuba, and purchased and wholly owned by the Merritt & Chapman Derrick and Wrecking Company, of New York, and now under repair by the Newport News Shipbuilding and Dry Dock Company, to be registered as a vessel of the United States under the name of Marie whenever it shall be shown to the Commissioner of Navigation that the repairs on the vessel amount to three-fourths the actual cost of the wreck to her owner.

Mr. DUNWELL. Mr. Chairman, this is another bill of precisely similar character to the one that has just passed the committee, and I move that it be laid aside to be reported to the House wih a favorable recommendation.

Mr. PAYNE. I want to inquire if there are any more vessels of this fleet wrecked at Panama?

Mr. DUNWELL. No; and they were not wrecked at the same time, either.

Mr. PAYNE. This is the last one?

The motion of Mr. DUNWELL was agreed to.

Accordingly the bill was laid aside to be reported to the House with a favorable recommendation.

JOSEPH B. SARGENT.

The next business on the Private Calendar was the bill (S. 351) for the relief of Joseph B. Sargent.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury is hereby authorized and directed to pay to Joseph B. Sargent, out of any money in the Treasury not otherwise appropriated, the sum of $583.67, the same being the value of property belonging to the said Joseph B. Sargent and illegally seized and for money improperly and unlawfully collected from him as alleged duties and penalties by United States officials at the port of El Paso, Tex.

Mr. GOLDFOGLE rose and was recognized.

Mr. PAYNE. Mr. Chairman, I hope my colleague will direct his attention especially to this assault upon the United States officers in the assertion that they unlawfully collected this money.

Mr. GOLDFOGLE. Mr. Chairman, the circumstances, as the committee understand them, are of a peculiar character. It appears that the claimant, Mr. Sargent, in the spring of 1900 was traveling though Mexico with his wife, and while on his travels he purchased some small articles of Mexican ware—I think principally Mexican drawn work. The articles were intended for the use of the claimant's family at home, purchased as these articles usually are purchased, for the purpose of presenting them to members of the family as mementos. The total value of the articles was something in the neighborhood of $75. I forget the precise amount. When Mr. Sargent, the claimant, reached a place called Laredo, a customs station, he was halted by the customs inspector.

Mr. PERKINS. Is that in this country?

Mr. GOLDFOGLE. Laredo, Tex. He was halted by the inspector and was asked whether he had any Mexican work. He admitted that he had. He made no attempt at concealment at all. Mr. Sargent was very sick indeed, and it was necessary that he should proceed on his journey as rapidly as possible. He left his goods with the customs inspector, the inspector having said that he had no authority to receive payment of the duties, and Mr. Sargent says in his deposition before the committee that he believed he would receive the bill for the duty at San Antonio. He left his address with the inspector, so that the inspector might have known how and where to communicate with him. He was much surprised, however, when he was arrested at San Antonio, charged with the crime of smuggling. Not understanding the law, fearing the consequences of indictment in a strange place and amid strangers, he submitted to the exactions of the Government officials and paid not only the amount demanded as duty, but paid additional penalties demanded.

I am not familiar with the language of the statute with regard to penalties, but it is claimed that the penalties were largely in excess of those that could have been exacted if the charge against Mr. Sargent could have been sustained. However, a penalty of $100 was exacted and other penalties were also exacted by the collector. Had Mr. Sargent known how to reach this matter on appeal he probably would have had the errors corrected. He was unfamiliar with the law and unfamiliar with the method of appeal in customs cases concerning the exaction of imposts by the United States authorities. He now comes to Congress for relief. There is an affidavit appended to the report of the Committee on Claims which is quite full and clear.

Now, instead of saying anything further, I much prefer that the gentleman from Connecticut [Mr. SPERRY], who has been very urgent in the advocacy of this claim and who made a very clear statement of it before the Committee on Claims, should make a statement, and I yield to the gentleman from Connecticut.

Mr. SPERRY. Mr. Chairman, this claimant, Joseph B. Sargent, is well known to me. He is an aged gentleman 80 years of age. He was traveling with his wife in Mexico, in an enfeebled condition, and while in Mexico procured some Mexican drawn work for little gifts here and there to his daughters and other relatives in the family. When he was passing from Mexico into this country his trunk was examined. Before this examination he was asked if there was anything dutiable in that trunk. He said not that he was aware of; that there was some Mexican drawn work there, but whether it was dutiable or not he did not know. After the examination he passed along and was arrested because of his attempt to smuggle goods into this country, as claimed by the custom-house official.

Mr. Sargent makes a sworn statement in an affidavit which is appended to the report, stating all the facts connected with it. The idea that this man, 80 years of age, in an enfeebled condition, should attempt to smuggle goods at that time and place is preposterous. The customs officer made that claim and fined him more than five times the cost of the goods, amounting to five hundred and some odd dollars.

Mr. Sargent was indignant and did what he could to show that he was wrongfully and unjustly dealt with. After he got home the customs officers claimed that they had made a mistake and that he ought to pay them $100 more. Mr. Sargent, as I say, was in this feeble condition, and after conferring with the attorneys, instead of bothering with the matter further, he sent forward the $100. He now asks Congress to make that good. I can assert, Mr. Chairman, with all fearlessness and with truthfulness, that Mr. Sargent, 80 years of age or so, traveling in an enfeebled condition, with his wife, would not have dreamed of such a thing as smuggling these goods. The collector of our own port in New Haven says that it is perfectly preposterous and outrageous the way and manner in which he was dealt with.

Now, this bill comes from the Senate, was passed by the Senate, passed, I think, unanimously, and I know that some of the members of that body were very indignant at the time of its passage at the way in which this elderly gentleman was treated. I ask that the bill be laid aside with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, this case comes here and the report is based entirely on the affidavit of Mr. Sargent. There is nothing to show that the matter has been referred to the Treasury Department, or that the Secretary of the Treasury or anyone else has made any recommendation about it. Now, I notice that there are several affidavits here, and some of the statements in them are contradictory to the statement made by Mr. Sargent, who is undoubtedly a respectable gentleman and who is 80 years of age. For instance, here is the affidavit of José Benavides, which reads as follows:

THE STATE OF TEXAS, *County of Webb:*

Before me, the undersigned authority, personally appeared José Benavides, who, being by me duly sworn, deposes and says that he is an inspector of customs at the port of Laredo, and as such inspected the passenger train from Mexico on the morning of the 4th of May, 1900, with the assistance of Inspector William Simpson; that while said Simpson was examining the baggage of Mr. J. B. Sargent he called me to him and told me that he had found some drawn work, while Mr. Sargent had previously declared that he had nothing that was dutiable. Inspector Simpson then, before removing the drawn work from the trunk, asked Mr. Sargent: "Have you anything dutiable in your trunk?" To which Mr. Sargent replied: "Nothing on which you can charge duty."

We then proceeded to take out the contents of the trunk, and when we reached the drawn work Mr. Sargent said, "I have a little drawn work, and here is the memorandum," and gave us a list of it and wanted to pay the duty on it, but was told that it was a seizure and that he could not pay us the duty. He refused to give me his name or address until he was informed that we would be obliged to detain him until the matter was arranged, when he gave me his name and address written on the memorandum or list of the drawn work.

We then took the drawn work and delivered it at the custom-house and reported the facts fully to the collector.

JOSÉ BENAVIDES,
*Inspector of Customs.*

Sworn to and subscribed before me this 22d day of September, A. D. 1900.

W. H. MOWRY,
*Notary Public, Webb County, Tex.*

Then here is a letter from the collector, which I will read:

OFFICE OF THE COLLECTOR OF CUSTOMS,
*Port of Corpus Christi, Tex., July 9, 1900.*

Messrs. BEACH & FISHER,
*New Haven, Conn.*

GENTLEMEN: Your letter of June 27 received, and in reply I have to say that Mr. Sargent attempted to evade payment of duty on the articles in question, having denied possession of any dutiable merchan-

dise when questioned by the inspector. After the inspector found the drawn work in the bottom of the trunk, Mr. Sargent produced a memorandum of the articles, which showed the Mexican value to be $217.50. This did not include 2½ dozen doilies and two centerpieces found in his baggage. The total appraised value of the merchandise was $223.25 Mexc. cy., t 47.3 equals $106, which, with duty added, makes $170. We do not count fractions of dollars in computing dutiable value.

The law requires payment of a fine equal to treble the value of the merchandise, which is the foreign value with duty added. Mr. Sargent did not claim any discount, nor does his invoice show that said discount was allowed in Mexico. Through a clerical error I collected $410 instead of $510, which is the amount due the United States by Mr. Sargent. I have no authority to change that amount. Mr. Sargent is still indebted to the United States in the sum of $100, which must be paid. After paying the $100 still due he can ask the Secretary of the Treasury to remit the fine, but I have no option in the matter. I hope Mr. Sargent will not force me to collect the $100 through the courts.

Respectfully, yours,

JAMES J. HAYNES, *Collector.*

I think the House ought to have these facts from the other side as well as the letter and the affidavit of Mr. Sargent. I will now read the letter from the collector:

OFFICE OF THE COLLECTOR OF CUSTOMS,
*Laredo, Tex., September 22, 1900.*

Honorable SECRETARY OF THE TREASURY,
*Washington, D. C.*

SIR: I have the honor to acknowledge receipt of your letter dated September 11, 1900, and in reply beg to submit the following report:

On the morning of May 4, 1900, Mr. José Benavides, one of the inspectors whose duty it is to examine the baggage of passengers coming from Mexico, brought to the custom-house a package of linen drawn work and stated he had seized same from a Mr. Sargent who arrived on the train from Mexico that morning. On being asked for particulars concerning the seizure, he said that Inspector Simpson had called to him to come over where he was examining the trunk of Mr. Sargent. Mr. Sargent was then arranging to close his trunk. Simpson asked Sargent in my presence, "Have you anything dutiable in your trunk?" Sargent replied, "Nothing on which you can collect duty." We then took the clothes out of the trunk and found on the bottom the drawn work, 37 centers and scarfs, 12 handkerchiefs, and 2½ dozen doilies.

When we found the drawn work, Mr. Sargent said, "I have a little drawn work there on which I wish to pay the duty; here is a list of it," at same time taking a paper from his pocket and giving it to us. Simpson replied, "You can not pay the duty, as you denied having any dutiable articles in your trunk, and the drawn work is seized." I then asked Mr. Sargent for his name and address; he refused to give either. I then told him "I would have to arrest him or detain him and take him before the collector for attempting to smuggle the drawn work." Mr. Sargent then wrote his name and address on the paper containing a list of the articles. I then sent for Inspector Simpson, who confirmed the statement of Inspector Benavides, and also said that before opening the trunk he had asked Mr. Sargent the usual question put to all passengers, "Have you anything dutiable in your baggage?" Mr. Sargent replied that he had nothing subject to duty. I then informed the inspectors that they should have detained Mr. Sargent, as under section 2802, Revised Statutes, he was liable to a fine of treble the value of the drawn work, and under section 3082, to prosecution by the district attorney.

I then had charge filed with the United States commissioner for attempted violation of section 3082, Revised Statutes, and warrant wired to United States marshal at San Antonio, Tex., who arrested Mr. Sargent on his arrival there. I also had the drawn work appraised, using the list and prices given by Mr. Sargent and the wholesale price list furnished by special Treasury agent from Aguas Calientes, Mexico, as a basis of value. A comparison of the prices on Mr. Sargent's list with the wholesale market value, as given by the special agent, shows that Mr. Sargent's claim of a 30 per cent discount is not probable, as wandering tourists rarely buy such articles at a lower price than the dealers who buy in large quantities and for sale at a profit, nor was any such discount shown on the memorandum of articles and prices thereof, which Mr. Sargent produced after the drawn work had been discovered. I inclose the original memorandum, by which you will see that no discount was allowed, nor was any such claim made by Mr. Sargent until after he returned to New Haven. I went to San Antonio on May 5 and found Mr. Sargent at the hotel, he having given bond to appear that day before the United States commissioner.

I explained to him the penalty he had incurred, and stated that if he would pay the fine of treble the value of the goods I thought the United States attorney would dismiss the charge against him of violation of section 3082, Revised Statutes.

We went to the office of the commissioner, where Mr. Sargent agreed to pay the fine and the attorney had the charge dismissed. Through a clerical error I only collected $410 from Mr. Sargent, when it should have been $510. I asked Mr. Sargent to give me his street address in New Haven, so I could send him a receipt for the money paid. He refused to give his address and said he wanted no receipt; that should he want one he would write for it. Mr. Bell, an agent in the Secret Service Department, said to me, "Here is the card of the United States marshal of Connecticut; send the receipt to him and he will deliver it to Mr. Sargent and will also send Sargent's address," at the same time handing me a card of Edson S. Bishop, United States marshal, which I inclose. I did not discover the error in the amount I should have collected until I returned to Laredo, on the 6th of May. On the 7th I wrote Mr. Bishop, the marshal, inclosing receipt for the $410, and requested him to explain the error to Mr. Sargent and collect the $100 still due. After a lot of correspondence and loss of time Mr. Sargent paid the $100, for which receipt was sent to him.

On page 8 of Mr. Sargent's affidavit he states he was given no opportunity to declare the articles until he asked an inspector to examine his baggage, when he mentioned the articles before they were seen by the inspector. This statement is false. He denied having any dutiable articles in his baggage when questioned by the inspector. He had no intention of paying duty on the drawn work if he could smuggle it through, and did not produce the list until after the inspectors had discovered the drawn work concealed in the bottom of his trunk. He did not leave the memorandum with the inspector expecting that duty would be collected and the goods released, because the inspector informed him that the work had been seized and duty could not be paid thereon. He did not write his name on the paper or give his address until the inspector said he would be arrested and taken before the collector for attempting to smuggle the goods.

In fact, nearly all the statements contained in the affidavit are untrue, and appear to have been concocted by some lawyer for the purpose of collecting a fee from Mr. Sargent.

The fact that Mr. Sargent has been able to amass an enormous fortune under the protection of our tariff laws does not justify him in attempting to violate said laws and defraud the revenue, nor should that fact relieve him of the penalty he has incurred. Hardly a day passes but some poor unfortunate is punished by fine and imprisonment for smuggling small quantities of merchandise across the Rio Grande for the purpose of earning a few dollars to support their wives and children; but when a rich man is caught he always sets up his wealth, social position, or political influence as a reason why he should be allowed to go free and as evidence of his not intending to defraud the revenue, etc. It is my opinion that men like Mr. Sargent should be most severely punished, because they can not plead either necessity or ignorance in extenuation of their guilt, and I respectfully urge that his petition for relief be not granted. I inclose affidavits of Inspectors Simpson and Benavides and card of Marshal Bishop, given me by Mr. Bell, and list of drawn work.

I have the honor to be, very respectfully, yours,

JAMES J. HAYNES, *Collector.*

So that it would seem that the committee has taken the ex parte affidavits of Mr. Sargent and has paid no attention to the officers of the Government, whose duty it was to collect these customs duties upon these goods. If the affidavits of these collectors and inspectors are to be taken as true, why Mr. Sargent was trying to smuggle these goods.

Mr. SPERRY. No person who knows Mr. Sargent would dream of his doing such a thing as that.

Mr. PAYNE. It is a rather hard charge to make against a good citizen, but anybody who has ever come across the Atlantic knows that the offense is not an unusual one, and even good citizens sometimes indulge in it for the purpose of evading the revenue laws. It seems to me this committee ought not to report such a bill as this nor the House to pass it.

Of course if Mr. Sargent had been unjustly treated, we have provided ample means for him to right himself before the courts and before the appraisers. There is no question but what he could have done so. He employed lawyers very early, and of course I must infer that they were eminent and skillful lawyers, because he was a man of means, and the lawyers were in the city of New Haven. He employed them at the very outset of this case. They might have obtained full satisfaction for him in the courts, and if they did not it is his own fault. Now, to come here on ex parte affidavits and ask the House to pass this bill, it seems to me, is all wrong.

Mr. SPERRY. Mr. Chairman, I will send up a statement under oath from Mr. Sargent in order that it may be read in contradiction of the statements which have just been read by the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. I think in justice to Mr. Sargent that ought to be done.

Mr. SPERRY. But I will withhold the reading of it for a few moments in order to give opportunity to the gentleman from New York [Mr. PERKINS], who desires to make a statement.

Mr. PERKINS. Mr. Chairman, I would like to speak a word or two in reference to this claim—not only in reference to this claim, but to a certain branch of the business of the Government which it illustrates. I never heard of this claim until this moment, but it so happens that I have known Mr. Sargent for years. He is a man of the very highest standing; a man who has not only accumulated wealth, but who has accumulated it honorably. He has been the mayor of the city in which he lives; a man who has paid out millions of dollars to his employees, and who, as is shown in this case, was stopped and arrested—insulted—on a charge made by some obscure official down at El Paso or Laredo that a man of his standing wanted to cheat the Government out of $70. The gentleman who reported the bill, the gentleman from New York [Mr. GOLDFOGLE], has done honorable work in protesting against the treatment which people of his own race and persuasion meet when they seek to return to Russia.

I think that the citizens of the United States are often treated with as much ignominy when they return to their own land as are the Jews when they seek to enter Russia. They are treated in a manner which, if it occurred in Turkey, in Russia, in France, would cause earnest protests to be sent to every representative of the United States that proper reparation should be made for the insults to which respectable, honorable, upright citizens are exposed. What happens when a man lands in the port of New York? Does this Government—does this Congress approve the proposition that there is a presumption that every American citizen commits perjury? You are first asked to make your oath. Certainly it is decent to presume that an American citizen, when he makes an oath, makes it honestly. But, on the contrary, the moment an official at some port gets your affidavit, he turns round, and with the imputation that you are a smuggler and a perjurer, having first compelled you to make your oath, seeks to show how far your oath is false.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to ask

the gentleman a question. I would like to ask the gentleman if it is not at least a presumption that the present Administration would appoint an honest man as collecor of customs, and if that honest man was appointed is it not the presumption that he would appoint competent men under him to see that nothing is smuggled into the United States?

Mr. BUTLER of Pennsylvania. Oh, that is the treatment from all officers.

Mr. PERKINS. No; it is not. Anyone who has traveled knows that when he goes to any foreign country he is not subjected to indignities—to insult—if he makes the smallest mistake, as, for instance, was the case with Mr. Sargent. He is not immediately charged and threatened with arrest. In no other country would a man like Mr. Sargent, the moment that his trunk was opened, have it said to him, "I will arrest you, and you will be fined 300 per cent."

I say these are outrages, and when it comes to getting revenues for this great Government, these small impositions cost ten dollars for one that they bring. They are imposed, not to protect any large interests, but to protect a few greedy retailers in the city of New York. This bill, of which I knew nothing until this moment, I think is certainly a most meritorious measure, and deserves to be passed by Congress, not only because Mr. Sargent is entitled to his money, but in a small way as a reproof for the manner in which the revenue laws of this country are too often administered at ports of entry.

Mr. STEPHENS of Texas. Will the gentleman yield? I desire to ask a question of the gentleman who has just taken his seat.

The CHAIRMAN. Will the gentleman from New York yield?

Mr. PERKINS. Of course I yield.

Mr. STEPHENS of Texas. I would ask the gentleman from New York if he is acquainted with Mr. Pat Garrett, the present collector of customs at the city of El Paso?

Mr. PERKINS. I have not that pleasure.

Mr. STEPHENS of Texas. I have to state that I have the honor of knowing this gentleman, and I know of his integrity and that he attends to the duties of his office as closely as any man in the United States, and I care not who it is, if he should overhaul him and find drawn work being smuggled into the United States Mr. Garrett would arrest that man and see that he paid the duty.

Mr. PERKINS. Why, the treatment Mr. Sargent has received is the treatment that has been received by thousands and tens of thousands of respectable American citizens.

Mr. MANN. Does the gentleman from New York think we ought to pass a special bill for this case and leave the statute stand for everybody else?

Mr. GOLDFOGLE. The gentleman from New York [Mr. PAYNE] has suggested that there was ample remedy given to Mr. Sargent and that he might have had recourse to litigation in the court. The gentleman forgets that Mr. Sargent is a resident of Connecticut, that he was 80 years of age, that in order to recover, if indeed he could recover under the law, he would have had to bring his action in a Federal court located in Texas. He could not have tried his suit in the district where he resides, and he would have had to travel all across the country with his witnesses in order that he might have secured redress against this outrage. Now, the least that the inspector could have done at El Paso was to treat this old gentleman, a citizen of this country, with respect, a respect to which he was entitled, not because of his age and infirmities, but because of the fact that he was one of our citizens.

Mr. SLAYDEN. Will the gentleman permit me to make an inquiry?

Mr. GOLDFOGLE. Certainly.

Mr. SLAYDEN. As I understand it, his case arose at a different port—not at El Paso, but at Laredo—before a different collector, an intervening customs district.

Mr. GOLDFOGLE. Well, wherever it arose, Sargent would have been compelled to go to this foreign jurisdiction in order to secure redress, which the gentleman from New York says the statute affords Mr. Sargent.

Mr. McCARTHY. Is it not a fact that cases in a Federal court are brought on depositions, and that he could have made his deposition at his home and sent it on to the jurisdiction where the case was brought in Texas?

Mr. GOLDFOGLE. In some cases depositions made have been taken and read in the court.

Mr. McCARTHY. It would not have necessitated a trip to Texas for him or his witnesses in order to properly try the case.

Mr. GOLDFOGLE. That depends again upon circumstances, and, pardon me, if the collector of the district down there was as earnest and as zealous in pursuing Sargent in litigation, such as you suggest, as he appears to have been zealous and earnest in making the affidavit which he did, you can well imagine how Mr. Sargent would have been compelled to go down into Texas and not rest simply on the simple making of a deposition.

Mr. MANN. Will the gentleman yield for a question?

Mr. GOLDFOGLE. Certainly.

Mr. MANN. What was the value of this drawn work?

Mr. GOLDFOGLE. It is said to be a matter of seventy-odd dollars. Am I right?

Mr. PAYNE. Two hundred and seventy.

Mr. GOLDFOGLE. That is what the customs officers say, in order to protect themselves against the charge that we now make here on the floor of this House, that the seizure was an outrage. That is just precisely the kind of work that the customs inspectors did down there; after finding seventy-odd dollars' worth of work they appraise it at $270 to cover up their own offense.

Mr. PAYNE. But wait a moment. Does the gentleman not know in his very report is exhibited a memorandum furnished by Mr. Sargent, showing the value of these goods, and it was appraised at his own appraisement?

Mr. GOLDFOGLE. And the affidavit of Mr. Sargent states that these articles were of too small a value, that they were intended for gifts to be distributed among the members of his family, just as gifts are brought by those traveling abroad into this country and distributed and which always pass through the custom-house.

Mr. MANN. Will the gentleman permit me a question?

Mr. GOLDFOGLE. Certainly.

Mr. MANN. Is not this case dependent upon the value of these goods; that if these goods were of the value of two or three hundred dollars Mr. Sargent probably knew he ought to pay the duty, and if they were of small value he knew that he ought not to pay duty?

Mr. GOLDFOGLE. The committee is not prepared to concede that.

Mr. MANN. May I ask the gentleman what business Mr. Sargent was engaged in?

Mr. PERKINS. He is a manufacturer of iron goods.

Mr. MANN. He was acquainted, therefore, with the tariff question?

Mr. PERKINS. I do not know that he was.

Mr. MANN. Any man engaged in the manufacture of iron goods for years that does not know about the tariff question needs a conservator.

Mr. GOLDFOGLE. I hold the floor for the present.

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

Mr. GOLDFOGLE. I yield to the gentleman for a question.

Mr. MACON. Did Mr. Sargent make an affidavit to the effect that he had no dutiable goods in his trunk?

Mr. GOLDFOGLE. No, sir. It appears from his affidavit that he said he had goods in his trunk that he bought in Mexico, and having suffered from an acute disease and being compelled to hurry along, he left his address with the inspector and told him that if the goods were dutiable to send him a memorandum. Instead of doing that, the inspector at once secured a warrant and arrested him at San Antonio.

Mr. MACON. That is Sargent's statement?

Mr. GOLDFOGLE. And that is the statement the committee believes.

Mr. MACON. And that is the statement the committee believes?

Mr. GOLDFOGLE. Yes, sir.

Mr. MACON. You disbelieve the officer?

Mr. GOLDFOGLE. We believe, in view of the peculiar conduct of the inspector, that the affidavit of Mr. Sargent is entitled to the highest respect.

Mr. MACON. In what way was the conduct of the inspector so peculiar?

Mr. GOLDFOGLE. It was certainly so.

Mr. MACON. In what way?

Mr. GOLDFOGLE. I will take the inspector's statement. Here is what the inspector says. Inspector Simpson says after he removed the drawn work from the trunk he asked Sargent: "Have you anything dutiable in your trunk?" Mr. Sargent replied: "Nothing on which you can charge duty." Now, assuming that that statement is true, it was an expression of Mr. Sargent on the law.

Mr. Sargent believed at that time that the goods were not chargeable with duty. Take the inspector's own words. Mr. Sargent answered, "Nothing on which you can charge duty." Now, if it was Mr. Sargent's belief that these goods were not chargeable with duty, should not the inspector at least, under

the peculiar circumstances of the case, assuming for the sake of argument that the goods were dutiable, have sent to Mr. Sargent at the place designated by him, namely, San Antonio, a statement of the charges due, and no doubt the amount would have been remitted, and then the question as to whether they were dutiable or not might have been litigated or not litigated according to the choice of Mr. Sargent?

Mr. MACON. If Mr. Sargent denied that he had dutiable goods in his trunk was he not as much bound to take knowledge of the law as the ordinary criminal would be when he commits a crime without knowing that he has violated the law?

Mr. GOLDFOGLE. If it be true that Mr. Sargent was of the opinion that the goods were not worth more than a hundred dollars, and they were intended for the use of himself and family, he was justified in declaring that the goods were not chargeable with duty.

Mr. MACON. I understood that he stated he got them for the purpose of making present to some one in this country when he came home.

Mr. GOLDFOGLE. I have always understood, and so has every other traveler that ever crossed the Atlantic, from this country to Europe and returned with goods purchased in the way that Sargent did, for the purpose of distributing the goods among the members of his family as gifts, they were then within the meaning of the words "personal effects," and therefore not chargeable with duty if they did not exceed $100 in value.

Mr. MACON. On that hypothesis a man might bring in diamond rings that his family could put on their fingers, if he makes the statement that he wants to make them gifts.

Mr. GOLDFOGLE.. They would have to be very small to be worth less than $100.

Mr. MACON. Many of them are worth less than $100.

Mr. GOLDFOGLE. That might be five diamonds. What difference does it make, five diamonds or two diamond rings, or a brass ring, so long as the goods are not worth more than $100 in the aggregate?

Mr. MACON. Now, one other question I would like to ask you and then I will let you alone.

Mr. GOLDFOGLE. You may go on.

Mr. MACON. It has been stated here that the reason suit was not brought by Mr. Sargent for the return of this money was that he would have had to go all the way to El Paso or Laredo, wherever the transaction took place, before he sued the officer.

Mr. GOLDFOGLE. He would have had to institute his suit there.

Mr. MACON. Then I will ask this question: Why was it that he, being in New Haven, Conn., gave up the $100 for which they wrote to him, and that they did not collect from him down there by reason of a mistake, when they would have had to sue him at home for the $100?

Mr. GOLDFOGLE. His experience justified him in the belief that they would have sent on another warrant and taken a citizen from the State of Connecticut under the process of criminal proceeding and have taken him down South for trial.

Mr. SULLIVAN of Massachusetts. How do you explain the fact that at his own home at New Haven, after making his statement to his own attorney, on the advice of that attorney, he then paid the $100, where if any suit were brought it would have had to be brought in his own town?

Mr. SPERRY. If you could see the affidavit, you would know.

Mr. GOLDFOGLE. I did not know that he conferred with an attorney; but if he did his attorney may have told him that he was subject again to criminal arrest, and therefore desired to avoid being taken down South.

Mr. SPERRY. In his affidavit he explains the whole matter.

Mr. SULLIVAN of Massachusetts. Knowing the statement of his own client and believing his statement to be true, he advised that client not to incur criminal action.

Mr. SPERRY. No; that is not true.

Mr. GOLDFOGLE. The gentleman from Connecticut [Mr. SPERRY] says it is not true, and I think the gentleman from Massachusetts [Mr. SULLIVAN] will agree with me that whatever the gentleman from Connecticut [Mr. SPERRY] says will be accepted as the truth in this House.

Mr. SPERRY. I call now, in view of the statements which have been made, for the reading of Mr. Sargent's affidavit.

Mr. PAYNE. I wish to ask my colleague a question.

Mr. SULLIVAN of Massachusetts. It has been said here that something I have stated is not the truth, and I think I ought to be permitted to call attention to the testimony as a matter of courtesy. I made the statement upon the strength of the statement of the gentleman from Connecticut [Mr. SPERRY] himself, that Mr. Sargent employed the attorney and on his advice paid the $100.

The CHAIRMAN. The gentleman from Connecticut [Mr. SPERRY] is entitled to the floor, and asks for the reading of the affidavit in his time.

Mr. PAYNE. How did my colleague get off the floor? I wanted to ask him a question.

Mr. GOLDFOGLE. The Chair seemed to take me off the floor.

Mr. PAYNE. The gentleman from Massachusetts [Mr. SULLIVAN] was asking me a question.

Mr. GOLDFOGLE. Mr. Chairman, in order that we may be regular in this discussion, I yield to the gentleman from Connecticut [Mr. SPERRY].

Mr. SPERRY. I now renew my request for the reading of the affidavit of Mr. Sargent.

The CHAIRMAN. The Clerk will read the affidavit.

The Clerk read as follows:

NEW HAVEN, *January 16, 1902.*

STATE OF CONNECTICUT, *County of New Haven, ss:*

Joseph B. Sargent, of the city and county of New Haven and State of Connecticut, being duly sworn, deposes and says:

I am the person referred to in Senate bill 2393, for the relief of Joseph B. Sargent, and the facts are, briefly, as follows:

In the spring of 1900, while traveling with my wife in Mexico and intending to return by sea, I was seized with a severe attack of acute diarrhea, which reduced me to a weak condition and excited aprehension lest I should become seriously ill at a distance from home. I abandoned the balance of my proposed trip and started for my brother's home, in Georgia, by rail. In the course of our journey we had bought specimens of Mexican drawn work, for which I paid $73.67 United States money. These articles were intended to be given away to the members of our family, and I did not know whether they were dutiable or not.

At Laredo, the custom-house station, I declared the goods, which were packed loosely in the trunk without concealment; was informed that they were dutiable, and offered to pay the duty. The exact course of this part of the transaction was as follows: The trunk had been opened and partially examined without any questions having been asked me. While the examination was in progress the inspector said: "Is there anything dutiable here?" I replied, "There are some articles which may be dutiable, but I do not know whether you will charge duty on them." He immediately asked, "Is there anything made in Mexico?" and I promptly replied, "Yes; there is some Mexican drawn work." Then the inspector, after further turning over the contents of the trunk, drew out the drawn work. I asked him if it were dutiable, and he replied that it was, and I then produced the original invoice, and said that I would pay the duty.

At no time was there the slightest concealment on my part, in fact or intention. The inspector stated that he could not receive duties himself except in small amounts; that the goods must be taken to the custom-house for appraisal, and that this would involve my remaining over night at Laredo. At that time my illness had continued for some weeks, and was then acute, and my desire to continue the journey was so great that I told him that I would rather abandon the goods than lose my train. The inspector then asked for my address, but gave no reason for his request. I supposed it was for the purpose of giving me a future opportunity to pay the duty, and so wrote my name and address on the invoice. I proceeded by train to San Antonio, leaving the goods with the inspector, expecting to pay the duties when advised of their amount, and to have the goods forwarded.

During the examination at Laredo and throughout the whole transaction, ending with my departure, no suggestion was made that I had violated any customs regulations; and the first intimation of that sort which I received was when I was arrested at San Antonio, later on the same day, for smuggling, by a deputy United States marshal, and only escaped imprisonment by securing bail. Next morning I met the collector and the district attorney and his assistant, at the office of the latter, at San Antonio, and was informed by the collector that I had violated the United States statutes and was liable to a penalty, which he figured at $410, and also liable to imprisonment for smuggling; but, if I would pay the money demanded, I should be released from arrest and the charge of smuggling dismissed.

I was sick and anxious to get without delay to the home of my brother in Georgia, where I could rest before going home. I was without legal advice and ignorant of the law on the subject, except as advised by the collector and assistant district attorney. I was told by the assistant district attorney that the only thing for me to do was to settle or to go before the grand jury, which was not then in session, on the criminal charge of smuggling. I was not told and did not know that by filing a proper protest at the time of payment I could have laid the foundation for a civil action to set myself right. I was not acquainted in San Antonio except as I had made myself known to a customer of Sargent & Co.

My arrest was a great shock, and the additional scandal and the publicity of the threatened criminal action weighed heavily on me, in my weakened condition of health, and I paid to the collector the demanded penalty of $410, taking his receipt. I paid it under pressure of the threat of criminal procedure and to procure my release from arrest, because I was too sick to resist or to make the effort to properly understand the matter.

After my return home the collector demanded, by mail, an additional $100, claiming that he had made a mistake of that amount in calculating the penalty. I consulted counsel with the idea of making him sue for it, and so getting an opportunity to vindicate myself, but was advised that my failure to file a protest left no issues open which I could contest in the courts, except the correctness of the collector's calculations.

I then paid the additional sum of $100 under protest, and petitioned the Secretary of the Treasury for relief, which was refused on the mistaken ground that I still had the goods. When this error was pointed out, my petition was again rejected on the ground that there was no authority for refunding the money.

I have seen copies of affidavits and of a letter from the collector filed with the Secretary of the Treasury, and I declare that they are untrue in every material respect. The facts in detail are as already

stated, and I will add that there was but one inspector present when the drawn work was taken out of my trunk.

I respectfully call attention to the fact that whatever occurred at Laredo happened before I left; that no new evidence against me is claimed to have been discovered after I went away. Therefore the very circumstance that I was allowed to leave Laredo corroborates my story, and, as it seems to me, hopelessly discredits the theory that I was caught in the act of smuggling.

I am now 79 years old, and though for some years partially retired, have lived an active business life in New Haven for forty years, and have been the mayor of the city for four years.

This arrest on criminal charge and the publicity given to the matter in the newspapers has subjected me to an indignity entirely undeserved, and at my age peculiarly humiliating. It seems that the only way that I can obtain vindication is by the action of your honorable committee, and I respectfully ask for the relief stated in the bill.

The amount of relief asked for is made up as follows:

| | |
|---|---|
| Net cost of goods seized | $73.43 |
| Paid to the collector at San Antonio | 410.00 |
| Paid to the collector, by mail, under protest | 100.00 |
| Total | 583.43 |

JOSEPH B. SARGENT.

Subscribed and sworn to before me this 16th day of January, 1902.
[SEAL.] M. OLIVE WILLIAMS, *Notary Public.*

Mr. HILL of Connecticut. Mr. Chairman, I want to say from my own personal knowledge that the statement which has been read I believe to be absolutely correct from beginning to end. Mr. Sargent is a man above reproach. There is no more distinguished or honored citizen in the State of Connecticut. He is the employer of several thousand people and has an exceedingly large business in the city of New Haven, and is a man of ample fortune to whom the payment of $100 under protest to relieve himself from embarrassment or anxiety is of no moment whatever. This man has done just exactly what I think anybody would do under the circumstances, at 80 years of age and under the conditions that existed; a man of whom it is absolutely unthinkable to believe for one single moment that he would attempt to defraud the Government of the United States or anybody else of one penny. I believe absolutely every word he has stated in that affiadvit, and that a mistake was made by the revenue officials there in their eagerness to collect duties, pursuing the course which is often taken with people who try to come through occasionally and bring in some little trinkets. I believe Mr. Sargent acted honorably.

Mr. MADDOX. Has there ever been any complaint made to the President of the conduct of these gentlemen down there?

Mr. HILL of Connecticut. I do not know.

Mr. MADDOX. If your statement is true, that they have treated this man in this way, they ought to be removed.

Mr. HILL of Connecticut. I will say to the gentleman from Georgia [Mr. MADDOX] that I do not wish to go into that question. I simply wanted to add my statement as to the respect and esteem in which Joseph B. Sargent is held in the State of Connecticut. It would be impossible to convince anybody in the State of Connecticut, no matter what his business, no matter what his politics, that Mr. Sargent was anything but a man of the highest character. His statement, signed by himself, I would rely upon for any amount of money.

Mr. STEPHENS of Texas. You are acquainted with the claimant in this matter?

Mr. HILL of Connecticut. I have met him.

Mr. STEPHENS of Texas. Is he an attorney at law?

Mr. HILL of Connecticut. Oh, no.

Mr. STEPHENS of Texas. I believe the gentleman is an attorney.

Mr. HILL of Connecticut. Myself?

Mr. STEPHENS of Texas. Yes.

Mr. HILL of Connecticut. Oh, no.

Mr. STEPHENS of Texas. You heard the affidavit read a moment ago, did you not?

Mr. HILL of Connecticut. Yes.

Mr. STEPHENS of Texas. Don't you think that affidavit was drawn by a very shrewd lawyer?

Mr. HILL of Connecticut. I will say to my friend that I have had some experience with customs officers, and I can realize exactly the position in which Mr. Sargent was placed. I know the eagerness of our customs officials to discover and detect frauds. I have witnessed these things several times, when returning to this country. I can understand, without Mr. Sargent's statement, how a man 80 years of age and sick should have said just what he said, should have left his goods there, should have paid his money, making a protest at the time he made the second payment, and should have come in an honorable, square, straightforward way before this committee in Congress and stated his case and asked for relief. Gentlemen, we ought to give it to him. In my judgment, we ought fairly to give it to him as an honest and honorable transaction on our part. If a mistake was made, it is our business to correct it. The mistake was not made by Mr. Sargent.

Mr. MANN. Will the gentleman yield for a question?

Mr. HILL of Connecticut. Certainly.

Mr. MANN. Can the gentleman tell us what mistake the customs officers made?

Mr. HILL of Connecticut. I think they should have told Mr. Sargent the exact situation at the time, that his goods were dutiable, and that he would make a mistake in leaving the goods in their hands. I should have stayed right by them, if I had been there.

Mr. MANN. Does not the law provide——

Mr. HILL of Connecticut. He was sick, and he was a man 80 years of age.

Mr. MANN. Does not the law provide that when a person brings in goods without declaring them it is the duty of the customs officers to seize them?

Mr. HILL of Connecticut. As I understand the statement, he went and hunted up the inspector himself, just as I have done again and again, in a desire to get baggage inspected and passed.

Mr. MANN. He came in on the train, I suppose; but even admitting that to be the case, he did not declare the articles, and the customs officers seized the goods under the law. The reason I ask the gentleman this question is because he is on the committee that frames this kind of tariff legislation.

Mr. HILL of Connecticut. I want to say that just such cases as this are what to do more to bring the protective tariff system into disrepute than almost anything else that could be done—just exactly such things. I have had experiences myself which have convinced me of this fact.

Mr. MANN. Does not the gentleman think that instead of relieving one case out of tens of thousands——

Mr. HILL of Connecticut. If this is wrong it ought to be corrected, no matter what the others are. If the others did not apply to have the wrong corrected, I do not see what can be done about it. This gentleman has made application.

Mr. MANN. Does not the gentleman think that instead of relieving this one case, which he speaks of, out of thousands of others he ought to help report a new tariff bill covering the question?

Mr. HILL of Connecticut. I am ready for that proposition.

Mr. MANN. We will await with interest the time when the gentleman reports a tariff bill.

Mr. SIMS. I thought the foreigner paid the tax anyway.

Mr. GRAFF. Mr. Chairman, I have risen to my feet for the purpose of moving that the committee rise; but for the purpose of securing some action on this bill I move that it be laid aside to be reported to the House with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, one single word. The bill appropriates, to be paid to Mr. Sargent, some $580. He paid $510. That is all he claims he paid, even after he paid this $100, after his attorneys in New Haven had been written to by the collector, asking for the payment of the hundred dollars, and after he had paid it, of course, under their advice.

I have been unable to find out on what theory, if he is to be paid anything, it is proposed to pay him a premium on this sort of thing. I understand from my colleague [Mr. GOLDFOGLE], who reported the bill and whom I do not see at this moment, that it is done on the theory that these centerpieces and doilies were wearing appearel, and were therefore exempt.

But of course they are wrong and Mr. Sargent was in regard to that. There can be no theory on which they are exempt. The value of the goods was found in a memorandum which Mr. Sargent himself presented to the inspectors, and added to that the report they had from the consul in Mexico, where the goods were purchased. There seems to have been no mistake from beginning to end. I do protest against any committee of the House or the House itself coming in here and trying to arrange these matters out of court. It seems that this committee has been prevailed upon because Mr. Sargent is a respectable gentleman, and my friend from Connecticut [Mr. SPERRY] appeared before the committee——

Mr. SPERRY. I appeared before the committee, but I have not spoken to anyone else.

Mr. PAYNE. Oh, Mr. Chairman, I didn't yield to my friend from Connecticut. I am afraid of him, for he could bring tears to my eyes any time. [Laughter.] But, Mr. Chairman, we are not to decide upon tears or sympathy; we are to enforce the law, and it ought to be enforced against Mr. Sargent, who is an employer of men, as it would be against the weakest and humblest of his employees. I am for dealing in these matters with exact justice. In Mr. Sargent's case, he had the means to command the best ability that money would purchase. He could

have made his protest and done whatever was necessary in regard to righting this wrong; he could have taken all the evidence in the city of New Haven that he desired to take; he could have employed lawyers in Texas or New Haven to enforce his rights. We ought not to sit here as a court in such a case as this.

Mr. SPERRY. I want to say to the gentleman from New York that Mr. Sargent may have had the means, but he didn't have the health.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois that the bill be laid aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. PAYNE) there were—ayes 35, noes 24.

So the bill was ordered to be laid aside with a favorable recommendation.

Mr. GRAFF. Mr. Chairman, I move that the committee do now rise and report the several bills to the House.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. CAMPBELL, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill H. R. 8133, which was found to have been reported from a committee not having jurisdiction; that the committee also had had under consideration sundry bills and joint resolutions and had directed him to report the same back, some with amendment and some without, with the recommendation that the amendments be adopted and that the bills do pass.

The SPEAKER. House bill 8113, reported by the committee that did not have jurisdiction, will, without objection, be referred to the Committee on War Claims.

There was no objection.

Mr. GRAFF. Mr. Speaker, I ask for the previous question upon all the bills and amendments thereto.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the previous question may be considered as ordered upon the various bills with and without amendment.

Mr. PAYNE. Mr. Speaker, I object to that, so far as it relates to Senate joint resolution 45, directing inquiry into the claim of the Wales Island Packing Company, and the bill S. 351, an act for the relief of Joseph B. Sargent.

The SPEAKER. Does the gentleman from Illinois modify his request for the previous question by excepting the two bills just mentioned?

Mr. GRAFF. I do.

The SPEAKER. Is there objection to the modified request? [After a pause.] The Chair hears none, and it is so ordered.

The Clerk reported the title of the first bill.

Mr. MADDOX. Mr. Speaker, I would like to ask the gentleman from Illinois if he proposes to pass these bills this evening?

Mr. GRAFF. I will state to the gentleman that I think these bills, to which there is no serious objection, might be disposed of at this time, and we could allow those to which there is any objection to be passed over until Monday.

Mr. PAYNE. Having the previous question ordered, what is the particular point in having these bills passed at this time?

Mr. GRAFF. Well, so much would be done.

Mr. PAYNE. That can be done Monday just as well. It is now after 5 o'clock.

Mr. GRAFF. Then I will not insist upon it.

### URGENT DEFICIENCY BILL.

Mr. HEMENWAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 16445) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1905, and for other purposes, with certain Senate amendments, and move that the Senate amendments be concurred in.

The SPEAKER. The gentleman from Indiana asks unanimous consent to take from the Speaker's table the urgent deficiency bill, with certain Senate amendments. Is there objection?

There was no objection.

The Senate amendments were read.

The SPEAKER. The question is on concurring in the Senate amendments.

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

On motion of Mr. HEMENWAY, a motion to reconsider the last vote was laid on the table.

### ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolution of the following titles; when the Speaker signed the same:

H. R. 6498. An act to amend an act entitled "An act to authorize Washington and Westmoreland counties, in the State of Pennsylvania, to construct and maintain a bridge across the Monongahela River, in the State of Pennsylvania," approved February 21, 1903; and

H. J. Res. 158. Joint resolution for the relief of Julius A. Kaiser.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 1994. An act granting an increase of pension to Isabella Chivington;

S. 1421. An act granting an increase of pension to Charles L. Houghton;

S. 216. An act granting an increase of pension to Nelson Wells;

S. 183. An act granting an increase of pension to John W. Courrier;

S. 922. An act granting an increase of pension to William S. Devlin.

S. 1576. An act granting an increase of pension to Emily M. J. Cooley; and

S. 2414. An act granting an increase of pension to Elise Habercom.

### ADJOURNMENT.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 3 minutes p. m.) the House adjourned until Monday, December 19, at 12 o'clock noon.

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## 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 assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of James Kizer, administrator of estate of R. M. Glover, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting estimates of appropriations for defraying the expenses of collecting the revenue from customs—to the Committee on Appropriations, and ordered to be printed.

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## 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. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16160) granting to Farwell, Ozmun, Kirk & Co. license to make excavations and place footings in the soil of certain land belonging to the United States at St. Paul, Minn., reported the same without amendment, accompanied by a report (No. 3142); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DAVEY of Louisiana, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 10313) for the construction of a steam revenue cutter for service in the Gulf of Mexico and tributary waters, headquarters at New Orleans, La., reported the same without amendment, accompanied by a report (No. 3143); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 15981) to authorize the Mississippi Central Railroad Company to bridge Pearl River, in the State of Mississippi, reported the same with amendment, accompanied by a report (No. 3144); which said bill and report were referred to the House Calendar.

Mr. DAVEY of Louisiana, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 15810) to authorize Caldwell Parish, La., to construct a bridge across the Ouachita River, reported the same with amendment, accompanied by a report (No. 3145); which said bill and report were referred to the House Calendar.

Mr. WM. ALDEN SMITH, from the Committee on Foreign Affairs, to which was referred the bill of the Senate (S. 5704) to incorporate the American National Red Cross, reported the same without amendment, accompanied by a report (No. 3146); which said bill and report were referred to the House 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. 16580) granting a pension to Kate Cushman—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 16607) granting an increase of pension to Margaret Drum—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16622) granting a pension to William H. Bogle—Committee on Pensions discharged, and referred to the Committee on Invalid 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. BOWERS: A bill (H. R. 16716) for improving the harbor at Biloxi, Miss.—to the Committee on Rivers and Harbors.

By Mr. FORDNEY: A bill (H. R. 16717) providing for an additional appropriation for the public building at Owosso, Mich.—to the Committee on Public Buildings and Grounds.

By Mr. PEARRE: A bill (H. R. 16718) for the extension and improvement of Massachusetts and Boundary avenues NW., Washington, D. C.—to the Committee on the District of Columbia.

By Mr. BUTLER of Pennsylvania: A bill (H. R. 16719) to increase the limit of cost for the purchase of site and the erection of a public building at Westchester, Pa.—to the Committee on Public Buildings and Grounds.

By Mr. STEENERSON: A bill (H. R. 16720) permitting the building of a railroad bridge across the Red River of the North from a point on section 6, township 154 north, range 50 west, Marshall County, Minn., to a point on section 36, township 155 north, range 51 west, Walsh County, N. Dak.—to the Committee on Interstate and Foreign Commerce.

By Mr. SWANSON: A bill (H. R. 16721) to refund certain excess duties paid upon importations of absinthe and kirschwasser from Switzerland between June 1, 1898, and December 5, 1898—to the Committee on Claims.

By Mr. CHARLES B. LANDIS: A bill (H. R. 16722) to increase the limit of cost for the purchase of site and the erection of a public building at Crawfordsville, Ind.—to the Committee on Public Buildings and Grounds.

By Mr. McGUIRE: A bill (H. R. 16723) to provide for the purchase of a site and the erection of a public building thereon at Muscogee, Ind. T.—to the Committee on Public Buildings and Grounds.

By Mr. LIVINGSTON: A resolution (H. Res. 400) asking for all data in detail upon report made December 3, 1904, upon cotton acreage and production—to the Committee on Agriculture.

By Mr. CUSHMAN: A resolution (H. Res 402) providing for the consideration of Senate bill 3728—to the Committee on Rules.

By Mr. BAKER: A resolution (H. Res. 403) asking information from the Attorney-General in regard to the so-called "beef trust"—to the Committee on the Judiciary.

By Mr. HEARST: A resolution (H. Res. 404) relating to political activity of letter carriers and the dismissal of James C. Keller, Frank Cunningham, Warren Tumber, and H. W. Aldrich from the public service—to the Committee on Reform in the Civil Service.

## 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. BADGER: A bill (H. R. 16724) for the relief of the widows of Union soldiers, sailors, or marines—to the Committee on Invalid Pensions.

By Mr. BRANTLEY: A bill (H. R. 16725) granting an increase of pension to Gates D. Parish—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16726) granting a pension to Joseph Matthews—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 16727) to pay heirs of John Sevier, sr., for certain military services rendered to the United States by said John Sevier, sr.—to the Committee on Claims.

By Mr. BURNETT: A bill (H. R. 16728) granting a pension to Mary Stuart—to the Committee on Pensions.

Also, a bill (H. R. 16729) granting an increase of pension to Martha C. Balcomb—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 16730) granting an increase of pension to Daniel Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16731) granting an increase of pension to W. W. Hicks—to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 16732) granting a pension to Andrew M. Stamm—to the Committee on Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 16733) granting an increase of pension to Charles G. Turney—to the Committee on Invalid Pensions.

By Mr. CROFT: A bill (H. R. 16734) for the relief of Charles E. Danner & Co.—to the Committee on Claims.

By Mr. DAVIS of Minnesota: A bill (H. R. 16735) granting an increase of pension to John Haack—to the Committee on Invalid Pensions.

By Mr. DAYTON: A bill (H. R. 16736) granting an increase of pension to J. R. Clifford—to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 16737) granting a pension to Daphna Ketcham—to the Committee on Invalid Pensions.

By Mr. EVANS: A bill (H. R. 16738) granting an increase of pension to Joseph S. Lee—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16739) granting an increase of pension to Samuel Shoup—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 16740) granting an increase of pension to Laura Coleman—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 16741) granting a pension to H. Edwin Goetz—to the Committee on Pensions.

Also, a bill (H. R. 16742) granting an increase of pension to Henry Finger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16743) granting an increase of pension to John Glass—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16744) granting an increase of pension to Henry Blevens—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16745) granting an increase of pension to John W. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16746) granting an increase of pension to James J. Summers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16747) granting an increase of pension to Alfred H. Martine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16748) granting a pension to Frona J. Wooten—to the Committee on Pensions.

Also, a bill (H. R. 16749) granting a pension to George W. Cowan—to the Committee on Pensions.

By Mr. GOULDEN: A bill (H. R. 16750) for the relief of Charles Uerkvitz—to the Committee on Claims.

By Mr. HAMLIN: A bill (H. R. 16751) granting a pension to Joseph J. Bodenhamer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16752) granting a pension to John Ross—to the Committee on Invalid Pensions.

By Mr. HEMENWAY: A bill (H. R. 16753) granting an increase of pension to Eli W. Knowles—to the Committee on Invalid Pensions.

By Mr. HERMANN: A bill (H. R. 16754) granting a pension to Gustave Trimter—to the Committee on Invald Pensions.

By Mr. HINSHAW: A bill (H. R. 16755) granting an increase of pension to Layard E. Benton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16756) granting an increase of pension to James H. Riddle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16757) granting an increase of pension to George M. Fowler—to the Committee on Invalid Pensions.

By Mr. KNAPP: A bill (H. R. 16758) granting an increase of pension to Florence M. Baker—to the Committee on Invalid Pensions.

By Mr. CHARLES B. LANDIS: A bill (H. R. 16759) granting an increase of pension to George W. Dunlap—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 16760) for the relief of William Edward Bailey—to the Committee on Pensions.

By Mr. McCARTHY: A bill (H. R. 16761) granting a pension to Jennie A. Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16762) granting an increase of pension to Elias H. Funk—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: A bill (H. R. 16763) granting an increase of pension to William P. Shelton—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 16764) for the relief of administrator of James B. Beavers, deceased, of Fairfax County, Va.—to the Committee on War Claims.

By Mr. SHEPPARD: A bill (H. R. 16765) for the relief of the legal representatives of Jonathan Holmes, deceased—to the Committee on War Claims.

Also, a bill (H. R. 16766) for the relief of F. P. Brower—to the Committee on Claims.

By Mr. SHERLEY: A bill (H. R. 16767) granting an increase of pension to James McPherson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16768) granting a pension to G. W. Finley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16769) granting a pension to Mary I. Davenport—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16770) granting a pension to Annie B. Lee—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 16771) granting an increase of pension to George W. Kinzly—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16772) granting an increase of pension to Buford P. Moss—to the Committee on Invalid Pensions.

By Mr. SNAPP: A bill (H. R. 16773) granting a pension to John Mather—to the Committee on Invalid Pensions.

By Mr. VANDIVER: A bill (H. R. 16774) granting an increase of pension to John J. James—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 16775) granting an increase of pension to Abraham Stine—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16776) granting an increase of pension to John W. Sanders—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16777) granting an increase of pension to David W. Reed—to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 16778) granting a pension to Jennie E. Keown—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 16779) for the relief of the estate of Charles Baum, deceased—to the Committee on War Claims.

Also, a bill (H. R. 16780) for the relief of William Tellett's personal representatives—to the Committee on War Claims.

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## PETITIONS, ETC.

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

By Mr. ADAMS of Pennsylvania: Resolution favoring a sea-level canal across the Isthmus of Panama, unanimously adopted by the board of directors of the Philadelphia Bourse, December 14, 1904—to the Committee on Interstate and Foreign Commerce.

By Mr. BARTHOLDT: Petition of Grand Army of the Republic post, in favor of placing Maj. Gen. P. I. Osterhaus on the retired list of the Army—to the Committee on Military Affairs.

Also, petition of the St. Louis Fruit and Produce Exchange, in favor of amending the interstate-commerce laws as to regulating indiscriminate freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Simmons Hardware Company, in favor of the Boutell bill (H. R. 9302)—to the Committee on Ways and Means.

Also, petition of the board of directors of the Merchants' Exchange of St. Louis, opposed to bill S. 4596—to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of Edinboro (Pa.) Grange, No. 947; Waterford (Pa.) Grange, and Springsboro Grange, Patrons of Husbandry, against changing the antioleomargarine law—to the Committee on Agriculture.

By Mr. BURKETT: Resolution of the Nebraska Conference of the Epworth Assembly, on sundry matters, looking to the regulation of the Post-Office Department, the Philippines, Sunday working on Government works, to forbid the sale of intoxicants in all Government buildings, favoring the Hepburn-Dolliver bill, against interstate telegraphing of race gambling bets, against gambling by guessing on newspaper coupons, and for expelling Senator SMOOT—to the Committee on the Judiciary.

By Mr. BURLEIGH: Petition of John Dority Grange, No. 381, of Hancock County, Me., in favor of a Bureau of Public Highways—to the Committee on Agriculture.

By Mr. BURTON: Resolution of the council of the city of Cleveland, Ohio, recommending use of granite in Federal building at Cleveland—to the Committee on Public Buildings and Grounds.

By Mr. DAVIS of Minnesota: Petition of New Prague Flouring Mill Company, relative to customs-drawback law—to the Committee on Ways and Means.

By Mr. FITZGERALD: Resolutions of the International Press Association of Oklahoma and Indian Territories, urging the removal of all restrictons from the sale of Indian lands excepting homesteads—to the Committee on Indian Affairs.

Also, petition of the Interstate Commerce Law Convention, urging legislation to regulate freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. FOSTER of Vermont: Petition of St. Johnsbury Woman's Club, in favor of a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Independent Cigar Manufacturing Association, of Chicago, protesting against a reduction of tariff on Philippine cigars—to the Committee on Ways and Means.

By Mr. HASKINS: Petition of the Woman's Club of St. Johnsbury, Caledonia County, Vt., for a constitutional amendment prohibiting polgyamy—to the Committee on the Judiciary.

By Mr. HEARST: Petition of members of the Omaha (Nebr.) Grain Exchange, favoring the enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

Also, petition of the citizens of Madison, Wis., favoring the enactment of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. HERMANN: Memorial of the Grand Camp of the Arctic Brotherhood, for a Delagate in Congress from Alaska—to the Committee on the Territories.

Also, resolution of the Alaska Club, of Seattle, Wash., for representation in Congress for Alaska Territory—to the Committee on the Territories.

By Mr. KNAPP: Papers to accompany bill granting an increase of pension to Florence M. Baker—to the Committee on Invalid Pensions.

By Mr. MANN: Memorial to Congress from the executive council of the Public Education Association of Washington, D. C., indicating some needs of public education in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MAYNARD: Papers to accompany claim of Edward W. Bailey for injuries inflicted upon his person by United States marines while at target practice—to the Committee on War Claims.

By Mr. NEEDHAM: Resolutions of the Bar Association of San Francisco, asking for better court facilities in the district Federal courts of California—to the Committee on the Judiciary.

By Mr. OVERSTREET: Petition of citizens of Indianapolis, in favor of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. PUJO: Resolution of Headquarters of United Confederate Veterans, of New Orleans, La., with reference to bill S. 2081—to the Committee on Military Affairs.

By Mr. SHEPPARD: Petition of Thomas J. Holmes and James H. Holmes, heirs of Jonathan Holmes, to be paid for stores and supplies taken by United States Army, as provided by the bill for the relief of the legal representatives of Jonathan Holmes, deceased—to the Committee on War Claims.

By Mr. SHERLEY: Papers relative to claim for pension of G. W. Finley—to the Committee on Invalid Pensions.

Also, papers to accompany claim for pension of Mary I. Davenport—to the Committee on Invalid Pensions.

Also, petition of James McPherson, asking for an increase of pension from $12 to $40 per month—to the Committee on Invalid Pensions.

Also, petition of Mrs. Annie Lee, in support of claims for pension as soldier's widow—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: Affidavit in support of pension claim of J. H. Page—to the Committee on Invalid Pensions.

Also, papers to accompany bill for increase of pension of Buford P. Moss—to the Committee on Invalid Pensions.

Also, papers to accompany bill to increase the pension of George W. Kingsley—to the Committee on Invalid Pensions.

By Mr. WM. ALDEN SMITH: Petition of William J. Rainey, Ralph Janssen, and W. C. Hall, asking for an amendment to the United States Constitution making polygamy a breach of the Federal law—to the Committee on the Judiciary.

Also, petition of R. H. Hartley, Dr. C. D. Woodruff, and A. C. Dickenson, in favor of a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. SNOOK: Resolution of the Loyal League of the United States, favoring the placing of Maj. Peter I. Osterhaus on the retired list of the Army with the rank he held at the close of the rebellion—to the Committee on Military Affairs.

By Mr. VAN DUZER: Petition of James C. Dahlman and 9 other shippers of live stock, members of the South Omaha Live Stock Exchange, favoring the enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. VANDIVER: Papers to accompany bill granting an increase of pension to John J. James—to the Committee on Invalid Pensions.

By Mr. WEEMS: Petition and papers to accompany bill H. R. 16713, granting a pension to William Cannon—to the Committee on Invalid Pensions.

By Mr. WYNN: Petition of 10 members of the South Omaha (Nebr.) Live Stock Exchange, favoring the enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

## SENATE.

### MONDAY, *December 19, 1904.*

Rev. EDWARD E. HALE, the Chaplain of the Senate, offered the following prayer:

*They shall call His name Jesus, for he shall save His people from their sins * * *. His name shall be called Emmanuel, which, being interpreted, is God with us.*

Let us pray. Even so, Father, He comes to save us from our sins. Thou art pleased to reveal Thyself to us in Him. And to-day we pray Thee for our homes and for this festival which we are to celebrate together, the festival of home, that Thou wilt be with Thy servants wherever they go, wherever they are, in this commemoration of a Savior's birth. With our fathers and mothers, our brothers and sisters, our little children, with all that makes home glad and happy, be present, Thou, the Father, in the midst of Thy children, that we may have Thy love for our love, Thy strength for our weakness, Thy wisdom for our direction. Go with us wherever we go; stay with us wherever we are.

And for this country we pray, that she may know what are the blessings of a Christian State, that these States may be bound together as brothers and sisters are bound together in one tie, that our rulers may be peace, that our exactors may be righteousness, and this that loving country whose God is the Lord. We ask it in Christ Jesus.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done on earth as it is done in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those that trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom and the power and the glory, forever. Amen.

#### NAMING A PRESIDING OFFICER.

Mr. PERKINS called the Senate to order and the Secretary read the following communication:

WASHINGTON, *December 16, 1904.*

*To the United States Senate:*

I hereby appoint the senior Senator from California, Mr. PERKINS, to perform the duties of the chair during my absence.

WILLIAM P. FRYE,
*President pro tempore.*

Mr. PERKINS thereupon took the chair as Presiding Officer and directed that the Journal be read.

#### THE JOURNAL.

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

#### ADJOURNMENT TO WEDNESDAY.

Mr. GALLINGER. I move that when the Senate adjourns to-day it adjourn until Wednesday next.

The motion was agreed to.

[A message in writing from the President of the United States was delivered to the Senate by Mr. FORSTER, one of his secretaries.]

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution:

An act (S. 183) granting an increase of pension to John W. Currier;

An act (S. 216) granting an increase of pension to Nelson Wells;

An act (S. 922) granting an increase of pension to William S. Devlin;

An act (S. 1421) granting an increase of pension to Charles L. Houghton;

An act (S. 1576) granting an increase of pension to Emily M. J. Cooley;

An act (S. 1994) granting an increase of pension to Isabella Chivington;

An act (S. 2414) granting an increase of pension to Elise Habercom;

An act (H. R. 6498) to amend an act entitled "An act to authorize Washington and Westmoreland counties, in the State of Pennsylvania, to construct and maintain a bridge across the Monongahela River, in the State of Pennsylvania," approved February 21, 1903; and

Joint resolution (H. J. Res. 158) for the relief of Julius A. Kaiser.

Mr. KEAN. I move that the Senate adjourn.

The motion was agreed to; and (at 12 o'clock and 4 minutes p. m.) the Senate adjourned until Wednesday, December 21, 1904, at 12 o'clock meridian.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate December 12, 1904.*

#### POSTMASTERS.

##### ILLINOIS.

Moses C. Thomas to be postmaster at Homer, in the county of Champaign and State of Illinois.

##### MICHIGAN.

William T. Hosner to be postmaster at Romeo, in the county of Macomb and State of Michigan.

William C. Mertz to be postmaster at St. Charles, in the county of Saginaw and State of Michigan.

Louis H. Tovatt to be postmaster at Standish, in the county of Arenac and State of Michigan.

Herman A. Wyckoff to be postmaster at Pontiac, in the county of Oakland and State of Michigan.

## HOUSE OF REPRESENTATIVES.

### MONDAY, *December 19, 1904.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of Friday, December 16, 1904, was read and approved.

#### ADJOURNMENT UNTIL WEDNESDAY.

Mr. PAYNE. Mr. Speaker, I move that when the House adjourns to-day it adjourn to meet on Wednesday next.

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

#### HOUSE BILLS WITHOUT AMENDMENT PASSED.

The following House bills, reported from the Committee of the Whole House, were ordered to be engrossed and read a third time, read the third time, and passed:

H. R. 11664. A bill to reimburse the Illinois Central Railroad Company for damage to union depot at Louisville, Ky., by blasting in the Ohio River;

H. R. 3109. A bill for the relief of Noah Dillard;

H. R. 3619. A bill for the relief of David B. Howell;

H. R. 6351. A bill to pay J. B. McRae $99 for services as hospital steward, etc.;

H. R. 3950. A bill for the relief of W. R. Akers, of Alliance, Nebr.;

H. R. 9758. A bill for the relief of the heirs of George McGhehey for services rendered as mail contractor;

H. R. 11370. A bill to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire;

H. R. 2052. A bill for the relief of Ramon O. Williams and Joseph A. Springer;

H. R. 6375. A bill for the relief of the executors of the estate of Henry Lee, deceased;

H. R. 10089. A bill for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y.;

H. R. 9091. A bill to provide United States registry for the steamer *Marie;* and

H. R. 9090. A bill to provide United States register for the steamer *Success.*