voring a law restricting immigration—to the Committee on Immigration and Naturalization.

Also, petition of Camp No. 500, Patriotic Order Sons of America, of Harrisburg, Pa., for more stringent laws regarding immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Harrisburg Burial Case Company, favoring bill H. R. 9302—to the Committee on Ways and Means.

Also, petition of Washington Camp, No. 171, Patriotic Order Sons of America, of Carlisle, Pa., for regulation of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Patriotic Order Sons of America, of Fredericksburg, Pa., for a law restricting immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Patriotic Order Sons of America, of Annville, Pa., favoring a law restricting immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Patriotic Order Sons of America, of Richland, Pa., for a law restricting immigration—to the Committee on Immigration and Naturalization.

By Mr. RAINEY: Petition of Lincoln King Post, Grand Army of the Republic, No. 410, of Kane, Ill., favoring bill H. R. 13986—to the Committee on Invalid Pensions.

By Mr. RUPPERT: Petition of the New York Board of Trade and Transportation, relative to rebate and discrimination on private-car systems—to the Committee on Interstate and Foreign Commerce.

By Mr. SCUDDER: Petition of the Order of Railway Conductors, Long Island Division, No. 391, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Order of Railway Conductors, Division No. 54, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of the Merchants' Association of New York, favoring bill H. R. 17752—to the Committee on Ways and Means.

By Mr. SPERRY: Petition of Woman's Christian Temperance Union No. 2, of New Haven, Conn., and the Loyal Temperance Legion, against sale of liquor in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of the Chamber of Commerce of New Haven, Conn., relative to removal of Board of General Appraisers—to the Committee on Ways and Means.

By Mr. SULLIVAN of New York: Petition of the National Board of Trade, thirty-fifth annual meeting, at Washington, D. C., relative to interstate commerce—to the Committee on Interstate and Foreign Commerce.

By Mr. WALLACE: Petition of citizens of Garrard, Ky., against bill H. R. 4072—to the Committee on the Judiciary.

SENATE.

FRIDAY, *February 3, 1905.*

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

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

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

BALTIMORE AND WASHINGTON TRANSIT COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Baltimore and Washington Transit Company, of Maryland, for the year ended December 31, 1904; which was referred to the Committee on the District of Columbia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the House had passed with an amendment the bill (S. 6312) providing for the construction of irrigation and reclamation works in certain lakes and rivers; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

H. R. 9298. An act granting the right of way for the construction of a railroad and other improvements over and on that part of the Hot Springs Reservation known as West Mountain, Hot Springs, Ark.;

H. R. 11961. An act to provide an American register for the steam lighter *Pioneer;*

H. R. 16646. An act to amend section 2787 of the Revised Statutes of the United States;

H. R. 16906. An act to amend section 12, chapter 1495, Statutes of the United States of America, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment;"

H. R. 17350. An act declaring Grand River to be not a navigable stream;

H. R. 17935. An act authorizing the Louisa and Fort Gay Bridge Company, of Louisa, Ky., to erect a bridge across the Tug and Levisa forks of the Big Sandy River; and

H. J. Res. 184. Joint resolution authorizing the Secretary of War to furnish a condemned cannon to the armory at St. Paul, Minn., to construct a memorial tablet.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 3109) for the relief of Noah Dillard.

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. 69. An act granting an increase of pension to Francis C. Brown;

S. 104. An act granting an increase of pension to Abner Taylor;

S. 141. An act granting an increase of pension to James W. Kinkead;

S. 184. An act granting an increase of pension to John Bartlett;

S. 355. An act granting a pension to Sarah Jane Simonds;

S. 825. An act granting an increase of pension to Jesse Collins;

S. 826. An act granting an increase of pension to John C. Bertolette;

S. 830. An act granting an increase of pension to Thomas H. Muchmore;

S. 1420. An act granting an increase of pension to Gustavus S. Young;

S. 1794. An act granting an increase of pension to Joseph C. Walkenshaw;

S. 2074. An act granting an increase of pension to James A. Harper;

S. 2189. An act granting an increase of pension to Joseph K. Armstrong;

S. 2419. An act granting an increase of pension to Jane M. Black;

S. 2572. An act granting an increase of pension to Thomas J. Lucas;

S. 2707. An act granting an increase of pension to James M. Clemens;

S. 2828. An act granting an increase of pension to Phoebe E. Lyda;

S. 2913. An act granting an increase of pension to Elizabeth F. Given;

S. 3074. An act granting an increase of pension to Isaac Davisson;

S. 3435. An act granting a pension to Mazilla Lester;

S. 3517. An act granting an increase of pension to John B. Hammer;

S. 3635. An act granting an increase of pension to John M. Godown;

S. 3939. An act granting an increase of pension to James Miller;

S. 4075. An act granting an increase of pension to Charles M. Shepherd;

S. 4121. An act granting an increase of pension to James D. Beasley;

S. 4135. An act granting an increase of pension to Jane Frances;

S. 4159. An act granting an increase of pension to George W. Gray;

S. 4239. An act granting an increase of pension to William H. McCann;

S. 4392. An act granting an increase of pension to Samuel Hyatt;

S. 4660. An act granting an increase of pension to Nellie B. Newton;

S. 4691. An act granting an increase of pension to Leonard L. Lancaster;

S. 4722. An act granting an increase of pension to Martin V. Trough;

S. 4760. An act granting an increase of pension to Ezekiel Riggs;

S. 4823. An act granting an increase of pension to Mary Martin;

S. 4888. An act granting an increase of pension to Pierpont H. B. Moulton;

S. 4897. An act granting an increase of pension to Reuben Allred;

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S. 5426. An act granting a pension to Henry O. Kent;
S. 5432. An act granting an increase of pension to Elias Stillwell;
S. 5451. An act granting an increase of pension to George W. Benedict;
S. 5455. An act granting an increase of pension to Jeanie G. Lyles;
S. 5509. An act granting an increase of pension to Susie C. G. Seabury;
S. 5523. An act granting an increase of pension to James Minnick;
S. 5527. An act granting an increase of pension to John A. Kingman;
S. 5540. An act granting an increase of pension to Jerome Bradley;
S. 5550. An act granting an increase of pension to Martin Mack;
S. 5568. An act granting an increase of pension to Flora B. Bonham;
S. 5670. An act granting an increase of pension to James W. Stickley;
S. 5678. An act granting a pension to Margaret McKee Pentland, formerly Margaret McKee;
S. 5698. An act granting an increase of pension to Martin Schubert;
S. 5712. An act granting an increase of pension to Sally Dickinson;
S. 5727. An act granting an increase of pension to Jesse Woodruff;
S. 5757. An act granting an increase of pension to William A. Luther;
S. 5766. An act granting an increase of pension to Andrew S. Graham;
S. 5802. An act granting an increase of pension to Luther M. Bartlow;
S. 5808. An act granting an increase of pension to William Steel;
S. 5809. An act granting an increase of pension to Cyrus Wetherell;
S. 5812. An act granting an increase of pension to William T. Graham;
S. 5815. An act granting an increase of pension to James McKim;
S. 5841. An act granting an increase of pension to Nelson P. Smith;
S. 5842. An act granting an increase of pension to Thomas G. Parish;
S. 5856. An act granting an increase of pension to William V. Morrison;
S. 5868. An act granting an increase of pension to Mary C. Buck;
S. 5892. An act granting an increase of pension to James McAuliff;
S. 5938. An act granting an increase of pension to Owen A. Willey;
S. 5939. An act granting an increase of pension to George W. Hall;
S. 5940. An act granting an increase of pension to Jason R. C. Hoyt;
S. 5941. An act granting an increase of pension to Alma Yohum;
S. 5943. An act granting an increase of pension to Jared Prindle;
S. 5953. An act granting an increase of pension to Charles P. Thurston;
S. 5958. An act granting an increase of pension to Mary J. Bartlett;
S. 5961. An act granting an increase of pension to Warren P. Tenney;
S. 5971. An act granting a pension to Cordelia Bird;
S. 5975. An act granting an increase of pension to Lucy Lytton;
S. 6004. An act granting an increase of pension to James Hulme;
S. 6074. An act granting an increase of pension to William Smith;
S. 6085. An act granting an increase of pension to Leonard Delamater;
S. 6091. An act granting an increase of pension to William Welch;
S. 6092. An act granting an increase of pension to Elijah W. Gordon;
S. 6094. An act granting an increase of pension to Ephraim W. Harrington;
S. 6116. An act granting an increase of pension to Francis M. Sims;
S. 6130. An act granting an increase of pension to Charles L. Harmon;
S. 6191. An act granting an increase of pension to Charles R. Van Norman;
S. 6192. An act granting an increase of pension to James McGinnis;
S. 6193. An act granting a pension to Jacob O. White;
S. 6194. An act granting an increase of pension to William S. Moorhouse;
S. 6195. An act granting an increase of pension to Frederick Feigley;
S. 6196. An act granting an increase of pension to William Dickinson;
S. 6268. An act granting an increase of pension to Adria M. S. Moale;
S. 6321. An act granting a pension to Hattie F. Davis;
S. 6584. An act to incorporate the trustees of the Grand Encampment of Knights Templar of the United States of America;
H. R. 3947. An act for the relief of holders and owners of certain District of Columbia special-tax scrip;
H. R. 7296. An act for the protection of the public forest reserves and national parks of the United States;
H. R. 7869. An act in relation to bonds on contracts with the District of Columbia;
H. R. 9493. An act to amend the act of February 8, 1897, entitled "An act to prevent the carrying of obscene literature and articles designed for indecent and immoral use from one State or Territory into another State or Territory," so as to prevent the importation and exportation of the same;
H. R. 9758. An act for the relief of the heirs of George McGhehey for services rendered as mail contractor;
H. R. 14623. An act 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.
H. R. 14626. An act to quiet titles to land in the city of Mobile, State of Alabama;
H. R. 14710. An act authorizing the use of earth, stone, and timber on the public lands and forest reserves of the United States in the construction of works under the national irrigation law;
H. R. 14906. An act for the relief of H. B. Wise;
H. R. 15011. An act to open to homestead settlement and entry relinquished and undisposed of portions of the Round Valley Indian Reservation, and for other purposes;
H. R. 16567. An act to authorize the Decatur Transportation and Manufacturing Company, a corporation, to construct, maintain, and operate a bridge across the Tennessee River at or near the city of Decatur, Ala.;
H. R. 17749. An act authorizing the Kensington and Eastern Railroad Company to construct a bridge across the Calumet River;
H. R. 17789. An act to amend an act entitled "An act to authorize W. Denny & Co. to bridge Dog River, in the State of Mississippi;"
H. R. 18035. An act to amend section 552 of the Code of Laws for the District of Columbia relating to incorporations; and
S. R. 88. Joint resolution authorizing the Secretary of War to furnish a condemned cannon to the board of regents of the University of Minnesota, at Minneapolis, Minn., to be placed on campus as a memorial to students of said university who served in the Spanish war.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented a memorial of the congregation of the Congregational Church of Normal, Ill., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a petition of sundry citizens of East Alton, Ill., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

Mr. GALLINGER presented a petition of the Woman's Christian Temperance Union of Dover, N. H., and a petition of the Woman's Christian Temperance Union of East Haverhill, N. H., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah;

which were referred to the Committee on Privileges and Elections.

He also presented the petition of William H. Baldwin, of Washington, D. C., praying for the enactment of legislation providing for compulsory education in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented a petition of Washington Association, No. 1, National Association of Stationary Engineers, of Washington, D. C., praying for the adoption of a certain amendment to the so-called "smoke law" in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. McCUMBER presented a concurrent resolution of the legislature of North Dakota, relative to removing the internal-revenue tax from alcohol denaturized and intended to be used in the industries; which was read and referred to the Committee on Finance, as follows:

Concurrent resolution introduced by Mr. Shiels.

Whereas there is a demand for a cheap and more efficient fuel to be used in gas engines, thrashing engines, and automobiles, for heating and lighting purposes; and

Whereas it has been demonstrated in several European countries that alcohol when rendered unfit for use as a beverage is a most efficient source for such power; and

Whereas many industries would be largely stimulated and built up in this country could alcohol be had at its actual cost for production; and

Whereas the general production of alcohol for industrial purposes, as before mentioned, would afford a largely increased and open market for many farm products, and in this way benefit the farmers of the United States and at the same time furnish them a cheap substitute fuel for use in place of gasoline in engines and automobiles, and would render cheaper many products in the industries, thus benefiting all the people: Therefore be it

Resolved by the house of representatives of North Dakota (the senate concurring), That our Senators and Members of the House of Representatives in Congress be requested to put forth every effort and use all honorable means to secure the enactment of the Boutell bill, or of such a bill, for removing the tax from alcohol denaturized and intended for use in the industries; and be it

Further resolved, That a copy of these resolutions be presented to each of the Senators and Representatives of the State of Washington.

Mr. STEWART presented a memorial of sundry citizens of Arkansas and the Indian Territory, remonstrating against the annexation of the Indian Territory to Oklahoma, and also for the enactment of legislation to prohibit the sale of intoxicating liquors in the Indian Territory; which was ordered to lie on the table.

Mr. TELLER presented a memorial of the Oglala or Pine Ridge Sioux Indians, remonstrating against the use of the tribal trust funds for the support of Roman Catholic schools; which was referred to the Committee on Indian Affairs.

Mr. STONE presented a petition of Sedalia Division, No. 178, Brotherhood of Locomotive Engineers, of Jefferson City, Mo., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Retail Druggists' Association of Phelps and Pulaski counties, Mo., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented a petition of the Business Men's League of St. Louis, Mo., and a petition of the Manufacturers' Association of St. Louis, Mo., praying for the enactment of legislation providing for untaxed denaturized alcohol for industrial purposes; which were referred to the Committee on Finance.

Mr. GAMBLE presented the petition of David Harrington and 33 other citizens of Sioux Falls, S. Dak., and a petition of the Woman's Christian Temperance Union of Sioux Falls, S. Dak., praying for the enactment of legislation providing for continued prohibition of the liquor traffic in the Indian Territory according to recent agreements with the Five Civilized Tribes; which were ordered to lie on the table.

Mr. FOSTER of Washington presented a petition of the Retail Druggists' Association of Spokane, Wash., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented a petition of the Western Washington Woman's Christian Temperance Union of Seattle, Wash., 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 a memorial of the Woman's Christian Temperance Union of Everett, Wash., and a memorial of the Woman's Christian Temperance Union of Clarkston, Wash., remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

He also presented petitions of Spokane Lodge, No. 307, Brotherhood of Railroad Trainmen, of Spokane; of Puget Sound Division, No. 399, Brotherhood of Locomotive Engineers, of Seattle, and of Puget Sound Lodge, No. 196, Brotherhood of Railroad Trainmen, of Seattle, all in the State of Washington, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

Mr. CLAY. I am in receipt of a memorial of the cotton growers' convention recently held in the city of New Orleans, La., addressed to the President, the Secretary of Agriculture, and to Congress. The memorial has been forwarded to me by Hon. W. L. Peek, a prominent farmer of my State, and is as follows:

Whereas the present markets for American cotton products are not sufficient to dispose of the present crop; and

Whereas we believe the consumption of cotton can be greatly increased in the markets of the world; and

Whereas such increase will result in untold good to the cotton-growing States, reducing the surplus, thereby creating a greater demand and, necessarily, higher prices for our cotton. Therefore, be it

Resolved, That a special committee be appointed by this convention to confer with the President of the United States, the Secretary of Agriculture, and the manufacturers of cotton goods to obtain such concerted action as will enlarge our trade in cotton products in foreign countries.

Resolved, That this convention request Congress to appropriate a few million dollars to assist in extending the market for cotton goods in other parts of the world.

I move that the memorial be referred to the Committee on Agriculture and Forestry.

The motion was agreed to.

Mr. DRYDEN presented memorials of the congregation of the Methodist Episcopal Church of Hope; of sundry citizens of Rahway; of the congregation of the First Presbyterian Church of Dunellen; of Thomas Coyle, of Princeton, and of the Anti-Saloon League of Fairton, all in the State of New Jersey, remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

He also presented a petition of the congregation of the First Presbyterian Church of Dunellen, N. J., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all soldiers' homes, buildings, grounds, and ships owned by the Government; which was referred to the Committee on Military Affairs.

He also presented a petition of the congregation of the First Presbyterian Church of Dunellen, N. J., and the petition of Charles Rowland, New Jersey, praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the Indian Territory when admitted to statehood; which were ordered to lie on the table.

He also presented petitions of the congregation of the First Presbyterian Church of Dunellen; of the Woman's Christian Temperance Union of Atlantic City; of the Woman's Christian Temperance Union of Essex County, and of the Woman's Christian Temperance Union of Haddonfield, all in the State of New Jersey, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. McCOMAS presented a petition of the city council of Annapolis, Md., praying that an appropriation of $40,000 be made to pave the street leading to the national cemetery in that city; which was referred to the Committee on Military Affairs.

Mr. HANSBROUGH. I present the memorial of the Retail Merchants' Association of North Dakota, adopted at a meeting held at Valley City, N. Dak., remonstrating against the passage of the so-called "drawback bill." I ask that the memorial be read and referred to the Committee on Interstate Commerce.

There being no objection, the memorial was read, and referred to the Committee on Interstate Commerce, as follows:

VALLEY CITY, N. DAK., *January 25, 1905.*

Resolution adopted by the retail merchants of North Dakota against the "drawback bill."

Whereas the National Millers' Federation has applied to the Department of Justice at Washington, D. C., for a construction of section 30 of the Dingley tariff act, know as the "drawback clause," so as to allow the importation of Canadian wheat and other foreign wheat into the United States upon paying a duty of 25 cents per bushel, said wheat to be mixed with domestic wheat, and, upon exporting the manufactured flour, a rebate of 99 per cent of the duty paid to be given to the exporter, and the amount of flour ground from the imported wheat to depend wholly on the certification or affidavit of the manufacturer of said flour, waiving the identification of the foreign product in the completed article; and

Whereas in the opinion of the Retail Merchants' Association of North Dakota, in convention assembled at Valley City, N. Dak., the granting of said request of the millers would practically nullify paragraph 234 of said law and would prove disastrous to the wheat growers of the Northwest: Therefore, be it

Resolved by the members of the Retail Merchants' Association in convention, That we earnestly protest against the granting of the application of the National Millers' Federation and request our delegates in

Congress to put forth every effort to protect the interests of the grain growers of the Northwest against such injustice as would naturally follow the construction of the Dingley tariff act as requested by the National Millers' Federation; and be it further

Resolved, That a copy of these resolutions be mailed the Secretary of the Treasury, the Secretary of Agriculture, the Attorney-General, and to each of the Representatives in Congress.

W. W. KING,
Secretary Retail Merchants' Association of North Dakota.

Mr. HANSBROUGH presented a memorial of the Retail Merchants' Association of North Dakota, remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed in the RECORD, as follows:

VALLEY CITY, N. DAK., *January 25, 1905.*

Resolution adopted by the retail merchants of North Dakota against the parcels-post bill.

Whereas during the past session of Congress several bills have been introduced proposing the adoption of a domestic parcels post; and

Whereas such legislation would engender a tremendous expenditure of money and cause a large deficit in the Postal Department; and

Whereas such deficit must be met by general taxation; and

Whereas the benefit of such legislation would be confined to a few mail-order houses already enjoying special privileges; and

Whereas a concentration of business should not be encouraged at the expense of thousands of retailers and taxpayers in the smaller cities; and

Whereas such legislation would place the retail merchant of the country at large in unfair competition with the concerns who contribute nothing toward the maintenance of schools, roads, and other municipal institutions; and

Whereas the ultimate effect of such legislation would be a general decrease in the value of real estate in the smaller cities, thus reducing the national wealth: Therefore, be it

Resolved by the Retail Merchants' Association of North Dakota, That we disapprove of this attempt to create class legislation. That we protest against the passage of any bill for the creation or adoption of a domestic parcels post.

That a copy of these resolutions be forwarded to the Senators and Representatives in Congress from North Dakota and to the Secretary of Commerce and Labor.

W. W. KING,
Secretary Retail Merchants' Association of North Dakota.

Mr. COCKRELL presented a petition of the Phelps and Pulaski County Retail Druggists' Association, of Rolla, Mo., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented a petition of Sedalia Division, No. 178, Brotherhood of Locomotive Engineers, of Jefferson, Mo., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of Lieutenant S. A. M. George Post, No. 252, Department of Missouri, Grand Army of the Republic, of Humansville, Mo., praying for the enactment of legislation to modify and simplify the pension laws of the United States; which was referred to the Committee on Pensions.

He also presented a petition of 45 citizens of Kansas City, Mo., praying for the enactment of legislation providing for an acknowledgment of the authority of Christ and the law of God in the Constitution of the United States; which was referred to the Committee on the Judiciary.

Mr. FRYE presented the memorial of F. W. Walker and 28 other citizens of the State of Maine, remonstrating against any change or modification of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Commercial Club of Chicago, Ill., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Washington Teachers' Association, of Washington, D. C., praying for the enactment of legislation to increase the salaries of teachers in that city; which was referred to the Committee on the District of Columbia.

OPIUM IN CHINA.

Mr. CULLOM. I present a paper, being a report of a hearing held by a number of persons before the State Department in the interest of the prohibition of the opium traffic with China. I move that the paper be printed as a document for the use of the Senate and that it lie on the table.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. PLATT of New York, from the Committee on Printing, to whom was referred the amendment submitted by Mr. PROCTOR December 13, 1904, providing for the purchase of additional land for the Government Printing Office in the District of Columbia, intended to be proposed to the sundry civil appropriation bill, reported it with an amendment, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

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

A bill (H. R. 4385) granting an increase of pension to Thomas Thompson;

A bill (H. R. 12341) granting a pension to John Stilts;

A bill (H. R. 17161) granting an increase of pension to Claiborne J. Walton;

A bill (H. R. 17891) granting an increase of pension to Robert M. Alexander;

A bill (H. R. 10628) granting an increase of pension to Margaret B. Rapp;

A bill (H. R. 16625) granting a pension to Laura A. Baughey; and

A bill (H. R. 17452) granting an increase of pension to Franklin Savage.

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

A bill (H. R. 8983) granting an increase of pension to Jonathan R. Cox;

A bill (H. R. 16325) granting an increase of pension to Jonas Myers;

A bill (H. R. 16398) granting an increase of pension to Michael Keating;

A bill (H. R. 6663) granting a pension to Mahala Alexander;

A bill (H. R. 17434) granting an increase of pension to Samuel H. Draper;

A bill (H. R. 16876) granting an increase of pension to Samuel Nicholas;

A bill (H. R. 16687) granting an increase of pension to M. Helen Orchard;

A bill (H. R. 12079) granting an increase of pension to Mary L. G. Mew;

A bill (H. R. 16731) granting an increase of pension to Wallace W. Hicks;

A bill (H. R. 17017) granting an increase of pension to Joseph S. Thompson;

A bill (H. R. 17131) granting an increase of pension to James W. Cross;

A bill (H. R. 16828) granting an increase of pension to James Spaulding;

A bill (H. R. 16370) granting an increase of pension to Henry H. Wright;

A bill (H. R. 8392) granting an increase of pension to Eli B. Helm;

A bill (H. R. 13188) granting an increase of pension to Charles H. Dunihue;

A bill (H. R. 11114) granting an increase of pension to William D. Leek;

A bill (H. R. 4461) granting an increase of pension to Frederick Baker;

A bill (H. R. 15044) granting an increase of pension to Nahrvista G. Heard;

A bill (H. R. 15293) granting an increase of pension to John P. Davis;

A bill (H. R. 17046) granting an increase of pension to Hartvig Engbretson;

A bill (H. R. 17464) granting an increase of pension to Nancy J. Nelson;

A bill (H. R. 17771) granting an increase of pension to Jerome B. Nulton;

A bill (H. R. 3080) granting an increase of pension to David P. Foster;

A bill (H. R. 10950) granting an increase of pension to William Clark;

A bill (H. R. 16335) granting an increase of pension to Frank C. Culley;

A bill (H. R. 11020) granting an increase of pension to Henry W. Hurlbut;

A bill (H. R. 17325) granting an increase of pension to Albert H. Noble; and

A bill (H. R. 17297) granting an increase of pension to Joseph C. Prosser.

Mr. GORMAN, from the Committee on the District of Columbia, to whom was referred the amendment submitted by himself on the 27th ultimo proposing to appropriate $10,000 for continuing the grading of Pennsylvania avenue east from Branch avenue to the District line, intended to be proposed to the District of Columbia appropriation bill, submitted a favorable report thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

Mr. SIMMONS, from the Committee on the District of Columbia, to whom was referred the bill (S. 6969) to amend an act entitled "An act to establish a code of law for the District of

Columbia," reported it without amendment, and submitted a report thereon.

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

A bill (H. R. 15535) granting a pension to John Crotty;

A bill (H. R. 15741) granting an increase of pension to John S. Duncan;

A bill (H. R. 15835) granting an increase of pension to James M. Walker;

A bill (H. R. 15575) granting an increase of pension to Jones Adler; and

A bill (H. R. 15497) granting an increase of pension to Patrick H. Oliver.

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

A bill (H. R. 17272) granting an increase of pension to Chauncey L. Guilford;

A bill (H. R. 17677) granting an increase of pension to James Hudson;

A bill (H. R. 17374) granting an increase of pension to Georgia A. Harlow;

A bill (H. R. 16684) granting an increase of pension to Lena Loeser;

A bill (H. R. 17201) granting an increase of pension to Henry Lorch;

A bill (H. R. 17403) granting an increase of pension to Horace Winslow;

A bill (H. R. 5113) granting an increase of pension to Almon W. Gould; and

A bill (H. R. 17197) granting an increase of pension to James Mitchell.

Mr. BURNHAM, from the Committee on Claims, to whom was referred the bill (S. 6327) for the relief of L. K. Scott, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 6347) to refer to the Court of Claims the claim of L. K. Scott, reported adversely thereon; and the bill was postponed indefinitely.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the amendment submitted by himself on the 27th ultimo, proposing to appropriate $150,000 for the purchase of a tract of land known as "Montrose" for use as a public park in the District of Columbia, intended to be proposed to the District of Columbia appropriation bill, submitted a favorable report thereon, and moved that it be printed and referred to the Committee on Appropriations; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. 6705) authorizing the extension of W street NW., reported it without amendment, and submitted a report thereon.

Mr. CULLOM, from the Committee on Foreign Relations, reported an amendment proposing to appropriate $1,200 for a third secretary of embassy to Italy, intended to be proposed to the diplomatic and consular appropriation bill, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

DISTRICT WATER SUPPLY.

Mr. STEWART. I report back from the Committee on the District of Columbia with an amendment the amendment intended to be proposed to the District of Columbia appropriation bill, which was submitted by me on the 1st instant and referred to that committee. The amendment to the amendment reduces the amount appropriated from $25,000 to $5,000, and as amended by the committee it reads:

To enable the Secretary of War to examine with a view of ascertaining if there is a watershed from which a supply of pure water could be obtained for the District of Columbia, provided the Government should become the sole owner of such watershed, and should protect the same and prevent any occupation thereof, except for such water supply, $5,000.

I will state in this connection that it is not intended to cast any doubt upon the efforts that are being made to purify the Potomac water, the vast expenditures that are going on for filtration, and so forth, but the object is simply to make the inquiry, and if there should be a watershed within reach from which pure water could be obtained we would like to know that fact. The inquiry can be made for a small amount of money, and it will not interfere with the filtration project. That will be useful anyhow. I think it can do no harm to know if pure water can be obtained. So the committee report back the amendment favorably. I move that it be referred to the Committee on Appropriations, and printed.

The motion was agreed to.

SIGNAL STATION AT ROBINSONS POINT, MAINE.

Mr. FRYE. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6929) to establish a light and fog-signal station at Robinsons Point, Isle au Haut thoroughfare, Maine, to report it favorably with an amendment, and I ask for its present consideration.

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

The amendment of the Committee on Commerce was, in line 3, after the word "thousand," to insert the words "four hundred;" so as to make the bill read:

Be it enacted, etc., That the sum of $14,400, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the establishment of a light and fog-signal station at or near Robinsons Point, Isle au Haut thoroughfare, Maine.

The amendment was agreed to.

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

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TRANSPORTATION OF GASOLINE.

Mr. NELSON. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6425) to amend section 4472 of the Revised Statutes so as to remove certain restrictions upon the transportation by steam of gasoline and other products of petroleum when carried by motor vehicles (commonly known as automobiles) using the same as a source of motive power to report it favorably without amendment, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 4472 of the Revised Statutes, approved February 20, 1901, to read as follows:

Nothing in the foregoing or following sections of this act shall prohibit the transportation by steam vessels of gasoline or any of the products of petroleum when carried by motor vehicles (commonly known as automobiles) using the same as a source of motive power: *Provided, however*, That all fire, if any, in such vehicles or automobiles be extinguished immediately after entering the said vessel, and that the same be not relighted until immediately before said vehicle shall leave the vessel: *Provided, further*, That any owner, master, agent, or other person having charge of passenger steam vessels shall have the right to refuse to transport automobile vehicles the tanks of which contain gasoline, naphtha, or other dangerous burning fluids.

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

BILLS AND JOINT RESOLUTION INTRODUCED.

Mr. NELSON (for Mr. CLAPP) introduced a bill (S. 7044) granting an increase of pension to Byron Lent; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 7045) for the relief of the legal owners of the Phœnix mill and warehouses at Fayetteville, N. C.; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) introduced a bill (S. 7046) for the relief of Mary Von Kusserow; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 7047) granting a pension to Catherine Lenihan, now Hairsine; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 7048) granting a pension to John S. Barr; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 7049) providing for an additional circuit judge in the seventh judicial circuit and for the appointment of an additional judge for the northern district of Illinois, and creating an additional district in the State of Illinois, to be known as the eastern district of Illinois, and for the appointment of a judge and other officers of said district, and for changing the boundaries of the districts in Illinois, and for establishing places for holding court in the several districts thus created; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 7050) to provide for the appointment of a permanent United States Commissioner at Madill, Ind. T., and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PATTERSON introduced a bill (S. 7051) to increase the powers of the Interstate Commerce Commission and to expedite the final decision of cases arising under the act to regulate commerce by creating an interstate-commerce court; which was read twice by its title, and referred to the Committee on Interstate Commerce.

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

A bill (S. 7052) for the relief of the Salem Baptist Church of Clarke County, Va.;

A bill (S. 7053) for the relief of the Alfred Street Baptist Church (colored), of Alexandria, Va.; and

A bill (S. 7054) for the relief of the heirs of William D. Etheridge.

Mr. CRANE introduced a bill (S. 7055) to provide a leprosarium for the segregation of lepers and to prevent the spread of leprosy in the United States; which was read twice by its title, and referred to the Committee on Public Health and National Quarantine.

Mr. TALIAFERRO introduced a bill (S. 7056) granting an increase of pension to Martha Haddock; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. BALL introduced a bill (S. 7057) granting an increase of pension to Addie B. Thomas; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LONG introduced a bill (S. 7058) to provide for terms of court at Tulsa in the western district of Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. STEWART introduced a joint resolution (S. R. 105) authorizing the Secretary of the Interior, in conjunction with the State of Texas, to determine and establish the boundary line between the Choctaw Nation, Ind. T., and the State of Texas; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. FOSTER of Washington submitted an amendment providing for the carrying into effect of the agreement of May 9, 1891, entered into between the Indians of the Colville Reservation and the commissioners appointed under the authority of the act of Congress approved August 19, 1890, and proposing to appropriate $1,500,000 to be held for the use and benefit of said Indians in full payment of their land, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GALLINGER submitted an amendment relative to the reorganization of the Hospital Corps of the United States Navy, intended to be proposed by him to the naval appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Naval Affairs.

Mr. LONG submitted an amendment providing for the holding each year of at least one term of the United States court at Tulsa, in the eighth recording district of the Indian Territory, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. DILLINGHAM submitted an amendment proposing to appropriate $25,000 for the relief of the Copper River Indians of Alaska, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. HANSBROUGH submitted an amendment relative to the imposition of a duty of 25 cents per bushel upon all importations of wheat, as provided for by paragraph 234 of the act of July 24, 1897, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

AMENDMENT TO STATEHOOD BILL.

Mr. KEARNS 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 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; which was ordered to lie on the table, and be printed.

THOMAS KENNEDY.

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

Resolved, That Thomas Kennedy be employed by the Sergeant-at-Arms as laborer in the Senate folding room, at a salary of $840 per annum, to be paid from the contingent expenses of the Senate, the said employment to take effect February 15, 1905.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

H. R. 11961. An act to provide an American register for the steam lighter *Pioneer;*

H. R. 17350. An act declaring Grand River to be not a navigable stream; and

H. R. 17935. An act authorizing the Louisa and Fort Gay Bridge Company, of Louisa, Ky., to erect a bridge across the Tug and Levisa forks of the Big Sandy River.

H. R. 16646. An act to amend section 2787 of the Revised Statutes of the United States was read twice by its title, and referred to the Committee on Finance.

H. J. Res. 184. Joint resolution authorizing the Secretary of War to furnish a condemned cannon to the armory at St. Paul, Minn., to construct a memorial tablet was read twice by its title, and referred to the Committee on Military Affairs.

H. R. 9208. An act granting the right of way for the construction of a railroad and other improvements over and on that part of the Hot Springs Reservation known as West Mountain, Hot Springs, Ark., was read twice by its title, and referred to the Committee on Public Lands.

H. R. 16906. An act to amend section 12, chapter 1495, Statutes of the United States of America, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," was read twice by its title, and referred to the Committee on Indian Affairs.

IRRIGATION AND RECLAMATION WORKS.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6312) providing for the construction of irrigation and reclamation works in certain lakes and rivers.

The amendment was to strike out all after the enacting clause and insert:

That the Secretary of the Interior is hereby authorized in carrying out any irrigation project that may be undertaken by him under the terms and conditions of the national reclamation act and which may involve the changing of the levels of Lower or Little Klamath Lake, Tule or Rhett Lake, and Goose Lake, or any river or other body of water connected therewith, in the States of Oregon and California, to raise or lower the level of said lakes as may be necessary and to dispose of any lands which may come into possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the national reclamation act.

Amend the title so as to read: "An act authorizing the changing of the levels of certain lakes and the disposal of certain lands under the terms of the national reclamation act."

Mr. BARD. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

The PRESIDENT pro tempore (at 12 o'clock and 30 minutes p. m.). The hour has arrived to which the Senate sitting as a court of impeachment adjourned, and the Senator from Connecticut will please take the chair.

Mr. PLATT of Connecticut assumed the chair.

The PRESIDING OFFICER (Mr. PLATT of Connecticut). The Senate is now sitting for the trial of the impeachment of Charles Swayne, a judge of the United States in and for the northern district of Florida. The Sergeant-at-Arms will make proclamation.

The Sergeant-at-Arms made proclamation, as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives of the United States against Charles Swayne, judge of the district court of the United States in and for the northern district of Florida.

The PRESIDING OFFICER. The following Senators who are now present and who have not been heretofore sworn will please present themselves in front of the desk to receive the oath: Mr. QUARLES, Mr. CULBERSON, and Mr. FOSTER of Washington.

Mr. QUARLES, Mr. CULBERSON, and Mr. FOSTER of Washington advanced to the area in front of the Secretary's desk, and the Presiding Officer administered to them the following oath:

You do, each of you, solemnly swear that in all things appertaining to the trial of the impeachment of Charles Swayne, judge in and for the northern district of Florida, now pending, you will do impartial justice, according to the Constitution and laws. So help you God.

The PRESIDING OFFICER. The Sergeant-at-Arms will notify the managers, if they are in waiting, that the Senate is ready to proceed.

At 12 o'clock and 32 minutes p. m. the managers on the part of the House of Representatives were announced, and they were

conducted by the Assistant Sergeant-at-Arms to the seats assigned them in the area in front of the Secretary's desk.

The PRESIDING OFFICER. The Sergeant-at-Arms will also notify the counsel for the respondent.

Mr. Anthony Higgins and Mr. John M. Thurston, counsel for the respondent, entered the Chamber and were assigned to the seats provided for them in the area in front of the Secretary's desk.

The PRESIDING OFFICER. The Journal of the proceedings of the last session of the Senate sitting for the trial of the impeachment of Charles Swayne will now be read.

The Journal of the proceedings of the Senate sitting as a court on Friday, January 27, 1905, was read.

Mr. BACON. Mr. President, I am instructed by the special committee of the Senate in the present impeachment case to submit an order relative to the procedure in this case, which it is requested may have present consideration and be adopted.

The PRESIDING OFFICER. The proposed order will be read by the Secretary.

The Secretary read as follows:

Ordered, That in all matters relating to the procedure of the Senate sitting in the trial of the impeachment of Charles Swayne, judge of the district court of the United States in and for the northern district of Florida, whether as to form or otherwise, the managers on the part of the House, or the counsel representing the respondent, may submit a request or application orally to the Presiding Officer, or, if required by him or requested by any Senator, shall submit the same in writing.

In all matters relating immediately to the trial, such as the admission, rejection, or striking out of evidence, or other questions usually arising in the trial of causes in courts of justice, if the managers or counsel for the respondent desire to make any application, request, or objection, the same shall be addressed directly to the Presiding Officer and not otherwise.

It shall not be in order for any Senator to engage in colloquy, or to address questions either to the managers on the part of the House or the counsel for the respondent, nor shall it be in order for Senators to address each other, but they shall address their remarks directly to the Presiding Officer.

The PRESIDING OFFICER. The Senator from Georgia asks unanimous consent for the immediate consideration of the order which has just been read. Is there objection? [A pause.] If not, shall it be adopted? [Putting the question.] The order is agreed to.

Mr. SPOONER. Mr. President, as the order is to operate as a suspension, during the time of this trial, of general rules of the Senate upon the subject of impeachment, I think the record should show what the fact is—that the order was unanimously adopted.

The PRESIDING OFFICER. The Presiding Officer will state that the resolution was unanimously adopted. Are counsel for the respondent ready to proceed?

Mr. THURSTON. Mr. President, counsel for the respondent now come, and for answer of said Charles Swayne under impeachment herein say:

And the said Charles Swayne, named in said articles of impeachment, comes before the honorable Senate of the United States, sitting as a court of impeachment, and says that this honorable court ought not to have or take further cognizance of the first of said articles of impeachment so exhibited and presented against him, because, he says, the facts set forth in said first article do not, if true, constitute an impeachable high crime and misdemeanor as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said first article, the said respondent saving to himself all advantages of exception to said first article, for answer thereto saith:

He admits that on the 20th day of April, 1897, at Waco, in the State of Texas, acting as United States judge in and for the northern district of Florida, he made and presented to R. N. Love, the United States marshal in and for the northern district of Texas, the certificate in writing as set forth in the said first article, and did then and there receive from the said R. N. Love, United States marshal as aforesaid, the sum of $230 in full payment of the account certified to as aforesaid, and the respondent says that he then and there believed, and still believes and insists, that, under the true meaning and intent of the statutes of the United States allowing the expenses of a district judge of the United States for travel and expenses while holding court outside of his own district, the said claim was just and in strict accordance with the provisions of the law of Congress in that respect enacted; and he denies that he then and there knew or believed said claim to be false, as set forth in said article; and he denies that he signed and presented the said certificate for the purpose of obtaining payment of any false claim; and he denies that he then and there made and used a false certificate knowing or believing said certificate to be false, all as alleged in said first article; and he denies that he then and there knew or believed that there was then and there justly due him a far less sum than the sum specified in the said certificate, all as alleged and charged in the said first article.

And further answering, respondent says that at the time he made and presented the said certificate he had been, by order of the circuit judge of the United States of the fifth judicial circuit, ordered and directed, as provided by law, to leave the northern district of Florida and proceed to the city of Waco, in the northern district of Texas, and there hold court at said place, the same being outside of his own district; and he says that the statement made in said certificate in that respect was and is true, and that he was necessarily absent from the said northern district of Florida in attendance upon and holding court in the said northern district of Texas twenty-three days, commencing on the 20th day of April, 1897, as set forth and specified in the said certificate, and the said certificate is in that and all other respects true.

Respondent, further answering, says that at and before the time of proceeding to the said northern district of Texas, under direction and order of the circuit judge of the said circuit, as he was lawfully bound to do, and at the date of the making and presentation of the said certificate to the said United States marshal, he was cognizant of and knew the provisions of section 596 of the Revised Statutes of the United States, and of the repealing act relating thereto, to wit, paragraph 2 of chapter 133 of the act of Congress of March 3, A. D. 1881; that he was also cognizant of and knew the provisions of the act of Congress of June 11, 1896, relating to the compensation of judges for expenses for attendance and travel while outside of their respective districts engaged in holding terms of the United States courts; and in the making of said certificate and in the setting forth of the amount of his necessary expenses for travel and attendance outside of his district, at the said United States court held at Waco, Tex., it became his duty to construe the said last-specified act of Congress; and he says that to the best of his judgment, and in an honest effort to reach a true conclusion as to the construction and intent and meaning thereof, he reached the conclusion and judgment that under the true construction, intent, and meaning of the said act it was intended by the Congress of the United States that an allowance of $10 per day should be made to the said judges for the expenses of travel and attendance while holding court outside of their districts, as a fixed and definite allowance, and as a reasonable compensation to them, and each of them, for their necessary expenses for such travel and attendance; and respondent says that, so honestly believing it to be the true construction and intent and meaning of the said act, that he was, under the law, entitled to certify and receive from the Treasury of the United States his compensation for reasonable expenses for attendance and travel at the rate of $10 per day as a liquidated sum, and with the honest belief that he, this respondent, was entitled to collect and receive from the United States the sum of $10 per day as aforesaid, and to certify the said sum of $10 per day as his reasonable expenses for travel and attendance, this respondent made and presented the said certificate as set forth in said article, and received the sum of money therein certified; and he here and now insists that the construction so honestly placed by him upon the said provision of law aforesaid was the true construction, intent, and meaning of the same, as the same was intended to be expressed by the Congress of the United States in the enactment thereof; and he insists that he was entitled to the said compensation of $10 per day for necessary expenses of travel and attendance while holding court outside of his district, without being required to determine or ascertain at the time of making said certificate as to whether or not said sum of $10 had actually been paid out by him on each and every of said days, or as to whether or not he had actually incurred on each and every of said days expenses to the full amount of $10; and respondent denies expressly that he well knew that he was forbidden by law to receive compensation at said rate, but he says he honestly believed at the time he executed said certificate and received said moneys that he was lawfully entitled to so certify and receive the same.

Respondent says that he is fortified and confirmed in his honest belief that the construction so placed by him upon the said provision allowing him reasonable expenses for travel and attendance while holding court outside of his own district was and is right, and that he was entitled to certify to and receive from the United States the amount of $10 per day, as aforesaid, by the fact that, as he is informed and verily believes, and as the records of the Treasury Department will show, that many of the circuit judges of the United States had long prior to said time placed a similar construction upon section 8 of an act of Congress approved March 3, 1891, entitled

"An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," which section 8 provided, in terms similar to the act of Congress under and by virtue of which he so certified to his reasonable expenses for travel and attendance at the rate of $10 per day, for an allowance to said circuit judges of their "reasonable expenses for travel and attendance, not to exceed $10 per day," while attending circuit courts of appeals held at any place other than where the judges so certifying might reside, and by the further fact, as he is informed and verily believes, and as the records of the Treasury Department will show, that since the enactment of the law hereinbefore referred to, allowing the district judges their reasonable expenses for travel and attendance not exceeding $10 per day, and at times both prior and subsequent to the date when he made his said certificate and received the said sum of money therein specified, many of said district judges had placed a similar construction upon the said provision of law as the one placed thereon by this respondent and hereinbefore stated.

And respondent says that he attaches to this, his answer to the said article 1, copies of certificates of the Honorable the Secretary of the Treasury, marked, respectively, Exhibits A, et seq., and asks that the same be accepted and taken as a part of this his answer to the said article 1.

Respondent further says that he is informed and verily believes, and he alleges that the records of the Treasury Department will show, that at all times since the enactment by Congress of the several provisions hereinbefore referred to, allowing to the several judges of the courts of the United States their reasonable expenses for travel and attendance at the rate of $10 per day, many of the said judges of the United States courts have, from year to year and up to the present time, continued in their said construction of the true intent and meaning of the said several provisions, and have certified to and received from the Government of the United States the said sum of $10 per day for each and every day wherein they were attending courts at other places than within their own circuits and districts as their lawful allowance for reasonable expenses for travel and attendance.

Whereby respondent alleges that the said construction so placed by him upon the provision of the said statute had become, by the contemporaneous judgment and decision of many of the judges of the courts of the United States, the true and accepted construction, intent, and meaning of said provision.

Respondent further says that the various acts of appropriation of the Congress of the United States made from time to time, after full debate and with full knowledge of the construction which had been placed upon the said act, as will more fully appear from the proceedings and debates in Congress in connection with the said appropriations, further show that the construction and true meaning and intent of the said acts of Congress hereinbefore referred to were and are, as judged and determined by this respondent and by many of the judges of the courts of the United States, as hereinbefore set forth.

Respondent further says that up to the time charges were presented against him in the House of Representatives for alleged violation of the said provisions no suggestion or intimation had ever reached him, emanating from any of the judges of the courts of the United States, that the construction so placed by him upon the said provision was not the true construction, or that it did not represent the true intent and meaning of said act; notwithstanding the fact, as respondent is informed, and verily believes, that the auditing and other officials of the United States Treasury and many of the judges of the courts of the United States well knew and understood that the said construction, so placed upon the said provision by this respondent, was the same construction generally placed thereon by the said judges of the United States and by the officials of the United States having in charge the inspection and allowance of said accounts; and respondent alleges the fact to be that in all his acts and doings in the premises, and in the making of said certificate and receiving of said money as charged in said article 1, he acted honestly, conscientiously, and as he believed, and still believes, in the conscientious performance of his duties, and in accordance with the true construction, intent, and meaning of said provision.

Respondent further says that even if it shall be held and determined that the said construction of the said provision as to its true intent and meaning was erroneous, and not in law a correct construction of the true intent and meaning of the same, nevertheless it is manifestly apparent that the wording of said provision is such that the same might and could, in the exercise of an honest, conscientious, and impartial judicial consideration of the same, be fairly held to mean what this respondent determined and believed it meant when he was called upon, as aforesaid, to construe the same, and to decide as to what he should certify to the United States as his reasonable expenses for travel and attendance while holding court outside of his own district; and respondent says that his action, determination, and adjudication in that respect were free from any purpose or desire to defraud, or to certify to or receive from the United States any other or greater compensation than he was by law justly entitled to, and that all his actions in the premises were without any unlawful or fraudulent purpose or intent to deceive or defraud the Government of the United States; and he should not be adjudged guilty of a high crime or misdemeanor against the United States upon the allegations set forth in the said first article.

EXHIBIT A.

Statement showing amounts paid to United States circuit judges as expenses claimed while attending circuit courts of appeals away from their residences, and amounts paid to United States district judges as expenses claimed while holding court out of their own districts, or while attending circuit courts of appeals away from their residences, said courts being in the

FIFTH CIRCUIT.—*July 1, 1902, to June 30, 1903.*

Name of marshal.	Account No.	Place of holding court.	Number of days.	Name of judge.	Amount paid.
W. H. Johnson	89901	Atlanta, Ga	20	A. P. McCormick	$200.00
W. H. Johnson	89901	Atlanta, Ga	18	D. D. Shelby	180.00
Chas. Fontelieu	90562	New Orleans, La	47	D. D. Shelby	470.00
Chas. Fontelieu	90562	New Orleans, La	47	Aleck Boarman	470.00
Chas. Fontelieu	90562	New Orleans, La	37	D. A. Pardee	370.00
Chas. Fontelieu	90562	New Orleans, La	17	E. R. Meek	170.00
Chas. Fontelieu	95551	New Orleans, La	88	D. A. Pardee	880.00
Chas. Fontelieu	95551	New Orleans, La	83	A. P. McCormick	830.00
Chas. Fontelieu	95551	New Orleans, La	90	D. D. Shelby	900.00
Chas. Fontelieu	95551	New Orleans, La	5	E. R. Meek	50.00
Chas. Fontelieu	95551	New Orleans, La	14	W. T. Newman	140.00
Chas. Fontelieu	95551	New Orleans, La	64	Aleck Boarman	640.00
Chas. Fontelieu	96827	New Orleans, La	11	D. A. Pardee	110.00
Chas. Fontelieu	96827	New Orleans, La	12	D. D. Shelby	120.00
Chas. Fontelieu	96827	New Orleans, La	12	A. P. McCormick	120.00
Chas. Fontelieu	96827	New Orleans, La	41	Aleck Boarman	410.00
A. J. Houston	91439	Paris, Tex	2	E. R. Meek	20.00
A. J. Houston	93964	Paris, Tex	8	E. R. Meek	80.00
A. J. Houston	93964	Tyler, Tex	41	Charles Swayne	410.00
A. J. Houston	93964	Paris, Tex	3	E. R. Meek	20.00
D. N. Cooper	92609	Birmingham, Ala	31	H. T. Toulmin	310.00
G. H. Green	93536	Fort Worth, Tex	7	D. E. Bryant	35.00

TREASURY DEPARTMENT,
Washington, D. C., January 28, 1905.

I certify that the foregoing is a correct statement from accounts on file in this Department.

L. M. SHAW,
Secretary of the Treasury,
C. G. T.

EXHIBIT B.

Statement showing amounts paid to United States circuit judges as expenses claimed while attending circuit courts of appeals away from their residences, and amounts paid to United States district judges as expenses claimed while holding court out of their own districts or while attending circuit courts of appeals away from their residences, said courts being in the

SEVENTH CIRCUIT.—*July 1, 1902, to June 30, 1903.*

Name of marshal paying voucher.	Account No.	Place of holding court.	Number of days.	Name of judge.	Amount paid.
Ames	88452	Chicago, Ill	2	Jenkins	$20.00
Ames	88452	Chicago, Ill	1	Baker, F. E	10.00
Ames	88452	Chicago, Ill	4	Seaman	40.00
Ames	91604	Chicago, Ill	35	Jenkins	350.00
Ames	91604	Chicago, Ill	4	Bunn	40.00
Ames	91604	Chicago, Ill	35	Baker, F. E	350.00
Ames	91604	Chicago, Ill	35	Seaman	350.00
Ames	91604	Chicago, Ill	18	Humphrey	180.00
Ames	91604	Peoria, Ill	11	Humphrey	110.00
Ames	93882	Chicago, Ill	30	Jenkins	300.00
Ames	93882	Chicago, Ill	7	Bunn	70.00
Ames	93882	Chicago, Ill	28	Baker, F. E	280.00
Ames	93882	Chicago, Ill	10	Seaman	100.00
Ames	93882	Chicago, Ill	20	Humphrey	200.00
Ames	93882	Peoria, Ill	2	Humphrey	20.00
Ames	95604	Chicago, Ill	30	Jenkins	300.00
Ames	95604	Chicago, Ill	30	Baker, F. E	300.00
Ames	95604	Chicago, Ill	17	Seaman	170.00
Ames	95604	Chicago, Ill	8	Humphrey	80.00
Ames	95604	Peoria, Ill	11	Humphrey	110.00
Ames	95604	Chicago, Ill	3	Bunn	30.00
Ames	95604	Chicago, Ill	4	Anderson	40.00
Lewiston	89956	Madison, Wis	2	Seaman	20.00
Lewiston	95938	Madison, Wis	4	Seaman	40.00
Hitch	93825	Springfield, Ill	4	Kohlsaat	40.00
Pettit	95684	Indianapolis, Ind	11	Seaman	110.00

TREASURY DEPARTMENT,
Washington, D. C., January 28, 1905.

I certify that the foregoing is a correct statement from accounts on file in this Department.

L. M. SHAW,
Secretary of the Treasury,
C. G. T.

EXHIBIT C.

Statement showing amounts paid to United States circuit judges as expenses claimed while attending circuit courts of appeals away from their residences, and amounts paid to United States district judges as expenses claimed while holding court out of their own districts or while attending circuit courts of appeals away from their residences, said courts being in the

NINTH CIRCUIT.—*July 1, 1902, to June 30, 1903.*

Name of marshal.	Account No.	Place of holding court.	Number of days.	Name of judge.	Amount paid.
Matthews	88355	Portland, Oreg	7	Morrow	$70.00
Matthews	88355	Portland, Oreg	7	Ross	70.00
Hopkins	88353	Tacoma, Wash	17	DeHaven	124.00
Hopkins	88353	Seattle, Wash	8	Gilbert	80.00
Hopkins	88353	Seattle, Wash	13	Ross	130.00
Hopkins	88353	Seattle, Wash	11	Morrow	110.00
Shine	91447	San Francisco, Cal	26	Bellinger	260.00
Shine	91447	San Francisco, Cal	7	Hawley	70.00
Shine	91447	San Francisco, Cal	47	Ross	470.00
Shine	91447	San Francisco, Cal	49	Gilbert	490.00
Hopkins	90385	Tacoma, Wash	11	DeHaven	79.75
Shine	88266	San Francisco, Cal	3	Hawley	30.00
Shine	88266	San Francisco, Cal	7	Gilbert	70.00
Shine	88266	San Francisco, Cal	10	Ross	100.00
Shine	88266	San Francisco, Cal	62	Beatty	434.00
Shine	93794	San Francisco, Cal	44	Ross	440.00
Shine	93794	San Francisco, Cal	49	Gilbert	490.00
Shine	93794	San Francisco, Cal	19	Bellinger	190.00
Shine	93794	San Francisco, Cal	16	Hawley	150.00
Shine	95307	San Francisco, Cal	31	Ross	310.00
Shine	95307	San Francisco, Cal	23	Hawley	220.00
Shine	95307	San Francisco, Cal	40	Gilbert	400.00

TREASURY DEPARTMENT,
Washington, D. C., January 28, 1905.

I certify that the foregoing is a correct statement from accounts on file in this Department.

L. M. SHAW,
Secretary of the Treasury.
C. G. T.

Respondent asks leave to attach hereto further similar exhibits, when received from the Secretary of the Treasury, showing the amounts certified to and received by the several judges of the United States in the other circuits, for the year 1903, as their reasonable expenses for travel and attendance while holding court away from their places of residence, or outside of their respective districts.

ANSWER TO ARTICLE SECOND.

And the said Charles Swayne, named in the articles of impeachment, says that this honorable court ought not to have or take further cognizance of the second of said articles of impeachment so exhibited and presented against him, because he says the facts set forth in the said second article do not, if true, constitute an impeachable high crime and misdemeanor as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said second article, the said respondent saving to himself all advantages of exception to said second article, for answer thereto saith:

He admits that prior to the year 1900 he had been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida, and had entered upon the duties of his office, and was in the exercise of his office as judge as aforesaid at all times in the said article specified and as therein alleged.

Further answering, respondent says he admits that he was entitled by law to be paid his reasonable expenses for travel and attendance when lawfully directed to hold court outside of the northern district of Florida, not exceeding $10 per diem, to be paid upon his certificate by the United States marshal for the district in which the court was held, all as alleged in said article second; and respondent says that he was, at the time specified in said article second, absent from the said northern district of Florida, and was engaged in holding court at Tyler, Tex., under and by virtue of an order in that respect made by the circuit judge of the fifth judicial circuit of the United States; and he alleges that he was necessarily absent from his district attending and holding court at the said Tyler, Tex., and in going to and returning from said Tyler, Tex., as many days as he certified to in any certificate made by him and presented to the United States marshal for the eastern district of Texas, certifying to the amount of his reasonable expenses for travel and attendance while absent from his district to attend and hold the said court at Tyler, Tex.

Respondent says that he has not in his possession, and has not seen, since the time it was presented to the said United States marshal for the eastern district of Texas, the certificate which he made at that time setting forth his reasonable expenses for travel and attendance as aforesaid, and is not now able to remember or state the particular number of days specified in the said certificate, representing the time he was absent from his district in attending and holding court at the said Tyler, Tex., but he says that whatever number of days may appear in said certificate as having been so certified to by him were the true number of days he was absent from his said district in attending and holding court at Tyler, Tex., in pursuance of the order of the circuit judge of the fifth judicial circuit, as above stated; and respondent says that he did receive from the United States marshal for the eastern district of Texas, at or about the time stated in said article second, a sum of money as set forth in the said certificate, the exact amount of which this respondent is not able now to remember or state, but which represented an amount equal to $10 per diem for each of the days stated in said certificate during which this respondent had been absent from his district attending and holding court at the said Tyler, Tex.

Respondent denies the allegation, in said article second contained, wherein it is alleged that at the said time he so certified he well knew that he was forbidden by law to receive compensation for his necessary travel and attendance while holding court outside of his own district, at the rate of $10 per diem as certified in the said certificate, and he denies that he falsely certified as set forth and alleged in said article second.

Respondent, for further answer, says that in all his acts and doings, and in the making of the certificate and receiving the sum of money therein certified to, as hereinbefore stated, he believed at the time, and still believes, that the true construction and the true intent and meaning of the law of the United States providing for the payment for his reasonable expenses for travel and attendance as aforesaid, was, and is, as by him more fully set forth and stated in his answer herein to the first of the articles of impeachment presented against him herein; and with respect thereto he hereby reiterates and reaffirms all of the allegations and statements in said answer to said first article contained, and adopts the same as his further and complete answer to the said article second, and asks that the said allegations and statements in said answer to the said first article shall be taken and accepted as his further and complete answer to the allegations of said article second, as fully and with the same force and effect as if they were herein specifically reiterated and set forth, and prays equal benefit therefrom as if the same were here again fully repeated.

ANSWER TO ARTICLE THIRD.

And the said Charles Swayne, named in the articles of impeachment, says that this honorable court ought not to have or take further cognizance of the third of said articles of impeachment so exhibited and presented against him, because, he says, the facts set forth in the said third article do not, if true, constitute an impeachable high crime and misdemeanor, as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said third article, the said respondent saving to himself all advantages of exception to said third article, for answer thereto saith:

He admits that prior to the year 1900 he had been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida and had entered upon the duties of his office, and that he was in the exercise of his office as judge as aforesaid at all times in the said article specified and as therein alleged.

Further answering, respondent says he admits that he was entitled by law to be paid his reasonable expenses for travel and attendance when lawfully directed to hold court outside of the northern district of Florida, not exceeding $10 per diem, to be paid upon his certificate by the United States marshal for the district in which the court was held, all as alleged in said article third; and respondent says that he was at the time specified in said article third absent from the said northern district of Florida and was engaged in holding court at Tyler, Tex., under and by virtue of an order in that respect made by the circuit judge of the fifth judicial circuit of the United States; and he alleges that he was necessarily absent from his district attending and holding court at the said Tyler, Tex., and in going to and returning from said Tyler, Tex., as many days as he certified to in any certificate made by him and presented to the United States marshal for the eastern district of Texas certifying to the amount of his reasonable expenses for travel and attendance while absent from his district to attend and hold the said court at Tyler, Tex.

Respondent says that he has not in his possession, and has not seen since the time it was presented to the said United States marshal for the eastern district of Texas, the certificate which he made at that time, setting forth his reasonable expenses for travel and attendance as aforesaid, and is not now

able to remember or state the particular number of days specified in said certificate, representing the time he was absent from his district in attending and holding court at the said Tyler, Tex., but he says that whatever number of days may appear in said certificate as having been so certified to by him were the true number of days he was absent from his said district in attending and holding court at Tyler, Tex., in pursuance of the order of the circuit judge of the fifth judicial circuit, as above stated; and respondent says that he did receive from the United States marshal for the eastern district of Texas at or about the time stated in said article third a sum of money, as set forth in said certificate, the exact amount of which this respondent is not now able to remember or state, but which represented an amount equal to $10 per diem for each of the days stated in said certificate during which this respondent had been absent from his district attending and holding court at the said Tyler, Tex.

Respondent denies the allegation in said article third contained wherein it is alleged that at the said time he so certified he well knew that he was forbidden by law to receive compensation for his necessary travel and attendance while holding court outside of his own district at the rate of $10 per diem, as certified in the said certificate; and he denies that he falsely certified as set forth and alleged in said article third.

Respondent, for further answer, says that in all his acts and doings, and in the making of the certificate and receiving the sum of money therein certified to, as hereinbefore stated, he believed at the time, and still believes, that the true construction and the true intent and meaning of the law of the United States providing for the payment for his reasonable expenses for travel and attendance as aforesaid was, and is, as by him more fully set forth and stated in his answer herein to the first of the articles of impeachment presented against him herein; and with respect thereto he hereby reiterate and reaffirms all of the allegations and statements in said answer to said first article contained, and adopts the same as his further and complete answer to the said article third; and asks that the said allegations and statements in said answer to the said first article shall be taken and accepted as his further and complete answer to the allegations of said article third as fully and with the same force and effect as if they were herein specifically reiterated and set forth, and prays equal benefit therefrom as if the same were here again fully repeated.

ANSWER TO ARTICLE FOUR.

And the said Charles Swayne, named in the articles of impeachment, says that this honorable court ought not to have or take further cognizance of the fourth of said articles of impeachment so exhibited and presented against him, because he says the facts set forth in the said fourth article do not, if true, constitute an impeachable high crime and misdemeanor as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said fourth article, the said respondent, saving to himself all advantages of exception to said fourth article, for answer thereto saith:

He admits that he was duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida, and that he had entered upon the duties of his office prior to 1893 and had continued in the performance of the duties and in the exercise of his office of judge up to the present time.

He denies that at the time specified in said article 4, to wit, A. D. 1893, he did unlawfully appropriate to his own use, without making compensation to the owner, a certain railway car belonging to the Jacksonville, Tampa and Key West Railroad Company, for the purposes stated in said article 4, or for any other purpose or purposes whatsoever; and as to the true facts of the transaction referred to in said article 4, he says that at about the time stated in said article the Jacksonville, Tampa and Key West Railroad Company was in the possession of a receiver, which said receiver was not appointed by this respondent, as alleged in said article, but was appointed by the Hon. Don A. Pardee, circuit judge in and for the fifth judicial circuit of the United States, in which appointment this respondent concurred. That a part of the regular equipment of said railroad company, at and before the appointment of a receiver therefor, consisted of a certain railroad car, generally known as an official car, which said car had been provided and was kept, as is and has been the custom generally throughout the United States in the carrying on and in the management of railway lines and systems, for the use of the officials of said railway; and respondent says said car was not a part of the equipment of said railroad kept or held for hire, or for the transportation of passengers therein over the lines of the said railroad, or elsewhere; but the same was provided and kept for the use and convenience of the officials of said road; and respondent says that it was the custom of the said railroad, as it was and is the general custom of the railroads of the country, to extend from time to time, when said car was not in use and not needed for railway purposes, the complimentary use of the same to friends and patrons of the said railroad. Respondent says that the porter who was in charge of said car, and who accompanied it upon the trip described in said article four, was the regular porter in charge of said car; that he was a regular employee of said company who was employed for the purpose of taking charge and care of said car throughout the year, and who remained in charge and custody of the same throughout the year whether it was in use or not; that he was so employed by the year on a regular stated, fixed, compensation, payable monthly, and his wages remained the same and were paid by the company to him in the same amount during each and every month in the year, whether the said car was in use or not.

Respondent further says that at or about the time stated in said article 4 he was at Guyencourt, in the State of Delaware, and the managing official of the said railroad company knowing of his desire to proceed from thence to Jacksonville, Fla., accompanied by certain members of his family, voluntarily, and without solicitation upon the part of this respondent, tendered the use of said car to this respondent for the purpose of making the trip.

Respondent says that at said time it was and had been the general custom prevailing among the railway lines and systems of the country to furnish, each to the other, transportation for the private or official cars of each of the said railroads over any of the lines of the others, together with transportation for whatsoever persons might be in the occupation of the same at the time; and respondent is informed, and believes, and so alleges the fact to be, that the managing official of the said railroad company had secured from the necessary connecting lines transportation of the nature and character as above set forth, whereby the said car was to be transported over the said lines as a matter of compliment from the one railroad company to the other; and neither the transportation of the said car, or of the persons who occupied the same on its trip alleged in article 4, cost the said Jacksonville, Tampa and Key West Railroad anything; and the entire transportation of the said car and the persons therein at the time was absolutely without expense to the said last-named railroad company or to the receiver of the same; and in and about the transportation of the said car and the persons therein at the time, there was no expense of any kind incurred or paid by the said last-named railroad company or its receiver except in this, to wit, that the said railroad company at the time of the said trip had placed certain provisions in and upon the said car, in a very small amount and of trifling cost, and there was used of the said provisions upon the said trip sufficient of the same for two meals to the parties occupying the said car on the said trip, and no more.

Respondent further alleges that he accepted the use of the said car for the said trip so voluntarily tendered to him as an act of courtesy which could in no manner or in any way enter into the administration of the affairs of the said railroad company under its said receivership.

Respondent says that as to the said two meals enjoyed by the occupants of the said car on the said trip, which said trip was only of the duration of about twenty-three hours, the value of the same was so trivial that it could not appear and did not appear in any account of the said receiver upon which he, as the judge of the said district court, might be called upon to pass; and respondent reiterates his allegation that the said trip and the use of the said car was without expense to the said railroad company or to the receiver thereof, and he says that the funds of the said Jacksonville, Tampa and Key West Railroad Company were in no wise diminished by reason of the use of the said car for the said trip.

Respondent further says that he did not, as alleged in said article 4, use the said car or make the said trip under a claim of right, but that the trip was made solely and because the use of said car and transportation for said trip had been so voluntarily tendered to him as aforesaid; and respondent denies that by reason of the premises he was guilty of any abuse of judicial power, or that his judicial actions were in any way influenced thereby, or that he was placed, as a public official, under any obligation, express or implied, to said railroad or the receiver thereof; and he says that the complimentary tender of said car and his acceptance of the same was a personal matter having no relation to or effect upon his official position or action.

ANSWER TO ARTICLE FIFTH.

And the said Charles Swayne, named in the articles of impeachment, says that this honorable court ought not to have or take further cognizance of the fifth of said articles of impeachment so exhibited and presented against him, because he says

the facts set forth in the said fifth article do not, if true, constitute an impeachable high crime and misdemeanor as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said fifth article, the said respondent, saving to himself all advantages of exception to said fifth article, for answer thereto saith:

He admits that he was duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida, and had entered upon the duties of his office prior to the year 1893, and had continued in the performance of the duties and in the exercise of his said office of judge up to the present time.

He denies that at the time specified in said article 5 he did unlawfully appropriate to his own use, without making compensation to the owner, a certain railway car belonging to the Jacksonville, Tampa and Key West Railroad Company for the purpose stated in said article 5, or for any other purpose or purposes whatsoever; and as to the true facts of the transaction referred to in said article 5, he says that at about the time stated in said article the Jacksonville, Tampa and Key West Railroad Company was in the possession of a receiver, which said receiver was not appointed by this respondent, as alleged in said article, but was appointed by the Hon. Don. A. Pardee, circuit judge in and for the fifth judicial circuit of the United States, in which appointment this respondent concurred; that a part of the regular equipment of said railroad company at and before the appointment of a receiver therefor consisted of a certain railroad car, generally known as an official car, which car had been provided and was kept, as is and has been the custom generally throughout the United States in the carrying on and in the management of railway lines and systems, for the use of the officials of said railroad; and respondent says said car was not a part of the equipment of said railroad kept or held for hire or for the transportation of passengers therein over the lines of the said railroad or elsewhere, but the same was provided and kept for the use and convenience of the officials of said road; and respondent says that it was the custom of the said railroad, as it was and is the general custom of the railroads of the country, to extend, from time to time, when said car was not in use and not needed for railway purposes, the complimentary use of the same to friends and patrons of the said railroad.

Respondent says that the porter who was in charge of the said car, and who accompanied it upon the trip described in said article five, was the regular employee of said company, who was employed for the purpose of taking charge and care of said car throughout the year, and who remained in charge and custody of the same throughout the year whether it was in use or not; that he was so employed by the year on a regular, stated, fixed compensation, payable monthly, and his wages remained the same and were paid by the company to him in the same amount during each and every month during the year, whether the said car was in use or not.

Respondent says that at or about the time stated in said article 5 the managing official of the said railroad company, without solicitation upon the part of this respondent, tendered the use of said car as a convenience to this respondent and the friends who accompanied him, in making a trip over certain lines of connecting railway to the Pacific coast and returning from thence, as alleged in said article 5.

Respondent says that at said time it was and had been the general custom prevailing among the railway lines and systems of the country to furnish, each to the other, transportation or passage for the private or official cars of each of the said railroads over any of the lines of the others, together with transportation for whatsoever persons might be in the occupation of the same at the time; and respondent is informed and believes and so alleges the fact to be that the managing official of said railroad company had secured from the necessary connecting lines transportation of the nature and character as above set forth, whereby the said car was to be transported over the said lines as a matter of compliment from the one railroad company to the other; and neither the transportation of the said car or of the persons who occupied the same on its trip alleged in said article 5 cost the said Jacksonville, Tampa and Key West Railroad anything, and the entire transportation of the said car and the persons therein at the time was without expense to the said last-named railroad company or to the receiver of the same; and in and about the transportation of the said car and the persons therein at the time there was no expense of any kind incurred or paid by the said last-named railroad company or its receiver.

Respondent denies that the said car was supplied with any provisions by the said receiver, as alleged in said article 5, except in this, that there had remained upon the said car, at the time respondent began his said trip, a few provisions and supplies left over from some previous use of the car by the officials of the said railroad company; these certain provisions and supplies were of a very small amount and of trifling cost.

Respondent says that upon the said trip he provided all of the provisions and supplies of every kind and character used by himself and friends upon the entire trip; that he paid for the same, and that they were so supplied by him without any cost or expense to the said railroad or its receiver.

He further says that upon his return from said trip, when the said car was turned back to the possession of the said railroad company and said receiver, there were left upon said car by this respondent certain of the provisions and supplies so purchased by him and not used upon said trip, which said provisions and supplies were left in said car and were of more than of equal value to those that were in the car at the time this respondent commenced his trip as aforesaid.

Whereby he insists and alleges that the said railroad company did not incur any expense in and about his use of the said car, or in and about the consumption of supplies thereon, or in and about the transportation of the same in any way, of any sum whatsoever, and that the entire trip was so made without cost or expense to the said railroad company or its receiver.

Respondent further alleges that he accepted the use of the said car for the said trip so voluntarily tendered to him as an act of courtesy which could in no manner or in any way enter into the matter of the administration of the affairs of the said railroad company under its said receivership.

Respondent further says that none of the expenses whatever incurred in and about the said trip of any kind or character did or could appear in any account of the said receiver upon which he, as judge of the said district court, might be called upon to pass.

Respondent reiterates his allegation that the said trip and the use of the said car was without expense to the said railroad company, or to the receiver thereof; and he says that the funds of the said Jacksonville, Tampa and Key West Railroad Company were in no wise diminished by reason of the use of the said car for the said trip.

Respondent further says that he did not, as alleged in said article 5, use the said car or make the said trip under a claim of right, but that the trip was made solely because the use of said car and transportation for said trip had been so voluntarily tendered to him as aforesaid.

Respondent denies that by reason of the premises he was guilty of any abuse of any judicial power, or that his judicial acts were in any way influenced thereby, or that he was placed in any way, as a public official, under any obligation, express or implied, to said railroad or to the receiver thereof; and he says that the complimentary tendering of said car and his acceptance of the same was a personal matter, having no relation to or effect upon his official position or action.

ANSWER TO ARTICLE SIX.

And the said Charles Swayne, named in said articles of impeachment, says that this honorable court ought not to have or take further cognizance of the sixth of said articles of impeachment so exhibited and presented against him, because, he says, the facts set forth in said sixth article do not, if true, constitute an impeachable high crime and misdemeanor as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said sixth article, the said respondent saving to himself all advantages of exceptions to said sixth article, for answer thereto saith:

He admits that prior to the year 1900 he had been duly appointed, confirmed, and commissioned as judge of the United States, in and for the northern district of Florida, and had entered upon the duties of his office, and that he was in the exercise of his office as judge as aforesaid at all times in the said article specified and as therein alleged.

The respondent denies that he did not acquire a residence in the northern district of Florida and did not, within the intent and meaning of the five hundred and fifty-first section of the Revised Statutes of the United States, reside in said district from the 23d day of July, 1894, to the 1st day of October, 1900; and denies that he violated said section; and denies that he was and is guilty of a high misdemeanor in office as charged in said article 6.

The respondent further says that his residence now is in Pensacola, in the northern district of Florida, and that such residence began shortly after the passage of the act of July 23,

1894, which excluded from said district St. Augustine, his previous residence, and has continued down to the present time, his local abode now being at No. 13 West La Rua street, Pensacola, where he has resided since October 1, 1903; and he says his local abode prior to October 1, 1903, and from and after October 1, 1900, was in the Simmons cottage on Belmont street, Pensacola; and that his local abode prior to October 1, 1900, and from and after the beginning of his residence in Pensacola, was at times at the Escambia Hotel and at times at the boarding house of Capt. William H. Northrop on West Gregory street in said city.

The respondent says that while he lived at West La Rua street and in the Simmons cottage his family lived with him; at other times they remained at his former home in St. Augustine or went to different places in Delaware, or visited New Orleans or traveled in Europe, and occasionally members of the family visited him at the Escambia Hotel and at the house of said Captain Northrop.

The respondent also says that he went from Pennsylvania to Florida in 1885, to practice law, and lived in Sanford and afterwards in Kissimmee; that on June 1, 1889, during the recess of Congress, he was appointed and commissioned district judge for the northern district of Florida, and on the 1st day of April, 1890, was recommissioned after confirmation by the Senate; and that in October, 1890, he became a resident of St. Augustine, Fla., and with his family began living in a rented house furnished by himself.

The respondent says that after the passage of the act of July 23, 1894, when he became a resident of Pensacola, it was deemed advisable that his family should not wholly give up housekeeping in the house in St. Augustine until a suitable and desirable house could be found within the limits of the said northern district as reduced by said act; and the respondent made repeated efforts to find such a house, but without immediate success.

The respondent says that he had at all times, from his first residence in Florida in 1885, been in the habit, with his family, of visiting each summer in Delaware, at the residence of his father and mother, and this custom continued in 1894 and always afterwards.

Shortly after the passage of the act of 1894 the respondent began holding court, under due assignment, in Alabama, Louisiana, and Texas; and at various times, beginning in New Orleans in April, 1895, he has held court at Birmingham, Huntsville, New Orleans, Baton Rouge, Dallas, Fort Worth, Graham, Waco, and Tyler. During the winter of 1897–98 his family was with him in New Orleans. On July 9, 1898, the respondent with his family sailed for Europe, and in September of that year the respondent returned, leaving his family in Germany, went to Pensacola, held court there, and then, by direction of the circuit judge, proceeded to New Orleans and other points to hold court, his family returning from Europe in July, 1899.

Before October 1, 1900, the respondent had found and rented the Simmons cottage on Belmont street, Pensacola, and on that date his family came there to live, the house in St. Augustine in the years 1897, 1898, 1899, and 1900 having been rented with the furniture of the respondent to various tenants.

So the respondent says that, notwithstanding the dismemberment, out of undeserved hostility to him, of the northern judicial district, by taking 20 large counties therefrom and leaving it a district comprising not a third of the State, with very little judicial business to be performed therein, while enlarging the other district so as to make it embrace two-thirds of the State and three-fourths of the business of the State, he proceeded within a reasonable time to comply with his obligation under section 551 of the Revised Statutes and the act of July 23, 1894, to remove his residence from the city of St. Augustine, which was in his original but not in his reduced district, and to make a new residence within the latter, and to promptly perform all his official duties therein; nor have his occasional absences to see his family while they tarried at St. Augustine or elsewhere, and to hold court in Alabama, Louisiana, and Texas, and to visit his mother's home in Delaware during the summers, and to travel one summer in Europe, in any way embarrassed or hindered the public business committed to his charge; nor has the delay of his family at St. Augustine and while wintering at New Orleans and in Europe, and sojourning in Delaware before coming for constant living with him at his new home, in any way impaired the legality, good faith, sufficiency, and completeness of his residence since 1894 at Pensacola, in the northern district of Florida.

ANSWER TO ARTICLE SEVEN.

And the said Charles Swayne, named in said articles of impeachment, says that this honorable court ought not to have or take further cognizance of the seventh of said articles of impeachment so exhibited and presented against him, because he says the facts set forth in said seventh article do not, if true, constitute an impeachable high crime and misdemeanor as defined in the Constitution of the United States.

And now, not waiving the foregoing plea to the jurisdiction of the honorable Senate of the United States, sitting as a court of impeachment, as to said seventh article, the said respondent, saving to himself all advantages of exception to said seventh article, for answer thereto saith:

He admits that prior to the year 1900 he had been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida and had entered upon the duties of his office, and that he was in the exercise of his office as judge as aforesaid at all times in the said article specified and as therein alleged.

The respondent denies that he did not acquire a residence in the northern district of Florida and did not, within the intent and meaning of the five hundred and fifty-first section of the Revised Statutes of the United States, reside in said district from the 23d day of July, 1894, to the 1st day of January, 1903, and denies that he violated said section; and denies that he was and is guilty of a high misdemeanor in office, as charged in said article 7.

The respondent further says that his residence now is in Pensacola, in the northern district of Florida, and that such residence begun shortly after the passage of the act of July 23, 1894, which excluded from said district St. Augustine, his previous residence, and has continued down to the present time; and the respondent reiterates and reaffirms all the allegations and statements contained in his answer to the sixth of the articles of impeachment presented against him, and adopts the same as his further and complete answer to said article 7, and asks that said allegations and statements in said answer to said article 6 shall be taken and accepted as his further and complete answer to the allegations of said article 7, as fully and with the same force and effect as if they were herein specifically reiterated and set forth, and prays equal benefit therefrom as if the same were here again fully repeated.

ANSWER TO ARTICLE EIGHT.

And the said respondent, saving to himself all advantages of exception or otherwise to article 8 of the said articles of impeachment, for answer thereto saith:

He admits that prior to the 12th day of November, A. D. 1901, he had been duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida, and had entered upon the duties of his office prior to said date, and continued in the performance of the duties and in the exercise of his office of judge up to the present time, and he says that at all the times mentioned in said article 8 he was exercising and performing the duties of a district judge in and for the northern district of Florida, and that on the 12th day of November, A. D. 1901, he was holding a session of the district and circuit court of said district at the city of Pensacola, in the State of Florida, and he admits that on said date he did adjudge guilty of contempt of court and impose a fine of $100 upon and commit to prison for a period of ten days one E. T. Davis, an attorney and counselor at law, as set forth in said article 8, but he denies that said judicial action on his part was malicious or unlawful, and, on the contrary, he insists and asserts that said judgment was rendered and said sentence imposed by him from a high sense of judicial and public duty, and that upon the proceedings then pending and heard before him he could not have done otherwise than to have adjudged the said E. T. Davis guilty of the contempt of court stated in said article 8.

Respondent, further answering, says that on the 15th day of February, 1901, Simeon Belden and Louis P. Paquet, attorneys and counselors at law, instituted in the said United States circuit court in and for the northern district of Florida a suit in ejectment in favor of one Florida McGuire, and against the Pensacola City Company and twenty or more persons named as defendants. Said suit was brought to recover the possession of a tract of land known as the Chaveaux Tract, within the limits of the city of Pensacola, Fla., containing 300 arpents, more or less, and divided into lots, blocks, and streets; that prior to the November term, 1901, of said court, the said cause by pleadings therein was at issue and upon the trial docket subject to call for trial at said term, which said term began on the 5th day of November, 1901, at Pensacola, Fla.

Respondent says that prior to November 5, 1901, the said attorneys, Simeon Belden and Louis P. Paquet, as attorneys for the said Florida McGuire, presented to respondent as judge of the said court, a suggestion that he was disqualified to try the said case, because it was said that respondent claimed some right, title, or interest in and to some portion of the said real estate in litigation in said suit; that upon the opening of said

court on the 5th day of November, 1901, this respondent presiding therein as judge, respondent stated from the bench that he had been asked to recuse himself on the trial of the said case so pending as aforesaid, for the reason that he had, or claimed to have, some right, title, or interest in the subject-matter in said case involved, to wit, the said real estate.

Respondent then and there made the statement in open court, which statement was and is true, that he had and claimed no right or interest whatever in the said subject-matter of said case, to wit: Said real estate or any part thereof, and this respondent thereupon declined and refused to recuse himself as requested, which action of respondent was right, proper, and consistent with the dignity of the said court, wherein he was presiding as judge; that upon Saturday, the 9th day of November, 1901, said court then and there being in session, the criminal docket was completed, and the court took up the civil docket of said court and began to call the cases thereon to ascertain as to whether or not the same were or would be ready for trial.

At said time the said Louis P. Paquet, the said Simeon Belden, and E. T. Davis, named in said article eight, all then and there being attorneys at law, and all of them members of the bar and officers of the said court, and all of them appearing, or being interested, as attorneys in the said case then and there pending, urged a postponement of the trial of the said case upon the ground that they were not ready with their witnesses and that the said Louis P. Paquet had a matter of business to attend to at New Orleans on the following Tuesday, November 12.

Respondent at said time announced his willingness as judge of said court to postpone the trial of the case in accordance with the request of counsel for Florida McGuire, but the counsel for the defendants in said case, then being present, insisted that there was no good cause shown why a postponement of the trial should be had, and further insisted that the trial should proceed when the said case was reached. No showing in writing having been made, and no showing at all having been made except as above stated, this respondent announced that the said case would be called for trial on the following Monday, November 11, and would then be tried unless the plaintiff in said case should show cause why a postponement of said trial should be ordered.

Said Louis P. Paquet, Simeon Belden, and E. T. Davis, then being present and being attorneys of record or acting as attorneys in said case, stated in open court that they would present to the court a showing on the said Monday morning why a postponement of the trial should be had.

Respondent further says that he adjourned his said court on the said Saturday, the 9th day of November, 1901, at about 6 o'clock p. m. until 10 o'clock a. m. of the following Monday.

Respondent says that thereupon the said Louis P. Paquet, Simeon Belden, and E. T. Davis, officers and attorneys of the said court, retired from said court and confederated and conspired together to obstruct, thwart, interfere with, hinder, and delay the due and regular course of justice by the commencement of a suit in a State court of Florida, and by newspaper publications, whereby they would cause it to appear that this respondent had and claimed to have some right, title, or interest in and to one certain portion of the tract of land the subject-matter of said case in ejectment, the said attorneys and each and all of them then and there well knowing that this respondent did not have and did not claim to have any right, title, or interest in and to any portion of the said land, the subject-matter of the said ejectment case; and so confederating and conspiring together, they began a suit in a State court, to wit, the circuit court of Escambia County, Fla., in the name of the said Florida McGuire, against this respondent, as a defendant in said suit, and caused to be issued out of the said court a writ against this respondent summoning him to be and appear in the said State court to make answer therein to the allegation that he had and claimed some right, title, and interest in and to a portion of the said tract of land, the subject-matter of said suit in ejectment, then pending in the said United States district court, which said writ was served upon this respondent on the evening of said Saturday, November 9, 1901, at about 9 o'clock.

Respondent says that at all of said times each of the three persons above named well knew that this respondent did not have and did not claim to have any right, title, or interest whatsoever in any of the said real estate, the subject-matter as aforesaid in the said suit in ejectment in the said United States court, and respondent says that the said three persons so conspiring and confederating together brought said suit and caused said writ to be issued and served upon respondent, well knowing the facts aforesaid, for the sole purpose of placing this respondent in such a position upon the record and before the bar and people that he could not preside in the said court upon the trial of the said ejectment case and would thereby be compelled to continue the same over to some other term of court when another judge could be present and conduct the trial of the same.

Respondent says that the said three persons further confederating and conspiring together for the purposes aforesaid, and to obstruct, interfere with, hinder, and delay the due and proper administration of justice in the said circuit court of the United States, further caused to be prepared and published in the Daily Press of Sunday morning, November 10, 1901, a newspaper published and in general circulation in the city of Pensacola, Fla., an article as follows:

"Judge Swayne summoned as party to the suit in case of Florida McGuire *v.* Pensacola Company, et al.

"A decided move was made in the now celebrated case of Mrs. Florida McGuire, who is the owner, by inheritance, and claims the possession of what is known as the 'Rivas tract,' in the eastern portion of the city, near Bayou, Tex., by the filing of a præcipe for summons, through her attorneys, ex-Attorney-General Simeon Belden, Judge Louis P. Paquet, of New Orleans, and E. T. Davis, of this city, in the circuit court of Escambia County, in an ejectment proceedings for possession of block 91, as per map of T. C. Watson, which is part of the property which is claimed by Mrs. Florida McGuire, and which it is alleged that Judge Swayne purchased from a real estate agent in this city during the summer months, and which is a part of the property now in litigation before him.

"The summons was placed in the hands of Sheriff Smith late last night for service."

All of which said acts, as hereinbefore stated, constituted a contempt of said United States district court upon the part of the said three persons, and of each of them, attorneys and counselors at law and officers of said court; impugned the motives and the honesty and integrity of this responednt as a judge; placed upon the public records of a court and in the public press a false and untrue statement, which, if true, would have disqualified and prevented this respondent, as judge of the said United States circuit court, from proceeding to, or sitting in, the trial of the said ejectment case, then and there pending and called for trial; constituted an attempt to intimidate this respondent in the performance of his judicial duties; sought to compel him to continue said ejectment suit to another term of court, and thereby deny to the parties defendant in said ejectment suit their right to a speedy trial therein in said court and before this respondent as presiding judge thereof; greatly tended to obstruct, prevent, hinder, delay, and embarrass the due administration of justice in said court, and to subject the said court and the presiding judge thereof, this respondent, to public criticism, contumely, and contempt; and respondent says all of said confederating and conspiring, and all said acts of the three said persons, constituted a violation of their oaths and of their official duties as attorneys and officers of said court.

Respondent says that thereafter, to wit, on the 11th day of November, 1901, said United States circuit court being then and there in session at Pensacola, Fla., one W. A. Blount, an attorney of said court, presented and filed in said court the following motion or information in writing:

"And now comes W. A. Blount, an attorney and counselor at law of this court, and practicing therein, and as amicus curiæ, and moves the court to cite Simeon Belden, Louis Paquet, and E. T. Davis, attorneys and counselors of this court, to show cause before this court, at a day and hour to be fixed by the court, why they shall not be punished for contempt of the court, in causing and procuring, as attorneys of the circuit court of Escambia County, Fla., a summons in ejectment, wherein Florida McGuire is plaintiff and the Hon. Charles Swayne is defendant, to be issued from said court and served upon the judge of this court, to recover the possession of block 91 in the Cheveaux tract, in the city of Pensacola, Fla., a tract of land involved in a controversy in ejectment then depending in this court, in a case wherein the said Florida McGuire was plaintiff and the Pensacola City Company et al. were defendants, upon the grounds:

1. That the said suit in ejectment against the judge of this court was instituted after a petition to this judge to recuse himself in the said case of Mrs. Florida McGuire *v.* Pensacola City Company et al. had been submitted to the court on November 5, 1901, and denied, and after the said judge had stated in open court and in the presence of the said counsel, Simeon Belden and Louis Paquet, that an allegation of the said petition that he or some member of his family were interested in or owned property in said tract was untrue, and had stated that he had refused to permit a member of his family to buy land in said tract, because the said suit of Florida McGuire involving the

title to the said tract was in litigation before him, the said judge.

2. That after the said declaration of the said judge the said counsel were aware that neither the said judge nor any member of his family were the owners of or interested in any part of the said tract and had no reason whatever to believe that he or they were so interested, and knew, or could easily have known, that the said block was not in the possession or control of anyone, but was entirely unoccupied.

3. That the said suit against the said judge was instituted on Saturday night, the 9th instant, after 6 o'clock, and after the court had overruled the motion of the said attorneys to postpone the trial of the case of Florida McGuire *v.* Pensacola City Company et al. for a week or more, and after the said judge had announced to the said counsel that he would call the case for trial on Monday, November 11, 1901, and would then try the case, unless counsel for plaintiff made a showing why he should not so try, and the said counsel had announced that they would make such showing.

4. That the said E. T. Davis was, before the instituting of the said suit against the said judge, cognizant of all the facts herein set forth.

W. A. BLOUNT,
An Attorney of this Court.

NOVEMBER 11, 1901.

That thereupon this respondent, as presiding judge of said court, caused to be cited before the said court the said Simeon Belden, Louis P. Paquet, and E. T. Davis to respond or answer to the said charge of contempt made against them, and to purge themselves of said alleged contempt, if possible; and thereafter, to wit, on the 12th day of November, 1901, said Simeon Belden and E. T. Davis appeared in said court, pleaded to the charge of contempt preferred against them, and, issue being joined, a hearing was had upon the said charge of contempt; all the testimony offered by either party to said proceedings was heard, as well as arguments for the said persons so charged with contempt, and upon full and careful consideration of the said evidence presented and the law in the case, this respondent, as presiding judge of said court, decided that the said Simeon Belden and E. T. Davis, and each of them, were guilty as charged of a substantial contempt of the dignity and good order of the said court, and proceeded to impose a sentence upon each of them, which said sentence directed that each of said persons should pay into the court a fine of $100 and be committed to prison for a period of ten days.

Respondent further says that thereafter the said Simeon Belden and E. T. Davis each sued out a writ of habeas corpus, returnable before the Hon. Don. A. Pardee, United States circuit judge in and for the fifth judicial circuit, at dates therein named, and hearings upon said writs of habeas corpus were thereafter had before the said circuit judge, where each of said parties was fully heard, and upon full and careful consideration of the said isues involved in said habeas corpus proceedings the said circuit judge, on the 7th day of December, 1901, held that the said Simeon Belden and E. T. Davis had both been justly and properly adjudged guilty of contempt by this respondent as judge of the said district court of the northern district of Florida; that the said court had jurisdiction to hear said contempt proceedings; that the evidence disclosed that a contempt of court had been committed by each of the said two persons, and, among other things in said opinion, decided as follows:

"The relator is an attorney and counselor of the United States circuit court for the northern district of Florida, and as such one of the officers of the court within the intent and meaning of the above statute. As such officer, he was and is charged with conduct in and out of court which if accompanied with malicious intent or had the effect to embarrass and obstruct the administration of justice was such misbehavior as amounted to contempt of court."

* * * * * * *

"It is conceded that this sentence is beyond the jurisdiction of the court, which, under section 725, above quoted, is limited to power to imprison or to fine, but not both. But the question is whether the relator can complain of this sentence until he has performed that part which the court had power to impose. The court had power to impose a sentence of imprisonment in the county jail for ten days; also had power to impose a fine of $100. Is the relator injured until he has either suffered the imprisonment or paid the fine?"

This question has been somewhat considered in the Supreme Court. In ex parte Swan (supra) the court says:

"It is further contended that the court exceeded its power in that the payment of costs was required, because the costs were in the nature of a fine, and therefore the punishment inflicted was both fine and imprisonment. Under section 970 of the Revised Statutes, when judgment is rendered against a defendant in a prosecution for any fine or forfeiture, he shall be subject to the payment of costs, and on every conviction for any other offense not capital, the court may, in its discretion, award that the defendant shall pay the costs of the prosecution; and as contempt of court is a specific criminal offense, it is said that the judgment for payment of costs would appear to be within the power of the court, although by section 725 it is provided that contempts of the authority of courts of the United States may be punished 'by fine or imprisonment, at the discretion of the court.' But, be that as it may, the sentence here was that the petitioner be imprisoned 'until he returns to the custody of the receiver the barrel taken by him from the warehouse without warrant of law. And when that has been surrendered, that he suffer a further imprisonment thereafter in said county jail for three months and until he pay the costs of these proceedings.' As the prisoner has neither restored the goods nor suffered the imprisonment for three months even if it was not within the power of the court to require payment of costs and its judgment to that extent exceeded its authority, yet he can not be discharged on habeas corpus until he has performed so much of the judgment or served out so much of the sentence as it was within the power of the court to impose. (Ex parte Lange, 18 Wall., 163; Ex parte Parks, 93 U. S., 18.)

* * * * * * *

"Considering these authorities and that this writ is sued out and is returned before one of the judges of the circuit for the northern district of Florida, it would seem to be proper to discharge this writ, leaving the relator to elect whether he will pay the fine or suffer the imprisonment, and then to seek relief from the balance of the sentence. Another course to follow would be to adjudge the sentence imposed to be beyond the law and remand the relator to the circuit court of the northern district of Florida to be sentenced within the law for contempt, of which he has been adjudged guilty.

"The case shows that the relator has suffered some portion of the sentence of imprisonment, for this reason, and under all the circumstances of the case, I deem it best, and the relator can not complain, to hold that when the relator shall have satisfied either the imprisonment or fine adjudged against him he will be entitled to his discharge.

"For these reasons the writ of habeas corpus herein sued out is discharged.

"Circuit Judges McCormick and Shelby heard the argument in this case, and concur in this opinion.

"DON. A. PARDEE, *Circuit Judge.*"

And thereupon the said cirucit judge made an order in the premises as follows:

"United States fifth judicial circuit. Proceedings before Don. A. Pardee, circuit judge, in chambers, New Orleans, La.

"Exparte Elsa T. Davis, ex parte Simeon Belden. On writs of habeas corpus.

"Writs of habeas corpus in favor of the above-named relators having been issued on the order of the undersigned circuit judge, returnable in chambers in the city of New Orleans, and returns having been made to the said writs, and the issue presented having been argued—

"It is now, for the reasons herein filed, ordered and adjudged that the said writs be discharged, and that the relators be remanded to the custody of the jail keeper of Escambia County, Fla., holding for the marshal for the northern district of Florida at Pensacola.

"And as the said relators, pending proceedings on abovementioned writs, have been enlarged upon bonds conditioned upon their appearance and to obey orders issued,

"It is ordered that they surrender themselves to said jailer, or said marshal, on or before noon of Monday, the 9th day of December, 1901.

"The costs of these proceedings to be paid by said relators.

"DON. A. PARDEE, *Circuit Judge.*

"DECEMBER 7, 1901."

Whereby respondent insists and alleges that the said proceedings against the said Simeon Belden and E. T. Davis, for contempt, as aforesaid, came to an end, and a final adjudication was had therein.

Respondent admits that it was decided by the said circuit judge that this respondent, as judge of the said circuit court of the northern district of Florida, in imposing sentences upon the said Simeon Belden and E. T. Davis, was mistaken in his understanding of the law of the case in this, and in this only, to wit: That respondent believed that it was within his power and discretion as said judge to impose both a fine and sentence of imprisonment upon each of the said two persons adjudged guilty of contempt as aforesaid, whereas it was held by the said circuit judge that the statute of the United States in that respect made and provided authorized a sentence of fine or imprison-

ment, and that both fine and imprisonment could not be imposed in any one case; but respondent says that whatever mistake he made in that respect was made without malice and in the belief that such a sentence could be properly imposed under the law, and respondent should not be held to have committed a high crime or misdeameanor as alleged in said article eight by reason of the fact that he may have been mistaken in his construction of the law, whereby he imposed a sentence of both fine and imprisonment; and he not only alleges that he was free from any bias, prejudice, or desire to injure either of the said two persons, but that all his acts and doings in and about the trial of said case, the decision thereon, and the imposing of sentences therein, were prompted solely by his desire to maintain the dignity and authority of his said court and to punish such acts of contempt of its authority as tended to hinder, delay, obstruct, and impede the due administration of justice therein, and to subject the said court and the judge thereof to public criticism, contumely, and contempt.

Respondent alleges that the said United States circuit court, sitting in and for the northern district of Florida, had jurisdiction of the said contempt proceedings; that due process of law was issued therein; that the said Simeon Belden and E. T. Davis appeared in said court and were accorded every right to be heard by counsel learned in the law to present evidence and to purge themselves of said contempt if they could do so in accordance with the facts and the law of the case; and respondent alleges that they did not so purge themselves, or either of them, of said contempt.

And respondent insists that he was and is blameless in the premises; that he performed his duty, and his whole duty, in all the said proceedings; that he was in no way guilty of an abuse of judicial power or of a high misdemeanor in office, and that the said proceedings had and held before him, and the judgment resulting therefrom, were all in accordance with the law except as hereinbefore explained; and any failure of this respondent as presiding judge of the said United States district court to have adjudged said Simeon Belden and E. T. Davis guilty of contempt, and to have punished them therefor, in view of the testimony as presented and the law of the case, would have greatly tended to destroy the dignity and authority of the said court; to obstruct, hinder, and delay the due course of justice therein, and to bring said court into public disfavor and just contempt.

ANSWER TO ARTICLE NINE.

And the said respondent, saving to himself all advantages of exception or otherwise to article 9 of the said articles of impeachment, for answer thereto saith:

He admits that prior to the 12th day of November, A. D. 1901, he had been duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida and had entered upon the duties of his office prior to said date, and continued in the performance of the duties and in the exercise of his office of judge up to the present time, and he says that at all the times mentioned in said article 9 he was exercising and performing the duties of a district judge in and for the northern district of Florida, and that on the 12th day of November, A. D. 1901, he was holding a session of the circuit court at the city of Pensacola, in the State of Florida; and he admits that on said date he did adjudge guilty of contempt of court and impose a fine of $100 upon, and commit to prison for a period of ten days, one E. T. Davis, an attorney and counselor at law of said court, as set forth in said article 9; but he denies that said judicial action on his part was malicious or unlawful, and, on the contrary, he insists and asserts that said judgment was rendered and said sentence imposed by him from a high sense of judicial and public duty, and that upon the proceedings then pending and heard before him he could not have done otherwise than to have adjudged the said E. T. Davis guilty of the contempt of court stated in said article 9.

Respondent further says that all of the acts and charges as made in said article 9 are the same identical acts and charges as made in the aforesaid article 8; and he says that for a more full and complete answer to the said article 9 he hereby reiterates and reaffirms all of his allegations and statements in his answer to the said article 8, and adopts the same as his further and complete answer to said article 9, and asks that the said allegations and statements in said answer to the said eighth article shall be taken and accepted as his further and complete answer to the allegations of said article 9 as fully and with the same force and effect as if they were herein specifically reiterated and set forth, and prays equal benefit therefrom as if the same were again fully reiterated.

ANSWER TO ARTICLE TEN.

And the respondent, saving to himself all advantages of exception or otherwise to article 10 of the said articles of impeachment, for answer thereto saith:

He admits that prior to the 12th day of November, A. D. 1901, he had been duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida, and had entered upon the duties of his office prior to said date, and continued in the performance of the duties and in the exercise of his office of judge up to the present time; and he says that at all the times mentioned in said article 10 he was exercising and performing the duties of a district judge in and for the northern district of Florida; and that on the 12th day of November, A. D. 1901, he was holding a session of the circuit court at the city of Pensacola, in the State of Florida; and he admits that on said date he did adjudge guilty of contempt of court and impose a fine of $100 upon, and commit to prison for a period of ten days, one Simeon Belden, an attorney and counsellor at law of said court, as set forth in said article 10; but he denies that said judicial action on his part was malicious or unlawful; and, on the contrary, he insists and asserts that said judgment was rendered and said sentence imposed by him from a high sense of judicial and public duty, and that upon the proceedings then pending and heard before him he could not have done otherwise than to have adjudged the said Simeon Belden guilty of the contempt of court stated in said article 10.

Respondent, further answering, says that all the allegations made in the said article 10 refer to the same proceedings in all respects as those charged in articles 8 and 9 aforesaid; that the said E. T. Davis named in said articles 8 and 9 and the said Simeon Belden named in article 10 jointly committed all of the acts and participated in all the proceedings by trial or otherwise set forth and described in respondent's answer to article 8 aforesaid, except in this, to wit, that the sentence imposed upon the said Simeon Belden was a separate sentence from the sentence imposed upon said E. T. Davis, and he says that for a more full and complete answer to said article 10 he hereby reiterates and reaffirms all of the allegations and statements in his answer to the said article 8, and adopts the same as his further and complete answer to said article 10; and asks that the said allegations and statements in said answer to the said eighth article shall be taken and accepted as his further and complete answer to the allegations of said article 10 as fully and with the same force and effect as if they were herein specifically reiterated and set forth, and prays equal benefit therefrom as if the same were here again fully reiterated.

ANSWER TO ARTICLE ELEVEN.

And the respondent, saving to himself all advantages of exception or otherwise to article 11 of the said articles of impeachment, for answer thereto saith:

He admits that prior to the 12th day of November, A. D. 1901, he had been duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida and had entered upon the duties of his office prior to said date, and continued in the performance of the duties and in the exercise of his office of judge up to the present time; and he says that at all the times mentioned in said article 11 he was exercising and performing the duties of a district judge in and for the northern district of Florida, and that on the 12th day of November, A. D. 1901, he was holding a session of the circuit court at the city of Pensacola, in the State of Florida, and he admits that on said date he did adjudge guilty of contempt of court and impose a fine of $100 upon and commit to prison for a period of ten days one Simeon Belden, an attorney and counselor at law of said court, as set forth in said article 11; but he denies that said judicial action on his part was malicious or unlawful, and, on the contrary, he insists and asserts that said judgment was rendered and said sentence imposed by him from a high sense of judicial and public duty, and that upon the proceedings then pending and heard before him he could not have done otherwise than to have adjudged the said Simeon Belden guilty of the contempt of court stated in said article 11.

Respondent further answering says that all of the allegations made in the said article 11 refer to the same proceedings in all respects as those charged in articles 8, 9, and 10 aforesaid; that the said E. T. Davis, named in said articles 8 and 9, and the said Simeon Belden, named in article 11, jointly committed all of the acts and participated in all the proceedings by trial or otherwise set forth and described in respondent's answer to article 8 aforesaid, except in this, to wit, that the sentence imposed upon the said Simeon Belden was a separate sentence from the sentence imposed upon said E. T. Davis; and he says that for a more full and complete answer to the said article 11 he hereby reiterates and reaffirms all of the allegations and statements in his answer to the said article 8, and adopts the same as his further and complete answer to article 11, and asks that the said allegations and statements in said

answer to the said eighth article shall be taken and accepted as his further and complete answer to the allegations of said article 11, as fully and with the same force and effect as if they were herein specifically reiterated and set forth, and prays equal benefit therefrom as if the same were here again fully reiterated.

ANSWER TO ARTICLE TWELVE.

And the respondent, saving to himself all advantages of exception or otherwise to article 12, of the said articles of impeachment, for answer thereto, saith:

He admits that prior to the 9th day of December, A. D. 1902, he had been duly appointed, confirmed, and commissioned as a district judge of the United States in and for the northern district of Florida, and had entered upon the duties of his office prior to said date, and continued in the performance of the duties and in the exercise of his office of judge up to the present time; and he says that at all times mentioned in said article 12 he was exercising and performing the duties of a district judge in and for the northern district of Florida; and that on the 9th day of December, A. D. 1902, he was holding a session of the said district court; and he admits that on said date he did adjudge guilty of contempt of court and commit to prison for a period of sixty days one W. C. O'Neal, as set forth in said article 12, but he denies that said judicial action on his part was malicious or unlawful, and on the contrary he insists and asserts that said judgment was rendered and said sentence imposed by him from a high sense of judicial and public duty, and that upon the proceedings then pending and heard before him he could not have done otherwise than to have adjudged the said W. C. O'Neal guilty of the contempt of court stated in said article 12.

Respondent further answering says that on the 29th day of August, 1902, one Scarritt Moreno, filed in the said district court of the United States in and for the northern district of Florida, his petition asking to be adjudged a bankrupt, and to obtain the benefits of the acts of Congress of the United States relating to bankruptcy; and the said court, having jurisdiction in the premises, took such proceedings in relation thereto that, by an order duly made, the said petitioner was adjudged a bankrupt, and A. Greenhut was duly appointed trustee of the estate of the said bankrupt on the 15th day of September, 1902; that the said A. Greenhut accepted the said appointment and filed his bond as such trustee, which said bond was duly approved as provided for by law, and on said date last named the said A. Greenhut duly took the oath of office and qualified as required by law, and thereby became an officer of the district court of the United States in and for the northern district of Florida, to wit, trustee for the estate of the above-named Scarritt Moreno, bankrupt as aforesaid, and continued as such officer of said court during all the times hereinafter referred to in this answer; that on the 10th day of November, A. D. 1902, the said A. Greenhut, an officer of said court, as aforesaid, filed and presented in the said court, while said court was duly in session in the city of Pensacola, Fla., in said northern judicial district of Florida, a certain information in writing and in words and figures as follows, to wit:

"In the United States district court, northern district of Florida, at Pensacola.

"In the matter of Scarritt Moreno, bankrupt.

"UNITED STATES OF AMERICA,

"*Northern district of Florida, city of Pensacola, ss:*

"Adolph Greenhut, of the city of Pensacola, in the district aforesaid, being duly sworn according to law, on his oath, doth depose and say:

"'That heretofore, on the 29th day of August, 1902, one Scarritt Moreno filed in the honorable the district court of the United States in and for the northern district of Florida, at Pensacola, his petition to be adjudicated a bankrupt and to obtain the benefits of the acts of Congress of the United States relating to bankruptcy. That thereafter such proceedings were had upon said petition in said United States district court; that on September 15, 1902, affiant was duly appointed trustee of the estate of the above-named Scarritt Moreno, bankrupt, which said appointment of deponent as trustee was then and there approved by the said court.

"That thereafter, to wit, on the day and year last aforesaid, affiant accepted said appointment and filed his bond as such trustee, which said bond was duly approved by E. K. Nichols, esq., referee in bankruptcy, and at the same time deponent took the oath of office as required by law, and thereupon he became charged with the duties and clothed with the authority appertaining to a trustee in bankruptcy under the laws of the United States, and from thence hitherto has occupied and is now occupying said trusteeship, amenable to and subject to the orders of the said the honorable district court of the United States in and for the northern district of Florida.

"That affiant was, by counsel, advised that it was his duty, as trustee of the estate of said Scarritt Moreno, as aforesaid, to institute a certain suit or action in equity for the purpose of having certain property purchased by the said Scarritt Moreno, bankrupt, the title to which was taken by the said Scarritt Moreno in the name of his wife, brought into the said United States district court as a part of the estate of said bankrupt, to be there administered as required by law, and for the further purpose of having certain mortgages on said property decreed and declared to be null, void, and of no effect. That thereupon, in the afternoon of Saturday, the 18th day of October, 1902, through his counsel, he, as trustee as aforesaid, and in the performance of his duty as aforesaid as an officer of the said United States district court, caused to be filed in the circuit court of Escambia County, State of Florida, his certain bill of complaint, therein and thereby, among other things, seeking the relief above referred to.

"That by the advice of his counsel Scarritt Moreno, Susie R. Moreno, his wife, the American National Bank of Pensacola, the Citizen's National Bank of Pensacola, and others, were made parties defendant in and to said bill of complaint, and that upon the filing of said bill of complaint suit was commenced against the defendants named in said bill of complaint. That all of the proceedings above referred to were taken and had by affiant as an officer of the district court of the United States in and for the northern district of Florida, and in the due, proper, and faithful performance of his duty as such officer, and were necessarily had and taken under the law and his oath of office.

"That on Monday, the 20th day of October, A. D. 1902, between the hours of 9 and 10 o'clock a. m., affiant was standing in the door of the office of the store owned and conducted by him, situated at No. —, East Government street, in the city of Pensacola, aforesaid, which said office was occupied by deponent, among other things, for the purpose of performing the duties devolving upon him as trustee as aforesaid, and in which said office this deponent kept and had the custody of the papers, books, etc., relating to and connected with the estate of said Scarritt Moreno, bankrupt, in deponent's hands as trustee, as aforesaid. That at the said time deponent was engaged in conversation with one Alex. Lischkoff, when one W. C. O'Neal, who was at the said time president of said American National Bank, of Pensacola, one of the defendants in the action or suit heretofore referred to, approached to where affiant was standing and conversing, as aforesaid, and stated to affiant that as soon as he, affiant, was at liberty, he, said O'Neal, desired to speak to him; thereupon affiant stated in effect that said O'Neal could speak to him then, and affiant entered his said office and stood alongside of a standing desk about 5 feet from the door of said office.

"Said O'Neal followed affiant into said office and stood opposite to affiant, and distant only a few feet. That thereupon said O'Neal, in effect, asked this affiant why he, affiant, had brought the name of his, the American National, bank, into the Moreno suit (meaning thereby the suit above referred to, brought by affiant as trustee, against Scarritt Moreno and others); that affiant replied that he, O'Neal, could see his, affiant's attorneys in relation thereto; that said O'Neal made some remark to the effect that he would not do so, and stated to affiant that he, affiant, was no gentleman; that affiant thereupon said that he, affiant, was as much of a gentleman as he, the said O'Neal, was; that thereupon said O'Neal said, 'We'll settle the matter,' and turned about as if he intended to leave the premises of deponent, walking toward the door of said office and out upon the sidewalk.

"That affiant had no thought, idea, or suspicion that said O'Neal intended any personal violence toward him, and quietly started forward from where he was so standing as aforesaid, toward the door of said office leading into the street. That affiant barely reached the doorway of said office when said O'Neal, without any provocation, without any notice to deponent of his murderous intention, turned and wheeled suddenly about with his knife in his hand, and with intent to kill and murder deponent struck at his, deponent's, throat with said knife, and cut deponent at a point behind the left ear, cutting through lower portion of said left ear, then across the left cheek, ending at left corner of mouth, and immediately thereafter said O'Neal cut and stabbed deponent four further times: (1) On left side over ribs; (2) upon left hip; (3) on left elbow; and (4) on right hand. That the cuts, wounds, and stabs so inflicted by said O'Neal upon deponent were of a serious and dangerous character, and from said time to the present deponent has been unable to attend to and perform his duties as trustee as aforesaid, and has been confined to his home, except for a few hours on two or three different days; and has ever since been, and is

now, under the care and treatment of a physician, who is attending to said wounds.

"That said assault and attempt to murder was committed by said O'Neal as aforesaid, solely because and for the reason that affiant, as an officer of the United States district court in and for the northern district of Florida, had instituted the suit above set forth against the said American National Bank and others, and to interfere with and prevent deponent from executing and performing his duties as such officer of said court; and the said O'Neal did by the said murderous assault interfere with the management of said trust by deponent as an officer of the said court, and did for a long period of time, to wit, from the said 20th day of October, 1902, up to the present time, by reason of the injuries inflicted by him upon deponent as aforesaid, prevent and deter deponent from performing the duties incumbent upon him, deponent, as such officer, and did thereby interfere with the management by deponent, as such officer, of the estate of the said Scarritt Moreno, bankrupt.

"A. GREENHUT.

"Sworn to and subscribed before me this 7th day of November, A. D. 1902.

"E. K. NICHOLS,
"*Referee in Bankruptcy.*"

And the said court, and respondent, as judge of said court, then and there, by virtue of the filing and presentation of said complaint, having jurisdiction in the premises, caused the said W. C. O'Neal to be cited to appear before the said court to answer to the charge of contempt as set forth and exhibited to the court in said information.

Respondent says that thereafter, and upon the 17th day of November, A. D. 1902, the said W. C. O'Neal appeared in the said court, the same being then and there in session, and thereafter and from time to time due proceedings were had in said court which resulted in a trial of the charges made and set forth in the said information; that the said W. C. O'Neal filed his answer in said cause; that he was heard on all questions arising in the case by counsel learned in the law, and on the 8th day of December, 1903, issue having been fully joined, the court proceeded to hear and try the said case upon the said charges of contempt so preferred against the said W. C. O'Neal; that evidence was offered and received in support of the facts as alleged in the said information, and evidence was also offered and received for and on behalf of the said W. C. O'Neal; and after the hearing of all testimony offered upon both sides, and after hearing arguments of counsel for the said W. C. O'Neal, respondent, as the presiding judge of said court, held and found the said W. C. O'Neal guilty of contempt as charged, and entered against him the following order and judgment, to wit:

"And afterwards, to wit, on the 9th day of December, A. D. 1902, the following proceedings were had in open court, to wit:

"In the matter of the rule upon W. C. O'Neal to show cause why he should not be punished for contempt of this court as to the matters and things set forth in the affidavit of Adolph Greenhut.

"This cause coming on to be heard at this time on the affidavit of Adolph Greenhut in the matter of the bankruptcy proceedings in the estate of Scarritt Moreno, and upon the rule to show cause why he should not be punished for contempt of this court, issued thereon by this court, against W. C. O'Neal, and upon the answer of the said respondent, W. C. O'Neal, to the said rule and affidavit; and the court having heard the testimony and the witnesses for the prosecution and for the respondent, and after argument of counsel and consideration by the court, and the court being advised in the premises, the court doth find as follows:

"That the affidavit of Adolph Greenhut, upon which this rule was granted, is true, and that the respondent is guilty of the acts and things set forth therein, in the manner and form therein alleged, and that the same constitute and are a substantial contempt of this court, and it is therefore

"*Ordered, adjudged, and directed* that the said respondent, W. C. O'Neal, be taken hence to the county jail of Escambia County, at Pensacola, in the State of Florida, and there confined for and during the period of sixty days, and that he stand committed until the terms of this sentence be complied with, or until he be discharged by due process of law.

"And the said respondent, W. C. O'Neal, at this time having sued out his writ of error to the Supreme Court of the United States, and made and entered into a bond and undertaking, conditioned as required by law and duly approved by this court, it is therefore ordered that the said writ of error be and operate as supersedeas to the judgment heretofore rendered in this cause."

Respondent here alleges and says that all of the facts and allegations contained in the said information filed and presented in said court by the said A. Greenhut, and so found and adjudged to be true by this respondent, as the presiding judge of said court, upon the said trial, were and are true in all respects as set forth in the said information of said A. Greenhut; and respondent herein refers to the allegations contained in said information herein before fully set forth and adopts each and every of said allegations as a part of his answer herein, and hereby alleges that each and every of the facts set forth in the said information were and are true; and he asks that the same be taken as a part of his answer herein as fully and to the same effect as if the same were herein specifically reiterated and charged.

Respondent further says that thereafter the said W. C. O'Neal sued out a writ of error to the Supreme Court of the United States, and thereafter perfected the same by filing in the said Supreme Court a transcript of the record of the said case and of the proceedings had therein in the said district court; and thereafter such proceedings were had and taken in the Supreme Court of the United States that on the 1st day of June, 1903, the said writ of error was dismissed by the said court for want of jurisdiction.

Respondent, further answering, says that thereafter, to wit, on the 12th day of June, 1903, the said W. C. O'Neal, having been apprehended and imprisoned in the county jail of Escambia County, at Pensacola, Fla., in pursuance of the judgment and sentence of the said United States court sitting in and for the northern district of Florida, sued out and prosecuted before the Hon. Don A. Pardee United States circuit judge in and for the fifth judicial circuit, a writ of habeas corpus; and thereafter such proceedings were had thereunder before the said circuit judge that on the 10th day of November, A. D. 1903, said judge entered judgment and made an order discharging said writ of habeas corpus, which said judgment and order, together with the reasons stated by the court therefor, is in words and figures as following, to wit:

"United States circuit court, fifth judicial circuit, northern district of Florida. Ex parte W. C. O'Neal. Habeas corpus.

"The petitioner, W. C. O'Neal, was convicted in the district court for the northern district of Florida on a charge of contempt of court in committing an assault upon an officer of said court, and thereupon was sentenced to imprisonment in the county jail at Pensacola, Fla., for a term of sixty days. This conviction was immediately followed by a writ of error to the Supreme Court of the United States based on a certified question as to jurisdiction. In dismissing the writ of error the Supreme Court said:

"'Jurisdiction over the person and jurisdiction over the subject-matter of contempt were not challenged. The charge was the commission of an assault on an officer of the court for the purpose of preventing the discharge of his duties as such officer, and the contention was that on the facts no case of contempt was made out.

"'In other words, the contention was addressed to the merits of the case and not to the jurisdiction of the court. An erroneous conclusion in that regard can only be reviewed on appeal of error, or in such appropriate way as may be provided. Louisville Trust Company *v.* Cominger (184 U. S., 18, 26); Ex parte Gordon (104 U. S., 515).

"'And while proceedings in contempt may be said to be sui generis, the present judgment is in effect a judgment in a criminal case over which this court has no jurisdiction in error (section 5, act of March 3, 1891, 26 Stat., 826, c. 517, as amended by the act of January 20, 1897, 29 Stat., 492, c. 68); Chetwood's case (165 U. S., 445, 462); Tinsley *v.* Anderson (171 U. S., 101, 105); Cary Manufacturing Company *v.* Acme Flexible Clasp Company (187 U. S., 427, 428; 190 U. S., 37, 38)'.

"The case is here presented upon the record proper as submitted to the Supreme Court and upon further showing of alleged facts, which petitioner claims do not contradict the record, to wit:

"That the place at which took place on the morning of October 20, 1902, the affray between A. Greenhut and petitioner, in which is alleged to have occurred the assault by petitioner upon the said A. Greenhut, for which the district court has sentenced petitioner as for a contempt, was the office in the store of the said A. Greenhut and was a part of the building occupied by him for the purpose of conducting the said grocery business, and was used in connection with his position as trustee only because it was his place of business and therefore more convenient for him. That the said building was at said time, and is now, No. 104 East Government street, in the city of Pensacola, and distant from the United States court room and the

building in which it was and is held not less than 400 feet, and separated therefrom by an intervening street and intervening alley and by more than a block of brick business houses, and was not in any way connected with or used in connection with the said court or court-house or any of the functions or duties of the said court or of the judge thereof. That the said district court was not in session in the city of Pensacola on the said 20th day of October, nor had been for months before the said date, and that no session thereof occurred thereafter until November 7, 1902, and that the judge of said court was not on the date in said State nor had been therein for months prior thereto, nor did he come therein until the 6th day of November, A. D. 1902.

"As to claimed authority to supplement record as to facts, see In re Cuddy (131 U. S., 280).

"In my opinion the additional facts offered to supplement the record do not materially change the status of the case nor do they in any wise extend the jurisdiction of this court upon this writ.

"The charge of contempt against the relator is based upon the fact that he unlawfully assaulted and resisted an officer of the district court in the execution of orders of the court and in the performance of the duties of his office under such orders, and in that respect it would seem to be immaterial whether the place of resistance was 40 or 400 feet from the actual place where the court was usually held, so long as it was not in the actual presence of the court nor so near thereto as to embarrass the administration of justice.

"Under the bankruptcy act of 1898, section 2, the district courts of the United States, sitting in bankruptcy, are continuously open; and under section 33 and others of the same act a trustee in bankruptcy is an officer of the court. The questions before the district court in the contempt proceedings were whether or not an assault upon an officer of the court, to wit, a trustee in bankruptcy for and on account of and in resistance of the performance of the duties of such trustee, had been committed by the relator, and if so, was it under the facts proven a contempt of the court whose officer the trustee was.

"Unquestionably the district court had jurisdiction summarily to try and determine these questions, and having such jurisdiction, said court was fully authorized to hear and decide and adjudge upon the merits. (In re Savin, 131 U. S., 267, 276, 277.)

"This brings us squarely to the question whether upon this writ of habeas corpus the inquiry can be extended by this court so as to review, as upon writ of error, any irregularities of the district court in the proceedings or to determine, as upon appeal, the real merits of the case.

"I have examined with care the decisions of the Supreme Court of the United States in In re Cuddy (131 U. S., 280), Ex parte Mayfield (141 U. S., 116), and In re Sachs & Watts (190 U. S., 1), and in many other cases, and do not find that either or any of them control or determine the question in favor of such claimed jurisdiction.

"Whatever an appellate court may have power to do in regard to supplementing the record, as held in In re Cuddy and in Ex parte Mayfield, or upon certiorari and habeas corpus to examine the merits of the case, as in In re Sachs & Watts, I am forced to follow, as I did in Ex parte Davis (112 F. R., 139), the Supreme Court in United States *v.* Pridgeon (153 U. S., 48, 62), wherein it is declared: 'Under a writ of habeas corpus the inquiry is addressed, not to errors, but to the question whether the proceedings and the judgment rendered therein are for any reason nullities; and, unless it is affirmatively shown that the judgment or sentence under which the petitioner is confined is void, he is not entitled to his discharge.'

"This court has no appellate jurisdiction over the district court for this district, and if it should attempt to go beyond the rule declared in United States *v.* Pridgeon, and assume authority to look into the merits wherein judgments have been rendered in the district court in contempt cases, it would be, from my standpoint, an unwarranted assumption of jurisdiction, decidedly tending to scandal in judicial proceedings.

"In dealing with the proceedings against petitioner in the district court, the Supreme Court said that an erroneous conclusion in regard to the merits can only be reviewed on appeal or error, and in such appropriate way as may be provided. As shown above, the writ of habeas corpus is not an appropriate way provided.

"The Supreme Court further said that the judgment in this present case is in effect a judgment in a criminal case, in which that court had no jurisdiction on error. The court did not say that no other appellate court had jurisdiction on error.

"In In re Paquet (114 F. R., 437) the circuit court of appeals in this circuit held that that court had no jurisdiction to issue a writ of prohibition in a certain contempt case when pending in the circuit court of the northern district of Florida, but intimated that possibly a writ of error might lie in such cases where final judgment of conviction had been rendered; but whether the petitioner here has or had a remedy by writ of error from or by appeal to any appellate court is immaterial on this inquiry, and I am satisfied that this court has no jurisdiction to review the petitioner's case by any remedy provided by law.

"The writ of habeas corpus is discharged.

"Circuit Judges McCormick and Shelby sat with me and heard argument in this case, and they concur in this opinion.

"DON. A. PARDEE,
"*Circuit Judge.*

"NOVEMBER 10, 1903."

Whereby respondent insists and alleges that the said proceedings against the said W. C. O'Neal for the contempt as aforesaid came to an end, and a final adjudication was had therein.

Respondent alleges that the said United States district court, sitting in and for the northern district of Florida, had jurisdiction of the said contempt proceedings; that due process of law was issued therein, and that the said W. C. O'Neal appeared in said court and was accorded every right to be heard by counsel learned in the law, to plead, to present evidence, and to purge himself of said contempt if he could do so in accordance with the facts and the law of the case; and he says that the said W. C. O'Neal did not purge himself of said contempt.

And respondent insists that he was and is blameless in the premises; that he performed his duty, and his whole duty, in all the said proceedings; that he was entirely free from any bias, prejudice, or desire to injure said W. C. O'Neal; that all his acts and doings in and about the trial of said case, the rulings made therein, the decision thereof, and the imposing of sentence therein were prompted solely by his desire to maintain the dignity and authority of the said district court of the United States, and to punish such acts of contempt of its authority as tended to hinder, delay, obstruct, and impede the due administration of justice therein, and to subject the said court and the judge and officers thereof to public criticism, contumely, and contempt; and he alleges that the sentence imposed upon said W. C. O'Neal, in view of the gravity of the contempt committed, was reasonable, and that in fact this respondent exercised great leniency in fixing the punishment of the said W. C. O'Neal.

Respondent further alleges that in all the said proceedings he was in no way guilty of an abuse of judicial power or of a high misdemeanor, and that the said proceedings had and held before him and the judgment resulting therefrom were all in accordance with the law and the facts of the case, and any failure of this respondent as presiding judge of the United States district court to have adjudged the said W. C. O'Neal guilty of a contempt and to have punished him therefor, in view of the enormity of the offense, as shown by the testimony, would have greatly tended to destroy the dignity and authority of the said court, to intimidate the officers of said court in the performance of their duties as such, and to obstruct, hinder, and delay the due course of justice therein, and to bring said court and its officers into public disfavor and just contempt.

And this respondent, in submitting to this honorable court, this, his answer to the articles of impeachment exhibited against him, respectfully reserves leave to amend and add to the same from time to time, as may become necessary or proper and when said necessity and propriety shall appear.

CHAS. SWAYNE.

ANTHONY HIGGINS,
JOHN M. THURSTON,
Of Counsel for Respondent.

At the conclusion of the reading of the answer to the first article,

Mr. THURSTON said: Mr. President, we have attached as exhibits to this answer to the first article three certificates, one from the fifth, one from the seventh, and one from the ninth judicial circuits of the United States, which show that, almost without exception, the amount of $10 per diem was drawn by each and all of the judges, both of the circuit and district courts of those circuits, in their attendance outside of their districts, under the provisions of these laws. We have been unable up to the present time to secure from the Secretary of the Treasury the additional certificates for the other districts.

After concluding the reading of the entire answer of the respondent,

Mr. THURSTON said: Now, Mr. President, referring to the fact that certain exhibits which we desired to attach to our answer to article No. 1 had not been attached because of the fact

that the Secretary of the Treasury in the short space of time has been unable to furnish it to us, we move as follows:

Counsel for respondent move an order giving them leave to hereafter attach to the answer herein to article 1, as exhibits, additional copies of certificates of the Secretary of the Treasury, showing the amounts certified to and received from the United States by the judges of the first, second, third, fourth, sixth, and eighth judicial circuits, as their reasonable expenses for travel and attendance while holding court away from the places of their residences, and outside of their respective districts, in the year 1903, it having been impossible for the Secretary of the Treasury to prepare and furnish the same to respondent up to the present time.

Mr. Manager PALMER. Mr. President, I think there ought to be some length of time stated in this order. Of course, we do not admit that these matters are at all material, but we do not object to their being filed if it is done within some reasonable length of time.

Mr. HIGGINS. Mr. President, I will state that I had heard from the Secretary of the Treasury that these certificates were prepared. We hope to have them from the Secretary before the end of the week. They are substantially in the same form and terms, though, of course, with different facts—mutatis mutandis—as those certificates already filed with the answer.

Mr. Manager PALMER. Before counsel for the respondent asked for an order that they may have until next Monday to file these additional exhibits I was going to ask for an order that we have until next Monday to reply. Will that suit counsel?

Mr. HIGGINS. How is that? I did not understand the manager.

Mr. FAIRBANKS. Mr. President, I propose the order, which I send to the desk, upon the motion of the counsel for the respondent with reference to the exhibits.

Mr. BACON. I would suggest to the Senator from Indiana that under the order adopted this morning it is competent for the managers to directly ask the order without its being proposed by a Senator.

The PRESIDING OFFICER. The Chair understands that an order is moved by counsel for respondent and the order is in writing. Will the counsel present it to the Secretary?

Mr. THURSTON. Mr. President, the motion was in writing. We had inferred that the order would be proposed by some member of the court.

The PRESIDING OFFICER. The Secretary will read the motion.

The Secretary read as follows:

Counsel for respondent move an order giving them leave to hereafter attach to the answer herein to article 1, as exhibits, additional copies of certificates of the Secretary of the Treasury showing the amounts certified to and received from the United States by the judges of the first, second, third, fourth, sixth, and eighth judicial circuits as their reasonable expenses for travel and attendance while holding court away from the places of their residences, and outside of their respective districts, in the year 1903, it having been impossible for the Secretary of the Treasury to prepare and furnish the same to respondent up to the present time.

The PRESIDING OFFICER. The Chair understands that this being a motion for an order, the Senator from Indiana [Mr. FAIRBANKS] proposes the order which will now be read by the Secretary.

The Secretary read as folows:

Ordered, That the respondent, Charles Swayne, have leave to hereafter, not later than the 10th instant, attach as further exhibits to his answer to article 1 of the articles of impeachment copies of the certificates of the Secretary of the Treasury, referred to in said answer, showing the amounts certified to and received from the United States by the judges of the first, second, third, fourth, sixth, and eighth judicial circuits as their reasonable expenses for travel and attendance while holding court away from the place of their residence, and outside of their respective districts, in the year 1903.

Mr. BAILEY. Mr. President, as a matter of good practice—and I presume we are to conduct this trial according to good practice—it seems to me that this is a request for time in which to exhibit evidence as a part of the pleadings. If this matter is admissible before this court at all, it is admissible as evidence. It does not occur to me as an appropriate proceeding to be giving time in which counsel for the respondent may file evidence with their pleadings. That is as I look at it. If it were desirable to give the counsel time to prepare new allegations I should not object to an order for that; but I do object to having this court put into the attitude of expressly and by order providing for delay in producing as a part of the pleadings what properly, as it seems to me, belongs only to the production of evidence.

The PRESIDING OFFICER. The Chair will state the question. Counsel for the respondent move for an order permitting certain facts to be obtained from the Secretary of the Treasury to be hereafter attached to their answer. That is the question before the Senate.

Mr. Manager PALMER. Mr. President, is it in order for the managers to oppose that motion?

The PRESIDING OFFICER. The managers undoubtedly have a right to be heard upon the motion made by the counsel for the respondent.

Mr. Manager PALMER. If, as suggested by the Senator from Texas [Mr. BAILEY], it is true that these exhibits are to be considered as evidence, then certainly they ought to be attached before the managers are asked to reply. We had expected to ask until next Monday to reply or to demur or to except to this answer, and the answer ought to be complete before we are asked to reply to it. If this time is postponed until the 10th of February our answer will have been in, and if these matters are matters of evidence it might be quite a serious consideration. Therefore we object to the extension of the time until the 10th of February.

Mr. THURSTON. Mr. President, the respondent and his counsel are so anxious to interpose no obstruction to the speedy trial of this case that if, as suggested, our motion would be taken as a ground for asking delay we here and now withdraw it.

The PRESIDING OFFICER. The motion is withdrawn, and the Chair supposes the order proposed by the Senator from Indiana is also withdrawn.

Mr. FAIRBANKS. Yes; the order is withdrawn.

Mr. Manager PALMER. Mr. President, I ask that the order I send to the desk may be made.

The PRESIDING OFFICER. The managers on the part of the House request the adoption of the order which will be read by the Secretary.

The Secretary read as follows:

Ordered, That the managers have time until Monday next, at 2 p. m., to consult the House of Representatives on the subject of filing exceptions, demurrer, or replication to the answer of the respondent, and that they be furnished with a copy of the said answer.

Mr. FORAKER. I did not understand from the reading of the request that it was proposed by the managers that on the date named they would file such other pleadings as they may propose to file. I think before we vote upon the order it should be understood.

The PRESIDING OFFICER. The Secretary will again read the proposed order.

The Secretary again read the proposed order.

Mr. FAIRBANKS. I offer the order which I send to the desk as a substitute for that which has just been read.

The PRESIDING OFFICER. The managers on the part of the House having requested an order in the form which was read by the Secretary; the Senator from Indiana offers an order relating to the same subject-matter, which will be read by the Secretary.

The Secretary read as follows:

Ordered, That the managers on the part of the House be allowed until the 6th day of February instant, at 1 o'clock in the afternoon, to present the replication, if any, of the House of Representatives to the answer of the respondent. That any subsequent pleadings, either on the part of the managers or of the respondent, shall be filed with the Secretary of the Senate, of which notice shall be given to the House of Representatives and the respondent, respectively, so that all pleadings shall be closed on or before the 9th day of February instant, and that the trial shall proceed on the 10th day of February instant, at 1 o'clock p. m.

Mr. Manager PALMER rose.

The PRESIDING OFFICER. Do the managers desire to be heard with reference to the proposed order?

Mr. Manager PALMER. Yes, sir. We will have to object to the order proposed as a substitute for the one submitted by the managers, because it will cut the managers off with the privilege of filing a replication only. We may desire to file a demurrer or an exception, or some kind of pleading other than a replication. Under this order we are to file by the 6th of February, as I understand, a replication, and that is to end the pleadings so far as the managers are concerned, except that they may file something afterwards with the Secretary. We should like to have the order amended so that it will cover any kind of pleadings that we may desire to file.

Mr. FAIRBANKS. I will amend the order by making it read "replication or other pleading," striking out the words "if any" and inserting "or other pleading."

The PRESIDING OFFICER. The Secretary will read the proposed order as modified by the Senator from Indiana.

The order as modified was read, as follows:

Ordered, That the managers on the part of the House be allowed until the 6th day of February instant, at 1 o'clock in the afternoon, to present the replication or other pleading of the House of Representatives to the answer of the respondent. That any subsequent pleadings, either on the part of the managers or of the respondent, shall be filed with the Secretary of the Senate, of which notice shall be given to the House of Representatives and the respondent, respectively, so that all pleadings shall be closed on or before the 9th day of February instant, and that the trial shall proceed on the 10th day of February instant, at 1 o'clock p. m.

Mr. FAIRBANKS. If the word "the" precedes "replication," it should be stricken out and the word "a" inserted; so that it will read "a replication or any other pleading."

Mr. FORAKER. Yes; the article "a" should be inserted for "the;" so as to read "a replication."

The PRESIDING OFFICER. The order will be so modified. Is there objection to the order as modified?

Mr. PETTUS. I am not very familiar with the forms of this proceeding; but the latter part of that order, it seems to me, will embarrass the managers, as well as counsel for the respondent. Pleadings go by succession, one after the other; one has to be disposed of before it is proper to file another. Filing pleadings with the Secretary in no way disposes of them, and it seems to me the counsel and the managers will both be embarrassed by not having one pleading removed out of the way by a demurrer or by some other form of pleading before another is submitted. The filing of a pleading with the Secretary will be of no benefit in removing it out of the way.

The PRESIDING OFFICER. The Chair finds that in the Belknap impeachment trial the following resolution was passed by the Senate:

Ordered, That the respondent file his rejoinder with the Secretary on or before the 24th day of April instant, who shall deliver a copy thereof to the Clerk of the House of Representatives, and that the House of Representatives file their surrejoinder, if any, on or before the 25th day of April instant, a copy of which shall be delivered by the Secretary to the counsel for the respondent.

Ordered, That the trial proceed on the 27th day of April instant, at 12 o'clock and 30 minutes afternoon.

The proposed order is as follows:

Ordered, That the managers on the part of the House be allowed until the 6th day of February instant, at 1 o'clock in the afternoon, to present a replication, or other pleading, of the House of Representatives to the answer of the respondent. That any subsequent pleadings, either on the part of the managers or of the respondent, shall be filed with the Secretary of the Senate, of which notice shall be given to the House of Representatives and the respondent respectively, so that all pleadings shall be closed on or before the 9th day of February instant, and that the trial shall proceed on the 10th day of February instant, at 1 o'clock p. m.

The Presiding Officer thinks the proposed order does not differ in any essential particular from the precedent established in the Belknap case.

Mr. Manager PALMER. I should be glad if the order could be changed so as to fix the hour at 2 o'clock on the 6th of February, instead of at 1 o'clock. The House meets at 12 o'clock, and it might be that some question would arise as to the form of the replication or demurrer or whatever we choose to file. It might lead to discussion, and we might not be prepared to come to the Senate by 1 o'clock.

The PRESIDING OFFICER. Will the Senator from Indiana modify his order?

Mr. FAIRBANKS. I will modify the order by inserting "2 o'clock" instead of "1 o'clock."

The PRESIDING OFFICER. The modification is made. The question is on agreeing to the order as modified.

The order as modified was agreed to.

Mr. Manager PALMER. Mr. President, I ask that the order I send to the desk be made.

The PRESIDING OFFICER. The managers on the part of the House request an order, which will be read.

The order was read, and agreed to, as follows:

Ordered, That the Secretary of the Senate communicate to the House of Representatives an attested copy of the answer of Charles Swayne, judge of the United States in and for the northern district of Florida, to the articles of impeachment, and also a copy of the foregoing order.

Mr. SPOONER. I ask for the adoption of the order I send to the desk.

The PRESIDING OFFICER. The Senator from Wisconsin asks for the adoption of an order which will be read.

The Secretary read as follows:

Ordered, That the answer of the respondent, Charles Swayne, to the articles of impeachment exhibited against him by the House of Representatives be printed for the use of the Senate sitting in the trial of said impeachment.

Mr. BACON. I suggest that possibly the order might be enlarged to advantage so as to include not only the answer, but such further pleadings as may hereafter be filed under the order just adopted.

Mr. SPOONER. I have no objection to that.

Mr. BACON. I suggest that the Senator enlarge his order to that effect.

The PRESIDING OFFICER. The Chair suggests that it might be a little difficult to modify the order so as to apply to all subsequent pleadings filed by the managers on the part of the House and the counsel respectively.

Mr. SPOONER. We want this at once, and we can get the other later.

Mr. BACON. Very well, Mr. President.

Mr. Manager PALMER. Mr. President, allow me to suggest that the articles of impeachment as printed in the RECORD are incomplete. There are five of the articles which are not in the RECORD at all, and some time I suppose they ought to be printed in the form of a public document to accompany the answer and other pleadings.

The PRESIDING OFFICER. The Presiding Officer will state that the order offered by the Senator from Wisconsin, unless objected to, is agreed to.

With regard to the articles of impeachment as they appear in the CONGRESSIONAL RECORD, only six of the articles—the first six, I believe—are printed in the RECORD. The failure to print in full the articles of impeachment was due to an accident, the Chair thinks, and is scarcely the fault either of the Official Reporters or of the Printing Office. But, between the two, the copy for the remaining articles was not at hand. The Chair understands that in the permanent RECORD the full articles have been or will be printed.

The managers on the part of the House suggest that the articles of impeachment be printed as a document.

Mr. Manager PALMER. With the answer.

The PRESIDING OFFICER. With the answer. If there is no objection, that order will be made.

Mr. FAIRBANKS. I move that the Senate sitting as a court of impeachment adjourn until Monday, the 6th instant, at 2 o'clock p. m.

The motion was agreed to; and (at 2 o'clock and 50 minutes p. m.) the Senate sitting as a court of impeachment adjourned until Monday, February 6, 1905, at 2 o'clock p. m.

The managers on the part of the House and the counsel for the respondent retired from the Chamber.

The PRESIDENT pro tempore resumed the chair.

ADDITIONAL REPORTS OF A COMMITTEE.

Mr. DUBOIS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 14423) for the extension of T street, and for other purposes, reported it without amendment, and submitted a report thereon.

Mr. GORMAN, from the Committee on the District of Columbia, to whom was referred the bill (S. 2805) for the relief of William B. Todd, deceased, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the joint resolution (S. R. 99) empowering the Commissioners of the District of Columbia to make regulations respecting places used for market purposes, and authorizing them to establish, regulate, and control markets and change the location of the same within the District of Columbia, submitted an adverse report thereon, which was agreed to; and the joint resolution was postponed indefinitely.

PRIVATE CONDUIT ACROSS D STREET NW.

Mr. DUBOIS. I am directed by the Committee on the District of Columbia, to whom was referred the bill (S. 6923) for the construction of a private conduit across D street NW., to report it favorably with amendments; and I ask unanimous consent for its present consideration. It is a short bill, and a similar measure has been favorably reported in the other House.

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

The first amendment of the Committee on the District of Columbia was, after the word "regulations," in line 11, to insert "and subject to the limitations;" so as to read:

That the Commissioners of the District of Columbia be, and they are hereby, authorized to grant permission to S. Kann, Sons & Co. to lay a conduit for the transmission of electric power and a pipe for the transmission of steam power from their store building in square 432 to their store building in square 431, across D street, between Seventh and Eighth streets NW., Washington, D. C., under the regulations and subject to the limitations prescribed in the act entitled "An act regulating permits for private conduits in the District of Columbia," approved May 26, 1900.

The amendment was agreed to.

The next amendment was to insert a new section in the following words:

SEC. 2. Congress reserves the right to alter, amend, or repeal this act.

The amendment was agreed to.

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

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADDITIONAL BILLS INTRODUCED.

Mr. BAILEY (by request) introduced a bill (S. 7059) for the relief of the estate of John H. Russell, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also (by request) introduced a bill (S. 7060) for the relief of the estate of A. Underwood, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARREN introduced a bill (S. 7061) granting an increase

of pension to John A. B. Apperson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DANIEL introduced a bill (S. 7062) for the relief of Edmonia Brooke Taliaferro; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. GALLINGER introduced a bill (S. 7063) to repeal the charters of certain corporations heretofore organized under subchapter 4 of the "Act to establish a code of law for the District of Columbia," and to require the filing of certain statements and imposing certain taxes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DILLINGHAM subsequently said: I ask leave at this time to introduce a bill granting an increase of pension to Hester S. Damon, and my excuse for interrupting the Senator from Missouri [Mr. STONE] is that she is the last pensioner on the widow's roll of the Revolutionary war, and she is in want.

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). The bill will be received.

The bill (S. 7064) granting an increase of pension to Hester S. Damon was read twice by its title, and referred to the Committee on Pensions.

Mr. KITTREDGE introduced a bill (S. 7065) to amend section 5146 of the Revised Statutes of the United States in relation to the qualifications of directors of national banking associations; which was read twice by its title, and referred to the Select Committee on National Banks.

He also introduced a bill (S. 7066) granting an increase of pension to Edmond W. Eakin; which was read twice by its title, and referred to the Committee on Pensions.

MEDICAL OFFICERS, REVENUE-CUTTER SERVICE.

Mr. SPOONER submitted an amendment providing that medical officers in the Revenue-Cutter Service who shall have served five years or more as such on a vessel or vessels in the service shall have the rank, pay, allowances, and all the rights and privileges given by law to first lieutenants, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

STEAMER PARKGATE.

Mr. PENROSE. I submit a resolution, and ask for its present consideration. I was prevented from offering it this morning on account of the impeachment proceedings.

The Secretary read the resolution; and by unanimous consent the Senate proceeded to its consideration, as follows:

Resolved, That the Secretary of Commerce and Labor be, and he is hereby, requested to transmit to the Senate a report of proceedings and copies of all documents bearing upon the question of admitting to American registry the steamer Parkgate, and that he be, and is hereby, further requested to also furnish the Senate with copies of such applications for American registry as are now pending in the Department, together with such papers and data as bear thereon.

Mr. SPOONER. I move to amend the resolution by striking out the word "requested" and inserting the customary word "directed."

The amendment was agreed to.

The resolution as amended was agreed to.

HEARINGS BEFORE COMMITTEE ON WOMAN SUFFRAGE.

On motion of Mr. BACON, it was

Ordered, That 10,000 copies of the hearings before the Committee on Woman Suffrage be printed for the use of the Senate.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of 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 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. STONE. Mr. President, the Senator from Minnesota [Mr. NELSON] is usually very accurate and careful, so much so that any statement made by him is ordinarily and very properly accepted with confidence. But the most careful and correct of men sometimes make mistakes. I observe one or two mistakes in the speech made by this Senator on Monday last. These mistakes are not important, perhaps, but it is well enough to keep the record straight, particularly as these mistakes relate to one of the matters about which legislation is sought to be incorporated in the pending bill.

In speaking of the Five Civilized Tribes the Senator from Minnesota said:

We have, by our system of allotments, given them practically all the protection they need. Their homestead allotments in the case of four of the nations are inalienable for twenty-one years, the time that it takes an American-born child to become entitled to vote as a citizen of the United States, and in one case—that of the Seminoles—their allotments are inalienable in perpetuity.

That is one of the Senator's mistakes, namely, that the homestead allotments of the Seminoles are inalienable in perpetuity.

That was true up to 1903. By an act passed July 1, 1898, referring to the Seminoles, it was provided that—

Each allottee shall designate one tract of 40 acres, which shall, by the terms of the deed, be made inalienable and nontaxable as a homestead in perpetuity.

But that was changed by the appropriation act of 1903, which contains this provision:

That the homestead referred to in said act—

That is, the act of 1898, referring to the Seminoles, from which I have quoted—

shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the deed for the allotment.

Thus it will be seen that the Senator from Minnesota fell into a slight error in that respect. The limitation on the alienation of the homesteads of Seminoles is twenty-one years, as in the case of the other tribes.

Again, the Senator said:

As to the other Indian lands, in the treaties that we have concluded with them recently there is a five years' limitation upon the right to sell the lands. That restriction, as I mentioned the other day, was removed by a paragraph in an Indian appropriation act. Under that provision allotments that are not homestead allotments, and those that do not belong to minors and full-blood Indians, may, with the permission of the Secretary of the Interior, be sold. That is the state of the case.

The Senator does not state quite accurately the provision of the appropriation act to which he refers. Under that appropriation act, passed in 1904, it was provided that—

All the restrictions upon the alienation of lands of all allottees of either of the Five Civilized Tribes of Indians who are not of Indian blood, except minors, are, except as to homesteads, hereby removed.

The restriction upon the alienation of lands other than homesteads, therefore, was removed only as to allottees not of Indian blood, while the restrictions upon the alienation of allottees having Indian blood or who were enrolled as Indians were not removed. As to these the act provided that restrictions might be removed upon application of an allottee to the Indian agent at the Union Agency and upon his recommendation, with the approval of the Secretary of the Interior.

The mistake which the Senator from Minnesota made was in saying that restrictions upon alienations were removed as to all Indians or all allottees except minors and full bloods. It is important that that mistake should be corrected, in view of some amendments that have been offered. The restrictions still continue upon all allottees except freedmen and intermarried whites. All Indians, whether full bloods or half-breeds, or Indians having any degree of Indian blood, and who are enrolled as Indians, are still subject to the restrictions upon alienation.

I thought it well to make this correction. It ought not to be supposed by the Senate that the restrictions referred to do not now exist, for they do.

But, Mr. President, my main purpose in arising to-day is to discuss briefly the amendment proposed by the senior Senator from New Hampshire [Mr. GALLINGER]. I will read the amendment proposed by him:

Page 5, line 6, substitute a period for the colon after the word "prohibited" and strike out all thereafter down to and including the word "provide," in line 13, and insert in lieu thereof the following:

"The manufacture, sale, barter, or giving away of intoxicating liquors within that part of this State heretofore known as the Indian Territory, and in all the several other parts of this State known as Indian reservations at the time of the adoption of this constitution, is hereby prohibited for a period of twenty-one years after the date of the admission of this State into the Union, and thereafter until the people of this State shall otherwise provide by amendment of this constitution in the manner prescribed therein; and the legislature shall provide suitable laws with adequate penalties for carrying the provisions of this section into full force and effect, said laws to be effective from and after the termination of the Federal jurisdiction hereinafter provided for; and the Federal laws relative to intoxicating liquors now in force in Indian Territory and in the said Indian reservations, respectively, shall continue in force for a period of twenty-one years from and after the admission of this State into the Union, said subject-matter being and remaining under and subject to the exclusive jurisdiction of the United States for said period; and this State and the people of this State do, by the adoption of this provision in this constitution, hereby expressly consent to the continuation of such exclusive jurisdiction by the United States."

This amendment, by its terms, applies only to the Indian Territory and the Indian reservations in Oklahoma. If it should be adopted in this form and be incorporated in the constitution of the new State of Oklahoma, it would apply only to the Indian Territory and the reservations in Oklahoma. It would not be operative in other parts of the State.

It seems to me, Mr. President, that it would be better in every way, simpler and easier, to make this provision, if it is to become a law, applicable not to a part of the State, but to

the whole State. If a provision of this kind is to go into the constitution, what good reason is there for limiting its operation to something more than half the State, and to that only? It would be difficult of enforcement if adopted in its present form. The reservations in Oklahoma would be surrounded by territory populated more or less densely, where this prohibitory law would not be operative or effective, and it would be but a step from a reservation to a saloon. The same thing would be true on the border, between what are now Oklahoma and the Indian Territory.

There is no doubt, Mr. President, of the right of the State to make such a law—that is to say, a law applicable to a part only of the State—if it so desires. There has been some question during this discussion as to whether a provision of law of this character, applying to only a part of a State, would stand the test of constitutionality. But there can be no doubt about that. The Senator from New Hampshire [Mr. GALLINGER] referred to two cases, one in 193 and the other in 194 United States, on which he relied as supporting this character of legislation. Those cases uphold what is called the local option laws of Texas and Ohio. But the Supreme Court has settled this matter still more broadly. Let me read an extract from a decision of the Supreme Court. I read from Missouri *v.* Lewis (101 U. S., p. 22):

There is nothing in the Constitution to prevent any State from adopting any system of laws or judicature it sees fit for all or any part of its territory. If the State of New York, for example, should see fit to adopt the civil law and its method of procedure for New York City and the surrounding counties and the common law and its methods of procedure for the rest of the State, there is nothing in the Constitution of the United States to prevent its doing so. * * * If diversities of laws and judicial proceedings may exist in the several States without violating the equality clause in the fourteenth amendment, there is no solid reason why there may not be such diversities in different parts of the same State. * * * If a Mexican State should be acquired by treaty and added to an adjoining State or part of a State in the United States and the two should be erected into a new State, it can not be doubted that such new State might allow the Mexican laws and judicature to continue unchanged in the one portion and the common law and its corresponding judicature in the other portion.

So, Mr. President, there can be no doubt of the constitutional right of the State to insert a provision in its constitution which would operate upon one part of its domain and not upon the other part. It is only a matter of policy. The better policy, I think, would be to make this prohibitory law applicable to the entire State if the two Territories are to be united and brought in as one. Of course I very much hope this union of the Territories will not be accomplished. I am very much opposed to it, but, having the possibility of that thing being done, I would widen the prohibition so as to cover the entire State.

The question has arisen in this debate, Mr. President, as to how a provision of this kind can be made effective. If put into the constitution of the State, it is said the State can repeal the provision. So it can, but that will take time, to say nothing of the question of good faith involved.

Mr. President, it seems to me very plain that the best way to make a provision of this kind effective is to make the constitutional provision self-enforcing. By self-enforcing I mean that the provision shall be so framed as to make it the duty of the courts to enforce it without waiting upon the legislature to provide legislative methods for enforcing it. Penalties for the violation of law can be incorporated in a constitutional provision as well as in a statute. Ordinarily constitutional provisions are not self-enforcing; ordinarily the enforcement of them must wait upon legislative action. Still, where it is manifest that the purpose is that the provision of the constitution shall be enforced by the courts without statutory assistance, it will be done. The supreme court of Missouri in the sixty-seventh volume of the reports of that court, and in the case of Fusz *v.* Spaunhorst, used the following language:

The cases are exceptional where constitutional provisions enforce themselves; ordinarily the labors of the convention have to be supplemented by legislation before becoming operative. Of course if it be evident from the terms employed in any particular provision of the organic law that it shall go into force forthwith, without waiting auxiliary legislation, it will become an imperative judicial duty to thus declare. Such duty, however, will only become manifest when the language employed is free from ambiguity, or when it is apparent either from the language used or from reasonable inference therefrom, or from other sources equally legitimate and accessible where statutory or constitutional construction is involved, that the purpose of the given section will be frustrated unless immediate effect be accorded to its provisions.

This is a Missouri case, but the doctrine is universal.

Mr. President, I propose an amendment to the amendment of the Senator from New Hampshire. Let me read it. Beginning after the word "therein," in line 2, page 2, of the amendment, strike out the remainder of the amendment offered by the Senator from New Hampshire and insert:

Any person who shall manufacture, sell, barter, or give away any intoxicating liquor of any kind, including beer, ale, and wine, contrary to the provisions of this section, is hereby declared to be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by imprisonment for not less than sixty days and by a fine of not less than $50 nor more than $200 for each offense; and upon the admission of this State into the Union the provisions of this section shall be immediately enforceable in the courts of this State.

If that should be accepted or agreed to, then the amendment would read as follows:

The manufacture, sale, barter, or giving away of intoxicating liquors within that part of this State heretofore known as the Indian Territory—

Though I say I would make it applicable to the entire State—

and in all the several other parts of this State known as Indian reservations at the time of the adoption of this constitution, is hereby prohibited for a period of twenty-one years after the date of the admission of this State into the Union, and thereafter until the people of this State shall otherwise provide by amendment of this constitution in the manner prescribed therein.

Then follows the amendment I propose, prescribing penalties and providing for its immediate enforcement in the courts of the State.

If that proposition which I make should be agreed to and be put into the constitution of the State in that form the prohibition would be effective at once. Penalties for violations of the law would be provided, and it would be the immediate duty of the courts of the State to enforce it. It would be just as effective as a statute would be. I am opposed ordinarily to sumptuary legislation of this kind, but I believe the conditions in the Indian Territory, as well as in Oklahoma, are such that laws of this character would be wise, if not necessary, for a time at least, and so I am in favor of requiring the new State to agree in its constitution to the policy of prohibition. The 40,000 full-blood Indians in those Territories should not be suddenly subjected to the dangers incident to the free use of intoxicants. If later on the people of the State desire to change their policy in that behalf it could be done; but I think they should start with prohibition.

Mr. President, I am opposed to that part of the amendment offered by the Senator from New Hampshire which proposes to continue in the State the Federal laws now in force against the introduction and sale of intoxicating liquors in the Territory.

It is questionable whether these Federal laws would be effective for more than a year or two even if the provision should be agreed to as proposed by the Senator from New Hampshire. The laws now prohibiting the sale or giving away of liquors to Indians refer only to those who are under some agency, who are still in some way under the control of the Government, or whose lands are still held in trust by the Government; but as soon as they become emancipated from all governmental control, as soon as the title to their lands has been completely vested in the individuals in severalty, as soon as the Government loses its right to exercise control over the Indians by reason of their citizenship becoming complete, then the laws which prohibit the sale of liquors to Indians will cease to operate with reference to them. That would be so by the very terms of the law. And so it is questionable whether the amendment as prepared by the Senator from New Hampshire would be effective for more than from one to three years at best.

Within a year from now the Seminoles and the Creeks will have dissolved their tribal relations. Deeds to their property will have been delivered to them in severalty. They will be divorced from the Government and governmental control over them will come to an end, and the laws now in force prohibiting the sale of intoxicants to Indians will cease as to them. The same is relatively true of the other three tribes, and especially is it true of the Indians in Oklahoma.

Therefore if it is desired to guard the Indians against the use of intoxicating liquors, it is important that it should be done by new legislation. Laws now on the statute books would not answer. If anything is to be accomplished on this line it must be done now. But I am opposed to giving to the Federal Government jurisdiction over the police affairs of a State. I want the State to do that sort of work itself. Nevertheless, this proposition to continue the Federal police laws in operation and to confer upon the Federal Government by constitutional provision the right to go into the State and administer its police powers is in line with what could be done under the proviso of the first section of the bill. The two are in accord. What the Senator from New Hampshire proposes is a fair example of what could be done under section 1 of the bill.

The proviso to the first section of the pending bill is as follows:

Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agree-

ment, law, or otherwise, which it would have been competent to make if this act had never passed.

Mr. President, I have offered an amendment, which is now pending, to eliminate that proviso. If that is not done, and the first section of this proposed statute stands as it is, it will leave everything in doubt and inevitably lead to confusion in the State, if it should be admitted as a State. But I discussed that at some length the other day, and do not care now to supplement what I then said.

Even if we could continue guardianship over these people, it would be unwise. Most of them are intelligent. The 87,000 persons on the roll as constituting the population of the Five Civilized Tribes come up to the standard of average intelligence. Only about one-fifth of them are real Indians. The great body of them are more white than Indian. They have schools, and the percentage of ignorance is not larger with them than it is in other States and Territories. I believe, with the Senator from Minnesota [Mr. NELSON], that the wiser policy is not to continue a system of espionage, of guardianship, and individual control over these people, but to impose upon them responsibilities and the consciousness of duties to be performed by them as citizens. That would be by far the better way to strengthen and elevate them.

The proposition to confer upon the Federal Government the power and the right to exercise police jurisdiction in any State and under any circumstances is absolutely indefensible from my point of view. To provide that the Federal Government might at its pleasure go into this State and in its own courts and through its own agencies perform those duties of sovereignty that under our system of government attach exclusively to the State would be to establish a dangerous precedent.

Mr. President, we are legislating, or proposing to legislate, for people who are now citizens of the United States. True, this bill provides that all persons residing in these Territories, including Indians, shall be citizens of the United States and of the State. That, however, is practically unnecessary, for the reason that they are citizens already by virtue of laws already upon the statute book.

According to the amendment of the Senator from New Hampshire [Mr. GALLINGER], taken in its present form, and according to section 1 of the bill, the Indian citizens would be separated into a class and treated differently from other citizens. Can there be two classes of American citizens in the same State—I mean with reference to their political and civil rights? Can we confer rights upon one class of citizens which we withhold from another? Can one man be subject to the laws of a State of which he is a citizen, while another citizen is exempted from the laws of the State? Can one citizen of a State enjoy especial protection from the Federal laws, while another citizen of the same State is denied the right to appeal to those laws? Would that be equal protection of the law as defined by the fourteenth amendment? Would you make these Indians in these Territories citizens for some purposes and not citizens for other purposes? Would you give them the right to vote, to hold office, to be governing officials and lawmakers, the right to levy taxes and to enjoy all the benefits and blessings of citizenship, and yet exempt them from the burden of paying taxes, or of bearing arms for the public defense, and from other burdens and responsibilities of a like kind? Such a status would be unique, unheard of before, and I believe unconstitutional.

Again, can the General Government segregate a certain class of the citizens of a State—that is, separate them from their fellows—and undertake to provide laws under which they shall hold property, or under which they may dispose of property and convey titles, and make those laws applicable to that one class alone to the exclusion of all others? Can the General Government pass such laws at all for the government of a State?

Will Congress enact a code of laws governing descents, inheritances, and distributions of property? Will Congress enact a code of laws governing wills and testaments, and providing for probate and contests? Will Congress enact a code of laws for the administration of estates of decedents and minors? Shall one citizen have access only to Federal courts and another citizen access only to State courts when rights are to be enforced or grievances redressed? All these local and domestic things belong of right to the State, and should be left undisturbed to that jurisdiction. It would be a bad and dangerous precedent, established with small excuse, to allow the Federal Government to invade this jurisdiction. This would be to strip the State of practically every vestige of sovereignty. It would be the worst example of Federal encroachment we have had for many years, if not the worst of all. I shall oppose such a proposition with unalterable obstinacy.

That is all I care to say.

Mr. BERRY. Mr. President, it has not been, nor is it now, my intention to speak at any length on this bill. I did desire to correct some statements that have been made by the Senator from Minnesota [Mr. NELSON] in regard to the condition of the Indians in the Indian Territory. The Senator from Minnesota, in one of the speeches he has made here, said that the sentiment both in the Indian Territory and in Oklahoma was almost unanimous in favor of a single State for the two Territories. I live in a county adjoining the Cherokee Nation, and have resided there for thirty-five years. I am acquainted with a great many of the Indian inhabitants of the Cherokee, the Choctaw, and the Creek nations. I have known them for years, and I think I know something about their sentiments in regard to this bill. There are also many hundreds of people living in that Territory who formerly resided in my State whom I know personally.

It is difficult for anyone to speak with any degree of certainty in regard to the sentiments of the people of a Territory or a State, but I think I can say, so far as the Indians themselves within the Indian Territory are concerned, that the overwhelming majority would prefer two States rather than one; in fact, among the Indian population I do not think there is any sentiment, or scarcely any worth mentioning, in favor of a State made up of the Indian Territory united with Oklahoma.

In the Choctaw Nation not a great while ago an election was held, when this question was submitted to the Indian citizens and those intermarried citizens who had the right to vote, and there were only five votes, as I understand, in the Choctaw Nation that were cast in favor of uniting the Indian Territory with Oklahoma.

In regard to the sentiment amongst the white population of the Indian Territory, I think I state the truth about it when I say if they had any assurance that they could get separate statehood for the Indian Territory either now or later, a large majority of the whites would prefer to have a State of their own rather than to be united with Oklahoma. It is true, I think, that a great majority of the whites in the Indian Territory would rather come in now with Oklahoma than to have it understood that hereafter they are to be attached to that State and become part of it. Whatever sentiment there is in favor of joint statehood—and a large part of it in the Indian Territory is amongst the whites—has come largely from the fact that they have lost all hope of getting a separate State, and in their anxiety to secure schools and that they may have some settled policy and settled government a great many of them have said they would rather come in now, even joined with Oklahoma, than to have statehood for the Indian Territory postponed, and even then ultimately perhaps have that Territory attached to Oklahoma. I think that is a fair statement of the condition of public opinion in the Indian Territory.

It has been said here, however, that it is not a question in regard to the wishes of the people, but as to what is best for the United States. It seems to me that in the admission of States in the past we have always consulted the wishes of the people to be affected who reside in the proposed new State. There is not an instance on record where one Territory has ever been forced into a union with another contrary to the will and wishes of its inhabitants. When the great State of Texas came into this Union she came in as a single State, because the people of Texas desired to be admitted as a single State. When the two Dakotas were admitted they were admitted as separate States, because the overwhelming sentiment of the people in both sections of the Dakota Territory was in favor of two States rather than one.

It has always been the custom in creating a new State to regard the wishes and will of the people who inhabit the Territory, and I simply want to say in passing—because it is all that I expect to say in regard to Arizona and New Mexico—that it seems to me it would be little less than a crime to force those two Territories into one State when the inhabitants of both Territories are opposed to it. There may be some few in New Mexico who favor it, but I have never yet heard of a single petition or of a single man residing in the Territory of Arizona who said that he was in favor of uniting that Territory with New Mexico. For Congress to force the people of the two Territories, contrary to their will, to be combined in one State, which would contain more than 200,000 square miles, with a natural barrier between them, is so unjust, so unfair to those people, and is likely to result in so many complications and so much dissatisfaction, that it can not be defended on any ground whatever.

As I said in regard to the people of Oklahoma and the Indian Territory, there is less objection amongst the inhabitants of one Territory than there is amongst the inhabitants of the other to being admitted as one State.

There is one other thing, and only one, in what the Senator

from Minnesota said to which I wish to reply. He said the other day, in the course of his argument, in illustrating his proposition, that a Territory might become great without statehood; that here is a Territory that had no law, no court, and no government of any kind until Congress, under the Curtis Act, had given them some kind of a government. He illustrated his proposition with that statement. Mr. President, that is a gross injustice to the people of the Indian Territory. For years they have had a chief or governor; they have had legislative assemblies corresponding to the legislative assemblies in the different States. They have had courts and judicial circuits, and those courts have enforced the law. They have had schools and one insane asylum; and it is unfair, and not in accordance with the facts, to say that those people for years have had no law, no courts, and no schools.

Mr. BEVERIDGE. Mr. President, will the Senator permit me to ask him a question?

The PRESIDING OFFICER (Mr. McCUMBER in the chair). Does the Senator from Arkansas yield to the Senator from Indiana?

Mr. BERRY. Certainly.

Mr. BEVERIDGE. Have the people of the Indian Territory ever had, or do they now have, any public schools?

Mr. BERRY. They have schools in the Cherokee Nation.

Mr. BEVERIDGE. I say, have the people of the Indian Territory ever had schools?

Mr. BERRY. Does the Senator mean the white people?

Mr. BEVERIDGE. Yes, sir.

Mr. BERRY. They have not had public schools.

Mr. BEVERIDGE. No. Have they ever had, or do they have now, a system of roads—highways—wagon roads?

Mr. BERRY. Certainly they have.

Mr. BEVERIDGE. Under what law or organization are those roads built?

Mr. BERRY. I do not pretend to be familiar with every act of the Territorial legislature of the Cherokee Nation.

Mr. BEVERIDGE. I think the Senator will find he is wrong about it.

Mr. BERRY. I simply know they have roads in that Territory, for I have traveled over them frequently. They have wagon roads, and I know the roads are worked under the same system employed in some of the adjoining States on the eastern side of the Cherokee Nation.

Mr. BEVERIDGE. I will ask the Senator one other question, which I think covers every item of his statement, and that is whether or not the people have ever had insane asylums—whether they have had them in the past or have them now?

Mr. BERRY. They have an insane asylum in the Cherokee Nation, and have had for a number of years; and they also have a male academy and female seminary in the Cherokee Nation, and have academies in the Creek, Seminole, and Choctaw nations—splendid buildings.

Mr. BEVERIDGE. I mean an insane asylum for the five or six hundred thousand white people.

Mr. BERRY. The whites have no insane asylum, so far as I know.

Mr. BEVERIDGE. Then the whites, who outnumber the Indians, perhaps, ten to one, have no schools except as they subscribe for them; they have no insane asylums; and, consequently, they must care for their unfortunates in some other way. Besides, they have no regularly provided roads.

Mr. BERRY. The statement of the Senator from Indiana is no reply to what I have said. The Senator from Minnesota stated that for years the people of the Indian Territory have been without courts, without laws, and without schools. I was controverting that. I repeat that in the Cherokee Nation they have a regular legislative assembly, with a senate and a house; they have a chief, who corresponds to the governor of a State; they have an insane asylum; they have schools; and they have roads which, so far as my recollection goes, compare favorably with the roads in the surrounding States, as I have frequently traveled over them.

There are a great many of the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles who are educated people, and there are a great many of them who send their sons and daughters to the colleges in the Eastern States. I repeat that a great many of the mixed bloods of the Indian Territory are men of the highest intelligence, comparing favorably with the white men of the surrounding States. Take the chief of the Creek Nation to-day. He is a man of very high intelligence and cultivation. In fact, the governors of all these nations are men of high intelligence. Many of these Indians have beautiful homes; many of them send their sons and daughters to the colleges of the East to be educated; and it is unfair and unjust to leave the impression upon the Senate that they are savages and have no law and no courts.

Mr. BATE. Mr. President, will the Senator allow me to interrupt him right there?

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

Mr. BERRY. Certainly.

Mr. BATE. In response to what was said by the Senator from Indiana [Mr. BEVERIDGE], I beg to say that the statistics will show that there are about 80,000 Indians in the Indian Territory—perhaps 90,000; I am not sure.

Mr. BERRY. Eighty-seven thousand.

Mr. BATE. There are 87,000 Indians there, and those Indians, as we learn from history, are the owners of the soil. It belongs to them as yet. The white man has no rights there, except such as the Indians have given him. He is there, and I want him protected, and the Indians want him protected in his rights; but has he the right to kick the Indian out of his house, set up for himself, and say, "We will have our own way?" That is the question that presents itself here, sir.

The Indians of the Indian Territory have their own schools, as was said by the Senator from Arkansas [Mr. BERRY]; they have their own courts; they have their lawyers; they have their judges; they have their magistrates; they have their own civil districts, and they have taught in their schools not only the Indian tongue, but the English tongue. That is the situation there. I do not know that there is any provision made there for common schools for white children, because the white men do not own the soil. The Indians are the owners of that soil, and the great question comes up now, Shall we legislate at the expense of the Indians? I want to see everything done there for the white man that can reasonably be done, but I do not want to see it done at the expense of the Indians who have obtained that soil through treaties that have been solemnly made with the Government of the United States.

As to asylums, let me make a statement of fact. Some six or eight years ago I was on a subcommittee of the Committee on Territories, I believe it was, to investigate the conditions in the Indian Territory, and I beg to say that the proof was that there was not a single insane asylum in that Territory. They had their hospitals; they had their schools; they had everything that was necessary, but when we asked them about insane asylums they said, "No, there are none." I asked one of the witnesses why, and he said there was not an insane Indian in the whole land, and therefore they did not need an insane asylum.

Mr. BERRY. They had a building——

Mr. BAILEY. If the Senator will permit me, I desire to say that within the last two years—I think at the last session of Congress—we provided for the care of the insane in the Five Civilized Tribes, providing that they might be sent to State insane asylums.

Mr. PATTERSON. Mr. President——

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

Mr. BERRY. Certainly.

Mr. PATTERSON. Upon the subject of schools, the Senator from Indiana [Mr. BEVERIDGE] is mistaken when he says that there is no provision for public schools in the Indian Territory. Since the enactment of the Curtis law the people of incorporated towns in Indian Territory have taxed themselves for public schools. There are no public schools in the country districts; but there are public schools in the incorporated towns that are supported by money collected by taxation in the regular way.

Mr. BEVERIDGE. In the towns.

Mr. PATTERSON. In the towns. In addition to that, for the past two years, I think, annual appropriations have been made—amounting last year, as I remember, to $100,000—to enable the white children in the country districts to attend Indian schools, and the latest report shows that there is a far greater number of white children in attendance upon schools supported by Government appropriations in the country districts than there are of Indian children. There is a very considerable provision made for the education of the white children as well as for the Indian children in the Indian Territory.

Mr. BERRY. I can not conceive of any reason why the education of both whites and Indians could not be as well provided for if the Indian Territory were a separate State as it could be if it were united to Oklahoma. That does not affect this question particularly, but I was unwilling that the statement of the Senator from Minnesota, depicting the people of the Indian Territory as being in an absolutely savage condition, should stand uncontradicted. It is not true.

It seems to me that a Territory situated as this is, which

already, in my opinion, has 600,000 people within its limits, ought to be entitled to come in as a State by itself. I can see no reason why both Oklahoma and the Indian Territory should not make splendid additions to the States of this Union. This recent idea of doubling up Territories and making as few States west of the Mississippi River as it is possible to make has a reason behind it which I concede I do not know. I have heard it said that the people of the Eastern States are opposed to the admission of more Western States. I do not know why they should be. It seems to me that it is unjust for the Eastern States, many of them having less area than these two Territories, and some of them having fewer inhabitants than either of these Territories, to come here and demand that the two Territories be united and admitted as one State.

Now, as I said a while ago, and I do not wish to be misunderstood in regard to it, I think I know that if these people were assured that they could get a separate State three-fourths of those within the Indian Territory, whites and Indians, would vote to have the single and separate State for themselves.

It is true, also, and I want to repeat it, that rather than be left to be tacked on to Oklahoma hereafter I think the people feel, as many of them put it in letters that come to me, "If we must be united with Oklahoma we would prefer to go in on the ground floor."

Mr. BEVERIDGE. They do not want the attachment process.

Mr. BERRY. They do not want the attachment hereafter. That is my idea about it. My own judgment has been, and it is to-day, that the best thing that could be done would be to admit New Mexico as a separate State, admit Arizona, admit Oklahoma, and provide a Territorial government for the time being for the Indian Territory, with the express understanding that hereafter it shall come in as a State by itself. That is what ought to be done by the Congress of the United States.

In the Indian Territory many of the lands have not been allotted. The liquor question arises in it, and all those questions could be better dealt with for the time being by the Government of the United States, and if it could be left in that way, with the clear and express understanding that in the future it should be a State by itself, I think that would be justice to all those people.

This much is all I desire to say about it, and it is more than I intended to say. I had hoped, when this discussion began and as it proceeded, that a majority of the Senate would see the absolute injustice of the bill as it now stands, and that some such agreement as I have suggested could be reached. But if it is not to be, I hope and trust that the majority of the Senate will never give its consent to uniting Arizona and New Mexico in a single State.

Mr. MORGAN. Mr. President, in the early part of this debate I had the honor to submit some views to the Senate on questions of constitutional law as well as public policy involved in this measure, and I am entirely content, so far as I am personally concerned, to stand upon what I then said. No proposition made in that argument has been assailed by anybody, and I presume it is either because they do not think it is worth while or else because they admit it.

I represent, with my honorable colleague, a State that is east of the Mississippi River. We in Alabama are interested in keeping down the strength of any other part or section of the Union in the Senate. If eight Senators or more were admitted from this area of country that is now under consideration, Alabama would lose proportionally her strength in the Senate. So what I have to say on this subject is not in the interest of the State of Alabama particularly, but it depends upon my judgment as to what is a proper rule of apportionment for representation in the Senate of the United States.

I have always considered these Territorial bills which have been brought before Congress, that are very earnestly and extensively debated, as bills of apportionment in one sense—bills apportioning the power of the different sections of the United States in the Senate. The only way in which representation can be apportioned in the Senate is by territorial area, not by population. The question of population in respect to the admission of a State into the Union is merely one of expedience. The question of territorial boundary is one of apportionment. The two propositions stand apart. We never admit a State into the Union until it has sufficient population to be entitled to representation by at least one Member of the House. I say we never do. We have done it on some occasions, but it is not a rule recognized as being proper in the Senate.

When these Territorial bills have passed under serious debate and after protracted consideration, every Senator who voted upon those bills, if he voted intelligently, had an eye to the apportionment in the Senate. All the powers of government are concentered in this Chamber, in the men who represent States here—all of them. Some powers are conferred upon the Senate as a special tribunal that do not belong to any other department of the Government, such as the confirmation of men nominated to office, ratifying treaties, and the trial of impeachments.

In the creation of Territorial governments there is not an intelligent or thoughtful Senator in this body who has ever voted upon such bills who did not have his mind directed to the proposition that "this act of Congress is an apportionment in the Senate of the United States," because the Territories have been uniformly created with the expectation and for the purpose of admitting them as States into the Union.

Now, I consider it an act of bad public faith—that is a very hard thing to say—toward gentlemen who have voted and toward States whose Senators have voted for the creation of these Territorial governments, giving them all the autonomy of State governments and every right of a State government except that of representation in the two Houses, and are disappointed and wronged when it becomes convenient, for political reasons or for reasons of competition between States and different sections of the Union, to change the boundaries and to consolidate Territories so as to enlarge or diminish the area of representation in the Senate. It is an act of bad faith, and I protest against it in that light and in those terms.

I have voted here for the creation of Territorial governments, and I have voted for the admission of States. In casting those votes I have had the idea fixed in my mind that this Government was proceeding in the only way it could proceed in its own area of territory to apportion the representation of States in the Senate.

The original thirteen States were tremendously out of balance in this respect, but they were admitted with two Senators from each State, each with equal power in the Senate with the larger States, because but for that agreement the Union would not have been formed. We would not have been here to-day sitting as a Senate but for the agreement that the Territories that were recognized as States in Jay's treaty should have equal representation in the Senate without respect to the area included in them.

We have gone on from that time until this, and east of the Mississippi River we have divided up the Northwest Territory into five States when we were not compelled to divide it except into three, in order to give that magnificent region of country its due and proper representation on the floor of the Senate.

Now we abandon that policy and we commence consolidating the Territories west of the Mississippi River, doubtless with the view—there is no question about that being the view—of preventing one of the most important areas of the whole country from having its due and proper representation in the Senate, and we put it upon the ground that that area is sparsely populated. We refuse to look at the abundant wealth of that country, which is now being developed so rapidly and which will in the end draw to it a larger population per square mile than many of the States east of the Mississippi River will have, or at least than many portions of States east of the Mississippi River will have.

In my own State the large bulk of the population is in what we call the "black belt." It consists of negroes and white people. But when you get up into the hill country and mountain regions the population becomes thin. If you were to take the hill country in Alabama and compare it to-day with many parts of New Mexico, we would fall below the population of New Mexico per square mile.

So we have discarded the question of population, except as a mere question of expediency, when we come to admit a State into the Union, but the territorial area of the State, which is the only test of its representation in the Senate, we are not honorably at liberty to discard after we have once projected a Territorial government with the purpose and intent of its becoming a State.

Now, Mr. President, in this bill there is a combination of several distinct measures—not a just combination, not a wise one, and, in my opinion, it is not a constitutional combination. We take four areas, three of them having already received from the Congress of the United States Territorial governments. They enact their laws, and while we reserve the right to repeal those laws, we never think of touching them. A law passed in Arizona or New Mexico or Oklahoma is absolutely as free, practically, from the interference of Congress as a law passed in Alabama. We allow those people to go on and exercise every power of statehood except that of representation in the Congress of the United States. Then, after they have gone there and built up the country and adjusted their improvements,

public and private, to a law of Congress, and laws enacted in pursuance thereof by the different Territories, we disregard all those fixed rights. They are not vested. They are better than vested rights. They are high moral rights, granted to those Territories to which the faith of the nation is pledged.

We disregard all that, and we clamp them together into larger areas of country, deprive them of their proper and just Senatorial representation on this floor, deprive coming generations of power they may have and will have in virtue of population, and go along ruthlessly and inflict upon posterity irremedial wrong and outrage. No national necessity and no public good are even pretended to demand this breach of public faith.

Mr. President, I intend at the proper time in the progress of this legislation to raise some questions of order. The remarks I have made to-day are merely prefatory to a statement of those questions. It is a principle of natural justice, a principle of fair play, of square dealing, and more particularly a principle of legislative procedure that combinations between different interests to secure certain coveted results shall, as far as practicable, be prevented in any great legislative body.

If, for the purpose of getting every bill passed that is on the Calendar to-day, some gentleman should get up here and copy the substance of every bill that is on the Calendar into another bill and preface it with the formula "*Be it enacted, etc.*," the enacting clause, and such an arrangement is in pursuance of an agreement between Senators interested, that they will take every bill on the Calendar and put it into an omnibus bill and pass it, could we conceive of anything more impolitic, more unwise, more unparliamentary? Could anything be worse or cast so dark a shadow upon the reputation of this body?

To prevent any conflict between interests that otherwise would be conflicting and to keep down antagonism with respect to measures that men want to have passed, it might be easy enough, amongst men who had no respect for themselves or for the body of which they are members, to get an agreement to put in this proposition and that proposition, propositions of distinct and different legislation, to put them all in under one enacting clause and offer the bill here, bring it before the Senate, vote on it, pass it, and send it to the President. I know of no rule to prevent such a result if the Senate should choose to make such combinations, but I can not be mistaken in the fact that they would violate every principle of just legislation.

It may be that the rule which requires each bill to be called in its order and to be three times read on different days would prevent such a combination from succeeding. If so, the combination would be defeated by the spirit of the rule rather than by its letter, and it is to the spirit of just legislation that I appeal against the combination that is in this bill.

That unjust thing is being done in this bill, but in a modified form. This bill, from the first section down to section 20, relates alone to Oklahoma and the Indian Territory. It has no relation to New Mexico or Arizona. They are not mentioned in it. They are not referred to in any way, and there is no fact or principle or rule of law established in the first twenty sections of the bill which can be referred to for the purpose of ascertaining what is the proper construction of the remaining sections of the bill. They are just as distinct as two bills can be. One is for the admission of a certain State into the Union, composed of two Territories, one organized and the other not organized, and the other for the admission, as one State, of two other Territories, both of which have organized governments.

Throughout the bill this separation is kept up. There are different qualifications for electors, different provisions to be inserted in the constitutions of those States, different methods of declaring that they are admitted as States into the Union. They are different in every respect, and there can not be found in these bills a single provision, with one exception which I will mention presently, that is common to both of them. It is two bills condensed into one.

Have I a right to demand a division of the question? The rules of the Senate say I can demand a division of any question, and when it is divisible the Chair has no option but to grant the demand. It does not take a vote of the Senate to divide a question.

Can I demand the division of a bill when twenty sections of it refer to one proposition of legislation and the balance of the sections refer to one that is entirely distinct from it? Have I the right to get up here and say, "I demand a division of this subject at section 20," if that is the proper section, and I think it is? Unquestionably I have the right to do that as much as I have a right to demand a division of a single question that involves two propositions. Otherwise I can not protect myself as a legislator by requiring these bills to be considered separately and independently of each other. If these separate subjects can not be considered separately on the demand of a Senator, Rule XXVIII is of no value. It is idle to say that "if the question in debate contains several propositions, any Senator may have the same divided," and yet to ensconce two distinct and different measures under one enacting clause destroys that right.

I intend in the course of this debate—and I want to give notice of it now, so that the parliamentarians in this body may think it over before the motion is made—to move to divide the subject and to consider the Oklahoma bill by itself, separately, and first, and when we have gone through with the consideration of that subject, then pass to the remaining part of the bill, which relates to the other two Territories, Arizona and New Mexico. I wanted to give notice of that motion so that it would not be a fresh proposition at the time it is made in the course of the execution of the rule of the Senate which we have adopted for ten-minute debate on each amendment. Gentlemen may want to think it over, and they probably would not otherwise have time to study the subject.

The rule which I invoke here applies to all legislation, whether it is in the form of a paragraph that contains two propositions or whether it is in the form of a bill that contains two distinct propositions, neither of them dependent upon the other in the slightest degree, having no connection by any word or phrase with the parts of the act that follow the first nineteen or twenty sections of the bill, and having no natural or other connection with what precedes, the two parts of the bill being entirely separate.

There are some other motions and some other questions that arise upon this matter that I intend——

Mr. BARD. Mr. President——

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

Mr. MORGAN. I do.

Mr. BARD. I should like to ask the Senator from Alabama what, in his judgment, is the difference between the division of a bill and a motion to amend by striking out the portion to which objection is made?

Mr. MORGAN. The difference is that one is a question of order to be decided by the Senate, and the other is a legislative question on a bill where no question of order is presented—both, of course, to be decided by the Senate. But they do not have the same effect on the measure.

Mr. President, could not the Senate strike out all of the sections of this bill after section 20 and yet leave a perfect bill in all its parts as to Oklahoma and the Indian Territory? We certainly could do it. We would say: "We do not choose to legislate just now for the admission of a second State under the title of Arizona. We have quite enough to do to provide for the State of Oklahoma." Suppose there is some complicated affair connected with the admission of the State of Arizona into the Union. We strike it out and proceed with the Oklahoma bill. You can strike it out of this bill without changing one word or phrase in that part of the measure which relates to Oklahoma. Therefore I maintain the principle—I can not find any decided case, perhaps, about it; no question of that kind, I believe, has ever arisen in the Senate, or if it has I have been unable to trace it up—whether a Senator has the right when different distinct topics of legislation relating entirely to different matters are brought into a bill to claim that each one of the separate matters shall be considered separately.

A provision of this bill to which I wish now to advert, and which I think is amenable to a point of order, is in regard to the participation of the President in this legislation. If we pass this legislation and send the entire bill to the President of the United States, just as it is, and he chooses to veto it, does that destroy the power of Congress to pass a concurrent resolution two hours from that time admitting either or all of those Territories into the Union, which he can not veto? The power of Congress is not at all affected in that case by the veto of the President. It might require a two-thirds vote to pass this particular bill, but we can abandon it, and yet turn right around and pass the same measure in the shape of a concurrent resolution of the two Houses, and he could not touch it by a veto. Such an act would be perfect in every particular without the concurrence of the President. We therefore can veto the veto by a simple majority of the two Houses acting concurrently under our constitutional right and duty.

Now, that may seem to be a strange situation, but it results from the fact that we put two characters of legislation in this bill, both of them entirely distinct, and each one resting upon an entirely different power given to Congress in the Constitution of the United States. That is to say, we unite together an enabling act and an act admitting a State into the Union. We

make them both parts of the same law, expose them to the veto of the President, when the President can not veto any measure passed in a parliamentary way, though it is done by a mere concurrent resolution of the two Houses, for the admission of a State into the Union.

If this was only an enabling act, the President could approve it or he could veto it, but this measure provides for the final act of admitting two States into the Union, and the President has no authority for any participation in that part of this measure.

This combination, unfortunate as it is, confusing as it is, and likely to lead to great injustice, ought not to be permitted in this bill. Congress has the unquestioned right—I do not dispute it at all—to provide all legislation that is necessary preparatory to the admission of a State into the Union, and that power is derived from the general grant to Congress of legislative power by the Constitution.

When you want to find the power of Congress to admit States into the Union, you read over section after section of the Constitution after section 8 of Article I before you arrive at the point in the Constitution which gives this power: "New States may be admitted by the Congress into this Union." That is all that is said about it, except some provisions are added in regard to the consent of a State being necessary when it is to be divided and two States are to be made of one.

The legislative power there is exposed to the veto of the President whenever and wherever we make an enactment in respect of the enabling of any people in this country to frame a constitution or to prepare themselves in any way whatever to be admitted into the Union. Congress may admit women to vote upon the question of the adoption of a constitution in the Territories. Congress may admit children to vote when they have reached 18 years of age, if you please, or when they are at the age of discretion, upon the question of the adoption of a constitution in one of those Territories. Congress is not thralled or hampered in the slightest degree in its power to make any provision which it deems wise to make in order to prepare a State for admission into the Union. But when Congress comes to admit the State into the Union, it passes affirmatively upon the right of that State to be admitted in consideration of the fact that it is in a proper state of preparation.

We had no hesitancy in admitting California into the Union without an enabling act. Where did we get authority to do it, if an enabling act is a necessary part of the admission of a State into the Union? It is no necessary part. It is an entirely different piece of legislation and dependent upon entirely different powers conferred upon Congress by the Constitution. In the admission of a State into the Union the two Houses of Congress sitting as a great and separate tribunal, set apart by the Constitution, are given that authority.

There are other instances, where, in the Constitution like powers are conferred upon the Houses, and in the same way; such as the declaration of war, the submission of amendments of the Constitution to the States for their adoption or rejection; the reply to the demand of the States for a general convention to reform the Constitution. It is conferred in these cases in which the President has no right of participation.

The counting of the electoral votes for President and Vice-President is also analogous. In these cases the two Houses of Congress act just as separately from the Executive as the court which sat here to-day acting on an impeachment. We can not blend these powers so as to make the act of the admission of a State into the Union an act which the President of the United States can veto or in which he can participate in his official character.

I think it was General Grant, if I remember aright, to whom the twenty-second joint rule was sent for counting the votes for electors for President and Vice-President. We then had no law on the subject as we have now. It may have been Lincoln, but I think it was Grant.

The two Houses of Congress adopted a rule for the counting of the electoral votes, and it was adopted by a joint resolution instead of by a concurrent resolution. Being a joint resolution, it had to go to the President. He kept it, considered it, and declined to sign it. He let ten days elapse in order to save appearances, I suppose, more than anything else, and then he returned it to the Senate, saying, "I approve of the rule; the rule is all right," but as President of the United States he disclaimed the right to approve or disapprove. It was a rule that the two Houses had the exclusive right to adopt, and therefore he returned it, stating that he declined to sign it, because he did not have the authority to do it. Yet he approved of the entire rule as a correct method of practice. He distinctly took the ground that he had no right to sign it, to veto it, or to give any approval to the twenty-second rule, although he said he approved the whole of that rule as one that was entirely discreet and proper to be adopted.

Now, these two tribunals—the House and the Senate—that have these distinct powers, are not legislative tribunals. The two Houses can not enact a law, and yet the two Houses may admit a State into the Union, they may declare war, they may submit amendments to the States for ratification in respect to amending the Constitution.

This bill contains in the first part a provision that after twenty days have elapsed from the returns made to the President of the United States of the constitution that is adopted for Oklahoma and of the votes that have been cast for its adoption, including the question of consolidation, of course, the President of the United States shall examine it, and if he finds that the constitution is republican in form, and if he finds that it conforms to the enabling act, he is then permitted and authorized to declare by his proclamation that the State of Oklahoma shall be admitted as a State into the Union on the 4th day of March, 1906, extending the final act of admission until 1906.

Now, let me ask the Senate a question on that subject. Suppose that when President Roosevelt comes to examine that constitution he finds that it does not conform to the Constitution of the United States as a government republican in form. Suppose the liquor question, which has been discussed here this afternoon, should bring him to the conclusion that a discrimination is made between citizens of that State as to their personal rights; that the very men who voted for the constitution, and it may be men elected to the highest offices in the new State, are deprived of privileges because of the race they belong to, that are conferred freely upon the white race without any restriction. Suppose he says for that reason: "Here is a discrimination against Indians because they are Indians, and I do not find any warrant in the Constitution of the United States to make such a discrimination between American citizens; I, therefore, can not accept this constitution as being one that conforms to the Constitution of the United States; I will not issue a proclamation." What becomes of your law? What becomes of the admission of the States? Is it not all determined by the President? This bill puts it entirely in his discretion, expecting, of course, that he will use his discretion honestly and wisely to admit that State or to refuse to admit it, which I do not doubt.

But here is another proposition. He admits the State, to take effect on the 4th day of March, 1906. Suppose the Fifty-ninth Congress or this Congress, after this bill has passed, finds some very serious objection to the admission of either of these States that hitherto has not been considered, has not Congress the right to repeal that law? Can anybody deny that? Yet, if a State is admitted into the Union by the consent of these two Houses, no power in the world can repeal that law. The Supreme Court can not declare that it was unconstitutionally done. The State is there, and there to live and there to stay in the family of States as long as time exists and the Union is held together.

But you put it in the power of the President to repeal it by his proclamation, to destroy it by his proclamation, and to destroy it by his veto before you get down to the question of proclamation. You put it in the power of another Congress to repeal this act. That power stands open until it is finally executed, and it can only be finally executed after the 4th day of March, 1906.

Now, is that a law admitting a State into the Union? Not by any means. A law admitting a State into the Union is a final act, irrepealable and irrevocable. After the Senate and House admit these States into the Union they can not turn around and shove them out one-half hour or one minute after they have passed the concurrent resolution. These two new States are States of the American Union, and we have not yet reached the point where Congress can expel a State from the Union, although that point is directly in the line of our march.

When we come to Arizona the State is admitted immediately upon the issue of the proclamation. It may be issued twenty days after the returns are made to the President with a copy of the constitution. Here we see the wide difference between the treatment of these two proposed States. Here stands out prominently and undeniably the fact that embodied under one enacting clause these two bills are just as distinct from each other as they can be. You could not make them more so.

I claim that a point of order lies upon the proposition in this bill that the States shall be admitted when the President makes his proclamation, and not before, and not afterwards without the proclamation. The President has no more power given under the Constitution to declare a State in the Union than I

have, and Congress can not confer it on him. Such an act of admission is the act of the two Houses—this separate tribunal that the President is not in any wise connected with under the Constitution. It is a delegated power that is quite as impossible under the Constitution as it would be for the Supreme Court to delegate to the President the power to try and decide a cause on its docket that involved human life.

I have admitted, and I repeat the admission, that as to the necessary preparatory legislation to qualify these people for statehood Congress has the legislative power, and it can commit any extravagance it chooses to commit in qualifying people to vote upon this proposition of statehood, or the Constitution, or the Declaration of Independence, or consolidation, or anything else connected with it. But that is a distinct power, altogether different from that which admits a State into the Union, which power this bill provides shall hinge absolutely upon the will of the President of the United States.

Suppose that it will be so—it will not be any supposition if the truth is ever known here as to what will take place in these Territories at a celebrated election that is to be conducted there—suppose it turns out that fraud and bribery and corruption enter into those elections; that the President is informed of it; that his conscience would not permit him, if he had the power, to approve of it so as to admit States into the Union that have been affected by these frauds and outrages, no one could blame him for saying: "I will not admit the State by my proclamation." Yet he has the power to prevent the admission of either State if that is his opinion of the election, and he has the power to overlook it if that is his opinion of it; and the whole matter of the admission of these States is left by this bill at the discretion and the option of the President.

When the time for the consideration of these questions arrives as they come up in this bill I expect to make a point of order that they are not the subjects of legislation any more than would be the establishment of a religion, or any other thing that lies entirely outside of the powers of Congress.

Now, it was only to give notice of this and some other questions of like kind, as matters of order, that I took occasion this evening to express these very crude views, merely in order to call the attention of Senators to the subject, for there is no more important subject that has ever been before the Senate than the protection of the power and rights of these two Houses to admit States into the Union without the consent of the President.

Mr. LONG. Mr. President, I desire to submit some remarks on the pending bill, but I do not wish to proceed to-night.

Mr. McCUMBER. Will the Senator from Kansas yield for a moment?

Mr. LONG. Certainly.

Mr. CULLOM. I was about to inquire whether the Senator from Kansas desires to go on this evening?

Mr. LONG. I would rather proceed when the bill is taken up to-morrow.

Mr. McCUMBER. If the Senator will yield just one moment, I wish to ask at this time for unanimous consent to take up the Pension Calendar of unobjected cases to-morrow at 4 o'clock.

Mr. BATE. We can not do that.

Mr. PATTERSON. No.

Mr. BATE. To-morrow is the last day we have to debate virtually, and I hope we will not do that.

Mr. McCUMBER. If we do not take up the pension bills very soon, Senators will have to take the chances as to a great many of these bills going through.

Mr. BATE. To-morrow will be the last day, practically, for general debate.

Mr. TELLER. We can not take up the Pension Calendar to-morrow.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. TELLER. Mr. President——

Mr. CULLOM. I yield to the Senator from Colorado.

Mr. PATTERSON. I suppose the Senator from Kansas [Mr. LONG] will have the floor on the statehood question to-morrow.

The PRESIDING OFFICER. To-morrow, at 2 o'clock, the Chair understands.

Mr. BATE. I beg to say it was understood two weeks ago that on Saturday the Senator from Ohio [Mr. FORAKER] would speak. He has returned and wishes to speak to-morrow. I do not know how long the Senator from Kansas will speak, but the Senator from Ohio I know desires to speak to-morrow.

Mr. LONG. I do not wish to speak very long, I will say to the Senator from Tennessee.

Mr. BATE. When the agreement was made a week ago it was understood the Senator from Ohio would speak to-morrow.

Mr. TELLER. I have no doubt that to-morrow, if there is indication of more speeches, we can begin the debate early.

Mr. CULLOM. There ought to be more than one speech a day.

Mr. BATE. There have been three to-day, and there will be two or three to-morrow.

Mr. TELLER. I wish to ask unanimous consent to insert something in the RECORD. Some days ago I presented a matter touching the alleged treaties with the Santo Domingo Government. The New York Sun of to-day contains what is said to be, and I have no doubt correctly, a true copy of that treaty, which has not yet been submitted to us. I should like, in order to preserve it and make a comparison when we do get the treaty, if we should ever get it, to print this matter in the RECORD of to-morrow. I want to submit with it the criticisms—I may say they are criticisms—of the New York Sun on the article. The Sun is known to be a Republican paper, and so I presume there will be no objection to my request.

Mr. CULLOM. It would hardly seem fair to put all these newspaper articles on the question of these treaties in the RECORD. That is what I think.

Mr. TELLER. Probably the only way we shall know what the treaty is is to put it in the RECORD.

Mr. CULLOM. When we have the treaty in the Senate for consideration, the Senator can bring up the article to which he refers.

Mr. TELLER. If the treaty is not now being executed, I do not see any reason why I should not put the article in the RECORD, and if it is not the correct statement we will get from the State Department what it is.

Mr. CULLOM. I do not understand that there is any treaty or any agreement fully executed, but the probabilities are that one treaty will be presented to the Senate very soon.

Mr. TELLER. If the Senator from Illinois objects, I shall take occasion, when I can do so without disturbing the Senate, to exercise the right I have to get it into the RECORD by reading it in a sppech.

Mr. CULLOM. I do not want to object to the Senator's request——

Mr. TELLER. If the Senator does not object——

Mr. CULLOM. But I submit to his own judgment whether it is not best to let these newspaper articles come in, if Senators want to use them at all, when the question comes up.

Mr. TELLER. I should like to submit to the chairman of the Committee on Foreign Relations whether it is not a most extraordinary condition when we get our knowledge on what the State Department is doing through the public press, and we have no other real knowledge, although we are told in a general way that we are to have some kind of a treaty submitted to us at some time which, according to the newspapers, took effect on the 1st day of February and is now in full operation. We have our fleet down there, we have our marines down there, and I do not know what more we could have there to put the treaty in operation. But if the Senator objects, of course I can not put it in the RECORD at this time.

Mr. CULLOM. My understanding is that the proposed contract, or whatever it may be called, is in the way of execution for the purpose of sending it to the Senate, and that this published report is not a correct report at all.

Mr. TELLER. Oh, Mr. President, it is signed by Messrs. Dillingham and Dawson.

Mr. CULLOM. I myself read it a little while ago and I know what it is.

Mr. TELLER. If the Senator, with authority as chairman of the Committee on Foreign Relations, says it is not the contract which was made, of course I will not insist upon putting it in the RECORD. That is a question I will leave for him to discuss with the publisher of the newspaper.

Mr. CULLOM. I hope the Senator will not insist upon putting it in the RECORD now.

The PRESIDENT pro tempore. The Senator from Illinois moves that the Senate proceed to the consideration of executive business.

Mr. CULLOM. I yield to the Senator from North Dakota [Mr. McCUMBER].

Mr. McCUMBER. The Senator from Vermont [Mr. DILLINGHAM] the other day referred, at considerable length, to statistics in reference to the value of certain property in these Territories and also compared them with the statistics relating to other parts of the country. I expected possibly to submit some few more remarks on the statehood bill, but the probabilities are, as there are so many Senators who desire to speak upon that bill in the next few days, that there will be no opportunity such as I would have liked.

I have therefore prepared a comparative statement from the census reports, showing in round numbers the increase in values of farms, farm products, farm implements, live stock, manufactures, and manufactured articles in some of the New England States as compared with some of the new States and proposed States. I simply desire to offer it and to ask that it be printed at this time in the RECORD, as it may prove of some value to Senators who desire further to discuss this question.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota? The Chair hears none.

The statement referred to is as follows:

Comparative statement showing increase in value of farms, farm products, farm implements, live stock, manufactures, and manufactured articles in New England and proposed States.

[Compiled from United States Census report.]

State or Territory.	Year.	Value of all farm property.	Value of implements.	Value of live stock.	Number of acres in farms.	Number of acres improved.	Value of all farm products.
Maine	1880	$123,000,000	$4,000,000	$16,000,000	6,500,000	3,400,000	
	1890	122,000,000	5,000,000	18,000,000	6,100,000	3,000,000	
	1900	122,000,000	8,000,000	17,000,000	6,200,000	2,300,000	$37,000,000
Vermont	1880	130,000,000	4,000,000	16,000,000	4,800,000	3,200,000	
	1890	101,000,000	4,000,000	16,000,000	4,300,000	2,600,000	
	1900	108,000,000	7,000,000	17,000,000	4,800,000	2,100,000	33,000,000
New Hampshire	1880	88,000,000	3,000,000	9,000,000	3,700,000	2,300,000	
	1890	80,000,000	3,000,000	10,000,000	3,400,000	1,700,000	
	1900	85,000,000	5,000,000	10,000,000	3,600,000	1,000,000	21,000,000
Rhode Island	1880	29,000,000	900,000	2,000,000	514,000	298,000	
	1890	25,000,000	940,000	2,000,000	469,000	274,000	
	1900	26,000,000	1,000,000	2,000,000	455,000	187,000	6,000,000
Connecticut	1880	135,000,000	3,000,000	10,000,000	2,400,000	1,600,000	
	1890	108,000,000	3,000,000	9,000,000	2,200,000	1,300,000	
	1900	113,000,000	4,000,000	10,000,000	2,300,000	1,000,000	6,000,000
Delaware	1880	41,000,000	1,000,000	3,000,000	1,000,000	646,000	
	1890	45,000,000	1,000,000	4,000,000	1,000,000	762,000	
	1900	40,000,000	2,000,000	4,000,000	1,000,000	754,000	9,000,000
Arizona	1880	4,000,000	88,000	3,000,000	135,000	56,000	
	1890	20,000,000	196,000	13,000,000	1,200,000	1,100,000	
	1900	29,000,000	765,000	15,000,000	1,900,000	1,600,000	6,997,000
New Mexico	1880	16,000,000	255,000	10,000,000	631,000	237,000	
	1890	33,000,000	291,000	25,000,000	787,000	263,000	
	1900	53,000,000	1,000,000	31,000,000	5,100,000	326,000	10,000,000
Oklahoma	1890	12,000,000	433,000	3,000,000	1,600,000	563,000	
	1900	185,000,000	6,500,000	54,000,000	15,700,000	5,500,000	45,000,000
Indian Territory	1900	92,000,000	3,900,000	41,000,000	7,200,000	3,000,000	27,000,000
North Dakota	1890	100,000,000	6,000,000	18,000,000	7,600,000	4,600,000	
	1900	255,000,000	14,000,000	42,000,000	15,000,000	9,600,000	64,000,000
South Dakota	1890	145,000,000	8,000,000	29,000,000	11,300,000	6,900,000	
	1900	297,000,000	12,000,000	65,000,000	19,000,000	11,200,000	66,000,000

MANUFACTURES.

State or Territory.	Year.	Capital.	Value of products.
Maine	1890	$80,419,809	$95,689,500
	1900	122,918,826	127,361,485
Vermont	1890	32,763,291	38,340,066
	1900	48,547,964	57,623,815
New Hampshire	1890	79,375,160	85,770,549
	1900	100,929,661	118,709,308
Rhode Island	1890	126,483,401	142,500,625
	1900	183,784,587	184,074,378
Connecticut	1890	227,004,496	284,336,364
	1900	314,696,736	352,824,106
Delaware	1890	33,695,400	37,571,848
	1900	41,203,239	45,387,630
Arizona	1890	616,629	947,547
	1900	10,157,408	21,315,189
New Mexico	1890	965,938	1,516,195
	1900	2,698,786	5,605,795
Oklahoma	1890	95,519	180,445
	1900	3,252,064	7,083,938
Indian Territory	1890	204,329	248,932
	1900	2,624,275	3,892,181
North Dakota	1890	2,894,553	5,028,197
	1900	5,396,490	9,183,114
South Dakota	1890	3,207,796	5,682,748
	1900	7,578,895	12,231,239

MINERAL PRODUCTION AND WAGES PAID.

[Census report 1902.]

State or Territory.	Production.	Wages paid.
Maine	$7,313,000	$4,323,000
Vermont	5,904,000	3,114,000
New Hampshire	1,176,000	806,000
Rhode Island	774,000	435,000
Connecticut	1,425,000	808,000
Delaware	448,000	222,000
Arizona	11,197,000	5,059,000
New Mexico	6,605,000	2,659,000
Oklahoma	186,000	64,000
Indian Territory	4,321,000	3,183,000
North Dakota	334,000	196,000
South Dakota	6,796,000	3,374,000

POPULATION IN 1900.

State or Territory.	Total population.	Population, school age.	Voters.	Illiterates.
Maine	694,466	199,153	217,663	13,952
Vermont	343,641	98,614	108,356	8,544
New Hampshire	411,588	110,895	130,987	10,295
Rhode Island	428,556	124,646	127,144	11,675
Connecticut	908,420	257,101	280,340	18,984
Delaware	184,735	59,635	54,018	7,538
Arizona	122,931	38,868	44,081	11,215
New Mexico	195,310	69,712	55,067	15,585
Oklahoma	398,331	147,656	109,191	6,468
Indian Territory	392,060	159,125	97,361	15,482
North Dakota	319,146	112,789	95,217	5,187
South Dakota	401,570	147,165	112,861	5,628

NUMBER AND VALUE OF LIVE STOCK.

	Number.	Value.
MAINE.		
Cattle	338,000	$7,585,000
Horses	106,000	7,058,000
Mules	353	19,000
Sheep	420,000	1,116,000
Swine	79,000	516,000
Total	943,353	16,284,000
VERMONT.		
Cattle	501,000	10,528,000
Horses	85,000	5,319,000
Mules	331	21,000
Sheep	296,000	881,000
Swine	95,000	620,000
Total	977,280	17,369,000
NEW HAMPSHIRE.		
Cattle	226,000	5,546,000
Horses	54,000	3,840,000
Mules	97	6,000
Sheep	115,000	309,000
Swine	51,000	357,000
Total	446,072	10,058,000

Comparative statement showing increase in value of farms, farm products, farm implements, live stock, manufactures, etc.—Continued.

NUMBER AND VALUE OF LIVE STOCK—continued.

	Number.	Value.
RHODE ISLAND.		
Cattle	36,000	$1,165,000
Horses	11,000	980,000
Mules	38	2,800
Sheep	11,000	41,000
Swine	11,000	90,000
Total	69,038	2,278,800
CONNECTICUT.		
Cattle	217,000	5,944,000
Horses	52,000	3,813,000
Mules	278	22,000
Sheep	36,000	137,000
Swine	46,000	326,000
Total	351,278	10,240,000
ARIZONA.		
Cattle	742,000	11,300,000
Horses	125,000	1,700,000
Mules	4,000	123,000
Sheep	924,000	1,900,000
Swine	18,000	80,000
Total	1,813,000	15,103,000
NEW MEXICO.		
Cattle	991,000	17,900,000
Horses	131,000	2,200,000
Mules	5,000	183,000
Sheep	4,900,000	10,600,000
Swine	20,000	81,000
Total	6,047,000	30,964,000
OKLAHOMA.		
Cattle	1,700,000	37,700,000
Horses	303,000	10,600,000
Mules	55,000	2,800,000
Sheep	71,000	179,000
Swine	584,000	2,300,000
Total	2,713,000	53,579,000
INDIAN TERRITORY.		
Cattle	1,500,000	29,600,000
Horses	217,000	6,200,000
Mules	56,000	2,800,000
Sheep	17,000	38,000
Swine	650,000	1,900,000
Total	2,440,000	40,538,000
NORTH DAKOTA.		
Cattle	657,000	15,800,000
Horses	359,000	22,700,000
Mules	6,800	476,000
Sheep	681,000	1,900,000
Swine	191,000	930,000
Total	1,894,800	41,806,000
SOUTH DAKOTA.		
Cattle	1,500,000	37,800,000
Horses	480,000	20,000,000
Mules	6,000	345,000
Sheep	775,000	2,400,000
Swine	823,000	3,500,000
Total	3,584,000	64,045,000

SIERRA FOREST RESERVE.

Mr. STEWART. I made a motion to reconsider the vote by which the bill (H. R. 17345) to exclude from the Yosemite National Park, California, certain lands therein described, and to attach and include the said lands in the Sierra Forest Reserve, was passed. It seemed to me that the bill as it passed discriminated against Fresno. The people there complained that it did so very seriously; that it did not give them an equal opportunity to reach the Yosemite by railroad or other means of conveyance. Not having sufficient accurate information here to correct it, and the Department being very much opposed to any correction since the matter has been settled by a commission, I propose to withdraw my motion to reconsider the vote by which the bill was passed, and I will trust to future legislation to correct whatever hardship there may be in the case.

The PRESIDING OFFICER. The Senator from Nevada withdraws his motion to reconsider the bill.

Mr. KITTREDGE. Concerning the withdrawal of the motion to reconsider made by the Senator from Nevada and the action of the Committee on Forest Reservations and the Protection of Game and of the Senate in reference to the bill, I wish to state that I have no doubt the committee and the Senate will correct any discrimination to which he has referred in the event that there should prove to be such.

The PRESIDING OFFICER. The motion to reconsider having been withdrawn, the bill stands passed.

EXECUTIVE SESSION.

Mr. CULLOM. I now renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 4, 1905, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 3, 1905.

CONSUL-GENERAL.

William Martin, of New York, now consul at Nanking, to be consul-general of the United States at Hankau, China.

CONSULS.

James C. Kellogg, of Louisiana, to be consul of the United States at Barranquilla, Colombia.

Daniel S. Kidder, of Florida, now consul at Algiers, to be consul of the United States at Nanking, China.

COINER.

Harry Tarbell, of Colorado, to be coiner of the mint of the United States at Denver, Colo.

RECEIVER OF PUBLIC MONEYS.

William A. McClure, of Taylor, N. Dak., to be receiver of public moneys at Dickinson, N. Dak.

APPOINTMENT IN THE ARMY.

Chaplain.

Rev. George J. Waring, of Iowa, to be chaplain, with the rank of first lieutenant, from January 24, 1905.

PROMOTIONS IN THE ARMY.

Subsistence Department.

Capt. Hugh J. Gallagher, commissary, to be commissary with the rank of major, from January 19, 1905.

Artillery Corps.

First Lieut. Stanley D. Embick, Artillery Corps, to be captain, with rank from January 23, 1905.

Infantry Arm.

First Lieut. Ralph B. Parrott, Twenty-second Infantry, to be captain, with rank from January 15, 1905.

PROMOTIONS IN THE NAVY.

Lieut. George R. Slocum to be a lieutenant-commander in the Navy from the 24th day of August, 1904.

Lieut. Commander Clifford J. Boush to be a commander in the Navy from the 12th day of January, 1905.

POSTMASTERS.

ARKANSAS.

James T. Reding to be postmaster at Huntington, in the county of Sebastian and State of Arkansas.

Henry Thane to be postmaster at Arkansas City, in the county of Desha and State of Arkansas.

CALIFORNIA.

George P. Manley to be postmaster at Sanger, in the county of Fresno and State of California.

Winslow L. Rideout to be postmaster at Lakeport, in the county of Lake and State of California.

GEORGIA.

Alice B. Bussey to be postmaster at Cuthbert, in the county of Randolph and State of Georgia.

James F. Dever to be postmaster at Rockmart, in the county of Polk and State of Georgia.

MONTANA.

George W. Crane to be postmaster at Fort Benton, in the county of Chouteau and State of Montana.

NEW HAMPSHIRE.

Adelia M. Barrows to be postmaster at Hinsdale, in the county of Cheshire and State of New Hampshire.

NEW YORK.

Archibald K. Fowler to be postmaster at Caledonia, in the county of Livingston and State of New York.

Frank A. Frost to be postmaster at Watkins, in the county of Schuyler and State of New York.

NORTH DAKOTA.

Charles Lano to be postmaster at Mohall, in the county of Ward and State of North Dakota.

PENNSYLVANIA.

Ammon M. Aurand to be postmaster at Beaver Springs, in the county of Snyder and State of Pennsylvania.

Michael K. Bergey to be postmaster at Souderton, in the county of Montgomery and State of Pennsylvania.

Edward K. Demmy to be postmaster at Middletown, in the county of Dauphin and State of Pennsylvania.

E. M. Frye to be postmaster at Monessen, in the county of Westmoreland and State of Pennsylvania.

Johnson D. Neely to be postmaster at Derry Station, in the county of Westmoreland and State of Pennsylvania.

William B. Palmer to be postmaster at Clifton Heights, in the county of Delaware and State of Pennsylvania.

W. L. Stevenson to be postmaster at West Newton, in the county of Westmoreland and State of Pennsylvania.

George C. Worstall to be postmaster at Newtown, in the county of Bucks and State of Pennsylvania.

SOUTH DAKOTA.

Calvin Betts to be postmaster at Mount Vernon, in the county of Davison and State of South Dakota.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February 3, 1905.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for further consideration of the post-office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. LAWRENCE in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17865. The Clerk will resume the reading of the bill.

The Clerk read as follows:

For salaries of fifteen inspectors in charge of divisions, at $2,500 each; six inspectors, at $2,400 each; fifteen inspectors, at $2,250 each; fifteen inspectors, at $2,000 each; seventy inspectors, at $1,600 each; sixty inspectors, at $1,400 each; and forty-two inspectors, at $1,200 each; in all, $362,050.

Mr. OVERSTREET. Mr. Chairman, I move to strike out all of lines 11 to 20, inclusive, on page 20. That paragraph has been transferred already by action of the committee.

The motion was agreed to.

The Clerk read as follows:

For per diem allowance of inspectors in the field while actually traveling on official business away from their home, their official domicile, and their headquarters, $195,000: *Provided*, That the Postmaster-General may, in his discretion, allow post-office inspectors per diem while temporarily located at any place on business away from their home, or their designated domicile, for a period not exceeding twenty consecutive days at any one place, and may make rules and regulations governing the foregoing provisions relating to per diem: *And provided further*, That no per diem shall be paid to inspectors receiving annual salaries of $2,000 or more.

Mr. OVERSTREET. Mr. Chairman, I move to strike out lines 21 to 25, inclusive, on page 21, and lines 1 to 7, inclusive, on page 22.

The motion was agreed to.

The Clerk read as follows:

For salaries of clerks and laborers at division headquarters, miscellaneous expenses at division headquarters, traveling expenses of inspectors without per diem, and of inspectors in charge, expenses incurred by field inspectors not covered by per diem allowance, and traveling expenses of the Fourth Assistant Postmaster-General and chief post-office inspector, $100,000: *Provided*, That of the amount herein appropriated not to exceed $2,000 may be expended, in the discretion of the Postmaster-General, for the purpose of securing information concerning violations of the postal laws, and for services and information looking toward the apprehension of criminals.

Mr. OVERSTREET. Mr. Chairman, I move to strike out lines 8 to 19, inclusive, on page 22.

Mr. FINLEY. Mr. Chairman, I would like to have an explanation. I have no doubt the gentleman can give good reasons for the motion.

Mr. OVERSTREET. This is just like the preceding amendments I have offered. This entire post-office inspection service has been transferred to the first part of the bill, and this is merely to strike out the provision here.

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

The Clerk read as follows:

For payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers, $15,000.

Mr. OVERSTREET. Mr. Chairman, I move to strike out lines 20 to 22, on page 22.

The motion was agreed to.

The Clerk read as follows:

For marine postal service, Detroit, Mich., $4,500: *Provided*, That the Postmaster-General may, in his discretion, enter into contract for such marine postal service for a period not exceeding five years at an annual rate not to exceed $4,500.

Mr. McMORRAN. Mr. Chairman, I move to strike out the proviso in that paragraph. The proviso is as follows:

Provided, That the Postmaster-General may, in his discretion, enter into contract for such marine postal service for a period not exceeding five years at an annual rate not to exceed $4,500.

Now, to inform the committee, I want to say, Mr. Chairman, that at the present time there is a contract with a party at Detroit, covering a period of five years, for the sum of $4,500, carrying with it a bond to protect the Government in the execution and performance of the contract.

Now, with the proviso there it restricts the Postmaster-General in case of default by the party having that contract; whereas without the proviso the Postmaster-General would be free to restore that service at the lowest possible price, and if it should cost more than the contract price he could rely upon the bond for any excess paid. Therefore, I think the proviso should be stricken out.

Mr. OVERSTREET. Mr. Chairman, just a word. I doubt if it is especially material that that proviso should be retained. In explanation of the action of the committee, however, I will state that at the time the provision was considered there was some fear expressed that in the event of a failure of the contract during the fiscal year there would only be $4,500 available for the service, and a contract for the remaining portion of the fiscal year would probably require a larger sum. If, however, the proviso were carried, it would enable the Postmaster-General to make a contract for a longer period, and thereby in all probability procure a lower rate than for a part of one year. If the gentleman assures us that the contract carries with it a bond for the faithful performance of this service during the entire period of the present contract, I would say that there would be no necessity for the proviso. It was offered as a safety valve in the event of the failure of the contract.

Mr. McMORRAN. I will say to the gentleman that there is no question about the bond in the possession of the Postmaster-General covering this contract.

Mr. OVERSTREET. And in the event of a failure of the present contracting parties, the bond is sufficient to insure a continuance of the service at the same rate?

Mr. McMORRAN. I do not think there is any question about it.

Mr. OVERSTREET. Then I have no objection to the gentleman's motion.

The CHAIRMAN. The question is on the motion of the gentleman from Michigan to strike out the proviso.

The motion was agreed to.

The Clerk read as follows:

For fees to special-delivery messengers, $900,000.

Mr. OVERSTREET. I move to strike out "nine hundred" and insert "eight hundred and fifty," so that it will read "$850,000."

The CHAIRMAN. The gentleman from Indiana, chairman of the committee, offers an amendment which the Clerk will report.

The Clerk read as follows:

Strike out "nine hundred" and insert "eight hundred and fifty."

Mr. OVERSTREET. Just a word. Since the bill was reported the committee have found that the expenditures under this item during the last fiscal year were not as large as we were led to believe they were when the item was fixed at $900,000. I believe that $850,000 is an ample appropriation.

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

The amendment was agreed to.

The Clerk read as follows:

For pay of letter carriers and clerks in charge of substations of rural free-delivery service, $25,120,000: *Provided*, That not exceeding $12,500 of the amount hereby appropriated may be used for compensation of clerks in charge of substations.

Mr. WATSON. Mr. Chairman, I offer an amendment.

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

The Clerk read as follows:

Insert in line 9, page 25, the following:

"That hereafter the carriers employed in the rural free-delivery service shall not be subject to the provisions of the civil-service laws."

Mr. STAFFORD. I reserve the point of order on that amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Wisconsin reserves the point of order.

Mr. WATSON. Does the gentleman insist on his point of order?

The CHAIRMAN. The gentleman reserves his point of order.

Mr. WATSON. It is clearly subject to the point, if the gentleman insists upon it. Does the gentleman insist?

Mr. STAFFORD. Mr. Chairman, I withdraw it.

Mr. MADDOX. I renew it.

The CHAIRMAN. The gentleman from Wisconsin withdraws the point of order and the gentleman from Georgia renews it.

Mr. WATSON. Mr. Chairman, in the face of the point of order, I do not care to discuss the merits of the proposition. I have always believed that it was a mistake to place the rural free-delivery carriers under the civil service, because it has enabled them to build up more or less of a machine in the country. If the gentleman from Georgia insists on the point of order, I do not care to discuss it, because it is clearly subject to the point of order.

Mr. MADDOX. We should like to hear the gentleman give us a reason for this amendment. In other words, I reserve the point of order.

Mr. HILL of Connecticut. I should like to ask the gentleman from Indiana a question.

Mr. WATSON. I yield to my friend.

Mr. HILL of Connecticut. I would like to ask my friend from Indiana if he knows of any law now by which the carriers are under the civil service by any act of Congress, or whether it is not merely by an order of some Department, instead of any enacted law?

Mr. WATSON. They are now under the civil service by virtue of an Executive order which the President of the United States, under the general civil-service law, had full power and authority to make.

Mr. BARTLETT. The President passed that order on February 2, 1902.

Mr. WATSON. Under the civil-service law.

Mr. BARTLETT. I said it was an order, an Executive order.

Mr. WATSON. Under the general provisions of the civil-service law.

Mr. BARTLETT. Which he had a right to do.

Mr. WATSON. There is no question about that. If the gentleman from Georgia insists on his point of order, I do not care to argue the question.

Mr. CHARLES B. LANDIS. But some Members would like to hear what the gentleman from Indiana has to say on the proposition.

Mr. WATSON. Mr. Chairman, I do not care to enter into a general discussion of the merits or demerits of civil service. Personally I am a believer in the merit system, not, perhaps, in the civil-service system that is now in vogue, as it is now practiced, as it is now administered in this country, but in a general merit system that shall enable some power to determine the fitness of the applicant for the discharge of the duties connected with the position he desires to fill. I have always believed it was a mistake to cover the rural free-delivery carriers under the civil service. We are beginning now in the various parts of the country, Mr. Chairman, to see some of the results of that act. It is a matter not unfamiliar to all of us that the rural carriers, in many districts in this country, have separate district organizations; that they hold meetings of these organizations; that they invite the Member of Congress to attend these meetings; that, while he is personally present, they pass resolutions demanding of him that he shall vote for an increase in their salary, the amount in some instances being $850, and in other instances attempting, by sheer use of power, to coerce the member of Congress to vote for a thousand dollars' salary.

Now, Mr. Chairman, we all know that while these men are under the operation of the civil service they are entirely outside the power of any Member of Congress, and can not even be touched by anyone for any of those acts. What is the inevitable result? The result of it is that there are many young men, and many older men, in many districts where these organizations are, that go to these men and say, "Send me to Congress and I will vote for a thousand dollars for you;" and the result will be that by and by there will be a machine built up of these people outside the power of any Member of Congress to harm or touch that will either increase salaries or defeat Members of Congress almost at will.

In my own Congressional district there are something like 250 carriers. They come in contact with almost all the farmers in my district every day, and everybody knows, Mr. Chairman, that that constitutes a very great political power in any district in this country. Anybody knows that, if these gentlemen choose to use that power, which they have not yet attempted to do in my district, for the purpose of furthering their own ends, to increase their own salaries, their power will almost be unlimited in every Congressional district where the rural free delivery obtains in this country. Therefore, it seems to me, there is every reason why these carriers should be taken from under the operation of the civil service. At one time Members of Congress had the power to name these men. Does any man pretend to say that the service was any less efficient than it is now? Does any man pretend to say that the character of the men appointed then was inferior to those appointed now? Does any man pretend to say that if a Member of Congress had the power to name a carrier he would not, for his own self-protection and in the interest of good service, name the very best man that could be had in the community for the purpose? What is the sentiment in the country that leads people to believe that where Members of Congress have the power to appoint they will appoint bad men and wicked men or unworthy politicians, scheming demagogues, or men without character? Out upon such an idea as that! I believe that Members of Congress are qualified to appoint the best men, and that they will do it for their own interest. [Applause.] I am opposed to the idea that some civil-service gentlemen in the city of Washington have the right to ask a lot of questions that have absolutely no relevancy to the duties to be discharged by the appointee in order to determine who shall be able to carry the mail to Tom Jones and Sam Smith out in the country. [Laughter and applause.]

Give us the power to appoint, and then these gentlemen, instead of building up a machine to coerce us, will look well to their duties and attempt, by reason of the service rendered, to insure their continuance in the positions they now hold. [Prolonged applause and laughter.]

Mr. MADDOX. Mr. Chairman, as Members of Congress would have no say so in my country, and the referee would do the work, I insist on the point of order.

Mr. CROMER. Mr. Chairman, I hope the gentleman from Georgia [Mr. MADDOX] will not insist on this point of order, for the very reason that under the regulations the civil service, as it is now, gives the Civil Service Commission the right and the power to name all of the rural carriers in this country.

Mr. GRIGGS. Mr. Chairman, if the gentleman from Indiana [Mr. CROMER] will yield the floor for a moment to the gentleman from Indiana [Mr. WATSON], so that I may put to him a question, we may probably settle this question now.

Mr. CROMER. Yes; I will yield the floor to the gentleman from Indiana [Mr. WATSON] for the purpose of answering a question.

Mr. GRIGGS. Mr. Chairman, I would like to ask the gentleman this question, If he will consent to his amendment being amended so that the appointment of the carrier shall be made upon the recommendation of the Member of Congress from the district?

Mr. WATSON. Why, certainly I will. [Applause.]

Mr. GRIGGS. Then I believe the point of order will be withdrawn.

Mr. WATSON. Certainly I will, if I can be assured that no point of order will be made against it. I am very willing to submit to that amendment.

Mr. MADDOX. As far as I am concerned, if the gentleman will accept that amendment, I withdraw the point of order. [Applause.]

Mr. ROBINSON of Indiana. Mr. Chairman, I renew the point of order.

Mr. FINLEY. Mr. Chairman, I renew the point of order.

Mr. WATSON. Mr. Chairman, may I ask who renewed the point of order? I did not get it in the confusion.

Mr. ROBINSON of Indiana. Mr. Chairman, I think it entirely proper to state to the House that if it should be withdrawn I shall have to make the point of order. I reserve it, however.

Mr. FINLEY. I will reserve the point of order.

Mr. OVERSTREET. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OVERSTREET. Has a point of order been made to this amendment?

The CHAIRMAN. A point of order has been reserved.

Mr. OVERSTREET. What is the parliamentary status, Mr. Chairman, as to the privilege of Members to continually reserve points of order and thereby consume the time of the committee?

The CHAIRMAN. Well, the point of order was made, and then, at the request of a Member, the point of order was reserved, in order that the gentleman from Indiana [Mr. WATSON] might speak on the merits. That is the custom of the committee.

Mr. OVERSTREET. I realize it is the custom, but this amendment is clearly subject to a point of order. I have not made the point of order myself. If a point of order is made, it

would have to go out. If a point of order is going to be made, I should be glad to have some Member make it or else abandon the project. I do not want to take the time of the committee in this way.

Mr. SHOBER. Mr. Chairman, I make the point of order and ask for a ruling.

Mr. CROMER. Mr. Chairman, I have the floor

Mr. OVERSTREET. I obtained the floor, I will state to the gentleman, on a parliamentary inquiry.

The CHAIRMAN. The gentleman from New York makes the point of order that the amendment is new legislation. The Chair will hear the gentleman from Indiana [Mr. CROMER] on the point of order.

Mr. CROMER. Mr. Chairman, I hope the gentleman from New York [Mr. SHOBER] will withdraw his point of order for the reason that under the regulations of the civil service now in force the Civil Service Commission appoint all of the rural carriers in this country. Instead of giving the Department, or the postmasters throughout the country, or the Members of Congress throughout the country the right to recommend one of three of the highest of those upon the eligible list, the Civil Service Commission have adopted a regulation by which the applicant who stands highest upon the eligible list shall be appointed, and they mark and grade the papers. It is putting a power in the hands of this Commission that they should not have. Some of these days it will be found that the Civil Service Commission will endeavor to usurp the authority that is now given to the Departments and to Members of Congress in recommending one of the three highest on the eligible list in other governmental service. It is wrong. If these rural carriers are to be appointed under the Civil Service Commission, let the same regulations with reference to the appointment of rural carriers be made that have been made with reference to the appointment of post-office clerks and city carriers.

Mr. FINLEY. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman yield?

Mr. CROMER. Yes.

Mr. FINLEY. In what other Departments does the civil service give Members of Congress the right to recommend one of the three highest on the eligible list?

Mr CROMER. The Civil Service Commission does not give the right of recommendation, and it is not its business to give the right of recommendation to Congressmen. Under regulations, with reference to the appointment of others under the civil service, the Departments permit a recommendation of any one of the three highest on the eligible list, and the Post-Office Department permits postmasters throughout the country to make the recommendation of one of the three highest on the eligible list in the appointment of clerks and carriers in city delivery offices.

Mr. FINLEY. I understand the gentleman to say that Members of Congress were permitted.

Mr. CROMER. Oh, well; the postmasters are the friends of Members of Congress and they sometimes consult them about such matters. That is what I meant.

Mr. FINLEY. Some of them are I know, but sometimes that is not the case; but what is the policy then in the case of a Democratic Member with a Republican postmaster?

Mr. CROMER. It is the misfortune of the Member of Congress when he is not on friendly relations with his postmaster.

Mr. FINLEY. Does not the Post-Office Department insist——

Mr. CROMER. I can not hear the gentleman and have not heard him since the beginning of his question.

Mr. FINLEY. Does not the Post-Office Department insist, by order at least, that no political influence shall be permitted in the selection of any civil-service employee?

Mr. CROMER. I do not know what they insist upon nor do I care what they insist upon. I am stating the regulations that obtain with reference to the appointment of other employees in the Federal service.

Mr. BARTLETT. May I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Georgia?

Mr. CROMER. Yes, sir; I yield.

Mr. BARTLETT. Does not the gentleman from Indiana know that the President of the United States about three years ago promulgated an order in which he said it would subject that clerk or officer who was under civil-service rules to dismissal if he sought or promoted the exercise of influence upon the part of Members of the House or Senate seeking to have him appointed or advanced? That was an order that President Roosevelt passed some three years ago.

Mr. CROMER. No; I do not remember any such order as that.

Mr. BARTLETT. That is the fact.

Mr. CROMER. I remember the President issued an order of some kind in reference to political influence, but it was not the order the gentleman speaks of.

Mr. BARTLETT. I think it was.

Mr. CROMER. Now, I hope the gentleman from New York will withdraw the point of order.

Mr. ZENOR. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. CROMER. I do.

Mr. ZENOR. I understand the gentleman to say that the appointment of rural free-delivery carriers is not under the control of the Civil Service Commission, but under the control of a system of examinations.

Mr. CROMER. I can not hear the gentleman, Mr. Chairman.

Mr. ZENOR. I want to inquire of the gentleman whether or not the rural carriers at this time are under the control of the Civil Service Commission.

Mr. CROMER. I think they are absolutely under the control of it.

Mr. ZENOR. I will ask the gentleman if there is not a system of examinations instituted by virtue of which you ascertain the qualifications, but not absolutely under the control of the civil service?

Mr. CROMER. Oh, yes; there is an examination, but it is no proper test of the qualifications of applicants. The Civil Service Commission simply takes the examination papers which are about on an equality and they grade them and have the highest one appointed.

Mr. ZENOR. I desire to ask my colleague whether or not he does not understand the appointment of postmasters, which are not now under the control of the civil service, is not controlled in States where there are Democratic districts by the Senators of those States?

Mr. CROMER. The Senators, as I understand it, make the recommendations.

Mr. ZENOR. I want to inquire of the gentleman whether or not a Member of Congress representing a Democratic district has anything to say in regard to the appointment of postmasters in that district?

Mr. CROMER. He may have if he has any influence with the Senators from his State, and I might say it is the gentleman's misfortune, at this time in the history of this country, to be a Democrat. [Laughter and applause.]

Mr. ZENOR. I want to inquire of the gentleman whether or not the gentleman does not know that in the appointment of postmasters in a Democratic district they are always made by the Department upon the indorsement and recommendation of the Senators?

Mr. CROMER. Well, I do not know about that. I understand frequently the President of the United States does not follow the recommendations of Members of Congress and Senators of the United States.

Mr. ZENOR. Would my colleague be willing to give us the assurance that if this amendment was adopted withdrawing the appointment of rural free-delivery carriers from the control of the civil service the Democratic Members in districts would be treated differently in the appointment of rural free-delivery carriers than that which now prevails in regard to the appointment of postmasters?

Mr. CROMER. Why, so far as the amendment now before the House is concerned, or the proposition of the gentleman from Indiana [Mr. WATSON], who introduced it, it is proposed to extend to the Members of Congress in Democratic districts the right to make recommendations in the appointment of rural carriers, the same as Republican Members have in Republican districts.

Mr. ZENOR. Do I understand the gentleman to say that the amendment now proposed to this paragraph of the bill would require the Department to recognize the Member of Congress in making these suggestions?

Mr. CROMER. No; I can not say whether that would be the force and effect of the law or not, but that is the purpose and intent of the amendment.

Mr. ZENOR. Then does not the gentleman believe that if this amendment is adopted the same rule would be applied by the Department in the appointment and selection of the rural carrier that is to-day applied in other Departments?

Mr. CROMER. I think the amendment is sufficiently strong upon that point to bind the Department to recognize the recommendation of the Member of Congress, regardless of politics.

Mr. ROBINSON of Indiana. We have this——

Mr. CROMER. For what purpose is the gentleman from Indiana [Mr. ROBINSON] on the floor?

Mr. ROBINSON of Indiana. I thought the gentleman from

Indiana [Mr. CROMER] had yielded the floor and that I had secured recognition from the Chair.

Mr. CROMER. Why is the gentleman on the floor?

The CHAIRMAN. Does the gentleman from Indiana [Mr. CROMER] yield the floor?

Mr. ROBINSON of Indiana. Mr. Chairman, I supposed my colleague [Mr. CROMER] had yielded the floor and that I had secured recognition by the Chair.

Mr. SHOBER. Mr. Chairman, I made a point of order, and I ask for a ruling.

The CHAIRMAN. The gentleman from New York [Mr. SHOBER] insists on the point of order.

Mr. SHOBER. Yes, sir.

The CHAIRMAN. The Chair will then rule.

Mr. CROMER. Mr. Chairman, I had the floor under the reservation of a point of order, and I still have the floor.

The CHAIRMAN. Debate is now proceeding on the point of order, and it is within the discretion of the Chair as to how long debate shall proceed on a point of order. The point of order made is that the amendment offered by the gentleman from Indiana [Mr. WATSON] is new legislation, and consequently in violation of Rule XXI. The gentleman who offers the amendment so concedes. The Chair sustains the point of order.

Mr. PADGETT. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Tennessee [Mr. PADGETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

End of line 9, page 25, add: "*Provided*, That it shall be lawful for carriers to act as agents for newspapers for delivery to patrons along their routes under such rules, regulations, and limitations as the Postmaster-General may prescribe."

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that. It is new legislation. It is so plainly obnoxious to the law that I think it useless to take the time of the committee with it. Therefore, I think I shall insist upon the point of order.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. PADGETT] wish to be heard on the point of order?

Mr. PADGETT. No, sir.

Mr. CROMER. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. CROMER] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Amend by inserting after word "substations," in line 9, page 25, the following: "That all rural letter carriers shall be entitled to leave of absence for fifteen days in each year, without loss of pay; and the Postmaster-General is hereby authorized to employ, when necessary during the time such leave of absence is granted, such number of substitute carriers as may be deemed advisable, who shall be paid for services at the rate of $720 per year."

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that amendment.

Mr. CROMER. I hope the gentleman will reserve the point of order or not make any point of order at all.

Mr. OVERSTREET. It is so clearly obnoxious that I dislike to take the time of the committee to even address it on the merits of the case.

Mr. CROMER. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The gentleman from Indiana [Mr. CROMER] is recognized, and will be heard on the point of order.

Mr. CROMER. Mr. Chairman, I think that the amendment is clearly in order at the end of this section. I hope that the gentleman from Indiana, the chairman of the committee, will not insist upon the point of order, as the rural carriers are the only employees in this great Post-Office Department, except the railway mail clerks, who are not entitled to leave of absence under the law.

Mr. GRIGGS. Mr. Chairman, I make the point of order that the gentleman from Indiana is not discussing the point of order. He is discussing the merits of the question.

The CHAIRMAN. The Chair will ask the gentleman from Indiana to confine his remarks to the point of order. [Laughter.]

Mr. CROMER. The rural carriers are the only employees, except the railway mail clerks, who do not get a leave of absence.

Mr. GRIGGS. I insist on the regular order.

Mr. CROMER. Mr. Chairman, I am stating the meaning of my amendment, so that you may the better understand my argument on the point of order. [Laughter.]

Mr. GRIGGS. As I understand it, the gentleman is discussing the facts and not the law.

The CHAIRMAN. Does the gentleman from Indiana wish to discuss the point of order?

Mr. CROMER. Yes, sir. [Laughter.]

The CHAIRMAN. Then the Chair must ask the gentleman to confine his remarks to the point of order.

Mr. CROMER. As I was proceeding to say [laughter], the railway mail clerks are the only other employees of the Post-Office Department who do not have a leave of absence granted them under the law.

Mr. GRIGGS. Mr. Chairman, I insist that the gentleman is not discussing the point of order.

Mr. CROMER. I want to state the subject-matter of this amendment before I make my argument on the point of order. I want to lay the proper foundation for my argument. [Laughter.] Now, I want to see whether it will not be in order under the rules of this House to recognize this deserving class of Federal employees [laughter] by giving them a leave of absence, as other employees of this great Department and other Departments of this Government have and enjoy. In most of the Departments here in Washington the clerks and other employees not only have fifteen days leave of absence, but they have thirty days leave of absence and thirty days sick leave besides; and I may say that all of the clerks here in the Departments——

Mr. GRIGGS. A parliamentary inquiry.

Mr. CROMER (continuing). Make it convenient to be sick thirty days in each year.

The CHAIRMAN. The Chair feels that he has heard sufficient of the discussion to enable him to rule. The Chair sustains the point of order.

Mr. CROMER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD. [Laughter.]

Mr. COWHERD. Mr. Chairman, I offer an amendment.

Mr. GRIGGS. I would like to ask my friend if he is asking unanimous consent to extend his remarks in a discussion of the point of order. [Laughter.]

Mr. CROMER. I assure the gentleman I will discuss the point of order. [Renewed laughter.]

The CHAIRMAN. The Chair hears no objection, and the leave is granted. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert, after line 9, page 25, the following: "*Provided further*, That from and after the passage of this act the rate of postage on packages of books or merchandise mailed at the distributing post-office of any rural free delivery to a patron on said route shall be 3 cents for each pound or any fraction thereof. This rate shall apply only to packages deposited at the local post-office for delivery to patrons on routes emanating from that office, or collected by rural carriers for delivery to the office from which the route emanates, and not to mail transmitted from one office to another, and shall not apply to packages exceeding 5 pounds in weight."

Mr. OVERSTREET. Does the gentleman want five minutes?

Mr. COWHERD. Yes.

Mr. OVERSTREET. I will reserve the point of order for five minutes.

Mr. COWHERD. Mr. Chairman, this is a serious proposition and not a humorous one. I would like to have the attention of the House, and I ask the Clerk to read the recommendation of the Fourth Assistant Postmaster-General with reference to that work.

The Clerk read as follows:

NEW RATE OF POSTAGE NEEDED.

With the establishment of rural mail delivery, and the increasing extension of rural telephone service by private interests, there has grown up a demand by the patrons of the rural service for the delivery of small packages of merchandise, such as food stuffs, tobacco, dry goods, drugs, etc., on an order to the local merchant by postal card, telephone, or otherwise. The value of these packages of merchandise is usually small, and the present rate of postage of 1 cent per ounce is practically prohibitive. The patron or merchant can not afford to pay 16 cents for the delivery of a pound of coffee or tobacco, or similar article, but if a special rate were established on such matter from the distributing office for delivery to any patron on the rural routes from that office it would be a great convenience to the patrons and become a source of revenue to the Department.

It is therefore recommended that the Congress fix a rate of 3 cents per pound, or any fractional part thereof, on packages of books or merchandise not exceeding 5 pounds mailed at the distributing post-office of any rural free-delivery route for delivery to a patron on said route. This rate should apply only to packages deposited at the local post-office for delivery to patrons on routes emanating from that office, and not to mail transmitted from one office to another. The rate of 3 cents per pound would be ample remuneration for the Department, because there is no expense for railway transportation, and the system by which these packages are to be delivered is already established, and such delivery would entail no additional expense upon the Department. A special stamp could be provided for this class of mail matter.

Mr. COWHERD. Mr. Chairman, I had some hopes that if I might have the attention of the House I might convert the chairman of the Committee on the Post-Office and Post-Roads on this proposition to the extent that he would at least give the House a vote upon this amendment.

Mr. Chairman, we have now established a free-delivery system in the country, and we have as a part of that system nearly 30,000 carriers carrying the mail with horse and wagon. They carry on an average less than 20 pounds of mail to each wagon.

That same machinery that we have thus established, without the addition of a single dollar of cost, without any additional burden to the Government, and very little upon the carrier, it can be readily seen, could carry 40, 50, or 60 pounds, and maybe more. Now, there is not a rural route in the United States that is self-sustaining. The average return to the Government, giving them credit for all the cancellations on the route, without allowing anything for the transportation by rail or distribution or handling of this same matter at other points, is about $10.64 for each route, showing that in the carrier's salary alone we have got a loss to the Government of about $50 on every rural route where the carrier receives the maximum pay of $60 per month.

I appeal to you, my friends, to know how long this can last. The cost has run up to $26,000,000, and only a little more than one-third of the country is provided for. When it reaches sixty or seventy million dollars, I ask you gentlemen interested in this service, do you not fear that the burden is going to become too heavy to be borne? Now, here is a plan by which we may double or treble the revenues without another additional dollar of cost to the Government, with but little additional work to the carrier, and immense benefit to the agricultural communities.

The only objection that could possibly be urged against this is the objection in the minds of some gentlemen that this is a parcels post. I want to point out to the House that this is in no sense a parcels post, and that no valid objection urged against the parcels post can be brought against this proposition.

The objections to the parcels post are, first, that we enter into a field where private enterprise is now serving the people through the express companies. But, mark you, not a single package can go from one office to another under this provision. It can only go, when mailed at the office from which the rural route emanates, to a patron along that route, or, when mailed along the route, to a patron at the office. So it does not in any way interfere with any private business.

Next, the objection is made that if we enter into the parcels post it will probably entail great expense to the Government; that the Government will have to take the long hauls and carry the packages across the country, while the express companies will get the short hauls, where there is a profit. But that objection can not apply to this proposition, because, as I say, this applies only to the people living along the routes.

Then, again, gentlemen say the parcels post will necessitate building great additions to the post-offices of the country—warehouses in the cities—and adding much additional cost to the service. That does not apply here, and every argument that you can make against the parcels post is absolutely eliminated by the proposition that compels this service to be given only to the people along the routes, or to the people at the office from which the route emanates.

It can not even be subject to that objection which some gentlemen make to the parcels post—that a parcels post would be a great benefit to the large department stores in the cities and a menace to the prosperity of the country merchant. This is the only objection that could be urged, that in some suburban towns the department stores might avail themselves of this service and have their packages mailed by an agent at the town and delivered along the routes. That would apply in only a very few instances; and I submit to you, gentlemen, that really that is not a legitimate objection. If 100 families along this rural route can buy goods cheaper or of better quality—and unless they get that advantage they will not buy them—are you going to refuse them the privilege, when it can be given them without adding a dollar to the cost of the service?

The CHAIRMAN. The time of the gentleman has expired.

Mr. COWHERD. Mr. Chairman, I ask unanimous consent of the committee that I may have five minutes more.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. HILL of Connecticut. I should like to ask the gentleman a question. Would not this system that he proposes absolutely take away from the carriers the revenue which they now receive for carrying these parcels?

Mr. COWHERD. This system would take away that revenue from the carriers. The gentleman will remember that last year we had quite a fight over that in the House and Senate, and finally we patched up some kind of a provision. I do not remember just the terms of it. The right was limited as it then existed.

Mr. HILL of Connecticut. Then the result of that would be that it would become necessary immediately to increase the carriers whether they had any package service or not.

Mr. COWHERD. Increase them how?

Mr. HILL of Connecticut. Increase their compensation.

Mr. COWHERD. Oh, no; it would not.

Mr. HILL of Connecticut. Oh, yes; it would. I think the gentleman is mistaken. If he takes away the revenue which they have, it would be an admirable excuse for increasing their compensation.

Mr. COWHERD. We took that away in very considerable degree in the amendment put upon the last appropriation bill in the House. As far as the rural carrier is concerned, he, like every other post-office employee, is going to be before this House continuously, asking for an increase in his salary, and unless the Members of this House on their own judgment have the courage to decide what is a fair salary and maintain their decision they will get the increase anyway. Every employee in the post-office service is before us now asking an increase of salary. Those who have been increased three or four times in the last few years are still asking additional increases.

But, Mr. Chairman, this will double the revenue that the Government receives from these postal routes; I think that can be fairly prophesied; and when the time comes that you have to increase the salaries, if that time ever comes, this will provide a fund out of which the increase can be made.

Now, Mr. Chairman, I have said that the only valid objection that could be made would apply to the smaller towns near the large cities—the suburbs of those cities. Yet even in those cases those towns are prosperous, and the merchants of those towns prosper when you give the people of the country tributary to them an opportunity to satisfy their wants. As wants increase in the country community, the profit of the merchant in the little town increases; there is nothing in that one objection, and that was the only one urged in the committee against this proposition.

Mr. SLAYDEN. Will the gentleman allow me a question?

Mr. COWHERD. Yes.

Mr. SLAYDEN. Frankly, is this not an entering wedge for the parcels-post system?

Mr. COWHERD. If the gentleman means it is an entering wedge in the sense that the people of the agricultural community will have an opportunity to get their packages from town at small expense, it might be claimed to be so; but if he means that it is the entering wedge in the sense that it entails on the Government any of the obligations, any of the burdens, or any of the difficulties of the parcels post, it is not.

Mr. SLAYDEN. It is a step toward it.

Mr. COWHERD. Now, I will yield to the gentleman from South Carolina [Mr. FINLEY].

Mr. FINLEY. The gentleman from Connecticut [Mr. HILL] asked the question that I had in mind. That was, Does not the proposed amendment take away from the carriers the compensation they now receive from patrons for carrying parcels along their route?

Mr. COWHERD. We took away a great deal of that last year.

Mr. FINLEY. I understand that they are permitted at present to carry packages for patrons along the route.

Mr. COWHERD. Under certain restrictions.

Mr. FINLEY. If the gentleman's amendment prevails, and that compensation is reduced to that extent, does he not think that Congress should go further and add to the salary they now receive to that extent?

Mr. COWHERD. Assuredly not.

Mr. FINLEY. Why?

Mr. COWHERD. Because the salary was not fixed with reference to that, as a matter of fact. This House practically took that away at the time they fixed the salary at $60 a month. What little was left was put back by the Senate, as I remember it.

Mr. FINLEY. But the House agreed to it.

Mr. GAINES of Tennessee. As I caught the trend of the gentleman's argument, it was that we needed more revenue in the postal service, and sooner or later we have got to have revenue from somewhere to run the postal system.

Mr. COWHERD. Is the gentleman going to make an argument or is he going to ask a question?

Mr. GAINES of Tennessee. Is that what the gentleman proposes?

Mr. COWHERD. Does the gentleman want to ask a question?

Mr. GAINES of Tennessee. Yes; for information. Is it to increase the postal revenue?

Mr. COWHERD. Yes; and to increase the service and give the farming communities the benefit of the proposed service.

Mr. GAINES of Tennessee. Now, Mr. Chairman, if we kill to-day the railroads——

Mr. COWHERD. Mr. Chairman, I decline to yield further

because the gentleman has shown that he is not asking a question for information, as he said he was going to. Mr. Chairman, there is in this bill almost a twenty-six million dollar subsidy to the rural communities; at least it is a special service or facility costing that much, and they ought to have it; and I want to say further that second-class mail at a cent a pound rate is a subsidy to the newspapers and magazines, for it costs two or three times that much to transport and handle them. These publications constitute 70 per cent of the weight of the mails, but return less than 4 per cent of the receipts. This is a many million dollar subsidy given to these publications for the education of the people, and, having voted for this, the gentleman higgles over an appropriation of a hundred thousand dollars to get these same publications to the people in time to be of use to them.

Mr. TAWNEY rose.

Mr. COWHERD. I will yield to the gentleman from Minnesota.

Mr. TAWNEY. Would it not be possible for a large department store in a large city to appoint an agent at the local post-office to whom it could ship goods by express or freight, for delivery to him, to be mailed at the local post-office and have them delivered to the purchasers on the routes?

Mr. COWHERD. If I have the time to answer, I will.

Mr. TAWNEY. Could they not ship goods in that way from the large cities to the local post-office for delivery by these rural free-delivery carriers?

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

Mr. TAWNEY. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. The gentleman from Minnesota asks that the time of the gentleman from Missouri be extended five minutes. Is there objection?

There was no objection.

Mr. COWHERD. Now, Mr. Chairman, that is one objection I tried very hastily to meet. I want to treat the gentleman fairly and frankly. I think that is true. I think the department store would have an opportunity where the small town was adjacent to the suburbs of a city, within a few miles, say 20, 30, or 50 miles——

Mr. TAWNEY. The gentleman did not understand my inquiry. I ask him if it would not be possible for a department store in Chicago, say, to appoint an agent 100, 200, or 300 miles from Chicago, in a small place, to solicit orders, for example, along the rural route, and then ship the goods by express to the agent, to be deposited in the post-office there, have them deposited in the local post-office and delivered by the carrier on the rural delivery route?

Mr. COWHERD. No; I do not believe that would be possible, and I will tell the gentleman why. When you put upon the department store, which is itself a retail store, the cost of the express package for several hundred miles—and this will come in express packages, of course--when you put upon them the necessity of building up the trade out there, and you add in addition to that 3 cents per pound on every package delivered, you impose a tax that will prevent them from successfully competing with the local merchant.

Mr. LIVINGSTON. And the pay of the agent also.

Mr. COWHERD. Of course; and the pay of the agent. I do admit that it seems to me in the small towns just outside of the city that might occur, but, Mr. Chairman, gentlemen who think that will be a dangerous opposition to the store in the small town are very much mistaken.

I was raised in a small town and in a country store. My father was a country merchant for about fifteen years after the war, and I heard the people of that town complain when the railroad reduced its rates to the city, about 25 miles away, that it was ruining their trade. I heard the people of Independence, in that county, complain when the electric road was built to Kansas City that it would ruin the store; that they could not meet city competition. I heard them complain when the macadam road was built from many smaller towns in the county to the city that everybody would drive up to the city if they wanted only to purchase a spool of thread. But I have seen, year after year, every time you added to the facilities of communication between the great city and the small towns, the small towns growing, and the stores growing, and the business of the community growing. [Applause.] I want to say that this is eminently true, that the question of the business of a small town is the education of the people dependent upon it in the matter of the wants of those people, and if you have a backwoods community with a little store carrying only a few thousand dollars in stock, doing a business of only a few thousand dollars a year, and that community is brought by improved roads or transportation facilities in touch with a great city it will educate the people of the smaller community to a higher standard of living, their wants will increase as the education in that line goes on, and you will find that same little store meeting the city competition, growing continually in its business, carrying two or three times as much stock, and earning two or three times as much profit.

Mr. CROMER. Mr. Chairman, will the gentleman permit a question?

Mr. COWHERD. Yes.

Mr. CROMER. Did not the evidence before the Post-Office Committee show that there was only a loss to the Department or the Government for each rural route of from $20 to $22, instead of $50, that the gentleman has mentioned?

Mr. COWHERD. Well, I will state that I made that statement from memory, and my memory is that the Fourth Assistant Postmaster-General stated that the average monthly cancellations per route were about $10.64. Now, of course there has been a saving possibly of something like half a million of dollars in post-offices discontinued. There has been some saving also in star routes abandoned.

Mr. CROMER. Didn't he testify that only about $20 or $22 was lost to the Department or the Government?

Mr. COWHERD. I don't remember; I think not.

Mr. CROMER. That the postage that was used by the people paid the expense of the rural delivery except about $20 or $22 on each route?

Mr. COWHERD. No; I think the gentleman is mistaken. My remembrance is that the postage receipts and the total cancellations on the route amounted to about $10.64. As we pay the carrier alone $60 per month, the loss on the service must be much greater than the gentleman suggests.

What the gentleman refers to is Mr. Bristow's statement that, crediting the route with all the cancellations, both on mail collected and delivered, the loss to the Government would be about $25 per month. This basis of calculation could be followed only on the presumption that the people got no mail before the rural service was instituted. This is, of course, absurd, and all the more so when we remember that the increase in cancellations on mail delivered on rural routes in 1904 was only 65 cents per route per month over the preceding year.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. As I came into the Hall I think I caught the words of the gentleman from Missouri [Mr. COWHERD] saying that we are already, with reference to this matter in question, expending from fifty-five to sixty millions of dollars, and that shortly we would be out of revenue to cover this expense. We all know now that there is a deficit in the Treasury, blocking relief to the people in many laudable matters, and yet, Mr. Chairman, we find the gentleman has uniformly, not only yesterday, unless he has changed his record, but for eight years, been voting subsidies to railroads, when others and myself have been trying to save the revenues of the Government, that the rural deliveries might be extended to the backwoods communities that the gentleman seems now so anxious about. [Applause.] I am not surprised that the gentleman did not yield more willingly to my inquiry a few moments since, because he knew exactly what I was going to drive at. Here we are, Mr. Chairman, every day voting away the money of the people that should go to the common people of the country, the bone and sinew of the country, but to whose doors we have never carried a luxury or a necessity or any convenience except the rural delivery system. And here is a distinguished orator, who does himself credit on all occasions and reflects credit upon his people, crying out "economy, economy," to-day voting away to railroads hundreds of thousands of dollars belonging to the people of this country, thus taking away from the rural routes of this country the little bit of pittance of 25 cents that the carrier may get for carrying a bundle, which we allowed a rural carrier to charge, and which we agreed he should carry when we fixed his salary a year ago.

Yet the gentleman comes up here to-day and wants to take that little mite away from the rural carrier. Yesterday he would give a subsidy to the rich, to a railroad corporation owned by J. Pierpont Morgan, the world, the flesh, and the devil [applause], and then he comes into this House to-day and cries out that there is a deficit in the Treasury and we must raise more revenue to run the Post-Office Department and we must take this away from the poor rural carrier. [Applause.] Mr. Chairman, I confess the statemanship of the gentleman, I confess to his good sense and good judgment as a rule, but the wisest and best of us are sometimes wrong; I am wrong myself sometimes [applause and laughter], but, Mr. Chairman, it is a mighty short Jersey that does not want a tail in fly time. [Laughter and applause]. The gentleman now cries out for

reform and frugality, but for eight years it has never struck this gifted legislator he has been in error in opposing the Democrats and some few honest straightforward, unselfish Republicans——

Mr. BURLESON. Very few——

Mr. GAINES of Tennessee. Who have helped us to fight this subsidy. Whether this amendment is right or wrong, I am not thoroughly advised, but as we, in fixing the salary of the rural carrier by law as it now stands, gave him the right to carry packages from place to place and the income therefrom, I say it is wrong to say that now we will turn package carriage into the mail, thus lessening the carrier's salary. [Applause.]

Mr. OVERSTREET. Mr. Chairman, I insist upon the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HINSHAW. Mr. Chairman, I offer the following amendment.

Mr. MADDOX. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question.

The CHAIRMAN. The gentleman from Nebraska has been recognized.

Mr. OVERSTREET. I have not the floor.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska.

The Clerk read as follows:

After the word "substation," on page 25, line 9, insert: *"Provided,* That all carriers whose routes are 24 or more miles in length shall be paid a salary of $800 per annum."

Mr. OVERSTREET. Mr. Chairman, I make the point of order on that.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MADDOX. Mr. Chairman, I want to ask the chairman of the Committee on Post-Offices and Post-Roads to explain to us the salary given now to carriers. Some of them get $720, some $600, some $500, and some one thing and some another. My understanding was we were raising the salary—in other words, giving them $720, at the last term of this Congress when this bill was up before us.

Mr. OVERSTREET. Mr. Chairman, the law passed at the last session of Congress provided a maximum salary of $720 a year to all rural carriers. The Department promulgated an order which clearly gives the $720 salaries to all carriers who were at the time the law went into operation operating on routes of a maximum length as fixed by the regulations of the Department.

Mr. MADDOX. What was that length?

Mr. OVERSTREET. That maximum length was 20 miles for each route.

Mr. LIVINGSTON. Twenty-three.

Mr. OVERSTREET. It was 20 miles at the time the law went into operation. The maximum rate of pay under the previous law was $600 for the maximum route. That gave every carrier then in the service traveling a route of 20 miles the maximum salary of $600 a year. The law fixing the salary at $720 as a maximum went into effect on the 1st of July. The Department held that all who were receiving the $600 for the maximum length of route of 20 miles should receive the $720 a year for the years after that, but at the same time they fixed a schedule of lengths of routes, as follows: All routes of 24 miles, which was a new maximum length, should receive $720 for those who were appointed after the 1st of July, 1904.

Mr. GROSVENOR. Mr. Chairman, will the gentleman yield——

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Ohio?

Mr. OVERSTREET. In just a moment.

Twenty-three to 24 miles, $720; 22 to 23 miles, $684; 21 to 22 miles, $666; 20 to 21 miles, $648; 18 to 20 miles, $612; 16 to 18 miles, $576; 14 to 16 miles, $540; 12 to 14 miles, $504; 10 to 12 miles, $448.

Mr. MADDOX. Do those who received the maximum amount when we were allowing $600 now receive $720?

Mr. OVERSTREET. Yes, sir.

Mr. MADDOX. And their routes are not extended?

Mr. OVERSTREET. The route might be extended not to exceed 24 miles.

Mr. MADDOX. What I mean to say now is——

Mr. OVERSTREET. What I mean is, that those who were receiving $600 prior to July 1, and traveling routes 20 miles in length, would be entitled to $720, even if their routes were increased in length, and would be entitled to it if they were not increased in length. But all carriers appointed after the 1st of July, who were not in the service on the 1st of July, would receive the compensation at the rate which I have just named.

Mr. MADDOX. Now, Mr. Chairman, that seems to me to be very unfair and very unjust to the carriers appointed at that time, and it occurs to me that you gentlemen ought to have regulated that.

Mr. GROSVENOR. Mr. Chairman, I desire to ask the gentleman a question.

Mr. OVERSTREET. The gentleman from Georgia [Mr. MADDOX] has the time.

Mr. MADDOX. Mr. Chairman, I yield to the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. Mr. Chairman, I desire to ask the gentleman from Indiana [Mr. OVERSTREET] this question: Suppose one of these carriers, who is getting $720 a year, should die or resign and a new man should be appointed in his place, what would the new man receive?

Mr. OVERSTRET. He is put on the mileage basis of the schedule which I read a moment ago.

Mr. GROSVENOR. Where does the Post-Office Department get the authority to interfere with the Congressional action upon this quesion and repeal the law passed by Congress?

Mr. OVERSTREET. You will have to ask the Department that question.

Mr. GROSVENOR. Does the gentleman at the head of the Post-Office Committee [Mr. OVERSTREET] believe that that was a legal act, or does he believe and know that it was a plain violation of law?

Mr. OVERSTREET. I will say to the gentleman from Ohio [Mr. GROSVENOR], Mr. Chairman, that in my individual capacity——

Mr. GROSVENOR. That is what I want.

Mr. OVERSTREET. I will say to the gentleman that in my individual capacity I suggested by letter that all carriers in the service at the time the last law went into effect, traveling the maximum route, should receive the maximum salary of $720 a year. And yet, under the law now in force, in the absence of any specific law of Congress fixing the schedule of mileage, I think the Department has authority to fix a different schedule.

Mr. GROSVENOR. Therein I differ with the gentleman.

Mr. OVERSTREET. Mr. Chairman, I may be mistaken, but that is my opinion.

Mr. GROSVENOR. If that is so, why not let the Fourth Assistant Postmaster-General legislate for the whole subject?

Mr. OVERSTREET. My own judgment is, and I think the gentleman from Ohio [Mr. GROSVENOR] will agree with me, that the rural service has reached sufficient proportions to justify some specific law fixing provisions which will affect it particularly. I rather think that is true, but there has been no recommendation from the Department upon that.

Mr. GROSVENOR. As it is, it puts a little too much power in the hands of one man to undertake to substitute himself for Congressional action upon as vital a question as this.

The CHAIRMAN. The Clerk will read.

Mr. WILLIAMS of Mississippi. Mr. Chairman, I ask unanimous consent to ask the gentleman from Indiana [Mr. OVERSTREET] a question.

The CHAIRMAN. The gentleman from Mississippi [Mr. WILLIAMS] asks unanimous consent to interrogate the gentleman from Indiana [Mr. OVERSTREET]. Is there objection?

There was no objection.

Mr. WILLIAMS of Mississippi. I wish the gentleman from Indiana [Mr. OVERSTREET] would favor the House with his ideas upon the advisability or inadvisability of permitting these very short routes of from 12 to 14 and from 14 to 16 miles.

Mr. OVERSTREET. I think they ought not to be permitted except in the establishment of county service. Naturally where an entire county service is instituted there must be some short route. I say very candidly that I seriously question the wisdom of a route under from 15 to 18 miles in length, except in the establishment of county service.

Mr. WILLIAMS of Mississippi. I agree with the gentleman about that, and hope that some legislation may come from the committee fixing the minimum mileage for routes.

Mr. OVERSTREET. Except on county service.

Mr. WILLIAMS of Mississippi. Of course you should have provision for county service; but it seems to me there ought to be no routes less than 18 miles in length.

Mr. MOON of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Insert in line 9, page 25, after the word "substations," the following: *"Provided further,* That $250,000 of the amount herein appropriated shall become immediately available for use in establishing and operating new rural free-delivery routes."

Mr. OVERSTREET. I make the point of order against that, Mr. Chairman.

Mr. MOON of Tennessee. I offer that amendment for the pur-

pose of making an inquiry of the gentleman. I do not know that it ought to be adopted, but I want to understand the facts with reference to the matter. Has any provision been made by the Committee on Appropriations to cover a deficiency in the postal service for the rural free delivery?

Mr. OVERSTREET. My understanding is the Department has recommended a supplemental appropriation, to be available during the remainder of the present fiscal year. My further understanding is that the Committee on Appropriations, having in charge the deficiency bill, will probably recommend to the House some additional appropriation for that service.

Mr. MOON of Tennessee. The gentleman will recollect that the Department recommended for this particular service $26,000,000 instead of $25,000,000, the amount reported by the committee, and when we agreed to the $25,000,000 it was with the understanding that either in the House or by an arrangement with the Appropriation Committee outside that there should be some provision made that would enable the Department to continue the service during the year until July next, inasmuch as it is out of money to continue the service. If the arrangement has been made, I do not propose to press the matter.

Mr. OVERSTREET. Now, the gentleman from Tennessee seems to base his action in offering this amendment upon a supposed agreement.

Mr. MOON of Tennessee. Not at all. The gentleman misunderstands me. All I wanted was to get at the facts.

Mr. OVERSTREET. Then I will say this, so that the gentleman will understand, that if the amount recommended on the post-office bill is not increased, why, then, such an arrangement will be made.

Mr. MOON of Tennessee. Well, I just wanted to get at the facts, because I know that the Department is out of money to continue the establishment of the service.

Mr. OVERSTREET. I do not think there will be any difficulty about that.

Mr. MOON of Tennessee. Then I withdraw the amendment.

The Clerk read as follows:

For incidental expenses, including collection boxes, furniture, satchels, straps, badges, and the making of maps for use in the rural free-delivery service, and so forth, $200,000.

Mr. OVERSTREET. Mr. Chairman, I move to strike out the words "and so forth," in line 12, page 25.

The motion was agreed to.

Mr. GIBSON. I offer the following amendment: Add after the word "dollars," in line 13, page 25, the following:

That the Postmaster-General be, and he is hereby, authorized and directed to contract for, after due advertisement, metal lock boxes of suitable shape and size for the use of the patrons of the rural free-delivery service, at a cost not exceeding 50 cents for each box, the contractor, or contractors, to furnish said boxes to the patrons of said service at the contract price: *Provided*, That if, after due effort, the Postmaster-General is unable to obtain a suitable box for said price he will so report to the next session of Congress, accompanying his report with samples of suitable boxes nearest in price to the limit herein fixed.

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that amendment.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. GIBSON. I would like to be heard; and I ask unanimous consent to be heard on the point of order and on the merits of the amendment at the same time.

Mr. OVERSTREET. For how long?

Mr. GIBSON. For five minutes.

The CHAIRMAN. The gentleman from Indiana reserves the point of order, and the gentleman from Tennessee is recognized for five minutes.

Mr. GIBSON. Mr. Chairman, I take it that every Member who has a rural constituency where there are rural free-delivery routes is aware of the fact that there is a great variety of individual letter boxes, some of them of the very rudest character. Some of them are cigar boxes, some of them look more like bird houses than anything else, a great many of them are so defective as to be open to the weather. Now, Mr. Chairman, it has been asserted in the Senate in the last two sessions of Congress by Senators on the floor that metal lock boxes can be had for 50 cents apiece. I do not see why the Members of this House should not give their constituencies an opportunity to buy these metal lock boxes at 50 cents, if they can be obtained.

Now, Mr. Chairman, everybody of any experience knows that where a great many boxes of a similar pattern are manufactured they can be manufactured at a cost but little in excess of the cost of the material. The lowest price at which a box can be obtained at present is about 75 cents, and that has no lock.

This proposition does not take one cent out of the Treasury of the United States. It simply authorizes the Postmaster-General to contract for the boxes, and the contractor delivers them to the patrons. The boxes do not go through the hands of the Post-Office Department at all. This amendment does not use any of the funds of the Post-Office Department. It hurts nobody and it benefits every man on the floor of this House who has a rural constituency.

Mr. CROMER. Will the gentleman permit a question?

Mr. GIBSON. With pleasure.

Mr. CROMER. Does this amendment compel the patron to purchase any box?

Mr. GIBSON. No. I will read it for the gentleman's information:

That the Postmaster-General be, and is hereby, authorized and directed to contract for—

Not to buy—

to contract for, after due advertising, metal lock boxes of suitable shape and size for the use of the patrons of the rural free-delivery service, at a cost not to exceed 50 cents for each box, the contractor or contractors to furnish said boxes to the patrons of said service.

Mr. FINLEY. I should like to ask the gentleman a question.

Mr. GIBSON. Yes.

Mr. FINLEY. Under the amendment proposed by the gentleman $1,650,000 would defray the entire cost, would it not? And at present do not these boxes cost something like four to four and a half million dollars to the patrons?

Mr. GIBSON. I will say to the gentleman that under this proposition the Postmaster-General does not pay out a cent. He does not buy a box; he simply makes the contract as the agent of all the people living on rural free-delivery routes.

Mr. FINLEY. Would not this amendment save the patrons of these routes the difference between $1,650,000 and about four and a half millions?

Mr. GIBSON. It is safe to say, Mr. Chairman, that if this amendment is adopted it will save the rural citizens of our country at least $2,000,000 a year for the next five years. There is no doubt of it in the world. It will not cost the Government a cent. The Postmaster-General simply makes the contract with the contractor, and the contractor furnishes the boxes to the patrons.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OVERSTREET. I insist on the point of order.

Mr. GIBSON. Now, Mr. Chairman, I ask two minutes and a half more time in which to discuss the question of order per se.

Mr. GRIGGS. I hope my friend will withdraw the point of order.

Mr. OVERSTREET. Nobody except the chairman can stop the gentleman's discussion of the point of order for an hour if he wishes to take that much time.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee to discuss the point of order.

Mr. GIBSON. Now, Mr. Chairman, how does this change existing law? It changes no existing law.

Mr. GARDNER of New Jersey. I wish to call the gentleman's attention to the law passed in the last session creating the office of purchasing agent. If I am not mistaken about it, it requires all of these goods to be delivered here in Washington and inspected by that agent.

Mr. GIBSON. This does not require any purchase. The gentleman is under a misapprehension. It does not change any existing law, and the chairman will find on investigation that there is no law upon the subject. It is simply directed to the Postmaster-General, authorizing and directing him to ascertain at what price he can obtain these boxes for the benefit of the patrons of the rural free-delivery service.

The CHAIRMAN. The Chair is ready to rule.

Mr. HEDGE. I should like to ask the gentleman how he would enforce this contract?

Mr. GIBSON. Why, the contractor makes the contract because he wants to deliver the boxes. What in God's name would he make the contract for unless he wanted to deliver the boxes? The gentleman's question answers itself.

The CHAIRMAN. The Chair is ready to rule. In the opinion of the Chair the amendment offered by the gentleman from Tennessee proposes to enact law where none now exists. It is therefore a change of existing law under the rule. The Chair sustains the point of order.

Mr. GIBSON. I hope the gentleman from Indiana [Mr. OVERSTREET] will withdraw the point of order.

Mr. OVERSTREET. I am very much obliged to the gentleman from Tennessee, but I am compelled to insist.

Mr. GIBSON. Well, it is a question between the gentleman and his own conscience.

Mr. CRUMPACKER. Mr. Chairman, I hope the members of the Committee of the Whole House will keep in mind, when the post-office appropriation bill comes up for consideration next year, this very unjust and inequitable system of distributing

salaries to the rural carriers. Under the discretion vested in the Postmaster-General the chairman of the Committee on Post-Offices and Post-Roads has informed the committee that the carriers on routes of 20 miles in length that were in existence on the 1st day of July last are receiving the maximum pay of $720 a year; that carriers upon routes of that length established since then are receiving only $648 a year. A carrier now may perform service on a route 20 miles in length, who was appointed prior to July 1 last, receiving $720 a year, and another carrier running out of the same office, doing considerably more service, carrying upon a route 23 miles in length, would receive only $702 for that service. This is unjust and inequitable. It is one of the results of vesting in any Department such a broad discretion as the post-office bill last year vested in the Postmaster-General.

But gentlemen can not now escape responsibility by saying they believed that the salary of $720 a year fixed by that bill was an absolute salary for all carriers, because in the discussion of the question the attention of the House was repeatedly called to the fact that the provision purported only to fix the maximum salary, and left the entire question of graduation, and all other things, in the discretion of the Postmaster-General, except that he could not go above $720 in any instance in allowing salaries.

I protested against that provision last year and offered an amendment fixing a standard route at 20 miles, providing for a uniform pay on every route of 20 miles and upward of $750 a year, and my proposition provided for a mileage basis of payment on routes below 20 miles.

In remarks which I submitted to the House at that time I predicted just such a condition of things as we have found to exist to-day—inequalities, injustice, complaints, friction throughout the country. It seems to me that the basis of pay fixed by the Postmaster-General is absolutely inexcusable; it can not be defended on any ground. If it is worth $720 a year to carry the mail on a route established prior to July 1 last, it is worth $720 a year to carry mail on a route of the same length established since then. This is a self-evident proposition, and any discrimination must result in friction, in complaint, and dissatisfaction.

Mr. Chairman, I rose to impress upon the minds of the Members of the House this inequality, and to express the hope that next year some uniform equitable system may be devised for the proper pay of cariers upon rural routes. I withdraw my pro forma amendment.

Mr. GRIGGS. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

That uniting with any association or organization which has for its object the change of relation of employees to the Government shall be cause for dismissal.

Mr. CROMER. Mr. Chairman, I reserve a point of order on that.

Mr. OVERSTREET. At what point does this amendment come in?

Mr. GRIGGS. It ought to be a separate paragraph, to come in at the end of the bill.

Mr. HINSHAW. I reserve a point of order on the amendment, Mr. Chairman.

Mr. GRIGGS. I understand from the chairman of the committee that the reading of the bill is completed with the exception of two formal paragraphs, and this ought to come in at this particular point. I do not care where it comes in.

Mr. OVERSTREET. Mr. Chairman, I did not hear the beginning of the amendment. I ask that it be read again, and then let the gentleman from Georgia state what he wishes in explanation of it.

Mr. GRIGGS. I ask that the amendment be again read.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection.

The Clerk again read the amendment.

The CHAIRMAN. The Chair understands the gentleman from Indiana [Mr. CROMER] to reserve a point of order?

Mr. CROMER. I reserved the point of order, Mr. Chairman.

Mr. GRIGGS. Mr. Chairman, the point of order has been very well reserved by two gentlemen on my right. [Laughter.] I desire, Mr. Chairman, to congratulate the President of the United States and the present Postmaster-General on their action in dismissing from the Government service those employees of the Post-Office Department who, instead of attending to their duties as employees of the Government, have spent their time in Washington lobbying with Members of Congress for a change in their salaries, and for a change in their relations generally toward the Government which employs and pays them. But, Mr. Chairman, I submit that the Administration has not gone far enough. Five years ago on this floor I submitted some remarks to the House with reference to that abuse, which has been growing from that day until this. The dismissal of the head of these organizations from the public service will accomplish nothing. The same gentlemen will come here as the representatives of the organizations and lobby for the same purpose for which they have been lobbying during the years that are passed. They will be here from now on during every session of Congress as they have been in the past. They are no longer amenable to the Government for their conduct.

They will be lobbying with members of the Post-Office Committee and with Members of the House generally for the purpose of securing an increase in their pay. That is all they do here. Bills for reclassification all mean simply an increase in the number of dollars to be received by the employees who ask for these reclassifications. Now, Mr. Chairman, I submit this proposition to the House: During the last eight years, which comprises my term of service here, Congress has increased the salary of almost every official, except that of the President of the United States and the Members of Congress. What would be said of the Members of this House of Representatives if we formed a union for the purpose of having our salaries increased? What would be said of the Senate if they entered into an organization for the purpose of increasing their efficiency as Senators by increasing their salaries as Senators? Yet we have the spectacle here to-day of practically every employee of the Government in various organizations with no object on earth in view except an increase of salaries. Now, I would not deprive any employee of the Government of his right of petition as a citizen. Every employee has a right as a citizen and as an individual to approach a Member of Congress or a Senator with reference to his relation to the Government, or on any other subject; but I submit that they have no right as the employees of this great Government to unite in an association for the purposes which I have enumerated and which this amendment is intended to cure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CROMER rose.

Mr. GRIGGS. Mr. Chairman, I ask unanimous consent that I may have time enough to answer any question the gentleman from Indiana [Mr. CROMER] may ask.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that his time be extended for five minutes. Is there objection?

Mr. OVERSTREET. I object to five minutes.

Mr. GRIGGS. I do not need that much time.

Mr. OVERSTREET. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended one minute.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the time of the gentleman from Georgia may be extended one minute. Is there objection?

There was no objection.

Mr. CROMER. Does the gentleman know of any organization now that has for its object the change of the relation of the employees of the Government and the Government itself?

Mr. GRIGGS. I know that I have been receiving for seven or eight years circulars and letters from officers of organizations requesting me to support particular bills, every one of which had for its object the increase of salary.

Mr. CROMER. Yes; but was it the object of the association to which these persons belonged to do the thing that the gentleman complains of?

Mr. GRIGGS. That was the object toward which they have directed their energy, so far as I know.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHOBER and Mr. CROMER rose.

Mr. OVERSTREET. Mr. Chairman, I call for the regular order.

The CHAIRMAN. Does the gentleman from Indiana [Mr. CROMER] insist on his point of order?

Mr. CROMER. Yes.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk will read.

The Clerk read as follows:

That the appropriations herein made for the officers, clerks, and persons employed in the postal service shall not be available for the compensation of any persons permanently incapacitated for performing such service. The establishment of a civil pension roll or an honorable service roll, or the exemption of any of the officers, clerks, and persons in the postal service from the existing laws respecting employment in such service is hereby prohibited.

Mr. MANN. Mr. Chairman, I make a point of order on that paragraph.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. MANN. It is an express creation in the paragraph of a permanent law.

The CHAIRMAN. Does the gentleman from Indiana wish to be heard on the point of order?

Mr. OVERSTREET. All I have to say is, that this particular paragraph is the inheritance of the present Post-Office Committee coming down from a time that I have no recollection of, engrafted upon an appropriation bill.

Mr. MANN. Mr. Chairman, if that be the case, of course it is permanent law, and there is no object of putting it in here. The only object of putting it in here would be to change a law which is on the statute books.

Mr. OVERSTREET. Mr. Chairman, my understanding of the practice of putting permanent legislation upon an appropriation bill has provided the language that hereafter such and such shall be the case. The word "hereafter" had not been used in the paragraph, and for that reason I assumed that it was thought proper to carry it. I think myself if it is to be continued as a permanent law the word "hereafter" ought to be inserted, and hereafter the paragraph would go out of the appropriation bill.

Mr. MANN. Then, Mr. Chairman, it becomes a question of construction for the Comptroller of the Treasury to determine as to whether the act already in force makes it a permanent law. If that act does not make it a permanent law then this act is subject to the point of order.

Mr. GARDNER of New Jersey. Mr. Chairman, I want to suggest on the point of order here that there certainly can be no grounds for it as stated by the gentleman from Illinois. This is simply a limitation of this specific appropriation. Mark the language of the section—"That the appropriation herein made"—that is, in this bill—"for the officers, clerks, and persons employed in the postal service shall not be available" for specific purposes.

Mr. MANN. If the gentleman from New Jersey will pardon me, I did not make the point of order to that part of the paragraph. I stated the portion on which I made the point of order. It is not to the limitation in the appropriation at all so far as the form is concerned.

Mr. LIVINGSTON. Beginning with "the establishment," and so on. If it has been in there regularly it is not subject to the point of order.

Mr. GARDNER of New Jersey. Mr. Chairman, I submit that means the same thing. It is not to be established out of moneys appropriated by this bill. That is all it means and all it could mean.

Mr. OVERSTREET. I simply want to suggest, Mr. Chairman, in addition to what has been said, that it is my understanding of the rule of the House that where language has been carried verbatim without any change at all from one bill to another it is not subject to the point of order, and I simply cite, on page 352 of the Rules and Regulations, the citation of this decision:

A paragraph in an appropriation bill reenacting verbatim an existing law is not subject to a point of order.

The CHAIRMAN. The Chair finds this identical language contained in other appropriation bills in language which seems to the Chair to embody a provision of permanent law; and under the rule cited by the gentleman from Indiana that a paragraph in an appropriation bill reenacting verbatim an existing law is not subject to a point of order, the Chair is constrained to overrule the point of order.

The Clerk resumed and concluded the reading of the bill.

Mr. OVERSTREET. Mr. Chairman, I move that the committee rise and report the bill, with amendments, to the House, with the recommendation that the amendments be agreed to, and that the bill do pass.

The motion was agreed to; and accordingly, the Speaker having resumed the chair, Mr. LAWRENCE, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17865, the post-office appropriation bill, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. OVERSTREET. Mr. Speaker, I demand the previous question upon the bill and all amendments to their passage.

The SPEAKER. The gentleman from Indiana demands the previous question upon the bill and amendments to their final passage.

Mr. MOON of Tennessee. Mr. Speaker——

Mr. COCKRAN of New York. Mr. Speaker, is it in order at the present time to move that the bill be recommitted with instructions to strike out certain provisions?

The SPEAKER. Not at the present moment; until after the previous question is ordered and the bill has been read a third time. Is a separate vote demanded upon any amendment? If not, the vote will be taken in gross.

The question was taken; and the amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, was read the third time.

Mr. MOON of Tennessee. Mr. Speaker, I move that this bill be recommitted to the Committee on Post-Offices and Post-Roads with instructions to strike out all of that part of the bill beginning with line 6 and ending with line 19, on page 18, being the provisions for a subsidy, and that the committee report the bill back to the House forthwith with those provisions stricken out.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Recommit with instructions to strike out the following sections on page 18, line 6, down to and including line 19, as follows:

"For necessary and special facilities on trunk lines from Washington to Atlanta and New Orleans, $142,728.75: *Provided*, That no part of the appropriation made by this paragraph shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service.

"For continuing necessary and special facilities on trunk lines from Kansas City, Mo., to Newton, Kans., $25,000, or so much thereof as may be necessary: *Provided*, That no part of this appropriation shall be expended unless the Postmaster-General shall deem such expenditure necessary in order to promote the interest of the postal service."

And that the Committee on the Post-Office and Post-Roads be directed to report the bill back to the House forthwith with these provisions stricken out.

Mr. MOON of Tennessee. Mr. Speaker, on this I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 158, answered "present" 18, not voting 116, as follows:

YEAS—92.

Bartholdt	Gaines, Tenn.	Lawrence	Robinson, Ark.
Beall, Tex.	Garber	Lind	Robinson, Ind.
Bonynge	Gardner, Mich.	Little	Russell
Brown, Wis.	Garner	Lloyd	Scarborough
Burgess	Gillespie	Lucking	Shackleford
Burkett	Goebel	McCall	Sheppard
Burleson	Granger	McCreary, Pa.	Sherley
Burton	Gregg	McNary	Slayden
Clark	Grosvenor	Macon	Smith, Tex.
Cochran, Mo.	Hamlin	Martin	Snook
Cockran, N. Y.	Haugen	Moon, Tenn.	Stafford
Conner	Henry, Tex.	Norris	Steenerson
Cooper, Wis.	Hitchcock	Page	Sullivan, Mass.
Crowley	Hitt	Parker	Tirrell
Crumpacker	Holliday	Patterson, N. C.	Townsend
Currier	Hughes, N. J.	Patterson, Tenn.	Volstead
Cushman	Hunt	Payne	Wallace
Darragh	James	Pinckney	Webb
Dinsmore	Jones, Va.	Rainey	Weisse
Dougherty	Keliher	Randell, Tex.	Williams, Miss.
Esch	Kennedy	Rhea	Wynn
Field	Kinkaid	Rixey	Young
Finley	Lamar, Mo.	Robb	Zenor

NAYS—158.

Adams, Pa.	Cooper, Pa.	Haskins	Maddox
Adamson	Cowherd	Hay	Mahon
Aiken	Croft	Hedge	Mann
Allen	Cromer	Heflin	Maynard
Ames	Curtis	Henry, Conn.	Meyer, La.
Babcock	Daniels	Hepburn	Miller
Bankhead	Davey, La.	Hermann	Minor
Bartlett	Davis, Fla.	Hildebrant	Morgan
Bates	Dayton	Hill, Conn.	Mudd
Bede	Deemer	Hill, Miss.	Murdock
Beidler	Denny	Hogg	Overstreet
Bell, Cal.	Dickerman	Houston	Padgett
Bishop	Douglas	Howard	Patterson, Pa.
Boutell	Draper	Howell, N. J.	Porter
Bowers	Dunwell	Huff	Powers, Me.
Bowersock	Dwight	Hughes, W. Va.	Prince
Bowie	Evans	Hull	Pujo
Brandegee	Fitzgerald	Humphreys, Miss.	Ransdell, La.
Brantley	Flood	Hunter	Reeder
Breazeale	Fordney	Jackson, Md.	Richardson, Ala.
Brick	Foss	Jackson, Ohio	Rider
Brooks	Foster, Vt.	Kluttz	Roberts
Broussard	Fowler	Knapp	Rodenberg
Brown, Pa.	Gaines, W. Va.	Kyle	Ryan
Brownlow	Gardner, Mass.	Lacey	Scott
Buckman	Gardner, N. J.	Lafean	Scudder
Burke	Gibson	Lamb	Sherman
Burleigh	Gillet, N. Y.	Landis, Chas. B.	Shiras
Burnett	Gillett, Cal.	Landis, Frederick	Sibley
Butler, Pa	Glass	Lester	Slemp
Calderhead	Goldfogle	Lewis	Small
Caldwell	Graff	Livingston	Smith, Ill.
Candler	Greene	McLachlan	Smith, Pa.
Capron	Griggs	McLain	Snapp
Castor	Gudger	McMorran	Southwick

Spalding	Talbott	Wachter	Williamson
Sparkman	Tawney	Wanger	Wilson, Ill.
Spight	Thomas, Ohio	Warner	Wood
Stevens, Minn.	Underwood	Watson	
Swanson	Vreeland	Wiley, Ala.	

ANSWERED "PRESENT"—18.

Bassett	Driscoll	Lever	Pou
Benton	Griffith	Longworth	Shober
Bradley	Humphrey, Wash.	Marshall	Smith, Iowa
Campbell	Johnson	Miers, Ind.	
Cassel	Jones, Wash.	Otjen	

NOT VOTING—116.

Acheson	Gilbert	Loudenslager	Smith, Wm. Alden
Adams, Wis.	Gillett, Mass.	Lovering	Southall
Alexander	Gooch	McAndrews	Southard
Badger	Goulden	McCarthy	Sperry
Baker	Hamilton	McCleary, Minn.	Stanley
Benny	Hardwick	McDermott	Stephens, Tex.
Bingham	Harrison	Marsh	Sterling
Birdsall	Hearst	Mondell	Sullivan, N. Y.
Brundidge	Hemenway	Moon, Pa.	Sulloway
Butler, Mo.	Hinshaw	Morrell	Sulzer
Byrd	Hopkins	Needham	Tate
Cassingham	Howell, Utah	Nevin	Taylor
Clayton	Jenkins	Olmsted	Thayer
Connell	Kehoe	Otis	Thomas, Iowa
Cooper, Tex.	Ketcham	Palmer	Thomas, N. C.
Cousins	Kitchin, Claude	Pearre	Trimble
Dalzell	Kitchin, Wm. W.	Perkins	Vandiver
Davidson	Kline	Pierce	Van Duzer
Davis, Minn.	Knopf	Powers, Mass.	Van Voorhis
De Armond	Knowland	Reid	Wade
Dixon	Lamar, Fla.	Richardson, Tenn.	Wadsworth
Dovener	Legare	Robertson, La.	Warnock
Dresser	Lilley	Rucker	Webber
Emerich	Lindsay	Ruppert	Weems
Fitzpatrick	Littauer	Shull	Wiley, N. J.
Flack	Littlefield	Sims	Williams, Ill.
Foster, Ill.	Livernash	Smith, Ky.	Wilson, N. Y.
French	Lorimer	Smith, N. Y.	Woodyard
Fuller	Loud	Smith, Samuel W.	Wright

So the motion to recommit was rejected.

Mr. SHOBER. Mr. Speaker, I voted "aye" on this roll call. I find that I am paired with the gentleman from West Virginia [Mr. DOVENER], and I therefore wish to withdraw my vote and be recorded as "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. SHOBER, and he answered "present."

Mr. HUMPHREY of Washington. Mr. Speaker, I voted "aye" on this roll call. I find I am paired with the gentleman from New Jersey [Mr. LOUDENSLAGER], and I therefore wish to withdraw my vote and be recorded as "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. HUMPHREY of Washington, and he answered "present."

The Clerk announced the following pairs:

For the session:

Mr. WOODYARD with Mr. HARDWICK.

Mr. CASSEL with Mr. GOOCH.

Until further notice:

Mr. STERLING with Mr. BYRD.

Mr. MARSH with Mr. BRUNDIDGE.

Mr. LOUD with Mr. LEGARE.

Mr. GILLETT of Massachusetts with Mr. WILLIAM W. KITCHIN.

Mr. VAN VOORHIS with Mr. CASSINGHAM.

Mr. LORIMER with Mr. MCANDREWS.

Mr. WM. ALDEN SMITH with Mr. GRIFFITH.

Mr. SMITH of Iowa with Mr. WADE.

For balance of day:

Mr. ALEXANDER with Mr. SIMS.

For the day:

Mr. WILEY of New Jersey with Mr. LIVERNASH.

Mr. LOVERING with Mr. SOUTHALL.

Mr. MCCARTHY with Mr. TAYLOR of Alabama.

Mr. PALMER with Mr. CLAYTON.

Mr. MOON of Pennsylvania with Mr. CLAUDE KITCHIN.

Mr. WARNOCK with Mr. STEPHENS of Texas.

Mr. BINGHAM with Mr. PIERCE.

Mr. POWERS of Massachusetts with Mr. RUCKER.

Mr. ACHESON with Mr. BADGER.

Mr. ADAMS of Wisconsin with Mr. FOSTER of Illinois.

Mr. BIRDSALL with Mr. MCDERMOTT.

Mr. PEARRE with Mr. KEHOE.

Mr. NEEDHAM with Mr. WILSON of New York.

Mr. LILLEY with Mr. LAMAR of Florida.

Mr. KNOPF with Mr. LINDSAY.

Mr. FULLER with Mr. HOPKINS.

Mr. HEMENWAY with Mr. RICHARDSON of Tennessee.

Mr. JENKINS with Mr. HEARST.

Mr. DAVIDSON with Mr. HARRISON.

Mr. COUSINS with Mr. GILBERT.

Mr. SULLOWAY with Mr. TRIMBLE.

Mr. THOMAS of Iowa with Mr. WILLIAMS of Illinois.

Mr. KLINE with Mr. JOHNSON.

Mr. HAMILTON with Mr. THOMAS of North Carolina.

Mr. NEVIN with Mr. SULLIVAN of New York.

Mr. MORRELL with Mr. VANDIVER.

Mr. HOWELL of Utah with Mr. EMERICH.

Mr. MCCLEARY of Minnesota with Mr. SULZER.

Mr. WADSWORTH with Mr. STANLEY.

Mr. CAMPBELL with Mr. BUTLER of Missouri.

Mr. CONNELL with Mr. BAKER.

Mr. DIXON with Mr. TATE.

Mr. KNOWLAND with Mr. THAYER.

On this vote:

Mr JONES of Washingon with Mr. COOPER of Texas.

Mr. PERKINS with Mr. SMITH of Kentucky.

Mr. DAVIS of Minnesota with Mr. ROBERTSON of Louisiana.

Mr. SAMUEL W. SMITH with Mr. MIERS.

Mr. SMITH of New York with Mr. DRISCOLL.

Mr. DRESSER with Mr. LEVER.

Mr. WRIGHT with Mr. BASSETT.

Mr. LOUDENSLAGER with Mr. HUMPHREY of Washington.

Mr. DALZELL with Mr. POU.

Mr. LITTAUER with Mr. MARSHALL.

Mr. OLMSTED with Mr. DE ARMOND.

Mr. SPERRY with Mr. REID.

Mr. SOUTHARD with Mr. VAN DUZER.

Mr. DOVENER with Mr. SHOBER.

Mr. FRENCH with Mr. BENTON.

Mr. OTJEN with Mr. RUPPERT.

Mr. BRADLEY with Mr. GOULDEN.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. OVERSTREET, a motion to reconsider the last vote was laid upon the table.

EXTENSION OF TIME TO HOMESTEAD SETTLERS ON ROSEBUD INDIAN RESERVATION, S. DAK., ETC.

Mr. MARSHALL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The SPEAKER. The gentleman asks unanimous consent for the present consideration of the bill the title of which the Clerk will report.

The Clerk read as follows:

A bill (S. 5799) to provide for the extension of time within which homestead settlers may establish their residence upon certain lands which were heretofore a part of the Rosebud Indian Reservation within the limits of Gregory County, S. Dak., and upon certain lands which were heretofore a part of the Devils Lake Indian Reservation, in the State of North Dakota.

Mr. UNDERWOOD. Mr. Speaker, reserving the right to object, I would like to ask the gentleman as to whether this bill increases the size of the homestead?

Mr. MARSHALL. No, sir; it does not. This bill simply gives to the settlers on the Devils Lake and Rosebud reservations, which were opened by proclamation last fall, an extension of time of about sixty days, until May 1, to move on their lands and make improvements.

Mr. UNDERWOOD. It does not increase the size of the homestead?

Mr. MARSHALL. Not the slightest.

Mr. WILLIAMS of Mississippi. Reserving the right to object, I would like to ask the gentleman, Is this bill recommended by the Secretary of the Interior or the Commissioner of the General Land Office?

Mr. MARSHALL. It is not. It was submitted to them, and they did not request the legislation or object to it, but simply left the matter to Congress.

Mr. WILLIAMS of Mississippi. What was the Secretary's answer to the committee of consultation? The committee generally sends an inquiry to the Secretary.

Mr. MARSHALL. His answer was to that effect.

Mr. WILLIAMS of Mississippi. Was it to the usual effect that he saw no objection, or was any recommendation made upon it?

Mr. MARSHALL. That was my understanding—that there was no serious objection.

Mr. WILLIAMS of Mississippi. Has it the unanimous report of the committee?

Mr. MARSHALL. Yes, sir; and has passed the Senate.

Mr. WILLIAMS of Mississippi. Were all the minority members for it?

Mr. MARSHALL. It was an unanimous report.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, etc., That the homestead settlers on the lands which were heretofore a part of the Rosebud Indian Reservation within the limits of Gregory County, S. Dak., opened under an act entitled "An act to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect," approved April 23, 1904, and the homestead settlers on the lands which were heretofore a part of the Devils Lake Indian Reservation in the State of North Dakota, opened under an act entitled "An act to modify and amend an agreement with the Indians of the Devils Lake Reservation, in North Dakota, to accept and ratify the same as amended, and making appropriation and provision to carry the same into effect," approved April 27, 1904, be, and they are hereby, granted an extension of time in which to establish their residence upon the lands so opened and filed upon until the 1st day of May, A. D. 1905: *Provided, however*, That this act shall in no manner affect the regularity or validity of such filings, or any of them, so made by the said settlers on the lands aforesaid; and it is only intended hereby to extend the time for the establishment of such residence as herein provided, and the provisions of said acts are in no other manner to be affected or modified.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

On motion of Mr. MARSHALL, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENDING WESTERN BOUNDARY LINE OF THE STATE OF ARKANSAS.

Mr. LITTLE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 18280) to extend the western boundary line of the State of Arkansas.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, etc., That the consent of the United States is hereby given for the State of Arkansas to extend her western boundary line so as to include all that strip of land in the Indian Territory lying and being situate between the Arkansas State line adjacent to the city of Fort Smith, Ark., and the Arkansas and Poteau rivers, described as follows, namely: Beginning at a point on the south bank of the Arkansas River 100 paces east of old Fort Smith, where the western boundary line of the State of Arkansas crosses the said river, and running southwesterly along the south bank of the Arkansas River to the mouth of the Poteau; thence at right angles with the Poteau River to the center of the current of said river; thence southerly up the middle of the current of the Poteau River (except where the Arkansas State line intersects the Poteau River) to a point in the middle of the current of the Poteau River opposite the mouth of Mill Creek, and where it is intersected by the middle of the current of Mill Creek; thence up the middle of Mill Creek to the Arkansas State line; thence northerly along the Arkansas State line to the point of beginning: *Provided*, That nothing in this act shall be construed to impair any right now pertaining to any Indian tribe or tribes in said part of said Indian Territory under the laws, agreements, or treaties of the United States, or to affect the authority of the Government of the United States to make any regulations or to make any law respecting said Indians or their lands which it would have been competent to make or enact if this act had not been passed.

Mr. PAYNE. Reserving the right to object, I would like a little explanation of this bill. I understand this bill extends the boundary of the State of Arkansas.

Mr. LITTLE. It does, and it ought to be extended. It only involves a small matter.

Mr. PAYNE. Can the gentleman explain the provisions of the bill?

Mr. LITTLE. This is a small strip of land adjacent to the city of Fort Smith that is cut off from the body of the Territory by the Poteau River, where the Poteau enters the Arkansas River. It is three little blocks of land, in all not more than fifteen acres.

Mr. PAYNE. What does it do with the land?

Mr. LITTLE. The bill simply changes the line of the State, now the center of the Poteau River, and puts this strip of property so that it can be governed by the city of Fort Smith.

Mr. PAYNE. Then the bill does fix the boundary between Arkansas and the Indian Territory?

Mr. LITTLE. At that point it does.

Mr. PAYNE. What committee reported the bill?

Mr. LITTLE. The Committee on the Judiciary reported it unanimously.

Mr. LACEY. Then the object of this act is for Congress under the Constitution to give power to change the boundaries of Arkansas, with the consent of the State?

Mr. LITTLE. This gives the consent of Congress to the State to change the boundary.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. LITTLE, a motion to reconsider the vote by which the bill was passed was laid on the table.

MINNEAPOLIS, RED LAKE AND MANITOBA RAILWAY COMPANY.

Mr. STEENERSON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 5888.

The SPEAKER. The gentleman asks unanimous consent for the present consideration of the bill the title of which the Clerk will report.

The Clerk read as follows:

A bill (S. 5888) to allow the Minneapolis, Red Lake and Manitoba Railway Company to acquire certain lands in the Red Lake Indian Reservation, Minn.

The SPEAKER. Is there objection?

Mr. WILLIAMS of Mississippi. Reserving the right to object, I would like a little explanation of the purpose of the bill.

Mr. STEENERSON. The bill passed the Senate some time ago, came here, and was called up for consideration by unanimous consent by my colleague [Mr. LIND], and I objected. Since that time I have consulted with my colleague, also with the author of the bill, Senator NELSON, and have proposed an amendment guarding the introduction of liquor into the land where this railroad terminal is to be located.

Mr. WILLIAMS of Mississippi. Does this give land to the railroad?

Mr. STEENERSON. No. It provides that the Secretary of the Interior shall have the land appraised, and when appraised it shall be paid for by the railway company and it may be acquired by them.

Mr. WILLIAMS of Mississippi. Is it for use by the railroad company as a part of the right of way?

Mr. STEENERSON. It is to extend its right of way, so as to give to it further terminals. The railroad is there, and has the right of way under another act of Congress. The terminal is on Red Lake, and this bill seeks to enable them to acquire some more land for further terminal facilities.

Mr. WILLIAMS of Mississippi. Is this land a part of the public domain or is it land belonging to the Indians?

Mr. STEENERSON. It belongs to the Red Lake band of Indians, and the price is to be determined by the Secretary of the Interior.

Mr. WILLIAMS of Mississippi. And the money is to be turned over to the Indian fund?

Mr. STEENERSON. The money is to be turned over to the Indians.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That there is hereby granted to the Minneapolis, Red Lake and Manitoba Railway Company, a corporation organized and existing under the laws of the State of Minnesota, its successors and assigns, owning and operating, as successor of the Red Lake Transportation Company, a line of railroad in the State of Minnesota, having its northern terminus at a point on the shore of Lower Red Lake, Minnesota, in section 19, township 151 north, range 33 west, in the Red Lake Indian Reservation, as more particularly shown upon a map of definite location approved by the Secretary of the Interior February 18, 1903, pursuant to the provisions of the act of Congress approved March 2, 1889, entitled "An act to provide for the acquiring of rights of way by railroad companies through Indian reservations, Indian lands, and Indian allotments, and for other purposes" (30 Stat., 990), the right to select and take from the lands of the Red Lake Indian Reservation grounds adjacent to its northern terminus, conforming to legal subdivisions and not to exceed in extent 320 acres.

SEC. 2. That before title to said lands shall vest in the said railway company, and before said company shall occupy or use said lands, compensation therefor shall be made to the tribes of Indians residing upon the said reservation and to any individual occupant of any of said lands. The amount of compensation for said lands shall be ascertained and determined in such manner as the Secretary of the Interior may direct and be subject to his final approval.

SEC. 3. That said company shall file maps, in duplicate, showing the definite location of the grounds so selected and taken, which said maps shall be subject to the approval of the Secretary of the Interior; but no right of any kind shall vest in said railway company in or to any part of the grounds herein authorized to be selected and taken until the maps showing the same shall have been approved by the Secretary of the Interior and until compensation aforesaid shall have been fixed and paid.

SEC. 4. That the right herein granted shall be forfeited by said company unless the maps showing the grounds authorized to be taken, as herein provided, shall be filed and compensation aforesaid made within one year after the passage of this act.

SEC. 5. That Congress reserves the right to alter, amend, or repeal this act or any part thereof.

Mr. STEENERSON. There is an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

After section 4 insert:

"SEC. 5. The laws of the United States now in force, or that may hereafter be enacted, prohibiting the introduction and sale of intoxicating liquors in the Indian country, shall be in full force and effect throughout the territory hereby granted until otherwise directed by Congress or the President of the United States, and for that purpose said tract shall be held to be and to remain a part of the diminished Red Lake Indian Reservation."

The amendment was agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time, and passed.

On motion of Mr. STEENERSON, a motion to reconsider the last vote was laid on the table.

UNITED STATES COURTS AT WASHINGTON, N. C.

Mr. SMALL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 14589) to provide for terms of the United States district and circuit courts at Washington, N. C.

The SPEAKER. The gentleman from North Carolina asks unanimous consent for the present consideration of a bill, the title of which will be reported by the Clerk.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. WILLIAMS of Mississippi. Mr. Speaker, reserving the right to object, I will ask, is this bill unanimously reported by the Judiciary Committee?

Mr. SMALL. It is unanimously reported by the committee, and it provides that the building in which the court is to be held shall be provided by the city of Washington, N. C., without any expense to the United States.

The SPEAKER. The Chair hears no objection. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That two terms of the circuit and district courts of the United States for the eastern district of North Carolina shall be held in each and every year in the city of Washington, N. C., beginning, respectively, on the second Monday in April and October, to continue until the business is disposed of.

SEC. 2. That the clerk of the United States circuit and district courts at the city of Raleigh, N. C., shall be the clerk of the United States circuit and district courts at Washington, N. C., and he shall appoint a deputy clerk of said court, to reside at Washington, N. C., with the usual powers of a deputy clerk in such cases, whose compensation shall be such proportion of the fees accruing from business done in said courts at Washington, N. C., as shall be fixed by the judge of said district.

The following committee amendment was read:

Provided, That the city of Washington, N. C., shall provide and furnish at its own expense a suitable and convenient place for holding the circuit and district courts of the United States at Washington, N. C.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. SMALL, a motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS MISSOURI RIVER, SOUTH DAKOTA.

Mr. BURKE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 6834) to authorize the construction of a bridge across the Missouri River between Lyman County and Brule County, in the State of South Dakota.

The SPEAKER. The gentleman from South Dakota asks unanimous consent for the present consideration of a bill, the title of which will be reported by the Clerk.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. WILLIAMS of Mississippi. Mr. Speaker, is this bill unanimously reported from the Committee on Interstate and Foreign Commerce?

Mr. BURKE. It is unanimously reported.

Mr. WILLIAMS of Mississippi. Is it recommended by the Department

Mr. BURKE. It is recommended by the Department.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The bill was read. It provides that the White River Valley Railway Company, its successors and assigns, be, and are hereby, authorized to construct and maintain a pontoon and pile railroad bridge, and approaches thereto, across the Missouri River, extending from some convenient and practicable point to be selected on the west bank of said river in the county of Lyman and some convenient and practicable point in or near the city of Chamberlain, in Brule County, in the State of North Dakota, said bridge to be constructed so as to provide for the passage of railroad trains, engines, and cars.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

On motion of Mr. BURKE, a motion to reconsider the last vote was laid on the table.

WILLIAM J. BARCROFT.

The SPEAKER laid before the House the bill (H. R. 12346) to correct the military record of William J. Barcroft, with a Senate amendment.

The Senate amendment was read.

Mr. PRINCE. I move that the House concur in the amendment of the Senate.

The motion was agreed to.

LIST OF PASSENGERS.

The SPEAKER laid before the House the bill (S. 6489) to amend section 9 of the act of August 2, 1882, concerning lists of passengers, a similar bill being on the House Calendar.

The Clerk read the bill, as follows:

Be it enacted, etc., That in lieu of the list in duplicate of passengers now prescribed by section 9 of the act approved August 2, 1882, entitled "An act to regulate the carriage of passengers by sea," the master shall submit for inspection to the officer of customs who first makes demand therefor, and shall subsequently deliver with his manifest of cargo on entry, a correct list, signed and verified on oath by the master of all passengers taken on board the vessel at any foreign port or place, specifying, in the manner to be prescribed from time to time by the Secretary of Commerce and Labor, the name of each passenger, age (if a child of 8 years or under), sex, married or single, location of compartment or space occupied during the voyage (if the passenger be other than a cabin passenger), whether a citizen of the United States, number of pieces of baggage, and if any passenger die on the voyage the list shall specify the name, age, and cause of death of each deceased passenger.

SEC. 2. That this act shall take effect on July 1, 1905.

Mr. GROSVENOR. Mr. Speaker, I desire to call up House bill 17998, identical with the Senate bill, and ask unanimous consent to substitute the Senate bill.

The SPEAKER. It seems to the Chair that, under the rule, a similar House bill having been reported from the committee and being upon the Calendar, it is in order, under the rule, to call up and pass the Senate bill; and in the event that is done, the House bill will lie on the table.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. GROSVENOR, a motion to reconsider the last vote was laid on the table.

By unanimous consent, the bill H. R. 17998 was laid on the table.

HEIGHT OF BUILDINGS IN THE DISTRICT OF COLUMBIA.

The SPEAKER laid before the House the bill (S. 5937) to amend an act to regulate the height of buildings in the District of Columbia, a similar bill being on the House Calendar.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of the act of Congress entitled "An act to regulate the height of buildings in the District of Columbia," approved March 1, 1899, is hereby amended by adding thereto the following: "*Provided*, That all buildings hereafter erected to front or abut on the plaza in front of the new Union Station, provided for by act of Congress approved February 28, 1903, shall be fireproof and shall not be of a greater height than 80 feet."

The bill was ordered to be read a third time; was read the third time, and passed.

On motion of Mr. BABCOCK, a motion to reconsider the last vote was laid on the table.

By unanimous consent, a similar bill (H. R. 17940) was laid on the table.

CONFIRMATION OF TITLE.

The SPEAKER laid before the House the bill (S. 6371) to confirm title to lot 5, in square south of square No. 990, in Washington, D. C., a similar bill being on the House Calendar.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the records of the War Department in respect to lot 5, in square south of square No. 990, mentioned in Senate Document No. 31, Fifty-sixth Congress, second session (being a resolution of the Senate of January 27, 1898, a letter from the Chief of Engineers, together with list of lots in the City of Washington, D. C., the title to which the records of his office show to be in the United States), upon the filing by the actual occupants of the lot mentioned in said document sufficient proof that the said occupants or the party under whom they claim have been in actual possession of the said lot for an uninterrupted period of twenty years, so that the records shall show the title to said lot to be in the said occupants.

The SPEAKER. The Chair will say that it is a very close question whether, this bill ought not to be considered in Committee of the Whole. So the Chair will submit it to the House whether it shall be considered at this time. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be read a third time; was read the third time, and passed.

On motion of Mr. BABCOCK, a motion to reconsider the last vote was laid on the table.

By unanimous consent, a similar bill (H. R. 17021) on the House Calendar was laid on the table.

RELIEF OF THE CHURCH OF OUR REDEEMER.

The SPEAKER laid before the House the bill (S. 6514) for the relief of the Church of Our Redeemer, Washington, D. C., a similar bill being on the House Calendar.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the records of the War Department in respect to lot 5, in square south of square No. 990, mentioned in Senate Document No. 31, Fifty-sixth Congress, second session (being a resolution of the Senate of January 27, 1898, a letter from the Chief of Engineers, together with list of lots in the city of Washington, D. C., the title to which the records of his office show to be in the United States), upon the filing by the actual occupants of the lot mentioned in said document sufficient proof that the said occupants or the party under whom they claim have been in actual possession of the said lot for an uninterrupted period of twenty years, so that the records shall show the title to said lot to be in the said occupants.

Mr. BABCOCK. Mr. Speaker, I ask unanimous consent that this bill may be considered at this time.

The SPEAKER. The gentleman asks unanimous consent that the Senate bill upon the Speaker's table be taken from the table and considered at the present time. Is there objection?

Mr. WILLIAMS of Mississippi. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman how it happened that taxes were assessed against this property? Other religious property is not assessed taxes in the District of Columbia.

Mr. BABCOCK. Years ago this property was taken in the pastor's name instead of in the name of the society, and the taxes have been assessed against the pastor upon this property ever since. This bill does not come from the society, but comes from the Commissioners, and is an official bill with their recommendation that the taxes be canceled.

Mr. WILLIAMS of Mississippi. Property held for church purposes is not taxed in the District of Columbia, is it?

Mr. BABCOCK. No.

Mr. WILLIAMS of Mississippi. But this was held in the name of the pastor instead of in the name of the church, and in that way it got to be taxed?

Mr. BABCOCK. Yes.

Mr. WILLIAMS of Mississippi. And the taxes were assessed and were payable during the church ownership?

Mr. BABCOCK. Yes; it has been occupied for church purposes the entire time.

Mr. HULL. For what church purposes was it occupied—for a church building?

Mr. BABCOCK. As a meeting house for the church services; it is called the "Church of Our Redeemer." Most citizens and older Members of Congress are familiar with the church and its location.

Mr. HULL. The property might be used for church purposes outside of that.

Mr. BABCOCK. It has been used as a church for worship.

Mr. DENNY. Why was the title of this property taken in the name of the pastor?

Mr. BABCOCK. Well, that has been corrected, and now it is in the name of the society. That was demanded by the Commissioners before they made the recommendation for the cancellation of the taxes.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was considered, ordered to be read a third time, was read the third time, and passed.

On motion of Mr. BABCOCK, a motion to reconsider the last vote was laid on the table.

The SPEAKER. Without objection, a similar bill (H. R. 17590) will lie on the table.

There was no objection.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Claims was discharged from the consideration of the bill (S. 6314) for the relief of certain receivers of public moneys acting as special disbursing agents in the matter of amounts expended by them for per diem fees and mileage of witnesses in hearings, which amounts have not been credited by the accounting officers of the Treasury Department in the settlement of their accounts, and the same was referred to the Committee on Public Lands.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 3109. An act for the relief of Noah Dillard;

H. R. 17769. An act to grant certain lands to the Agricultural and Mechanical College of Oklahoma for college farm and experiment station purposes;

H. R. 15284. An act granting to the Keokuk and Hamilton Water Power Company rights to construct and maintain for the improvement of navigation and development of water power a dam across the Mississippi River; and

H. R. 14351. An act for the relief of the Gull River Lumber Company, its assigns or successors in interest.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6244. An act to change the lunacy proceedings in the District of Columbia where the Commissioners of said District are the petitioners, and for other purposes—to the Committee on the District of Columbia.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. PATTERSON of Tennessee, for two weeks, on account of important business.

ADJOURNMENT.

Then, on motion of Mr. PAYNE (at 2 o'clock and 55 minutes p. m.), the House adjourned until to-morrow at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Ordnance, a report of tests of iron and steel and other materials at the Watertown Arsenal during the year ended June 30, 1904—to the Committee on Manufactures, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of the Interior, submitting an estimate of appropriation for the Indian Service—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, calling attention to the necessity of action to permit the destruction of certain useless papers in his Department—to the Joint Select Committee on Disposition of Useless Executive Papers, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting schedules of claims audited—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MARTIN, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 5799) to provide for the extension of time within which homestead settlers may establish their residence upon certain lands which were heretofore a part of the Rosebud Indian Reservation within the limits of Gregory County, S. Dak., and upon certain lands which were heretofore a part of the Devils Lake Indian Reservation, in the State of North Dakota, reported the same without amendment, accompanied by a report (No. 4198); which said bill and report were referred to the House Calendar.

Mr. BURKE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 6450) to amend an act entitled "An act authorizing the Winnipeg, Yankton and Gulf Railroad Company to construct a combined railroad, wagon, and foot-passenger bridge across the Missouri River at or near the city of Yankton, S. Dak., reported the same without amendment, accompanied by a report (No. 4199); which said bill and report were referred to the House Calendar.

Mr. HASKINS, from the Committee on Agriculture, to which was referred the bill of the House (H. R. 17589) to enable the Secretary of Agriculture to establish and maintain quarantine districts, to permit and regulate the movement of cattle and other live stock therefrom, and for other purposes, reported the same without amendment, accompanied by a report (No. 4200); which said bill and report were referred to the House Calendar.

Mr. BROWN of Wisconsin, from the Committee on Mines and Mining, to which was referred the bill of the House (H. R. 16642) to amend section 13 of the act of March 1, 1893, entitled "An act to create the California Débris Commission and regulate hydraulic mining in the State of California," reported the same without amendment, accompanied by a report (No. 4202); which said bill and report were referred to the House Calendar.

Mr. MARTIN, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 6314) for the relief of certain receivers of public moneys, acting as special disbursing agents, in the matter of amounts expended by them for per diem fees and mileage of witnesses in hearings, which amounts have not been credited by the accounting officers of the Treasury Department in the settlement of their accounts, reported the

same without amendment, accompanied by a report (No. 4203); which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 17331) relating to a dam across Rainy River, reported the same with amendment, accompanied by a report (No. 4204); which said bill and report were referred to the House Calendar.

Mr. SHACKLEFORD, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18207) to amend sections 1, 5, and 6 of an act entitled "An act authorizing the construction of a wagon, toll, and electric-railway bridge over the Missouri River at Lexington, Mo.," approved April 28, 1904, extending the provisions thereof to steam-railway cars, locomotives, and other motive power, and extending the time for commencing actual construction of said bridge, reported the same with amendment, accompanied by a report (No. 4205); which said bill and report were referred to the House Calendar.

Mr. BURKE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18358) to authorize the Borderland Coal Company, of Nolan, W. Va., to bridge the Tug Fork of the Big Sandy River at a point about 2 miles east of Nolan, Mingo County, W. Va., where the same forms the boundary line between the States of West Virginia and Kentucky, reported the same without amendment, accompanied by a report (No. 4206); which said bill and report were referred to the House Calendar.

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18428) to authorize the Leckrone and Little Whiteley Railroad Company to construct and maintain a bridge across the Monongahela River, reported the same with amendment, accompanied by a report (No. 4207); which said bill and report were referred to the House Calendar.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the Senate joint resolution (S. R. 48) authorizing the President to extend an invitation to the International Congress of Hygiene and Demography to hold its thirteenth congress in the city of Washington, reported the same without amendment, accompanied by a report (No. 4208); which said joint resolution and report were referred to the House Calendar.

Mr. COUSINS, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 18722) authorizing the appointment of dental surgeons in the Navy, reported the same without amendment, accompanied by a report (No. 4209); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DIXON, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 17934) to provide for a land district in Wasatch and Uinta counties, in the State of Utah, to be known as the Uinta land district, and for other purposes, reported the same with amendment, accompanied by a report (No. 4211); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 10562) to carry into effect the findings of the Court of Claims in the matter of the claim of Abner D. Lewis, reported the same without amendment, accompanied by a report (No. 4201); which said bill and report were referred to the Private Calendar.

Mr. FOSTER of Vermont, from the Committee on Claims, to which was referred the bill of the House (H. R. 18664) for the relief of Capt. George E. Pickett, paymaster, United States Army, reported the same without amendment, accompanied by a report (No. 4210); which said bill and report were referred to the Private Calendar.

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. McGUIRE: A bill (H. R. 18723) to provide for terms of court at Tulsa, in the western district of Indian Territory, and for other purposes—to the Committee on the Judiciary.

By Mr. LIND: A bill (H. R. 18724) providing for the Court of Claims to hear and determine the question of the restoration of the annuities of the Sisseton and Wahpeton bands of Sioux Indians—to the Committee on Indian Affairs.

By Mr. MEYER of Louisiana: A bill (H. R. 18725) supplemental to the act of February 9, 1821, incorporating the Columbian College, in the District of Columbia, and the acts amendatory thereof—to the Committee on the District of Columbia.

By Mr. WILLIAMSON: A bill (H. R. 18726) authorizing the Secretary of War to lower the water mains of the city of Portland, Oreg.—to the Committee on Interstate and Foreign Commerce.

By Mr. BABCOCK: A bill (H. R. 18727) to repeal the charters of certain corporations heretofore organized under subchapter 4 of the "Act to establish a code of law for the District of Columbia," and to require the filing of certain statements and imposing certain taxes—to the Committee on the District of Columbia.

By Mr. HAMILTON: A bill (H. R. 18728) to authorize the board of supervisors of Berrien County, Mich., to construct a bridge across the St. Joseph River near its mouth, in said county—to the Committee on Interstate and Foreign Commerce.

By Mr. BEDE: A bill (H. R. 18751) to extend the time for the construction of a bridge across Rainy River by the International Bridge and Terminal Company—to the Committee on Interstate and Foreign Commerce.

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. BRADLEY: A bill (H. R. 18729) to relieve Patrick Shields of the charge of dishonorable conduct—to the Committee on Military Affairs.

By Mr. CUSHMAN: A bill (H. R. 18730) granting an increase of pension to Alfred M. Connor, alias Alfred C. Morris—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18731) to refund to J. Tennant Steel certain duties erroneously paid by him without protest on goods of domestic production shipped from the United States to Hawaii and thereafter returned—to the Committee on Claims.

By Mr. DAVEY of Louisiana: A bill (H. R. 18732) granting an increase of pension to Pauline M. Roberts—to the Committee on Invalid Pensions.

By Mr. DINSMORE: A bill (H. R. 18733) for the relief of the estate of Nathan P. English, deceased—to the Committee on War Claims.

By Mr. GARDNER of Massachusetts: A bill (H. R. 18734) granting a pension to John W. Banks—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 18735) granting an increase of pension to James M. Newport—to the Committee on Invalid Pensions.

By Mr. GILLETT of California: A bill (H. R. 18736) granting an increase of pension to William A. Custer—to the Committee on Invalid Pensions.

By Mr. GRAFF: A bill (H. R. 18737) for the relief of Delia B. Stuart—to the Committee on Claims.

By Mr. HENRY of Connecticut: A bill (H. R. 18738) to appoint Brig. Gen. Joseph R. Hawley, United States Volunteers, a brigadier-general on the retired list of the United States Army—to the Committee on Military Affairs.

By Mr. HUGHES of New Jersey: A bill (H. R. 18739) granting a pension to Fannie E. Yost—to the Committee on Invalid Pensions.

By Mr. LIND: A bill (H. R. 18740) granting a pension to Baron Proctor—to the Committee on Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 18741) granting an increase of pension to Thomas P. Rich—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18742) granting an increase of pension to Edwin D. Bailey—to the Committee on Invalid Pensions.

By Mr. MIERS of Indiana: A bill (H. R. 18743) granting a pension to Hannah Chapman—to the Committee on Invalid Pensions.

By Mr. OTIS: A bill (H. R. 18744) granting an increase of pension to Mary Jennings—to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 18745) granting a pension to William T. Chipman—to the Committee on Invalid Pensions.

By Mr. WEISSE: A bill (H. R. 18746) to remove the charge of desertion against Jacob Imig, late a landsman on the ships

North Carolina and *Naubuc*, United States Navy—to the Committee on Naval Affairs.

By Mr. HILL of Connecticut: A bill (H. R. 18747) granting a pension to Elbert E. Wilson—to the Committee on Invalid Pensions.

By Mr. GAINES of West Virginia: A bill (H. R. 18748) granting an increase of pension to William Lewis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18749) granting an increase of pension to Arthur W. Darnel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18750) for the relief of Mrs. Sarah Miller—to the Committee on War Claims.

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. ALEXANDER: Petition of Brotherhood of Locomotive Engineers, Division No. 15, of Buffalo, N. Y., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Cigar Makers' Local Union No. 2, of Buffalo, N. Y., against reduction of tariff on Philippine cigars and tobacco—to the Committee on Ways and Means.

Also, petition of New York Division, Travelers' Protective Association, of New York, favoring the Wanger bill to amend section 64 of the bankruptcy act—to the Committee on the Judiciary.

Also, petition of Division No. 533, Brotherhood of Locomotive Engineers, of East Buffalo, N. Y., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Red Jacket Lodge, No. 85, Brotherhood of Locomotive Firemen, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Glenwood Baptist Church, of Buffalo, N. Y., against liquor selling on Government premises—to the Committee on Alcoholic Liquor Traffic.

Also, petition of L. R. Skinner Lodge, No. 276, of Buffalo, N. Y., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Division No. 421, Brotherhood of Locomotive Engineers, favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. BOWERSOCK: Petition of 157 citizens of Franklin County, Kans., against Sunday legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURLEIGH: Petition of citizens of Maine, against the repeal of the Grout oleomargarine law—to the Committee on Agriculture.

By Mr. COCHRAN of Missouri: Petition of the Ladies' Missionary Society of Westminster Church, St. Joseph, Mo., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of the Christian Endeavor Society of Westminster Church, St. Joseph, Mo., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of Westminster Presbyterian Church, of St. Joseph, Mo., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. CONNELL: Petition of the president of the Chamber of Commerce of Cleveland, Ohio, favoring the Burton resolution ordering the use of granite in Government buildings—to the Committee on Public Buildings and Grounds.

Also, petition of the State superintendent of the Pennsylvania Anti-Saloon League, favoring bill H. R. 4072—to the Committee on the Judiciary.

Also, petition of the Pennsylvania Shoe Manufacturers' Association, favoring putting hides on the free list and a reciprocity treaty with Canada—to the Committee on Ways and Means.

Also, petition of the president of the Scranton Forging Company, favoring bill H. R. 8135—to the Committee on the Public Lands.

Also, petition of Division No. 156, Order of Railway Conductors, of Carbondale, Pa., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of G. W. Perkins, president of the International Cigar Makers' Union, against a reduction of the tariff on tobacco from the Philippines—to the Committee on Ways and Means.

Also, petition of New York Board of Trade and Transportation, favoring bill H. R. 12767—to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Pennsylvania: Petition of the Philadelphia Board of Trade, favoring revision of freight rates by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. COWHERD: Petition of citizens of Kansas City, Mo., favoring an amendment to the Constitution making suitable acknowledgment of Almighty God as the source of all authority and power in government—to the Committee on the Judiciary.

By Mr. CURTIS: Resolution of the Kansas legislature, favoring an amendment to the Constitution to elect Senators by direct vote of the people—to the Committee on the Judiciary.

Also, resolution of the legislature of Kansas, favoring increased power for the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. DICKERMAN: Petition of Jacob Slimer and 24 others, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DRAPER. Petition of the Manufacturers' Association of New York, relative to the criminal status of forgery of trade-marks—to the Committee on Patents.

Also, petition of the Philadelphia Board of Trade, favoring revision of freight rates by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD: Petition of the Merchants' Association of New York, favoring a reduction of tariff on articles from the Philippines—to the Committee on Ways and Means.

Also, petition of the Philadelphia Board of Trade, favoring legislation increasing the power of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Manufacturers' Association of New York, favoring a law making willful forgery of trade-marks a crime—to the Committee on Patents.

By Mr. GRIFFITH: Paper to accompany bill for relief of David F. Collins—to the Committee on Pensions.

By Mr. HILL of Connecticut: Paper to accompany bill for relief of Elbert E. Wilson—to the Committee on Invalid Pensions.

By Mr. JAMES: Resolution of the Kentucky general assembly, favoring increased power of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. LAFEAN: Paper to accompany bill for relief of Jeremiah Carbaugh—to the Committee on Invalid Pensions.

By Mr. LILLEY: Petition of the New Haven (Conn.) Chamber of Commerce, relative to removal of Board of General Appraisers—to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of the Philadelphia Board of Trade, favoring control of freight rates by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Manufacturers' Association of New York, relative to criminal status of forgery of trade-marks—to the Committee on Patents.

By Mr. LITTLEFIELD: Petition of citizens of Maine, against repeal of the Grout law—to the Committee on Agriculture.

Also, petition of citizens of Maine, favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. MADDOX: Petition of the tobacco growers of Decatur County, Ga., against modification of the tariff on tobacco from the Philippines—to the Committee on Ways and Means.

By Mr. MANN: Petition of the Chicago Board of Trade, the Illinois Manufacturers' Association, and the Chicago Shippers' Association, relative to enlarged powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. MARSHALL: Resolution of the house of representatives of North Dakota, the senate concurring, favoring removal of the tax on alcohol for use in the industries—to the Committee on Ways and Means.

By Mr. NEEDHAM: Petition of Sequoia Division, No. 412, Order of Railway Conductors of America, of Fresno, Cal., favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. NORRIS: Petition of citizens of Bennington, Nebr., against legislation relative to Sabbath observance in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Methodist Episcopal Church of McAfee, Nebr., against sale of intoxicating liquor on Government premises—to the Committee on Alcoholic Liquor Traffic.

By Mr. OTJEN: Petition of Phil Sheridan Lodge, No. 388, Brotherhood of Locomotive Firemen, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of the Rodden Packing Company, favoring control of freight rates by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants and Manufacturers' Association of Milwaukee, against bill H. R. 18327—to the Committee on the Judiciary.

By Mr. PATTERSON of Pennsylvania: Petition of Washington Camp, No. 146, Patriotic Order Sons of America, of Port Carbon, Pa., favoring more stringent laws on immigration—to the Committee on Immigration and Naturalization.

Also, petition of Washington Camp, No. 46, Patriotic Order Sons of America, of Minersville, Pa., favoring further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. PORTER: Petition of the Vernon Home Missionary Society of the Vernon Methodist Episcopal Church, favoring bill H. R. 4072—to the Committee on the Judiciary.

By Mr. RIDER: Petition of the Philadelphia Board of Trade, favoring amendment of Interstate Commerce Commission's powers on freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. ROBINSON of Indiana: Petition of the Knott-Van Arnan Manufacturing Company, of Fort Wayne, Ind., against the passage of the anti-injunction bill—to the Committee on the Judiciary.

Also, petition of the Fort Wayne Electric Works, against the anti-injunction bill—to the Committee on the Judiciary.

By Mr. RUPPERT: Petition of the Merchants' Association of New York City, favoring abolition or reduction of tariff on imports from the Philippines—to the Committee on Ways and Means.

Also, petition of the Philadelphia Board of Trade, relative to Government supervision of railway rates—to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN: Petition of the Merchants' Association of New York, favoring reduction of tariff on Philippine products—to the Committee on Ways and Means.

By Mr. SHOBER: Petition of several hundred citizens of the Eighth Congressional district of Iowa, praying for the passage of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. SULLIVAN of New York: Petition of the Manufacturers' Association of New York, relative to criminal status of forgery of trade-marks—to the Committee on Patents.

Also, petition of the Philadelphia Board of Trade, relative to control of freight rates by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

SENATE.

SATURDAY, *February 4, 1905.*

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

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

The PRESIDENT pro tempore. The Journal will stand approved.

DRAWBACKS OF CUSTOMS DUTIES.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 1st instant, the amount of drawbacks allowed for customs duties for each fiscal year since 1900; which, on motion of Mr. PETTUS, was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

REWARD FOR RETIRED OFFICERS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting a letter from Capt. George K. Spencer, United States Army, retired, urging that such action be taken as will afford the same reward for civil war services to officers retired under the act of October 1, 1890, as has been given to other officers under the act of April 23, 1904, and calling attention to the accompanying report and recommendations of the First Division, General Staff, dated January 21 instant, etc.; which, with the accompanying papers, was referred to the Committee on Military Affairs, and ordered to be printed.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, requesting that final action be taken relative to the disposition of useless papers, documents, etc., on the files of that Department; which, with the accompanying paper, was referred to the Select Committee on the Disposition of Useless Papers in the Executive Departments, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the House had passed the following bills:

S. 5799. An act to provide for the extension of time within which homestead settlers may establish their residence upon certain lands which were heretofore a part of the Rosebud Indian Reservation within the limits of Gregory County, S. Dak., and upon certain lands which were heretofore a part of the Devils Lake Indian Reservation, in the State of North Dakota;

S. 5937. An act to amend an act to regulate the height of buildings in the District of Columbia;

S. 6371. An act to confirm title to lot 5, in square south of square numbered 990, in Washington, D. C.;

S. 6489. An act to amend section 9 of the act of August 2, 1882, concerning lists of passengers;

S. 6514. An act for the relief of the Church of Our Redeemer, Washington, D. C.; and

S. 6834. An act to authorize the construction of a bridge across the Missouri River between Lyman County and Brule County, in the State of South Dakota.

The message also announced that the House had passed with an amendment the bill (S. 5888) to allow the Minneapolis, Red Lake and Manitoba Railway Company to acquire certain lands in the Red Lake Indian Reservation, Minn.; in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 12346) to correct the military record of William J. Barcroft.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 14589. An act to provide for terms of the United States district and circuit courts at Washington, N. C.;

H. R. 17865. An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1906, and for other purposes; and

H. R. 18280. An act to extend the western boundary line of the State of Arkansas.

ENROLLED BILLS SIGNED.

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

H. R. 3109. An act for the relief of Noah Dillard;

H. R. 14351. An act for the relief of the Gull River Lumber Company, its assigns or successors in interest;

H. R. 15284. An act granting to the Keokuk and Hamilton Water Power Company rights to construct and maintain for the improvement of navigation and development of water power a dam across the Mississippi River; and

H. R. 17769. An act to grant certain lands to the Agricultural and Mechanical College of Oklahoma for college farm and experiment station purposes.

CREDENTIALS.

Mr. BAILEY presented the credentials of CHARLES A. CULBERSON, chosen by the legislature of the State of Texas a Senator from that State for the term beginning March 4, 1905; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. KEAN presented a petition of Camden Lodge, No. 20, Brotherhood of Railway Clerks, of Camden, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented the memorials of O. Terrill, Joseph S. Van Pelt, A. A. Hopkins, J. J. Urnston, Stewart C. Allen, W. E. Van Vliet, Philip Hoffman, Charles W. Naylor, Amplew Fagans, James Voorhees, Valentine Kishner, Robert J. Lems, Edward Dumphy, E. A. Hatfield, H. B. Burns, John E. Moore, J. B. Griegs, D. H. Murphy, Hampden Smith, Thomas H. Holden, Morris Fagan, George W. Hatfield, Josysh V. Rocchietti, John Bennett, and B. O. Parvin, all of Rahway, in the State of New Jersey, remonstrating against the repeal of the present anti-canteen law; which were referred to the Committee on Military Affairs.

Mr. PERKINS presented a memorial of the Board of Trade of San Francisco, Cal., remonstrating against the enactment of legislation giving to the Interstate Commerce Commission the arbitrary right to fix railroad freight rates, and praying that the members of that Commission be increased; which was referred to the Committee on Interstate Commerce.

Mr. FULTON presented a memorial of the Oregon Branch United Irish League of America, of Portland, Oreg., remonstrating against the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

Mr. SCOTT presented a petition of the Charleston Retail Druggists' Association, of Charleston, W. Va., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

Mr. ANKENY presented a memorial of sundry citizens of Checotah, Ind. T., and a memorial of sundry citizens of Ward, Ind. T., remonstrating against the annexation of that Territory