COMPARED WITH JEWISH NATION.

A Chaldean family fortified the rock of Jerusalem and grew into a nation which was the chosen of God. The visible presence of the Almighty illuminated its temples and glinted on the spear point and the shield of the Jewish soldier as he marched to battle. That race gave to men their greatest soldier, their greatest poet, their greatest lawgiver, and their Messiah. Where is the Hebrew nation now?

During all these ages China grew, developed a self-sustaining civilization and a resistance to decay such as marked no other nation. When our forefathers were clad in the skins of beasts, earning their sustenance in the forests, by the chase, armed with flint-headed weapons, China had Confucius and Astrolgabes and was calculating eclipses. We should respect China for what she has been, and sympathize with her in her trials, and look forward with hope to her future and the fulfillment of her mission.

I believe the characteristics which I have mentioned were natural to the man. But all earthly work must end. Humanity is a procession. Our words of farewell to a fellow-workman should not alone be those of grief that man's common lot has come to him, but of pride and joy for all the good he has accomplished. Men so weave themselves into their hour that, for the moment, it seems as though much will be interrupted when they depart. "One generation passeth away and another generation cometh, but the earth abideth forever." The progress of the race goes on and we realize in every step more and more its upward tendency. We are all agents, great or small, in a mighty purpose. If we and all things are not working together for good, if life is but a breath exhaled and then forever lost, our work means little.

Senator QUAY was a man of the broadest sympathies. He never exhibited any narrow prejudice or sectional repugnancy or vindictiveness toward any part of his country or countrymen. His attitude in this regard was that of a true American. He suffered often from base and intentional misrepresentation, and was sometimes attacked by those who owed him fealty instead; but he pursued the even tenor of his way, was never vindictive, and his magnanimous traits of character won him increasing friendships all his life. When the last end came, and all earthly aid stood at naught, the people of Pennsylvania and of the nation mourned, and expressions of sympathy were poured forth to the sorrowing wife and sons and daughters, who bowed at his side before the visitation of Almighty power.

Mr. Speaker, I move the adoption of the resolutions which have been offered by the gentleman from Pennsylvania [Mr. ADAMS].

The SPEAKER pro tempore. The question is on the adoption of the resolutions offered by the gentleman from Pennsylvania.

The question was taken; and the resolutions were unanimously agreed to.

The SPEAKER pro tempore. In pursuance of the resolution, the House stands adjourned until to-morrow at 12 o'clock noon.

Accordingly (at 1 o'clock and 40 minutes p. m.) the House adjourned.

SENATE.

MONDAY, *February 20, 1905.*

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

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

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

DAUGHTERS OF THE AMERICAN REVOLUTION.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the seventh annual report of the National Society of the Daughters of the American Revolution; which was ordered to be printed, and, with the accompanying report, referred to the Committee on Printing.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting schedules of papers, documents, etc., on the files of the Interior Department not needed in the transaction of public business, etc.; which, with the accompanying papers, 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. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

S. 63. An act for the relief of Charles Stierlin;

S. 2354. An act to authorize the promotion of First Lieut. Thomas Mason, Revenue-Cutter Service;

S. 4066. An act for the relief of Leonard I. Brownson;

S. 5337. An act for the relief of Jacob Lyon;

S. 5771. An act to reinstate Francis S. Nash as a surgeon in the Navy;

S. 5902. An act for the relief of the Central Railroad of New Jersey; and

S. 6733. An act for the relief of M. L. Skidmore.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 15305) granting a pension to Isaac F. Clayton.

The message further announced that the House has passed the bill (S. 3479) making provision for conveying in fee certain public grounds in the city of St. Augustine, Fla., for school purposes, with amendments; in which it requested the concurrence of the Senate.

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

H. R. 815. An act to correct the military record of James Houselman;

H. R. 1476. An act to amend the naval record of John W. Thompson;

H. R. 1520. An act for the relief of the Mission of St. James, in the State of Washington;

H. R. 3535. An act to grant honorable discharge to William A. Treadwell;

H. R. 3916. An act for the relief of James S. Harber;

H. R. 5392. An act to provide an American register for the steamer *Brooklyn;*

H. R. 13944. An act for the relief of William H. Beall;

H. R. 15021. An act for the relief of Gilbert Shaw;

H. R. 15322. An act correcting the record of Nelson S. Bowdish;

H. R. 17330. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1906, and for other purposes;

H. R. 17353. An act to make Gloucester, Mass., a port to which merchandise may be imported without appraisement;

H. R. 17983. An act authorizing the President to reinstate Alexander G. Pendleton, jr., as a cadet in the United States Military Academy;

H. R. 18492. An act to authorize the Secretary of the Interior to cancel the trust patent issued to James Wahkiacus;

H. R. 18688. An act authorizing the President to appoint S. J. Call surgeon in the Revenue-Cutter Service;

H. R. 18754. An act to prohibit interstate transportation of insect pests, and the use of United States mails for that purpose;

H. R. 18785. An act to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life; and

H. R. 18816. An act for the relief of the estate of James Mitchell, deceased.

The message further transmitted resolutions passed by the House commemorative of the life and public services of Hon. MATTHEW STANLEY QUAY, late a Senator from the State of Pennsylvania.

ENROLLED BILLS SIGNED.

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

S. 4609. An act to authorize the Secretary of the Treasury to appoint a deputy collector of customs at Manteo, N. C.;

S. 6017. An act for the relief of certain homestead settlers in the State of Alabama;

H. R. 3426. An act granting a pension to George W. Graig;

H. R. 4385. An act granting an increase of pension to Thomas Thompson;

H. R. 6663. An act granting a pension to Mahala Alexander;

H. R. 7252. An act granting a pension to James M. Garrett;

H. R. 8077. An act granting an increase of pension to John McFarlane;

H. R. 8208. An act granting an increase of pension to Burleigh C. D. Read;

H. R. 8392. An act granting an increase of pension to Eli B. Helm;

H. R. 8395. An act granting an increase of pension to James Duffy;

H. R. 8423. An act granting a pension to Joseph Hepworth;

H. R. 8476. An act granting a pension to Rolen J. Southerland;

H. R. 8477. An act granting a pension to John W. Guest;

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H. R. 8839. An act granting an increase of pension to Thomas M. Hicks;
H. R. 8983. An act granting an increase of pension to Jonathan R. Cox;
H. R. 9062. An act granting a pension to John Goodspeed;
H. R. 9065. An act granting an increase of pension to Albert Z. Norton;
H. R. 9140. An act granting an increase of pension to James L. Capp;
H. R. 9271. An act granting an increase of pension to William Dyas;
H. R. 9335. An act granting an increase of pension to Joseph N. Croak;
H. R. 9405. An act granting a pension to Andrew Long;
H. R. 9410. An act granting a pension to Rosa Miller;
H. R. 9550. An act granting an increase of pension to William Butler;
H. R. 9769. An act granting an increase of pension to Joseph Pershing;
H. R. 10027. An act granting a pension to Green W. Hodge;
H. R. 10096. An act granting a pension to Louise E. Lavey;
H. R. 10181. An act granting an increase of pension to Andrew Hall;
H. R. 10206. An act granting an increase of pension to Benjamin F. Minnick;
H. R. 10342. An act granting an increase of pension to William W. Marple;
H. R. 10353. An act granting an increase of pension to Henry S. Riggs;
H. R. 10387. An act granting an increase of pension to Aaron C. Perry;
H. R. 10392. An act granting an increase of pension to Silas B. Irion;
H. R. 10628. An act granting an increase of pension to Margaret B. Rapp;
H. R. 10691. An act granting an increase of pension to James W. Hilyard;
H. R. 10948. An act granting an increase of pension to John N. Matthews;
H. R. 10950. An act granting an increase of pension to William Clark;
H. R. 11018. An act granting an increase of pension to William B. Bruner;
H. R. 11020. An act granting an increase of pension to Henry W. Hurlbut;
H. R. 11055. An act granting an increase of pension to Winfield S. Russell;
H. R. 11114. An act granting an increase of pension to William D. Leek;
H. R. 11303. An act granting an increase of pension to Robert Balsking;
H. R. 11312. An act granting an increase of pension to Malana W. Brant;
H. R. 11399. An act granting an increase of pension to James Sleeth;
H. R. 11465. An act granting an increase of pension to Frances E. Rex;
H. R. 11494. An act granting an increase of pension to Sarah Jane Grissom;
H. R. 11499. An act granting an increase of pension to Albert Jones;
H. R. 11599. An act granting an increase of pension to Albert S. Granger;
H. R. 11613. An act granting an increase of pension to Alexander H. Sockman;
H. R. 11847. An act granting an increase of pension to James B. Croly;
H. R. 11855. An act granting an increase of pension to John Cross;
H. R. 11859. An act granting an increase of pension to Deborah H. Bliss;
H. R. 12007. An act granting an increase of pension to Henry R. K. Lockman;
H. R. 12079. An act granting an increase of pension to Mary L. G. Mew;
H. R. 12090. An act granting an increase of pension to William R. Clark;
H. R. 12155. An act granting a pension to Nancy Hill;
H. R. 12171. An act granting an increase of pension to John Davis;
H. R. 12252. An act granting an increase of pension to James Baremore, alias James Baker;
H. R. 12255. An act granting an increase of pension to Benjamin F. Gudgell;
H. R. 12341. An act granting a pension to John Stilts;
H. R. 12488. An act granting an increase of pension to George H. Coddington;
H. R. 12601. An act granting an increase of pension to Francis M. Prill;
H. R. 12660. An act granting an increase of pension to Margaret Russell;
H. R. 12795. An act granting an increase of pension to John L. Lee;
H. R. 12820. An act granting an increase of pension to Isabella Bryson;
H. R. 13007. An act granting an increase of pension to Frederick B. Schnebly;
H. R. 13105. An act granting an increase of pension to William F. Gaut;
H. R. 13188. An act granting an increase of pension to Charles H. Dunihue;
H. R. 13260. An act granting an increase of pension to William Starks;
H. R. 13324. An act granting an increase of pension to John Kesler;
H. R. 13330. An act granting an increase of pension to Michael Kelly, alias Patrick Kelly;
H. R. 13332. An act granting a pension to Honora Sullivan;
H. R. 13377. An act granting an increase of pension to Albert R. Straub;
H. R. 13419. An act granting an increase of pension to George Weeks;
H. R. 13546. An act granting an increase of pension to Joel J. Addison;
H. R. 13547. An act granting an increase of pension to Lewis J. Parr;
H. R. 13656. An act granting an increase of pension to Mary W. Martin;
H. R. 13877. An act granting an increase of pension to Frederick Lilje;
H. R. 13887. An act granting an increase of pension to Jacob Steffes;
H. R. 13955. An act granting an increase of pension to Elijah G. Wood;
H. R. 13969. An act granting an increase of pension to Dora Smith;
H. R. 14028. An act granting an increase of pension to Carrie E. Risley;
H. R. 14108. An act granting an increase of pension to Timothy L. Taylor;
H. R. 14219. An act granting an increase of pension to Earl J. Lamson;
H. R. 14255. An act granting an increase of pension to Margaret H. Bates;
H. R. 14305. An act granting a pension to Walter Gardner;
H. R. 14406. An act granting a pension to Paul W. Thompson;
H. R. 14444. An act granting an increase of pension to William A. Stovall;
H. R. 14485. An act granting a pension to Charlotte M. Wylie;
H. R. 14495. An act granting an increase of pension to Jackson Adams;
H. R. 14600. An act granting an increase of pension to Joseph Woods;
H. R. 14680. An act granting an increase of pension to Monroe Chapin;
H. R. 14695. An act granting an increase of pension to Francis D. Lewis;
H. R. 14798. An act granting an increase of pension to Lusern Allen;
H. R. 14908. An act granting an increase of pension to Henry Leib;
H. R. 14909. An act granting an increase of pension to Albert E. Barnes;
H. R. 15004. An act granting an increase of pension to William N. Meacham;
H. R. 15019. An act granting an increase of pension to John H. Elston;
H. R. 15043. An act granting an increase of pension to James R. Ferson;
H. R. 15044. An act granting an increase of pension to Nahrvista G. Heard;
H. R. 15079. An act granting an increase of pension to Constantine J. McLaughlin;
H. R. 15082. An act granting a pension to James C. Albritton;
H. R. 15097. An act granting a pension to William H. Miller;
H. R. 15169. An act granting an increase of pension to Loretta V. Biggs;
H. R. 15199. An act granting a pension to Mary J. Lansing, formerly Mary J. Abbott;
H. R. 15239. An act granting a pension to Isabella Burke;

H. R. 15240. An act granting an increase of pension to James C. Baker;
H. R. 15252. An act granting an increase of pension to Maria Edmundson;
H. R. 15293. An act granting an increase of pension to John P. Davis;
H. R. 15324. An act granting an increase of pension to Joseph W. Winger;
H. R. 15328. An act granting a pension to William H. H. Simpkins;
H. R. 15406. An act granting an increase of pension to George W. Carpenter;
H. R. 15411. An act granting an increase of pension to Isaiah Garretson;
H. R. 15415. An act granting an increase of pension to Jonas H. Upton;
H. R. 15431. An act granting an increase of pension to Andrew Pinney;
H. R. 15466. An act granting an increase of pension to Isaac B. Snively;
H. R. 15491. An act granting a pension to Theresa M. Kennedy;
H. R. 15497. An act granting an increase of pension to Patrick H. Oliver;
H. R. 15504. An act granting an increase of pension to Ellen Tuite;
H. R. 15520. An act granting an increase of pension to William P. Dunnington;
H. R. 15529. An act granting an increase of pension to James M. Elkington;
H. R. 15535. An act granting a pension to John Crotty;
H. R. 15558. An act granting an increase of pension to Edwin R. Manson;
H. R. 15575. An act granting an increase of pension to Jones Adler;
H. R. 15617. An act granting an increase of pension to Aaron S. Gatliff;
H. R. 15631. An act granting an increase of pension to John Brooks;
H. R. 15632. An act granting an increase of pension to Barney Carroll;
H. R. 15633. An act granting an increase of pension to Henry King;
H. R. 15637. An act granting an increase of pension to William A. Smith;
H. R. 15639. An act granting a pension to Mollie Townsley;
H. R. 15640. An act granting a pension to William E. Quirk;
H. R. 15645. An act granting an increase of pension to Samuel B. Clark;
H. R. 15655. An act granting a pension to Mattie M. Bond;
H. R. 15657. An act granting an increase of pension to William Tawney;
H. R. 15661. An act granting an increase of pension to Malden Valentine;
H. R. 15669. An act granting an increase of pension to Matthew C. Danforth;
H. R. 15685. An act granting an increase of pension to Elizabeth Krehbiel;
H. R. 15710. An act granting an increase of pension to Luther W. Cannon;
H. R. 15719. An act granting an increase of pension to Harriet N. Jones;
H. R. 15728. An act granting an increase of pension to Waldron C. Townsend;
H. R. 15729. An act granting an increase of pension to Phaon Hartman;
H. R. 15730. An act granting an increase of pension to Benjamin F. Shireman;
H. R. 15741. An act granting an increase of pension to John S. Duncan;
H. R. 15746. An act granting an increase of pension to Israel Roll;
H. R. 15747. An act granting an increase of pension to Henry A. Wesson;
H. R. 15788. An act granting an increase of pension to Silas W. Bullock;
H. R. 15822. An act granting an increase of pension to Oliver P. Beckmon;
H. R. 15823. An act granting an increase of pension to James M. Liddil;
H. R. 15835. An act granting an increase of pension to James M. Walker;
H. R. 15838. An act granting an increase of pension to Mary F. Fuller;
H. R. 15848. An act granting an increase of pension to John Reninger;
H. R. 15857. An act granting an increase of pension to David Galbreath;
H. R. 15863. An act granting an increase of pension to Mark Wilde;
H. R. 15865. An act granting an increase of pension to William H. McClellan;
H. R. 15866. An act granting an increase of pension to Benjamin F. Hopkins;
H. R. 15869. An act granting an increase of pension to Benjamin H. Scrivens;
H. R. 15874. An act granting an increase of pension to John Kingdon;
H. R. 15886. An act granting an increase of pension to William S. Radcliffe;
H. R. 15887. An act granting an increase of pension to George F. Ludwig;
H. R. 15888. An act granting an increase of pension to James E. Andrews;
H. R. 15891. An act granting a pension to Harriett Stanley;
H. R. 15903. An act granting an increase of pension to George T. Barker;
H. R. 15918. An act granting an increase of pension to Thomas Cullen;
H. R. 15919. An act granting an increase of pension to Joseph Fike;
H. R. 15922. An act granting an increase of pension to William J. Cheney;
H. R. 15924. An act granting an increase of pension to William Shadrick;
H. R. 15927. An act granting an increase of pension to Freeman C. Witherby;
H. R. 15929. An act granting an increase of pension to Anna E. Brown;
H. R. 15941. An act granting an increase of pension to Israel V. Hoag;
H. R. 15946. An act granting an increase of pension to Oliver Marcus Bump;
H. R. 15947. An act granting an increase of pension to Philander S. Wright;
H. R. 15954. An act granting an increase of pension to Ira D. McClary;
H. R. 15962. An act granting an increase of pension to Charles T. Beals;
H. R. 15968. An act granting an increase of pension to James L. Hodges;
H. R. 16046. An act granting an increase of pension to Frederick Lahrmann;
H. R. 16054. An act granting an increase of pension to Patrick O'Brien;
H. R. 16072. An act granting an increase of pension to Albert H. Barry;
H. R. 16099. An act granting an increase of pension to Lafayette Boutwell;
H. R. 16104. An act granting an increase of pension to Thomas Lanning;
H. R. 16105. An act granting an increase of pension to Cyrus B. Allen;
H. R. 16121. An act granting an increase of pension to Edward Root;
H. R. 16123. An act granting an increase of pension to William Smith;
H. R. 16132. An act granting an increase of pension to Mary A. Seele;
H. R. 16140. An act granting an increase of pension to Nelson A. Fitts;
H. R. 16149. An act granting an increase of pension to Thomas J. Moore;
H. R. 16162. An act granting an increase of pension to Charles Müller;
H. R. 16165. An act granting an increase of pension to Francis L. Howard;
H. R. 16166. An act granting an increase of pension to Charles P. Morrison;
H. R. 16167. An act granting an increase of pension to Edward J. Dillon;
H. R. 16175. An act granting an increase of pension to Merrick D. Frost;
H. R. 16177. An act granting an increase of pension to Elisha C. Davidson;
H. R. 16215. An act granting an increase of pension to Fitz Allen Gourley;
H. R. 16216. An act granting an increase of pension to Philo G. Tuttle;
H. R. 16226. An act granting an increase of pension to William W. Smith;

H. R. 16232. An act granting an increase of pension to Charles V. Jenkins;
H. R. 16234. An act granting an increase of pension to Benjamin H. Hartman;
H. R. 16239. An act granting an increase of pension to Mary K. Roane;
H. R. 16254. An act granting an increase of pension to Lydia R. Howard;
H. R. 16308. An act granting an increase of pension to Webster Eaton;
H. R. 16310. An act granting an increase of pension to Hugh McKenzie, alias James A. Trainer;
H. R. 16312. An act granting an increase of pension to Alpheus Townsend;
H. R. 16324. An act granting an increase of pension to Richard Rollings;
H. R. 16325. An act granting an increase of pension to Jonas Myers;
H. R. 16335. An act granting an increase of pension to Frank C. Culley;
H. R. 16364. An act granting an increase of pension to Gustav Tafel;
H. R. 16370. An act granting an increase of pension to Henry H. Wright;
H. R. 16384. An act granting a pension to Thomas Poag;
H. R. 16385. An act granting an increase of pension to Edwin Vincent;
H. R. 16386. An act granting an increase of pension to Bryan Dunbar;
H. R. 16390. An act granting an increase of pension to Mortimer C. Briggs;
H. R. 16392. An act granting an increase of pension to John Tusing;
H. R. 16395. An act granting an increase of pension to Josephine A. Smith;
H. R. 16419. An act granting an increase of pension to F. A. William Weaver;
H. R. 16420. An act granting an increase of pension to William C. Travis;
H. R. 16424. An act granting an increase of pension to Charles M. Fay;
H. R. 16426. An act granting an increase of pension to Alexander Jones;
H. R. 16427. An act granting an increase of pension to Alfred D. Launder;
H. R. 16443. An act granting an increase of pension to Johanna J. Naughton;
H. R. 16444. An act granting an increase of pension to Henry C. Snyder;
H. R. 16455. An act granting an increase of pension to Elizabeth M. Ketcham;
H. R. 16457. An act granting an increase of pension to Herbert S. Nelson;
H. R. 16471. An act granting a pension to Martha C. Watkins;
H. R. 16472. An act granting a pension to Frances A. McQuiston;
H. R. 16473. An act granting an increase of pension to John R. Karns;
H. R. 16474. An act granting an increase of pension to Oliver McFadden;
H. R. 16488. An act granting an increase of pension to Daniel Reagan;
H. R. 16499. An act granting an increase of pension to Green Yeiser;
H. R. 16501. An act granting an increase of pension to George Jaggers;
H. R. 16502. An act granting an increase of pension to Henry Raeder;
H. R. 16503. An act granting an increase of pension to Dillion Asher;
H. R. 16524. An act granting an increase of pension to Nancy B. Stratton;
H. R. 16525. An act granting an increase of pension to Henry A. Glenn;
H. R. 16526. An act granting an increase of pension to John H. Caton;
H. R. 16540. An act granting a pension to Annie B. Orr;
H. R. 16544. An act granting an increase of pension to Varner G. Root;
H. R. 16551. An act granting an increase of pension to William Morris;
H. R. 16573. An act granting an increase of pension to Jonathan Wiggins;
H. R. 16574. An act granting an increase of pension to Leonard C. Davis;
H. R. 16575. An act granting an increase of pension to John E. Hurley;
H. R. 16578. An act granting an increase of pension to Caroline Vifquain;
H. R. 16579. An act granting an increase of pension to Isaac Vanatta;
H. R. 16581. An act granting an increase of pension to Eli Dabler;
H. R. 16589. An act granting an increase of pension to Martha Peck;
H. R. 16598. An act granting an increase of pension to John Bryan;
H. R. 16603. An act granting an increase of pension to Gearge S. Williams;
H. R. 16613. An act granting an increase of pension to Cornelia J. Schoonover;
H. R. 16614. An act granting an increase of pension to Jacob Repsher;
H. R. 16617. An act granting an increase of pension to Jacob Bowers;
H. R. 16618. An act granting an increase of pension to Alfred N. Brown;
H. R. 16619. An act granting an increase of pension to George Meisner;
H. R. 16620. An act granting an increase of pension to Alonzo Ackerman;
H. R. 16625. An act granting a pension to Laura A. Baughey;
H. R. 16654. An act granting an increase of pension to Isaac C. Buswell;
H. R. 16663. An act granting an increase of pension to Henry Newcomer;
H. R. 16668. An act granting an increase of pension to Emile H. Brie, alias Amede Brea;
H. R. 16684. An act granting an increase of pension to Lena Loeser;
H. R. 16685. An act granting an increase of pension to Isaiah M. Adams;
H. R. 16687. An act granting an increase of pension to M. Helen Orchard;
H. R. 16701. An act granting an increase of pension to Emanuel F. Brown;
H. R. 16702. An act granting an increase of pension to John A. Cairnes;
H. R. 16707. An act granting an increase of pension to John Bechman;
H. R. 16730. An act granting an increase of pension to Daniel Smith;
H. R. 16731. An act granting an increase of pension to Wallace W. Hicks;
H. R. 16740. An act granting an increase of pension to Laura Coleman;
H. R. 16745. An act granting an increase of pension to John W. Davis;
H. R. 16746. An act granting an increase of pension to James J. Summers;
H. R. 16748. An act granting a pension to Frona J. Wooten;
H. R. 16749. An act granting a pension to George W. Cowan;
H. R. 16774. An act granting an increase of pension to John J. James;
H. R. 16813. An act granting an increase of pension to Laura A. Hinkley;
H. R. 16815. An act granting an increase of pension to Michael L. Essick;
H. R. 16828. An act granting an increase of pension to James Spaulding;
H. R. 16834. An act granting an increase of pension to Thomas Harris;
H. R. 16842. An act granting an increase of pension to Lydia P. Kelly;
H. R. 16849. An act granting a pension to Edward H. Holden;
H. R. 16861. An act granting an increase of pension to Mary L. Walker;
H. R. 16874. An act granting an increase of pension to Reuben Terry;
H. R. 16876. An act granting an increase of pension to Samuel Nicholas;
H. R. 16879. An act granting an increase of pension to William H. Brown;
H. R. 16896. An act granting an increase of pension to Thomas Reynolds;
H. R. 16920. An act granting an increase of pension to Stillwell Truax;
H. R. 16929. An act granting an increase of pension to John Moore;

H. R. 16932. An act granting a pension to Louisa E. Cummings;
H. R. 16946. An act granting an increase of pension to William Huddleson;
H. R. 16953. An act granting an increase of pension to John Ryan;
H. R. 16962. An act granting an increase of pension to James J. Creigh;
H. R. 16968. An act granting an increase of pension to John H. Ladd;
H. R. 17017. An act granting an increase of pension to Joseph S. Thompson;
H. R. 17035. An act granting an increase of pension to William H. Miles;
H. R. 17046. An act granting an increase of pension to Hartvig Engbretson;
H. R. 17060. An act granting an increase of pension to Daniel H. Hastings;
H. R. 17068. An act granting an increase of pension to James A. Coil;
H. R. 17073. An act granting an increase of pension to Francis M. Shewmaker;
H. R. 17084. An act granting an increase of pension to Alonzo P. Spooner;
H. R. 17085. An act granting an increase of pension to William S. Stanley;
H. R. 17092. An act granting an increase of pension to John Jeffers;
H. R. 17119. An act granting an increase of pension to Lewis Hitt;
H. R. 17126. An act granting an increase of pension to Caroline Jennings;
H. R. 17131. An act granting an increase of pension to James W. Cross;
H. R. 17139. An act granting an increase of pension to George W. Jennings;
H. R. 17147. An act granting an increase of pension to James A. Gossett;
H. R. 17151. An act granting a pension to Avery Dalton;
H. R. 17161. An act granting an increase of pension to Claiborne J. Walton;
H. R. 17162. An act granting an increase of pension to Thomas Dukes;
H. R. 17164. An act granting an increase of pension to Solomon Carpenter;
H. R. 17197. An act granting an increase of pension to James Mitchell;
H. R. 17201. An act granting an increase of pension to Henry Lorch;
H. R. 17222. An act granting an increase of pension to William G. Mullen;
H. R. 17232. An act granting an increase of pension to Martha McAfee;
H. R. 17236. An act granting an increase of pension to Sarah B. Hirll;
H. R. 17240. An act granting an increase of pension to Luther Kaltenbach;
H. R. 17244. An act granting an increase of pension to John Winemiller;
H. R. 17261. An act granting a pension to Mary A. Gibson;
H. R. 17262. An act granting an increase of pension to Jennie N. Jones;
H. R. 17272. An act granting an increase of pension to Chauncey L. Guilford;
H. R. 17274. An act granting a pension to Louis A. Lavalley;
H. R. 17275. An act granting an increase of pension to Carmen Frazee;
H. R. 17290. An act granting an increase of pension to John W. Grove;
H. R. 17297. An act granting an increase of pension to Joseph C. Prosser;
H. R. 17300. An act granting an increase of pension to Charles H. Penoyer;
H. R. 17311. An act granting an increase of pension to Adam W. Grassley;
H. R. 17325. An act granting an increase of pension to Albert H. Noble;
H. R. 17361. An act granting an increase of pension to Samuel H. Renfro;
H. R. 17374. An act granting an increase of pension to Georgia A. Harlow;
H. R. 17390. An act granting an increase of pension to Samuel Sunderland;
H. R. 17403. An act granting an increase of pension to Horace Winslow;
H. R. 17434. An act granting an increase of pension to Samuel H. Draper;
H. R. 17437. An act granting an increase of pension to Albert H. Glassmire;
H. R. 17443. An act granting an increase of pension to Oscar Hinkley;
H. R. 17452. An act granting an increase of pension to Franklin Savage;
H. R. 17464. An act granting an increase of pension to Nancy J. Nelson;
H. R. 17537. An act granting an increase of pension to Theodore Titus;
H. R. 17543. An act granting an increase of pension to Lafayette Brashear;
H. R. 17558. An act granting an increase of pension to Sarah A. Morrison;
H. R. 17595. An act granting an increase of pension to Catherine A. Hogan;
H. R. 17605. An act granting an increase of pension to Joseph B. Scott;
H. R. 17635. An act granting a pension to John Burke;
H. R. 17653. An act granting an increase of pension to Hezekiah H. Sherman;
H. R. 17660. An act granting an increase of pension to James H. Wasson;
H. R. 17672. An act granting an increase of pension to Oliver C. Cleveland;
H. R. 17677. An act granting an increase of pension to James Hudson;
H. R. 17731. An act granting an increase of pension to William Stewart;
H. R. 17755. An act granting an increase of pension to Davis D. Osterhoudt;
H. R. 17770. An act granting an increase of pension to Matilda D. Clark;
H. R. 17771. An act granting an increase of pension to Jerome B. Nulton;
H. R. 17773. An act granting an increase of pension to William Hubbs;
H. R. 17849. An act granting an increase of pension to James Freeman;
H. R. 17891. An act granting an increase of pension to Robert M. Alexander;
H. R. 17900. An act granting an increase of pension to Edward M. Mobley;
H. R. 17917. An act granting an increase of pension to Lewis Hammack;
H. R. 17977. An act granting an increase of pension to William Barnhard;
H. R. 18002. An act granting an increase of pension to Isaac Williams;
H. R. 18003. An act granting an increase of pension to Alfred Rowan;
H. R. 18031. An act granting an increase of pension to John Tipton;
H. R. 18095. An act granting an increase of pension to Charlotte F. Russell;
H. R. 18144. An act granting an increase of pension to William Stout; and
H. R. 18268. An act granting an increase of pension to Annie Crawford.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial of the legislative assembly of the Territory of New Mexico, remonstrating against the enactment of legislation providing for the construction of a dam and reservoir on the Rio Grande in New Mexico; which was ordered to lie on the table, and be printed in the RECORD, as follows:

TERRITORY OF NEW MEXICO,
OFFICE OF THE SECRETARY,
Santa Fe, February 16, 1905.

To the President pro tempore United States Senate,
Washington, D. C.

SIR: By direction of the thirty-sixth legislative assembly of the Territory of New Mexico I have the honor to inclose herewith certified copy of council joint memorial No. 3, protesting against the passage, in its present form, by the Senate of the United States of H. R. 17939, relating to the construction of a dam and reservoir on the Rio Grande in New Mexico, and for other purposes.

I have the honor to be, sir,
Yours, very respectfully,
J. W. RAYNOLDS,
Secretary of New Mexico.

[Territory of New Mexico, office of the secretary.]

Certificate.

I, J. W. Raynolds, secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office, at 3.45 o'clock p. m. on the 10th day of February, A. D. 1905, council joint memorial No. 3, "Protesting against the passage, in its present form, by the Senate of the United States of H. R. 17939, relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, and for

other purposes;" and also that I have compared the following copy of the same with the original thereof now on file and declare it to be a correct transcript therefrom, and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed my official seal this 16th day of February, A. D. 1905.

[SEAL.] J. W. RAYNOLDS,
Secretary of New Mexico.

Joint memorial No. 3, protesting against the passage, in its present form, by the Senate of the United States of H. R. 17939, relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, and for other purposes. C. J. M. No. 3. Approved February 10, 1905.

Whereas it appears that there is now pending in the Senate of the United States Congress a bill, designated as H. R. 17939, passed by the House of Representatives of said Congress, relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, and for other purposes; and

Whereas it appears from the provisions of said bill that same established the priority of lands in New Mexico and Texas which have heretofore been actually irrigated for a considerable number of years in succession over lands in New Mexico (as well as in Texas) not so heretofore actually irrigated; and

Whereas the establishment of such a distinction by reason of such declared priorities would be detrimental to the development of that section of New Mexico referred to in said bill and tend to retard settlement upon the public lands of the United States in said section, and is inimical to the best interests of the Territory of New Mexico; and

Whereas the bill in its present form is vague, ambiguous, and uncertain as to the method provided therein for ascertaining the prior and vested water rights therein mentioned: Therefore,

Your memoralist, the thirty-sixth legislative assembly of the Territory of New Mexico, believing and realizing that the said bill, in its present form, is subversive of the vested prior rights of the landowners within the section in New Mexico in said bill mentioned, and will cause great and interminable litigation, earnestly pray that said bill be not acted upon by the said Senate of the United States until the duly accredited representatives of the Elephant Butte Water Users' Association of New Mexico have been given an opportunity to be heard by the Senate committee having charge of said bill; and, further, that in no event shall said bill be passed in its present form.

The PRESIDENT pro tempore presented the petition of J. Alfred Holly, praying for a change of conditions in Santo Domingo; which was referred to the Committee on Foreign Relations.

Mr. SMOOT presented a petition of the legislature of Utah, praying for the enactment of legislation to secure for the intermountain States a bureau of mining, to be located in some convenient and suitable State of the intermountain region; which was referred to the Committee on Mines and Mining, and ordered to be printed in the RECORD, as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the honorable governor and legislature of the State of Utah, respectfully memorialize your honorable bodies to pass such legislation at an early date as to secure for the intermountain States a bureau of mining, to be located in some convenient and suitable State of the intermountain region.

THOMAS HULL,
Speaker of the House.
[SEAL.] S. H. LOVE,
President of the Senate.
JOHN C. CUTLER,
Governor.

Attest:
C. S. TINGEY, *Secretary of State.*

STATE OF UTAH, *Office of the Secretary of State, ss:*

I, Charles S. Tingey, secretary of state of the State of Utah, do hereby certify that the foregoing is a full, true, and correct copy of a joint memorial passed by the senate of the State of Utah on February 3, 1905, and by the house of representatives on January 30, 1905, and filed in this office February 11, 1905, as appears on file in my office.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Utah this 14th day of February, A. D. 1905.

[SEAL.] C. S. TINGEY, *Secretary of State.*

Mr. SMOOT presented a petition of the legislature of Utah, praying that an appropriation be made to establish a United States mint and assay office at some suitable point in that State; which was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

To the President and Congress of the United States:

Your memorialists, the governor and legislature of the State of Utah, represent that the mines of Utah produced during the year A. D. 1904, 315,338 ounces of gold, 13,587,665 ounces of silver, and 56,419,969 pounds of copper; that the numerous smelters of this State smelt and refine large quantities of gold, silver, and copper ores from this and adjoining States, and that the encouragement of the mining and smelting industry in this region is worthy of the attention of the National Government.

Therefore we respectfully ask that an appropriation be made for the purpose of establishing a United States mint and assay office at some suitable point in the State of Utah, under the direction and supervision of the Secretary of the Department of the Treasury.

THOMAS HULL,
Speaker of the House.
S. H. LOVE,
President of the Senate.
[SEAL.] JOHN C. CUTLER,
Governor.

Attest:
C. S. TINGEY,
Secretary of State.

STATE OF UTAH,
Office of the Secretary of State, ss:

I, Charles S. Tingey, secretary of state of the State of Utah, do hereby certify that the foregoing is a full, true, and correct copy of a joint memorial, passed by the house of representatives of the State of Utah, on January 30, 1905, and by the senate on February 3, 1905, and filed in this office February 11, 1905, as appears on file in my office.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State of Utah this 14th day of February, A. D. 1905.

[SEAL.] C. S. TINGEY,
Secretary of State.

Mr. DRYDEN presented a memorial of Local Union No. 427, Cigar Makers' International Union, of Rahway, N. J., remonstrating against any reduction of the duty on tobacco and cigars imported from the Philippine Islands; which was referred to the Committee on the Philippines.

He also presented a memorial of the Home Missionary Society of the Fourth Presbyterian Church of Bridgeton, N. J., remonstrating against the enactment of legislation providing for the use of public funds for sectarian school purposes; which was referred to the Committee on Indian Affairs.

He also presented a petition of the Woman's Christian Temperance Union of Newark, N. J., 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 petition of the Woman's Christian Temperance Union of Newark, N. J., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of Local Union No. 399, Musicians' Protective Union, of Monmouth and Ocean Counties, N. J., praying for the enactment of legislation to increase the salaries of members of the Marine Band and also to prohibit the unfair competition of that organization with professional civilian musicians; which was referred to the Committee on Naval Affairs.

Mr. CLARK of Montana presented a petition of sundry citizens of Bozeman, Mont., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

Mr. PERKINS presented memorials of the San Jose Transfer Company, of San Jose; of L. Lion & Sons Co., of San Jose; of C. H. Reed & Co., of San Luis Obispo; of the Byers-McMahon Company, of San Jose; of the Carisa Cattle Company, of San Luis Obispo; of the Board of Trade of Santa Cruz; of the Producers' Fruit Company, of Sacramento; of W. E. Crossman, of San Jose; of the Associated Oil Company, of San Jose; of the South Santa Clara Fruit Drying and Packing Company, of Gilroy; of Raley & Co., of San Jose; of E. R. Renzel & Co., of San Jose; of L. La Montague, of Alviso; of Demicheli, Schuh & Co., of San Jose; of H. Bercovich, of San Jose; of Weinstock & Lubin, of Sacramento; of the Chamber of Commerce of Napa; of the Board of Trade of Oakland; of Connor & Blackstock, of Ventura; of Sinsheimer Brothers, of San Luis Obispo; of the Beeger Tanning Company, of Redwood City; of the Hobbs-Parsons Company, of Fresno; of the Star Shoe Store, of San Jose; of William Collins & Sons, of Ventura; of the Pierce Lumber Company, of Fresno, and of the Schaw-Batcher Company, of Sacramento, all in the State of California, remonstrating against the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

Mr. PLATT of New York presented memorials of the Board of Trade of Oneonta; of the Chamber of Commerce of Troy; of the Jacob Dold Packing Company, of Buffalo, and of R. L. Ginsburg & Sons, of Buffalo, all in the State of New York, remonstrating against the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

Mr. DEPEW presented a petition of Local Division No. 444, Order of Railway Conductors, of Olean, N. Y., 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 Erie County Pharmaceutical Association, of Buffalo, N. Y., 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 sundry citizens of Hopkinton, N. H., and a petition of sundry citizens of Merrimac County, N. H., praying for the enactment of legislation providing for a parcel post and check currencey; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. KEARNS presented a petition of the legislature of Utah, praying for the enactment of legislation to establish a bureau of mining in the intermountain States; which was referred to the Committee on Mines and Mining.

He also presented a petition of the legislature of Utah, praying that an appropriation be made to establish a United States mint and assay in that State; which was referred to the Committee on Finance.

Mr. McCOMAS presented a petition of the mayor and city council of Hyattsville, Md., praying for the enactment of legislation requiring that the District of Columbia line be made the eastern terminus of the Great Falls and Old Dominion Railroad Company if permitted to cross the city of Washington; which was referred to the Committee on the District of Columbia.

He also presented a petition of Damascus Lodge, No. 199, Independent Order of Good Templars, of Damascus, Md., 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 was ordered to lie on the table.

He also presented a petition of the Minerva Club, of New York City, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

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

Mr. STEWART presented a concurrent resolution of the legislature of Nevada, relative to the purchase of intoxicating liquors or drugs by Indian wards of the Government; which was referred to the Committee on Indian Affairs, and ordered to be printed in the RECORD, as follows:

Assembly joint and concurrent resolution relative to the purchase of intoxicating liquors or drugs by Indian wards of the Government.

Whereas the laws of the United States relative to the sale of intoxicating liquors to the Indian wards of the Government in Nevada have been found inadequate, and fail of their object because the seller only is punished;

Resolved, That it is the sense of the senate and assembly that the Congress of the United States should enact suitable laws providing for the punishment of the purchasers as well as the sellers of such intoxicants; be it further

Resolved, That a copy of this resolution be forwarded to our Senators and Congressmen at Washington.

STATE OF NEVADA, *Department of State, ss:*

I, W. G. Douglass, the duly elected, qualified, and acting secretary of state of the State of Nevada, do hereby certify that the foregoing is a true, full, and correct copy of the original assembly joint and concurrent resolution No. 4, relative to the purchase of intoxicating liquors or drugs by Indian wards of the Government, now on file and of record in this office.

In witness whereof I have hereunto set my hand and affixed the great seal of State, at my office, in Carson City, Nev., this — day of ———, A. D. 190–.

[SEAL.]

———— ————,
Secretary of State.

Mr. SPOONER presented a petition of the Ancient Order of Hibernians of Milwaukee County, Wis., praying that an appropriation be made for the erection in the city of Washington of a monument to Commodore John Barry; which was referred to the Committee on the Library.

Mr. PENROSE presented a memorial of the Milk Shippers' Union of Telford, Pa., remonstrating against the repeal of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of Washington Camp, No. 674, of Shippensburg; of Washington Camp, No. 558, of Belfast, and of Washington Camp, No. 494, of Port Royal, all of the Patriotic Order Sons of America, in the State of Pennsylvania, praying for the enactment of legislation to restrict the immigration of aliens into the United States; which were referred to the Committee on Immigration.

He also presented memorials of sundry citizens of Coryville, Bradford County, McKean County, and Frank, all in the State of Pennsylvania, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sundays; which were referred to the Committee on the District of Columbia.

Mr. FRYE presented a petition of the executive council of the Massachusetts State Board of Trade, praying for the repeal of the duty on hides; which was referred to the Committee on Finance.

He also presented a memorial of the North Carolina Pine Association, of Virginia, remonstrating against the law exacting compulsory pilotage charges at South Atlantic ports from all sailing vessels engaged in the coastwise trade; which was referred to the Committee on Commerce.

Mr. DOLLIVER presented a memorial of the Federation of Labor of Cedar Rapids, Iowa, remonstrating against any reduction of the duty on cigars and tobacco imported from the Philippine Islands; which was referred to the Committee on the Philippines.

He also presented a petition of the Corn Belt Meat Producers' Association, of Humboldt, Iowa, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Synod of Iowa of the Evangelical Lutheran Church of the United States, praying for an investigation of the conditions existing in the Kongo Free State; which was referred to the Committee on Foreign Relations.

He also presented memorials of sundry citizens of Woodbury and Union counties, Iowa, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

FRANK A. LEACH.

Mr. ALLISON. I present a communication from the Secretary of the Treasury, addressed to the chairman of the Committee on Appropriations, recommending that an appropriation of $25,000 be made to reimburse Frank A. Leach, superintendent of the mint at San Francisco, Cal., for loss of money stolen from that mint. I move that the communication be printed and referred to the Committee on Appropriations.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 18815) to authorize the construction of a bridge across Red River at or near Boyce, La., reported it without amendment.

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. 14958) granting an increase of pension to Hiram Burkholder;

A bill (H. R. 15727) granting an increase of pension to Lotwig Evans;

A bill (H. R. 16853) granting an increase of pension to Alfred Frost;

A bill (H. R. 15096) granting an increase of pension to Isaiah S. Winters;

A bill (H. R. 15018) granting an increase of pension to Joel V. Green;

A bill (H. R. 13316) granting a pension to Phebe Damoth;

A bill (H. R. 17163) granting an increase of pension to Elizabeth Jackson;

A bill (H. R. 17329) granting an increase of pension to Abraham Roberts;

A bill (H. R. 18182) granting an increase of pension to James Bothwell; and

A bill (H. R. 17616) granting a pension to Delila Dyer.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 7145) to amend an act entitled "An act to provide for the organization of the militia of the District of Columbia, and for other purposes," approved March 1, 1889, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. GALLINGER. I am directed by the Committee on the District of Columbia, to whom was referred the bill (H. R. 18000) authorizing the extension of W street NW., to report it without amendment, and to submit a report thereon.

The PRESIDENT pro tempore. The bill will be placed on the Calendar.

Mr. GALLINGER. I move that the bill (S. 6705) authorizing the extension of W street NW., being order of business 3505 on the Calendar, be postponed indefinitely, and that the House bill just reported by me be given its place on the Calendar.

The motion was agreed to.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 16187) for the extension of Nineteenth street from Woodley road to Baltimore street, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 7180) to authorize the levying of certain special assessments, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 15970) to amend section 1141 of the "act to establish a code of law for the District of Columbia," approved March 3, 1901, as amended by the act approved June 30, 1902, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 7039) to amend section 1141 of the "act to establish a code of law for the District of Columbia," approved March 3, 1901, as amended by the act approved June 30, 1902, submitted

an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the 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, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 7138) supplemental to the act of February 9, 1821, incorporating the Columbian College in the District of Columbia, and the acts amendatory thereof, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

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. 13486) granting an increase of pension to Henry Hovey;

A bill (H. R. 16805) granting an increase of pension to Frederick A. Bird;

A bill (H. R. 18745) granting a pension to William T. Chipman;

A bill (H. R. 15349) granting an increase of pension to George C. Smith;

A bill (H. R. 16660) granting an increase of pension to Joseph Rumell;

A bill (H. R. 18607) granting an increase of pension to William C. Alexander;

A bill (H. R. 11903) granting a pension to Bertha C. Hoffmeister;

A bill (H. R. 18145) granting an increase of pension to William H. Leonard;

A bill (H. R. 6439) granting a pension to Malinda McBride;

A bill (H. R. 16864) granting an increase of pension to George M. Tuley;

A bill (H. R. 18239) granting an increase of pension to George W. Farmer;

A bill (H. R. 4454) granting an increase of pension to Andrew F. Kraner;

A bill (H. R. 465) granting a pension to Erwin Fancher;

A bill (H. R. 3014) granting a pension to Louis Melcher;

A bill (H. R. 2992) granting an increase of pension to Solomon B. Umphrey;

A bill (H. R. 2487) granting an increase of pension to John M. Rutherford;

A bill (H. R. 2479) granting an increase of pension to Lander Robinson;

A bill (H. R. 2695) granting an increase of pension to Christopher C. Cash;

A bill (H. R. 5701) granting an increase of pension to James M. Harper;

A bill (H. R. 12670) granting an increase of pension to William Nease;

A bill (H. R. 16131) granting an increase of pension to William W. Clift;

A bill (H. R. 14034) granting an increase of pension to Edward C. Sanders;

A bill (H. R. 13444) granting an increase of pension to Eugene H. Harding;

A bill (H. R. 13541) granting an increase of pension to Ephraim E. Lake;

A bill (H. R. 13881) granting an increase of pension to Nancy Gabriel;

A bill (H. R. 11014) granting an increase of pension to Robert L. Duncan;

A bill (H. R. 10804) granting an increase of pension to Sarah Kearney;

A bill (H. R. 10649) granting an increase of pension to Lucius Harrington;

A bill (H. R. 9478) granting an increase of pension to Austin P. Hemphill;

A bill (H. R. 9598) granting an increase of pension to Ambrose N. Smith;

A bill (H. R. 2465) granting an increase of pension to Mary A. Craig;

A bill (H. R. 5730) granting an increase of pension to James McEntire;

A bill (H. R. 6992) granting an increase of pension to Isaac B. Vandevanter;

A bill (H. R. 7593) granting an increase of pension to Charles H. McGee; and

A bill (H. R. 1865) granting an increase of pension to Ormon W. Walsh.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with an amendment, and submitted reports thereon:

A bill (H. R. 8810) granting an increase of pension to Benjamin Shaffer;

A bill (H. R. 12705) granting an increase of pension to Moss C. Davis; and

A bill (H. R. 15705) granting an increase of pension to James M. Champe.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (H. R. 17280) granting an increase of pension to Ogden Lewis, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. SMOOT, 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. 17413) granting an increase of pension to Mary E. Brown;

A bill (H. R. 17639) granting an increase of pension to Charles F. Junken;

A bill (H. R. 17079) granting an increase of pension to Edmund G. Ross;

A bill (H. R. 16527) granting an increase of pension to Francis A. Heath;

A bill (H. R. 16464) granting an increase of pension to Austin Handy;

A bill (H. R. 16389) granting an increase of pension to George F. Robinson;

A bill (H. R. 16261) granting an increase of pension to Andrew T. Welman;

A bill (H. R. 16843) granting an increase of pension to Henry Mountz;

A bill (H. R. 16831) granting an increase of pension to Isaac Hanks; and

A bill (H. R. 9130) granting an increase of pension to Charles Van Wey.

Mr. GIBSON, 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. 17146) granting an increase of pension to William Carter;

A bill (H. R. 16818) granting an increase of pension to Levi Fleming;

A bill (H. R. 15715) granting a pension to Horace G. Robison, alias Frank Cammel;

A bill (H. R. 15750) granting an increase of pension to William Bechtel;

A bill (H. R. 15262) granting an increase of pension to Charles Brick;

A bill (H. R. 16035) granting an increase of pension to Church Fortner;

A bill (H. R. 16155) granting an increase of pension to John H. Barton;

A bill (H. R. 16505) granting an increase of pension to Frances F. Mower; and

A bill (H. R. 17976) granting an increase of pension to Joseph C. Kinsey.

Mr. KEAN, from the Committee on Foreign Relations, reported an amendment proposing to appropriate $158.11 to pay the claim of the owners of the British steamship *Lindisfarne* for demurrage while it was undergoing repairs necessitated on account of a collision with the U. S. army transport *Crook* May 23, 1900, intended to be proposed to the general deficiency appropriation bill, submitted a reported thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

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. 16959) granting an increase of pension to Andrew J. Wilde;

A bill (H. R. 16692) granting an increase of pension to Gertrude L. Tallman;

A bill (H. R. 15904) granting an increase of pension to John K. Hughes;

A bill (H. R. 15045) granting an increase of pension to William L. Waterman;

A bill (H. R. 16304) granting a pension to Mary Damm;

A bill (H. R. 16623) granting an increase of pension to George H. Hitchcock;

A bill (H. R. 16649) granting an increase of pension to Hans Anderson;

A bill (H. R. 17962) granting a pension to Chauncey B. Jones;

A bill (H. R. 10210) granting an increase of pension Chester S. Rockwell;

A bill (H. R. 14021) granting an increase of pension to Henry C. Earle;

A bill (H. R. 12486) granting an increase of pension to Andrew Deming;

A bill (H. R. 13061) granting an increase of pension to Henry S. Tillinghast;

A bill (H. R. 13503) granting an increase of pension to Catharine J. Hill;

A bill (H. R. 10506) granting an increase of pension to Charles H. Gardner;

A bill (H. R. 7518) granting an increase of pension to Eliza Flynn; and

A bill (H. R. 7060) granting an increase of pension to Palin H. Sims.

Mr. McCREARY. The message from the President of the United States transmitting a report from the Secretary of State, with accompanying papers, concerning the claim of Col. L. K. Scott, a British subject, was referred to the Committee on Foreign Relations. After proper examination and consideration it appeared that the same claim had been referred to the Committee on Claims, and that the Committee on Claims had reported favorably a bill for the relief of Colonel Scott. I am directed by the Committee on Foreign Relations to report back the message and accompanying papers, and to move that they be referred to the Committee on Claims.

The motion was agreed to.

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. 14771) granting an increase of pension to Alexander Hawkins;

A bill (H. R. 16394) granting an increase of pension to Sarah C. Johnson;

A bill (H. R. 17559) granting an increase of pension to Joseph Wilkes;

A bill (H. R. 17368) granting an increase of pension to Julius A. Mahurin;

A bill (H. R. 17408) granting an increase of pension to Charley Franklin;

A bill (H. R. 17425) granting a pension to Annie M. Kloeppel;

A bill (H. R. 18086) granting an increase of pension to James Eastland;

A bill (H. R. 17668) granting an increase of pension to Rosina Tyler; and

A bill (H. R. 17680) granting an increase of pension to George Hayes.

Mr. OVERMAN, 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. 9244) granting a pension to Enoch Voyles;

A bill (H. R. 18181) granting an increase of pension to Nancy Ann Smith;

A bill (H. R. 18180) granting an increase of pension to Jacob Fulmer;

A bill (H. R. 18092) granting an increase of pension to William A. Moore;

A bill (H. R. 13999) granting a pension to Charles S. Abney;

A bill (H. R. 16773) granting a pension to John Mather;

A bill (H. R. 15158) granting an increase of pension to Alexander Lessley;

A bill (H. R. 15151) granting an increase of pension to Rebecca C. Goodson;

A bill (H. R. 16222) granting an increase of pension to Elias W. Ticknor;

A bill (H. R. 16943) granting an increase of pension to Lucy E. Rumer;

A bill (H. R. 17130) granting an increase of pension to Edward Donnelly;

A bill (H. R. 17045) granting an increase of pension to William A. Forbes; and

A bill (H. R. 17421) granting a pension to Jesse M. Noblitt.

Mr. BURNHAM, 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. 15778) granting an increase of pension to Michael Hanberry;

A bill (H. R. 15149) granting a pension to Clara G. Bacon;

A bill (H. R. 15789) granting an increase of pension to Samuel Bickford;

A bill (H. R. 16137) granting a pension to Leocardia F. Flowers;

A bill (H. R. 17230) granting an increase of pension to Richard Desmond;

A bill (H. R. 17362) granting a pension to Nancy Bedford;

A bill (H. R. 17304) granting an increase of pension to William Dustin;

A bill (H. R. 17306) granting an increase of pension to George Dallison;

A bill (H. R. 17828) granting an increase of pension to Patrick Haney; and

A bill (H. R. 17973) granting an increase of pension to Bridget Enwright.

Mr. FOSTER of Washington, 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. 17622) granting an increase of pension to Edwin S. Pierce;

A bill (H. R. 17034) granting an increase of pension to Augustus W. Thompson;

A bill (H. R. 17061) granting an increase of pension to Arthur E. Strimple;

A bill (H. R. 17065) granting an increase of pension to George F. Griffith, alias Frank W. Morton;

A bill (H. R. 16927) granting a pension to Mary Soupene;

A bill (H. R. 16688) granting an increase of pension to William F. Robertson; and

A bill (H. R. 8626) granting an increase of pension to Rosa Rossiter.

Mr. FOSTER of Washington, from the Committee on Pensions, to whom was referred the bill (H. R. 16878) granting an increase of pension to William Spriggs, reported it with an amendment, and submitted a report thereon.

Mr. MARTIN. I am directed by the Committee on the District of Columbia, to whom was referred the bill (H R. 16917) to provide for condemning the land necessary for joining Kalorama avenue and Prescott place, to report it without amendment and to submit a report thereon.

The PRESIDENT pro tempore. The bill will be placed on the Calendar.

Mr. MARTIN. I move that the bill (S. 6241) to provide for condemning the necessary land to join Kalorama avenue and Prescott place, being Order of Business 3443 on the Calendar, be indefinitely postponed.

The motion was agreed to.

Mr. STEWART, from the Committee on the District of Columbia, to whom was referred the bill (S. 2131) to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

He also, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 17474) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1906, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. DILLINGHAM, from the Committee on Immigration, to whom was referred the bill (S. 7025) to amend section 3 of an act entitled "An act to regulate the immigration of aliens into the United States," approved March 3, 1903, reported it without amendment, and submitted a report thereon.

Mr. FORAKER, from the Committee on Military Affairs, to whom was referred the bill (S. 7001) to amend an act entitled "An act authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army," reported it without amendment.

Mr. SCOTT, 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. 16873) granting an increase of pension to Sarah T. Moffett;

A bill (H. R. 16148) granting an increase of pension to Matthew McKown;

A bill (H. R. 16328) granting a pension to Lois E. Bliss, formerly Motter;

A bill (H. R. 18004) granting an increase of pension to Thomas R. Boss;

A bill (H. R. 17379) granting an increase of pension to James P. McCleery;

A bill (H. R. 17293) granting an increase of pension to Joseph Stewart;

A bill (H. R. 18027) granting an increase of pension to Isaac Sloan;

A bill (H. R. 17737) granting an increase of pension to John F. Bonnell; and

A bill (H. R. 17564) granting an increase of pension to Martha L. H. Spurgin.

Mr. CARMACK, 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. 14935) granting an increase of pension to William G. Taylor;

A bill (H. R. 13447) granting an increase of pension to Nancy A. Rickman;

A bill (H. R. 11833) granting a pension to Jennie B. Johnston, formerly Blackburn;

A bill (H. R. 16743) granting an increase of pension to John Glass;

A bill (H. R. 17832) granting an increase of pension to Malinda Peak;

A bill (H. R. 18103) granting an increase of pension to Willis Booker;

A bill (H. R. 17544) granting an increase of pension to Stephen M. Fisk;

A bill (H. R. 18824) granting a pension to Nimrod W. Watson; and

A bill (H. R. 15748) granting an increase of pension to Evan E. Young.

Mr. GORMAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 18881) for the extension of Rittenhouse street, and for other purposes, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4812) for the extension of Rittenhouse street, and for other purposes, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

Mr. TALIAFERRO, 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. 16814) granting an increase of pension to William S. Lyon;

A bill (H. R. 16412) granting an increase of pension to Henry C. Steadman;

A bill (H. R. 16514) granting an increase of pension to Robert W. Patrick;

A bill (H. R. 16519) granting an increase of pension to Mary E. Quick;

A bill (H. R. 17238) granting an increase of pension to Andrew J. Herod;

A bill (H. R. 17058) granting an increase of pension to Oscar Getman; and

A bill (H. R. 18101) granting an increase of pension to Susan A. Demarest.

Mr. TALIAFERRO, from the Committee on Pensions, to whom was referred the bill (H. R. 17632) granting a pension to James H. Thomas, reported it with an amendment, and submitted a report thereon.

Mr. PLATT of Connecticut, from the Committee on the Judiciary, to whom was referred the bill (S. 7184) to provide for an additional associate justice of the supreme court of the Territory of Arizona, and for other purposes, reported it with an amendment.

Mr. FRYE, from the Committee on Commerce, to whom was referred the bill (H. R. 18197) to amend section 4463 of the Revised Statutes, relating to the complement of crews of vessels, reported it without amendment.

Mr. NELSON, from the Committee on the Judiciary, to whom was referred the bill (H. R. 4100) to provide for the appointment of a district judge for the western judicial district of South Carolina, and for other purposes, reported it with amendments.

REPORTS OF PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Mr. PLATT of New York. I am directed by the Committee on Printing, to whom was referred the joint resolution (H. J. Res. 216) providing for the publication of the annual reports and bulletins of the hygenic laboratory and of the yellow-fever institute of the Public Health and Marine-Hospital Service, to report it favorably without amendment, and I ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole. It provides that there shall be printed each year the bulletins of the hygienic laboratory, not exceeding ten in number in any one year, and of the yellow-fever institute of the Public Health and Marine-Hospital Service of the United States, not exceeding five in number in any one year, in such editions, not exceeding 5,000 copies in any one year, as the interests of the Government and the public may require, subject to the discretion of the Secretary of the Treasury.

It also provides that there shall be printed each year 4,000 copies of the annual report of the Surgeon-General of the Public Health and Marine-Hospital Service, bound in cloth, to be distributed by the Surgeon-General.

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

WHITE RIVER BRIDGE, INDIANA.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (S. 7164) permitting the building of a railway bridge across White River, joining the township of Harrison, in Knox County, State of Indiana, and township of Washington, in Pike County, State of Indiana, to report it with amendments.

Mr. FAIRBANKS. I should like unanimous consent for the present consideration of the bill just reported. There can be no objection to it.

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

The amendments of the Committee on Commerce were, in section 1, line 7, page 1, after the words "White River," to insert "at a point suitable to the interests of navigation;" in line 10 to strike out the words "construction of;" in the same line, after the word "works," to insert "and the location thereof;" in line 12, after the words "commencement of," to strike out "the;" and in line 13 to strike out the words "of such bridge;" so as to read:

That the consent of Congress is hereby granted to the Vincennes, West Baden and Louisville Traction Company, a railway corporation organized under the laws of the State of Indiana, its successors or assigns, to build a railway bridge across the White River at a point suitable to the interests of navigation joining the township of Harrison, in Knox County, State of Indiana, and the township of Washington, in Pike County, State of Indiana: *Provided*, That the plans for the said bridge and appurtenant works and the location thereof shall be submitted to and approved by the Chief of Engineers and the Secretary of War before the commencement of construction: *And provided further*, That said Vincennes, West Baden and Louisville Traction Company, its successors or assigns, shall not deviate from such plans after such approval either before or after the completion of the said bridge unless the modification of said plans shall have been previously submitted to and received the approval of the Chief of Engineers and of the Secretary of War, and any changes in said bridge which the Secretary of War may at any time order in the interest of navigation shall be promptly made by said company at its own expense.

The amendments were 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.

COMMISSION TO EXAMINE UNITED STATES CITIZENSHIP ABROAD, ETC.

Mr. CULLOM. I am directed by the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. 95) to create a commission to examine into the subjects of citizenship of the United States, expatriation, and protection abroad, to report it favorably with an amendment; and I ask that it be now considered.

The Secretary read the joint resolution.

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

Mr. HALE. There is so much noise in the Chamber that no one can tell what is in the joint resolution. I have the impression that it authorizes a new commission for some specific purpose. I think we are having altogether too many commissions, too many boards, and they come back to plague us. I shall object to its present consideration, in order to give me an opportunity to look at the measure.

Mr. CULLOM. The Senator says he objects for the present. I hope he will look at it later.

Mr. HALE. I will look at it between now and to-morrow.

The PRESIDENT pro tempore. The joint resolution will be placed on the Calendar.

LAND ON STATEN ISLAND, NEW YORK.

Mr. DEPEW. I am directed by the Committee on Commerce, to whom was referred the bill (S. 4782) for the conveyance of public lands belonging to the United States in the State of New York, to report it favorably with an amendment striking out all after the enacting clause and inserting a substitute; and I ask for the present consideration of the bill.

Mr. TELLER. I should like to know what the bill is.

Mr. DEPEW. I will explain it. The borough of Richmond, which is Staten Island, is spending about $5,000,000 for dock and terminal facilities and needs about an acre of ground belonging to the Government there. The Secretary of Commerce and Labor has approved of the transfer.

Mr. TELLER. I will state that that is not the bill I supposed it was.

The PRESIDENT pro tempore. The bill will be read.

The bill was read; and there being no objection the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Commerce was to strike out all after the enacting clause and insert:

That the Secretary of Commerce and Labor be, and he is hereby, authorized to sell and convey to the city of New York, for the purposes of a street, public place or park, about one acre of the property of the United States known as the United States light-house property, in the borough of Richmond, city of New York, and State of New York, for the purposes of widening Stuyvesant place and South street in said borough of Richmond, and improving the grade of said streets, upon such terms and conditions as he shall deem best.

The land to be conveyed under this authority is more particularly described as follows: Beginning at a point on the easterly line of Stuyvesant place, distant 421.43 feet northerly from the intersection of the southerly line of Wiener place and the easterly line of Stuyvesant place; thence northerly along the last-mentioned line 417.75 feet to the southerly line of South street; thence easterly along the last-mentioned line 359.49 feet; thence westerly, curving to the left on the arc of a circle of 305.65 feet radius, tangent to the last chord, 483.93 feet; thence southerly, tangent to the last chord, 104.62 feet to the southerly line of the United States light-house property; thence westerly along the last-mentioned line 50.10 feet to the point of beginning. Containing 41,435.70 square feet.

Together with all the right, title, and interest of the United States in and to that part of Stuyvesant place and South street abutting and adjoining the property to be so conveyed and above described.

That the proceeds from the sale of the property authorized by this act to be sold are hereby appropriated as an additional sum to the amount to be appropriated for repairing, protecting, and improving light-houses and buildings; for improvements to grounds connected therewith; for establishing and repairing day marks and pierhead and other beacon lights, including purchase of land for same; for illuminating apparatus and machinery to replace that already in use; construction of necessary outbuildings, at a cost not exceeding $200 at any one light station in any fiscal year; and for other necessary incidental expenses relating to these various objects, including the pay of officers and crews of light-house tenders and of clerks and other employees in the offices of the light-house inspectors and light-house engineers and at light-house depots to be made for the fiscal year ending June 30, 1906.

This act shall take effect and be in force immediately.

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.

LIFE-SAVING ON INTERSTATE RAILROADS.

The PRESIDENT pro tempore. The Chair lays before the Senate a bill from the House of Representatives.

The bill (H. R. 18785) to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life, was read twice by its title.

Mr. LODGE. I ask for that bill present consideration. It has been reported in identically the same form from the Interstate Commerce Committee of the Senate and is now on the Calendar. I do not think there will be the slightest objection to it.

Mr. NELSON. Mr. President——

Mr. KEAN. It will take only a moment. There is a change of but one word from the bill as reported by the Committee on Interstate Commerce of the Senate.

Mr. NELSON. Let the bill be read.

Mr. LODGE. It is substantially the same bill.

Mr. NELSON. Will it interfere with the recent decision of the Supreme Court?

Mr. LODGE. It is to give medals for life-saving. I do not think there can be anything wrong with it.

The PRESIDENT pro tempore. The bill will be read.

The Seretary read the bill.

Mr. PATTERSON. I attempted to get the attention of the Chair a moment ago. I supposed the reading of the bill had been concluded. I labored under the impression that no provision had been made for the person or the body who is to determine who are entitled to the bronze medal, and I am inclined to think that is the condition of the bill now. The knot or ribbon, I think, is to be given by the President; but is there anything in the bill that determines who shall award the bronze medal?

Mr. LODGE. Yes, Mr. President. It is provided that the President shall award it. I will say that it is a precise copy of the law which now exists, and has long existed, for the granting of medals to those persons who have saved life upon the ocean. This is simply extending the provisions of that act to those who, at the risk of their own lives, save life on railroads.

Mr. PATTERSON. I think it is a very worthy measure.

Mr. LODGE. It passed the House without objection. A similar bill was reported from the Senate committee without objection. It seems to be a most meritorious bill.

Mr. CULLOM. I wish to read the provision in section 2:

That the President of the United States be, and he is hereby, authorized to issue to any person to whom a medal of honor may be awarded under the provisions of this act a rosette or knot, to be worn in lieu of the medal, and a ribbon to be worn with the medal; said rosette or knot and ribbon to be each of a pattern to be prescribed by the President of the United States.

Mr. PATTERSON. I noticed that language—that the President of the United States may issue the rosette to one who is entitled to the medal; but does the bill itself provide that the President shall award the medal?

Mr. CULLOM. The first section of the bill provides:

That the President of the United States be, and he is hereby, authorized to cause to be prepared bronze medals of honor, with suitable emblematic devices, which shall be bestowed upon any person who shall hereafter, by extreme daring, endanger their own lives in saving, or endeavoring to save, lives from any wreck, disaster, or grave accident, or in preventing or endeavoring to prevent such wreck, disaster, or grave accident, upon any railroad within the United States engaged in interstate commerce.

Mr. LODGE. It provides in the first section, I will say to the Senator, that it shall be awarded by the President of the United States on sufficient evidence having been furnished and placed on file.

Mr. CULLOM. Furnished to him.

The PRESIDENT pro tempore. If there be no objection, the bill is before the Senate as in Committee of the Whole.

Mr. HALE. Mr. President, that very point is the one which raises doubt in my mind. It is whether the President ought to have this burden put upon him for every case upon all the vast railway systems of this country where there is some life-saving and heroic act. That the President shall consider the case, hear the testimony, and get at all the facts, and himself decide, it seems to me is adding too much of a burden upon the President. I do not think he ought to do it. I think some one else should do it. Perhaps, in the operation of the law, it will go to some one else. But clearly it ought not to go to the President.

Mr. LODGE. That is the provision of the law in regard to life saving at sea. The President gives the authority to the board of the Life-Saving Service and they make the awards of medals. They are made by the Treasury Department. I suppose these awards will be made through similar machinery. This is simply following the old law about the issuing of medals for saving life upon the ocean.

Mr. HALE. It is a transfer of this benevolent sentimental act from the cases that occur at sea, which are few, to cases which occur on land, which would be many. There is a special bureau in the Department of the Treasury which has charge of all the life-saving stations to consider these subjects. I do not know of any bureau in the Treasury Department that would take this subject in charge.

Mr. LODGE. I suppose it would come under the Interstate Commerce Commission.

Mr. HALE. Would it?

Mr. LODGE. It is to promote the security of travel upon railroads engaged in interstate commerce and to encourage the saving of life. I presume it would come through the body charged with that subject. The President could delegate it as he has delegated the matter of considering medals in the Life-Saving Service. There are a great many given for the saving of life at sea. They are not confined to the Life-Saving Service, of course. They are given to any person who saves life at sea at the risk of his own.

Mr. HALE. I think in the aggregate there are few as applied to the sea, and I think there would be many cases on railroads. If there is any place where this duty would probably go, I will not object, but certainly it ought not to be put upon the President.

The PRESIDENT pro tempore. Does the Senator from Maine object to the present consideration of the bill?

Mr. HALE. No, I will not object.

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

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

The PRESIDENT pro tempore. The bill (S. 6965) to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life, will be indefinitely postponed.

ELIMINATION OF GRADE CROSSINGS.

Mr. MARTIN. I am directed by the Committee on the District of Columbia, to whom was referred the bill (S. 7157) to amend an act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes, approved February 12, 1901, to report it favorably without amendment, and I ask for its present consideration.

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

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

ORDER OF BUSINESS.

Mr. HALE. Mr. President, I rise to a question of the order of business. What has become of the message from the House which came to the Senate on Saturday, and which, by agreement, went over until to-day? What was the order with reference to it?

Mr. GALLINGER. The order, as I remember it, was that it should be considered after the morning business.

The PRESIDENT pro tempore. As the Chair recollects, after the routine business this morning that matter was to be taken up for consideration.

Mr. HALE. I do not object to what is really routine morning business, but that is a subject-matter which ought to be disposed of and not hang any longer in doubt than possible. I shall object to anything except bare, strict morning business until that message is taken up.

The PRESIDENT pro tempore. Reports of committees are still in order.

Mr. CARMACK subsequently said: I am directed by the Committe on Pensions, to whom was referred House bill 15748, to report it favorably, and I ask unanimous consent for its present consideration.

Mr. HALE. I gave notice a few minutes ago that I would be constrained to object to anything except routine morning business. I am sorry that it falls upon the Senator, but it also falls upon half a dozen other Senators who have made the same appeal.

Mr. CARMACK. It would take only a minute to pass the bill.

The PRESIDENT pro tempore. Objection is made to the request of the Senator from Tennessee.

[The bill appears with other pension bills reported by Mr. CARMACK.]

MONEY-ORDER FUNDS.

Mr. CLAY. I am directed by the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 6828) to amend section 4045 of the Revised Statutes, to report it favorably. I ask unanimous consent for its present consideration. I will state that the passage of this bill has been recommended by the Post-Office Department, and unless it can get through the Senate in a day or two it will be impossible for it to pass the other House during this Congress. Some of the members of the committee were exceedingly anxious to have the bill put as an amendment on an appropriation bill, but it being a penal statute it was not done. I hope the Senator from Maine [Mr. HALE] will not object.

Mr. HALE. Mr. President——

Mr. CLAY. I will state to the Senator in just half a minute that the bill simply provides as to rural carriers that when money is intrusted to them by persons for the purpose of buying money orders it will be presumed to be in the possession of the Government, and that they can be indicted just like other officials of the Government. It simply adds rural carriers to the list. I am sure the bill will pass in half a minute if the Senator will not object.

The PRESIDENT pro tempore. Is there objection?

Mr. HALE. Mr. President, it is so good a bill that I am sure it will keep until to-morrow morning. I can not make fish of one and flesh of another. I can not shut out the Senator from Tennessee [Mr. CARMACK] and then let in the Senator from Georgia. I am constrained to make an objection, Mr. President.

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

BILLS INTRODUCED.

Mr. LODGE introduced a bill (S. 7215) authorizing the President to nominate and appoint James E. Smith a second lieutenant on the retired list of the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PENROSE introduced a bill (S. 7216) for the relief of Nathan Van Beil, of Philadelphia, and others; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 7217) for the relief of Henry S. Hannis & Co.; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARREN introduced a bill (S. 7218) authorizing and directing the Secretary of State to examine and settle the claim of the Wales Island Packing Company; which was read twice by its title, and referred to the Committee on Claims.

Mr. LATIMER introduced a bill (S. 7219) for the relief of Moses Winstock; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. STEWART introduced a bill (S. 7220) for the relief of John L. Smithmeyer and Paul J. Pelz; which was read twice by its title, and referred to the Committee on Claims.

Mr. BERRY introduced a bill (S. 7221) for the relief of the estate of John Nutt, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. OVERMAN (by request) introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 7222) for the relief of the heirs of Abram Joyner, deceased;

A bill (S. 7223) for the relief of William Wise;

A bill (S. 7224) for the relief of the legal representatives of Joshua Grantham, deceased;

A bill (S. 7225) for the relief of Ezekiel Hollman; and

A bill (S. 7226) for the relief of the legal representatives of Susan Britt.

Mr. TALIAFERRO introduced a bill (S. 7227) granting an increase of pension to Josephine E. Bard; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FOSTER of Louisiana introduced a bill (S. 7228) for the relief of the commissioners of the Judah-Touro Almshouse, of New Orleans, Orleans Parish, La.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 7229) for the relief of the estate of Dennis Sullivan, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. HOPKINS introduced a bill (S. 7230) granting an increase of pension to Benton Cantwell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TELLER introduced a bill (S. 7231) granting an increase of pension to John Houston Crowell; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 7232) removing the charge of desertion from the name of Joseph D. Campbell; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DANIEL introduced a bill (S. 7233) for the relief of the estate of Isaac Haynes, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. FRYE introduced a bill (S. 7234) to establish the University of the United States; which was read twice by its title, and referred to the Committee to Establish the University of the Unied States.

Mr. PETTUS introduced a bill (S. 7235) granting a pension to Julia H. Lyle and Willie Elizabeth Lyle; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLATT of Connecticut introduced a bill (S. 7236) to amend an act entitled "An act to authorize the board of commissioners for the Connecticut bridge and highway district to construct a bridge across the Connecticut River at Hartford, in the State of Connecticut;" which was read twice by its title, and referred to the Committee on Interstate Commerce.

Mr. HEYBURN introduced a bill (S. 7237) for the relief of E. De Atley & Co.; which was read twice by its title, and referred to the Committee on Claims.

Mr. FULTON introduced a bill (S. 7238) to authorize the Portland, Nehalem and Tillamook Railway Company to construct a bridge across the lower Willamette River, in the State of Oregon, above Elk Rock; which was read twice by its title, and referred to the Committee on Commerce.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. PLATT of New York submitted an amendment authorizing the President to appoint William Woolsey Johnson, now professor of mathematics at the Naval Academy, to be a professor of mathematics in the Navy, etc., intended to be proposed by him to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. DICK submitted an amendment proposing to appropriate $9,500 for marking the places where American soldiers fell and were temporarily interred in Cuba and China, 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. McCREARY submitted an amendment proposing to appropriate $75,000 for improving Kentucky River, Kentucky, intended to be proposed by him to the river and harbor appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WARREN submitted an amendment directing resurveys to be made of certain townships in the State of Wyoming, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. McCOMAS submitted an amendment proposing to appropriate $3,000 for grading, retaining wall, and miscellaneous

work at the post-office at Annapolis, Md., intended to be proposed by him to the general deficiency appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

He also submitted an amendment providing that in the assignment or transfer of clerks from the Railway Mail Service to clerical service in the Post-Office Department or post-offices preference shall be given those who served in the war of the rebellion, etc., intended to be proposed by him to the post-office appropriation bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. GAMBLE submitted an amendment authorizing the Court of Claims to further receive testimony, etc., in the case of the Sisseton and Wahpeton bands of Sioux Indians *v.* The United States, and report to Congress what annuities provided by the treaty of the United States with said bands of Indians dated July 28, 1851, would now be due said Indians if the act of forfeiture approved February 16, 1863, had not been passed, 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. BARD submitted an amendment proposing to increase the appropriation for subsistence at the National Home for Disabled Volunteer Soldiers at the Pacific Branch, at Santa Monica, Cal., from $130,000 to $150,000, 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.

Mr. McCOMAS submitted an amendment intended to be proposed by him to the bill (H. R. 18973) to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

AMENDMENTS TO PUBLIC BUILDINGS BILL.

Mr. FORAKER submitted two amendments intended to be proposed by him to the bill (H. R. 18973) to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes; which were referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. FORAKER, it was

Ordered, That all papers in the files of the office of the Secretary of the Senate relating to the bill (S. 3566, 57th Cong.) granting an increase of pension to John W. Armitage be withdrawn, there having been no adverse report on said bill.

BUREAU OF PUBLIC HIGHWAYS.

Mr. LATIMER submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed 10,000 copies each of Senate bill No. 4098 and the report thereon, being report No. 2626, of which 6,000 copies shall be for the use of the Senate and 4,000 for the use of the House of Representatives.

CUBAN EXPORT AND IMPORT TRADE.

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

Resolved by the Senate, That the Secretary of Commerce and Labor be, and he is hereby, directed to procure, so far as practicable, the information hereinafter specified, and report the same to the Senate during the present session of Congress, and at as early a date as possible:

First. The import and export trade, less specie, between the United States and the island of Cuba and between Cuba and other countries during the calendar year 1904, stating particularly principal items thereof, such as sugar, tobacco, rice, cotton goods, iron ore, cattle, etc.

Second. A detailed statement of the increase and decrease and by percentage in such trade for said year 1904 compared with the years 1903 and 1902.

STREET RAILWAY FRANCHISES, TAXATION, ETC.

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

Resolved, That the Commissioners of the District of Columbia are hereby directed to procure all available data showing the conditions and restrictions under which franchises are granted to street railway companies in the several cities of the United States which contain a population exceeding 200,000, and the basis on which the companies are taxed; also the character of the trackage arrangements in each city and the extent to which street railways are placed under State or municipal control, report to be made to the Senate at the beginning of the next session of Congress.

STATUE OF FRANCES E. WILLARD.

The PRESIDENT pro tempore. The Chair lays before the Senate a concurrent resolution from the House of Representatives, which will be read, and to which he calls the attention of the Senator from Illinois [Mr. CULLOM].

The Secretary read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That the statue of Frances E. Willard, presented by the State of Illinois, to be placed in Statuary Hall, be accepted by the United States, and that the thanks of Congress be tendered the State for the statue of one of the most eminent women of the United States.

Resolved, That a copy of these resolutions, duly authenticated, be transmitted to the governor of the State of Illinois.

Mr. CULLOM. Mr. President, a similar resolution has already passed the Senate, but the other House has passed the concurrent resolution which has just been read. I ask unanimous consent for the consideration of the House concurrent resolution at this time.

The resolution was considered by unanimous consent, and agreed to.

DAM AND RESERVOIR ON RIO GRANDE.

The PRESIDENT pro tempore. The morning business is closed, and the Chair lays before the Senate the resolution received on Saturday from the House of Representatives.

Mr. CULBERSON. Before that resolution is proceeded with, Mr. President, I wish to state that the Senator from Indiana [Mr. BEVERIDGE] who has charge of the statehood matter I believe will have no objection to the consideration of a very short bill, of which I spoke to him. It will not take more than a minute.

Mr. BEVERIDGE. Some time ago I agreed with the Senator from Texas that, so far as I was concerned, the bill he has in charge might be considered, provided it be brief and that it should involve no discussion. I wish to say that of course at this juncture debate can not be very extended.

Mr. CULBERSON. I ask unanimous consent at this time for the consideration of House bill No. 17939. I will state that, while the bill itself is somewhat lengthy, all parties especially interested have agreed to accept a substitute proposed by the Senator from Colorado [Mr. TELLER], which is very brief.

The PRESIDENT pro tempore. The Senator from Texas asks unanimous consent for the consideration at this time of a bill, which will be read for information, subject to objection.

The Secretary read the bill (H. R. 17939) relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, for the impounding of the flood waters of said river for purposes of irrigation, and providing for the distribution of said stored waters among the irrigable lands in New Mexico, Texas, and the Republic of Mexico, and to provide for a treaty for the settlement of certain alleged claims of the citizens of the Republic of Mexico against the United States of America; which had been reported from the Committee on Foreign Relations with amendments.

Mr. CULBERSON. I ask that the substitute proposed by the Senator from Colorado may be read.

The Secretary read the amendment proposed by Mr. TELLER, which was to strike out all after the enacting clause of the bill, and to insert the following:

That the provisions of the reclamation act approved June 17, 1902, shall be extended for the purposes of this act to the portion of the State of Texas bordering upon the Rio Grande which can be irrigated from a dam to be constructed near Engle, in the Territory of New Mexico, on the Rio Grande, to store the flood waters of that river, and if there shall be ascertained to be sufficient land in New Mexico and in Texas which can be supplied with the stored water at a cost which shall render the project feasible and return to the reclamation fund the cost of the enterprise, then the Secretary of the Interior may proceed with the work of constructing a dam on the Rio Grande as part of the general system of irrigation, should all other conditions as regards feasibility be found satisfactory.

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

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

The PRESIDENT pro tempore. The question is on agreeing to the amendment which has been read.

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

On motion of Mr. CULBERSON, the title was amended so as to read: "A bill relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, for the impounding of the flood waters of said river for purposes of irrigation."

Mr. CULBERSON. I move that the Committee on Foreign Relations be discharged from the further consideration of the bill (S. 7018) relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, for the impounding of the flood waters of said river for purposes of irrigation, and providing for the distribution of said stored waters among the irrigable lands in New Mexico, Texas, and the Republic of Mexico, and to provide for a treaty for the settlement of certain alleged

claims of the citizens of the Republic of Mexico against the United States of America, and that it be postponed indefinitely.

The motion was agreed to.

POST-OFFICE APPROPRIATION BILL.

Mr. PENROSE. I desire to give notice that on Thursday next, immediately after the reading of the Journal, I shall ask the Senate to proceed to the consideration of the post-office appropriation bill.

PUBLIC GROUNDS IN ST. AUGUSTINE, FLA.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3479) making provision for conveying in fee certain public grounds in the city of St. Augustine, Fla., for school purposes, which were, on page 1, line 5, to strike out "John" and insert "Johns;" on page 1, line 14, to strike out "John" and insert "Johns;" and on page 1, line 15, to strike out "John" and insert "Johns."

Mr. TALIAFERRO. I will state that these amendments merely correct certain typographical errors in the bill. I therefore move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On February 17, 1905:

S. 3218. An act for the relief of Civil Engineer P. C. Asserson, retired;

S. 6337. An act for the establishment of subports of entry at Rouses Point and Malone, N. Y.; and

S. 6923. An act for the construction of a private conduit across D street NW.

On February 18, 1905:

S. 4503. An act to provide for sittings of the circuit and districts courts of the southern district of Florida in the city of Fernandina, in said district;

S. 5172. An act for the relief of the heirs of D. C. McCan and Edward Conery, sr.;

S. 5997. An act authorizing the President to nominate and appoint William L. Patterson a second lieutenant in the United States Army;

S. 6425. An act to amend section 4472 of the Revised Statutes so as to remove certain restrictions upon the transportation by steam vessels 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;

S. 6951. An act to authorize the Spokane International Railway Company to construct and maintain bridges across the Pend d'Oreille River and the Kootenai River in the county of Kootenai, State of Idaho; and

S. R. 65. Joint resolution providing for an extension of time for completing the highway bridge and approaches across the Potomac River at Washington, D. C.

On February 20, 1905:

S. 4079. An act for the relief of James Denton;

S. 4096. An act for the relief of Louis J. Souer, collector of internal revenue for the collection district of Louisiana;

S. 6446. An act granting an increase of pension to John McGowan;

S. 5972. An act permitting the building of a dam across the Mississippi River between the village of Sauk Rapids, Benton County, Minn., and the city of St. Cloud, Stearns County, Minn.; and

S. 6270. An act directing the issue of a check in lieu of a lost check drawn in favor of W. W. Montague & Co., of San Francisco, Cal.

STATEHOOD BILL.

The PRESIDENT pro tempore. The Chair lays before the Senate the action of the House of Representatives on the statehood bill, which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
February 17, 1905.

Resolved, That the Committee on the Territories be, and hereby is, discharged from 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, with the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House, and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill.

The PRESIDENT pro tempore. The question before the Senate is on the motion of the Senator from Indiana [Mr. BEVERIDGE], that the Senate insist upon its amendments disagreed to by the House of Representatives, agree to the conference asked for by the House, and that the Chair appoint the conferees.

Mr. GORMAN. Mr. President, on Saturday last, when the Chair laid before the Senate the message from the House of Representatives in regard to the statehood bill, the question was raised by me as to whether it could be considered that day when objection was made. During the discussion of the matter on Saturday I said:

I suggest to the Senate and to the Chair, with all due deference, that there can not, in my judgment, be found a single precedent in this body where the question of consideration on the day that a measure has come, whether the subject-matter be a request for a conference or not, has ever been agreed to when an objection was made by a Senator.

It is due to myself, as well as to the Chair, for me to say that from a careful examination of the precedents, so far as I have been able to find them, the statement I made was too broad. There is a precedent for it occurring, however, upon a very remarkable occasion. In 1883, when the Senate of the United States, having received from the House of Representatives a bill dealing with the internal-revenue feature of taxation and substituted for it an entirely new tariff bill—which, so far as I know and have been able to inform myself, is the first instance in the history of the country where this body undertook to frame originally a tariff bill—in that case it was held that the measure being one affecting only internal taxation the Senate had jurisdiction. The House of Representatives disagreed to the Senate amendment and asked for a conference. That was at a time of high party excitement, and the stress of the Government in its financial condition was such that immediate consideration was necessary in the opinion of those who controlled the Government at that session, which was a short session, as is now the case. It was on the 27th day of February.

When the Presiding Officer laid before the Senate the request of the House of Representatives for a conference objection was made. Quite a number of distinguished parliamentarians—Governor Harris, of Tennessee, and Senator Ingalls, of Kansas, among the number, and men as learned in parliamentary law as they—made the same point that I made here on Saturday. The Chair held that the motion was in order as a privileged question, and the Senate so considered it.

I desired to make that statement in justice to the occupant of the chair, with whom I always differ with a great deal of concern whenever I do differ with him. It was a remarkable debate which then occurred, and it was finally held, as the Chair held on Saturday, that it must be considered.

Mr. President, I think that possibly that case and the present one settle the precedent that a request from the House of Representatives for a conference is a privileged request. It is true we who took the other view were misled by the general provision of parliamentary law which requires that all motions and resolutions shall lie over one day if objected to. I was further misled—I confess I had for the time forgotten the case of 1883—by a special rule which the Senate has made in regard to conference reports. It had been held that a conference report should go over one day under the rule; but some twenty-five years ago that was found to be so inconvenient at the close of a session of Congress, when it was necessary that such reports should be taken up, that a special rule was made that a conference report should be considered when it was presented. Rule XXVII, on page 26 of the Manual, reads:

RULE XXVII.—*Reports of conference committees.*

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing; and when received, the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

I believed on last Saturday, being only able to refresh my memory by a cursory glance at the precedents, that the Senate having found it necessary to provide a special rule to take conference reports out of the general parliamentary law, that it also applied to messages from the other House. However, as I said, I consider the matter now closed, and only make this explanation now because of my positive statement to the Chair on Saturday, when he made the ruling.

But, Mr. President, the proposition now pending is in some respects similar to the one of 1883. While it is not exactly one of party division, the question comes now—and it is a serious one to the Senate—if we agree to the request of the House of Representatives for a conference upon this measure, that conference must be absolutely free. A conference can not amount to anything unless the conferees are constituted to represent

the views of the body of which they are members. Any instruction or coercion which will prevent them from having the most perfect liberty to confer freely and to report back to their respective Houses is a violation of the universal rule, to which there should be no exception.

In the very case that I have referred to in this body, and in another in 1873, I find the temporary occupant of the chair in 1873, who made the decision, was no less a distinguished man than the then Senator from Vermont, Mr. Edmunds, who decided that we might instruct our conferees; but on a day's reflection, after a discussion by such men as Roscoe Conkling, of New York; Governor Hamilton, of Maryland, and others, that decision was reversed by common consent, and there is now no question that conferees from the first must be so constituted as to represent, and to be in honor bound to represent, the views of the Senate upon every proposition of amendment made by it.

Second, that they must be free from any instruction of the Senate; and, third, the conferees on the part of the House asking the conference shall come into that conference perfectly free from any instruction on the part of the House.

I said on Saturday, and I repeat now, that it is unfortunate, certainly very unwise—destructive to good government—in my judgment, to refer in open discussion in this body to any action of the House of Representatives. Parliamentary law prohibits it, and I am sorry to say that it is so laxly observed. The close observance of such a rule would prevent much of the friction that has taken place in the past, and seems to exist now, and is likely to grow. Disagreeable as the duty may be, the Presiding Officer should stop instantly any Senator who attempts to quote any statement made in the other House. Therefore I approach that phase of the question with a great deal of hesitation.

I accept the record that has been made as a complete one, and yet we can not fail to take note of what has been done and said outside of the Congress of the United States, and I do so at this time only for the purpose of emphasizing the necessity that the conferees to be appointed on the part of the Senate in this case shall represent fairly and earnestly the view of the Senate. Committees of this body of all sorts are to be elected by the body except when it is done otherwise by unanimous consent. As a rule—indeed, I believe it is almost the universal rule—the Chair, by the unanimous consent of the body, has appointed conferees. I know of no exception to that rule in the last thirty years.

But there has grown up another custom, to which there have been exceptions only in very, very rare cases, and that is that the conferees on the part of this body shall be the chairman of the committee who has charge of the bill and usually the senior member of the majority next to him and the senior Senator representing the other side of the Chamber. There have been one or two exceptions. One was made by the distinguished Presiding Officer [Mr. FRYE] who now occupies the chair, in whose perfect fairness we have confidence. He now approaches a case that is unique and one that necessarily must embarrass him. It is a case that requires, in my judgment, under the circumstances, in view of what has occurred elsewhere, extraordinary care in the selection of the conferees.

By a decided majority of the Senate, as the votes upon the various amendments show, the admission of Oklahoma and the Indian Territory as one State was determined upon, and therefore the conferees would have no difficulty in ascertaining the desire of this body upon that proposition. And it is suggested to me that that is not in controversy. But an amendment having been made to the eighteenth section by accident, I think it throws the whole section into conference. That was an error into which my friend the Senator from Georgia [Mr. BACON] and I fell, because we did not know where the amendment offered by the Senator from Utah [Mr. KEARNS] was attached to the bill. But that opens every provision of the bill, as I understand the usages of conference committees.

The other and second vote that was pronounced, and, I believe, unanimous, was upon the amendment offered by the distinguished Senator from Ohio [Mr. FORAKER], that in submitting the matter to the people a separate vote should be taken in both Arizona and New Mexico upon the question of uniting those two Territories in one State. After that the crucial vote came on the amendment offered by the distinguished Senator from Georgia [Mr. BACON] that rather than accept the proposition as it came from the House of Representatives, to unite New Mexico and Arizona in one State, we would eliminate those two Territories from the bill and let them remain Territories, as they now are.

That was determined upon unquestionably by a majority of the Senate, though slim. Still it is the voice of the Senate, and that view, I submit with great deference, ought to be represented in the conference by a Senator who is in hearty accord with the majority of the Senate.

Then came the proposition of the distinguished Senator from California [Mr. BARD] to admit New Mexico as a State, leaving out Arizona. First, in Committee of the Whole, the proposition was adopted by one majority, eliminating the vote of the Senator from Utah [Mr. KEARNS], and in the Senate a tie vote threw it out. Offered again in a modified form, it carried.

Mr. President, as I said a moment since, it is perfectly within the rule, and a single objection will prevent the appointment of the conferees by the Chair. I think, as I said a moment ago, that has not been done for thirty years. In the case of the present occupant of the chair [Mr. FRYE] and every other presiding officer whom I have known since 1880, I have never known an instance where the Chair has not been absolutely fair in the conduct of the business of this body. I apply that remark emphatically to the present occupant of the chair. I think it is perfectly proper, in view of the closeness of the vote and of the great interest that is taken in the question, if the Chair will permit me to say so, that he should follow the example which he wisely set. I can not lay my hand upon the very clause of the Chinese-exclusion act which was amended in this body, but so close was the vote that the Senator from Pennsylvania, contrary to the custom which has grown almost to be a rule, was not appointed to serve on the conference committee, and a Senator who concurred in the views of the majority on the position taken by the Senate was substituted.

I think that all Senators, no matter what view they may have about the consolidation of the other Territories, feel that the Indian Territory and Oklahoma ought to be admitted. That seems to be the overwhelming sentiment in the Senate. I trust—and I think it will add much to the effort to reach a fair conclusion when we meet the House—that the different views of the Senate, as expressed in its vote, may be represented on the conference committee. Much more could be said about the attitude which is supposed elsewhere to be maintained, but I think it would be unwise. I do trust that we may have as conferees on the part of this body Senators who represent and concur in its views as expressed by its vote, however temporarily it may embarrass the Chair to depart from the universal rule, the only exception during this period being the one I have quoted. It will bring us nearer together, in my judgment, and prevent the scene that has been witnessed once before upon this proposition, but which fortunately seldom occurs in this body, there having been only half a dozen instances since its organization—the consumption of time at the close of a Congress, which ought never to be unless there is involved some great principle warranting such action.

Mr. TELLER. Mr. President, I think the first and perhaps the most important question to discuss before the conferees are appointed, if they shall be appointed, is the character of the conferees. I touched slightly upon that Saturday in what I said, and I desire to say a little more on the subject. I think it is an important principle in the administration of public affairs and in the discharge of our duties here to adhere to some rule. I think nothing can be more pernicious and nothing more illogical than to appoint on a conference committee to bring the two Houses together those who are violently—I will not change that term—opposed to the amendments proposed by this body. The rule has been settled for many, many years in legislative bodies, not only in this country but in England, that on committees—and this is true when the system prevailed of appointing a special committee for each bill, or practically that, in the first instance—a majority should be composed of the friends of the bill. If in the course of the debate, in the conduct of affairs, it is found that there are objections to the measure and the majority entertain those objections, then when a committee is to be appointed, it is said by the writers on the subject that it is the duty of any man named on the committee who is opposed to the policy of the body so to declare and to decline.

Mr. President, that is the only way, in my judgment, in which we can rightly legislate. Take this case. In the first place the Senate determined that it would adopt, and did adopt, practically without dissent, although we know there were a number of Senators who were opposed to it, the amendment offered by the senior Senator from Ohio [Mr. FORAKER] allowing each one of the Territories to pass upon the question whether it would be united with the other, or whether it should be kept separate. I am not supposed to know who the Presiding Officer is about to appoint, except the custom has been so universal to appoint the chairman of the committee having the bill in charge that I can assume at least that the junior Senator from Indiana [Mr. BEVERIDGE] will be appointed on the committee. I think I could name probably the other majority conferee, and as I am now impressed that member is opposed to all propositions that have

been voted on in the Senate and carried as against him. He is in accord with the chairman of the committee, who is against those propositions and who is against the amendment offered by the Senator from Ohio [Mr. FORAKER], which was carried.

It seems to me to be utterly illogical and utterly unfair, if I may use that term here, to say that the conferees shall be Senators who are opposed to the latest expression of this body. Conferees are appointed not to carry out their views, nor to carry out the views of the minority, but to represent the views of the majority as expressed by its vote in this body.

I insist, Mr. President, that we who favored the last action of the Senate are entitled to have as conferees a majority who are in favor of those amendments. I shall expect under those circumstances, that undoubtedly the chairman of the Committee on Territories would be the minority member of the conferees. It seems to me the mover of the amendment for a separate vote in each Territory ought to be a member of the conference committee. If it is supposed that on a conference committee it is necessary that a majority shall be composed of the political party in power, such an arrangement will accomplish that purpose. I do not know that it would be proper to discuss that question at great length, although there are some authorities on the subject that I could read which might be useful. There are other points that I desire to discuss, but I think I will leave them for the present at least.

Mr. HALE. Mr. President——

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

Mr. TELLER. I yield to the Senator from Maine.

Mr. HALE. Before the Senator leaves that branch of the subject, does he not recognize as a fact, established by the votes upon different propositions during the discussion and pendency of the bill here, that the one distinctive vote of importance upon which there was a pronounced majority of the Senate was upon the proposition of a single State including Oklahoma and Indian Territory; and does not the Senator remember that the discussion and decision upon other matters fluctuated and varied? On the proposition of New Mexico the result might be called a set-off. One side prevailed at one stage and carried its proposition, but not by a pronounced majority showing a great voice of the body; and in an hour it was changed by the appearance or absence of members of the Senate. So does not the Senator recognize that upon that distinct proposition there is recorded no pronounced decided majority vote of the Senate? And there are other amendments where one side prevailed and then another side prevailed.

But it is not a case like that of the immigration bill, where an entire bill was substituted for the committee's bill and adopted by the Senate without regard to divers issues upon other propositions. The Senate made another bill and decided it upon one vote. Does not the Senator see a very grave distinction in this case? I most certainly do. I do not know what the Chair will do, but if I were in the chair I should see to it that every conferee appointed should represent that large majority in the Senate which decided that notwithstanding these other questions, where it was so close, the body was largely for a single State comprised of the two Territories. I think the conferees ought to represent that vote in the Senate.

Mr. TELLER. Mr. President, the theory of the Senator from Maine would be to ascertain the sense of the Senate by the views of Senators who did not vote. There is but one way to determine what is the sense of this body, and that is by its vote. You can not say that a Senator was absent, and if he had been here the Senate would have voted differently. That might be true, and it might not be true. You can not ascertain that. There is only one way in which this body can record its opinion, and that is by a vote. I stand by the vote.

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

Mr. TELLER. I yield to the Senator from Ohio.

Mr. FORAKER. I interrupt the Senator only to suggest that, according to the rule suggested by the Senator from Maine, there should be represented on the conference committee the majority by which the amendment providing for a separate vote in each Territory was adopted; and it was a large majority, so far as we could judge. There was no division, and no one could tell just what the vote was, but the vote was a very emphatic one in favor of the amendment, and I should think that amendment ought to be represented.

Mr. TELLER. I stated in the beginning that I thought the Senator from Ohio, or some Senator concurring in his views, was entitled to be on the conference committee.

Mr. FORAKER. For myself I do not want to be in the attitude of desiring to go upon the conference committee.

Mr. TELLER. I do not attempt to speak for the Senator from Ohio, as he will understand.

Mr. FORAKER. I so understood.

Mr. TELLER. I am sure everybody would admit that his appointment would be a very appropriate one in either case.

Mr. NELSON. Mr. President——

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

Mr. TELLER. Certainly.

Mr. NELSON. The universal practice in this body has not been such as the Senator from Colorado [Mr. TELLER] and the Senator from Maryland [Mr. GORMAN] have intimated. I call attention to one notable instance in the Fifty-fifth Congress. The Committee on the Judiciary reported what was commonly known as the "Torrey bankruptcy bill." Senators here will remember that when the bill came up for consideration I offered a substitute, which, after considerable debate, was adopted. The substitute I offered was entirely different from the bill reported by the committee. The Senate adopted it by a very decisive vote; I do not remember now the exact figures.

After the bill had passed with that substitute, which became the bill, I suggested to the chairman of the Judiciary Committee, Mr. Hoar, of Massachusetts, that I was fairly entitled to be on the committee of conference; that a majority of the Senate conferees ought to be of those who had favored the substitute. He protested that that could not be; that that could not possibly be taken away from him. I did not bring it up in the Senate. Finally, the Senator from Massachusetts, Mr. Hoar, and the Senator from Kentucky, Mr. Lindsay, were appointed as conferees, besides myself, and I was given to understand privately that it was a mere matter of grace to put me on the committee; that it was a mere matter of favor. As I say, I did not bring up the matter before the Senate. It was not debated here. I yielded to the judgment of the Senator from Massachusetts, and in that case two of the Senators, a majority of the conferees of the Senate, were utterly opposed to the bill as it passed this body.

Senators who were here will remember the fact. I do not recall any other particular instance, but that one is very vivid in my mind.

Mr. TELLER. I have not contended that this rule has been universally observed. If I may digress for a moment, I will say that in the last ten years in this body it seems to me very few rules have been observed in their spirit or in their letter. In very many instances they have been plainly ignored.

As I stated on Saturday, sometimes the character of the amendments is such that it is difficult, in appointing conferees, to select them so that the dominant features of the amendments are represented by the conferees. That would be true when there were a large number of amendments. In this case there are two or three features which stand out prominently, and there is no difficulty in knowing what the verdict of the Senate was; and it is potent in lawmaking, in amendments, in any transaction here when action is taken by a majority of one as if it were the vote of the entire Senate.

The attempt to minimize and destroy the effect of a vote of the Senate because all the Senators were not here or because some one would have voted for it if he had been here is not worthy of very much attention in this body. Take the vote on the amendment offered by the Senator from Georgia [Mr. BACON]. That was a decided vote. We all recollect what the amendment was. If the conferees who are appointed are hostile to that amendment and to that proceeding, as I assume they may be, the Senate will not be fairly represented. If the Senator says that there was another vote an hour later, I say, Mr. President, there was no vote in the Senate which undid what had been done so far as that expression was concerned.

Mr. MONEY. Will the Senator allow me?

Mr. TELLER. Wait a minute. If the next vote did not carry the amendment, subsequently it was carried. That is the principle for which I am contending, that the two Territories should be dissevered, so it can not be said that that was undone in an hour or that there was any change in the Senate. Now I will listen to the Senator from Mississippi.

Mr. MONEY. I desire to ask the Senator if it is not true that when conferees are appointed the members of the conference on the part of the Senate are under an obligation of honor to represent the Senate and not themselves, and to use every effort in sustaining the action of the Senate, however repugnant to their individual judgment what was done in the case may have been?

Mr. TELLER. That certainly is the rule, and it is recognized in all the authorities on this question. I have seen conference reports rejected because the members of the conference committee did not follow that rule. I have seen that done repeatedly

on the floor and so has the Presiding Officer and many other Senators here.

Mr. President, I am going to discuss for a few moments another proposition, and that is the one the Senator from Maryland discussed briefly. We are entitled to a free conference. I do not suppose I need spend time in talking to the Senate about the difference between a conference and a free conference. Those things are well understood. I am only going to call attention to the authorities on the question, and if I can do so a little later I am going to try to discuss the question whether we can have a free conference in this case. I am going to read an authority in this case which I did not intend to read. If a committee dealing with a bill should be selected in the way the authorities say it should be chosen, I am sure the conference committee ought to be selected in the same way.

> Those who take exceptions to some particulars in the bill are to be of the committee, but none who speak directly against the body of the bill; for he that would totally destroy will not amend it.

You may apply that case here. I hope I shall hurt nobody's feelings by talking plainly about this matter. If you put upon the conference two members of the Senate who have been zealously for months endeavoring to thwart the purpose the Senate expressed in its vote you can not expect in the nature of things that there will be a fair representation of the sentiment the Senate has recorded for itself.

Mr. LODGE. Mr. President——

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

Mr. TELLER. I yield to the Senator.

Mr. LODGE. I should like to ask the Senator if that is not done all the time on every bill? Bills go from the Senate with amendments to which the conferees on the part of the Senate are known to be hostile, and do we not rely—do we not in the necessity of things have to rely on the honor of the conferees that they will represent the Senate in the conference?—because it rests on the fact that it is impracticable to make up a conference which shall represent the views of the Senate on different amendments. It occurs on every appropriation bill that goes out of here. Sometimes there are very important amendments on those bills which the conferees opposed.

Mr. TELLER. I agree with that. I have said that was the case. To select a committee that would represent every interest in all the conflicting interests of this body is impossible.

Mr. LODGE. If the Senator will allow me, he referred to the Senator from California and the Senator from Tennessee as proper conferees. I do not say they are not, but both Senators voted for the McCumber amendment, which is a vote against Oklahoma and Indian Territory as one State, and the Senator from Maryland properly said the vote on that question represented the overwhelming opinion of the Senate. The Senator's doctrine would shut out both those Senators, because that on which the Senate was most decisive they voted against. To my mind, other things being equal, it would not shut them out at all. I know of no case, let me say, if the Senator will permit me, where other than the usual conferees have been appointed except where a bill has been substituted for that reported from the committee. That has been done. I know of no other case where an attempt has been made to change the conferees because some one, two, or more amendments were put in to which the conferees were hostile. I think we must rely on the honor and good faith of the conferees on the part of the Senate to represent the Senate and not themselves upon the conference committee. What I have in mind is being done at this moment on one of the appropriation bills.

Mr. TELLER. Mr. President, I have not suggested that either the Senator from Tennessee or the Senator from California should be on this conference committee. That we have had this matter under discussion before is well known to the older members of the Senate, who will recall what has been reported here by the Senator from Maryland, when Senator Edmunds took the lead in the first instance to instruct the conferees what they must do. The Senate instructs them in the first instance in the ordinary way by saying we will insist, and unless we do insist there will be no appointment of a conference committee. A conference committee being appointed, then it was attempted directly by the Senate to instruct them on certain points, upon which they were not to yield. An examination of the authorities and the precedents and the principle upon which conferences are held convinced those who moved it and were most anxious for fear that they would not be properly represented by the committee which had been appointed that they had no right to instruct the committee in that way. That was a case which may be a precedent to the Senator from Massachusetts, where the conferees were hostile to some of the amendments that had been made, just what I do not pretend to say.

Mr. LODGE. I do not want to interrupt the Senator, but——

Mr. TELLER. The Senator may interrupt me. I have only a few minutes anyway.

Mr. LODGE. I wanted to ask the Senator on that point, as to the practical effect. Does not the Senator know, as I think we all know, as a matter of fact, that no bill of statehood can pass the Senate at this stage of the session to which both sides do not assent, and does he not further know that no three Senators could be appointed as conferees who would think of doing otherwise than represent the views of the Senate?

Mr. TELLER. The last proposition I am not going to assent to. I am very confident that unless a very decided change occurs in the minds of certain Senators likely to go on the conference committee they are not likely to represent the Senate. I agree with the Senator from Massachusetts most thoroughly that there is not any probability of the bill passing except by a compromise. But, Mr. President, on Saturday this case went over with the understanding that there might be some compromise. If there has been any made it has not come to me in a way that I can recognize it, and I am not satisfied that my associates who have been standing with me in the passage of what we thought to be a fair bill for the admission of New Mexico and Arizona as States, or if there was a sentiment here that Arizona was not fit for it to admit New Mexico at least, have any encouragement that we will receive anything from this conference committee whatever.

Now, Mr. President, as has been said here a thousand times, legislation is a matter of compromise. I wish to say that in my experience practically all the great measures which have gone through this body since I have been here have gone through upon a compromise. Sometimes there is a compromise between members of this body, and oftener it is a compromise between members of this body than Members of the other House. Sometimes it is done by a compromise between the sentiment of the members of the other House and the sentiment as represented here in the Senate. I should be very glad myself for any proposition that would recognize the right of Oklahoma to be a State. I did not myself vote for the proposition to unite the two Territories of Oklahoma and the Indian Territory. That question is settled. Would any Senator go to the conference committee and attempt to retire from that provision or to change it? We could not do it because it is a House measure. It is very doubtful, in my mind, whether it is open to consideration by the conference committee. But if it were open a Senator would be derelict in his duty who went there and failed to recognize the sentiment of the Senate overwhelmingly expressed.

The PRESIDENT pro tempore. Will the Senator from Colorado yield to the Chair?

Mr. TELLER. Certainly; I yield to the Chair.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 815. An act to correct the military record of James Houselman;

H. R. 3535. An act to grant honorable discharge to William A. Treadwell;

H. R. 3916. An act for the relief of James S. Harber;

H. R. 15322. An act correcting the record of Nelson S. Bowdis; and

H. R. 17983. An act authorizing the President to reinstate Alexander G. Pendleton, jr., as a cadet in the United States Military Academy.

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

H. R. 15021. An act for the relief of Gilbert Shaw; and

H. R. 18492. An act to authorize the Secretary of the Interior to cancel the trust patent issued to James Wahkiacus.

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

H. R. 17353. An act to make Gloucester, Mass., a port to which merchandise may be imported without appraisement; and

H. R. 18688. An act authorizing the President to appoint S. J. Call surgeon in the Revenue-Cutter Service.

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

H. R. 1476. An act to amend the naval record of John W. Thompson; and

H. R. 13944. An act for the relief of William H. Beall.

H. R. 1520. An act for the relief of the Mission of St. James, in the State of Wishington, was read twice by its title, and referred to the Committee on Claims.

H. R. 17330. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal

year ending June 30, 1906, and for other purposes, was read twice by its title, and referred to the Committee on Pensions.

H. R. 18754. An act to prohibit interstate transportation of insect pests and the use of the United States mails for that purpose was read twice by its title, and referred to the Committee on Interstate Commerce.

H. R. 18816. An act for the relief of the estate of James Mitchell, deceased, was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. 5392) to provide an American register for the steamer *Brooklyn* was read twice by its title.

Mr. DEPEW. I ask unanimous consent that the bill (H. R. 5392) to provide an American register for the steamer *Brooklyn* be substituted on the Calendar for the Senate bill on the same subject, which has been favorably reported from the Committee on Commerce.

The PRESIDENT pro tempore. The Chair hears no objection, and it is so ordered.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, to which the Senate sitting in the trial of the impeachment of Charles Swayne adjourned, 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 in the trial of the impeachment of Charles Swayne, 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 the usual proclamation.

The managers to conduct the impeachment on the part of the House of Representatives (with the exception of Messrs. PALMER, POWERS, PERKINS, and SMITH) appeared and were conducted to the seats assigned them.

The respondent, Judge Charles Swayne, accompanied by his counsel, Mr. Higgins and Mr. Thurston, entered the Chamber and took the seats assigned them.

The PRESIDING OFFICER. Before the reading of the Journal the Presiding Officer will announce that at the last session of the Senate in the trial of the impeachment the question of evidence was decided, namely, the proposal of the managers to introduce statements by Judge Swayne made before the committee of the House of Representatives, and it was decided that such statements were inadmissible. The vote by which it was decided will appear upon the reading of the Journal.

The Secretary will read the Journal of the last trial day.

The Secretary read the Journal of the Senate sitting in the trial of the impeachment of Charles Swayne Friday, February 17.

The entry in the Journal referred to by the Presiding Officer is as follows:

The Presiding Officer stated the question to be: "Are the statements made by Judge Swayne before the committee of the House of Representatives admissible as evidence?"

It was determined in the negative—yeas 29, nays 47.

On motion by Mr. FORAKER,

The yeas and nays being desired by one-fifth of the Senators present. Those who voted in the affirmative are,

Messrs. Allison, Bacon, Bailey, Bard, Bate, Berry, Blackburn, Carmack, Clay, Cockrell, Cullom, Daniel, Foster of Louisiana, Foster of Washington, Latimer, Long, McEnery, McLaurin, Mallory, Martin, Money, Morgan, Overman, Patterson, Simmons, Spooner, Stone, Taliaferro, and Teller.

Those who voted in the negative are,

Messrs. Alger, Allee, Ankeny, Ball, Beveridge, Burnham, Burrows, Clapp, Clark of Wyoming, Culberson, Depew, Dick, Dietrich, Dillingham, Dolliver, Dryden, Dubois, Elkins, Fairbanks, Foraker, Frye, Fulton, Gallinger, Gamble, Gibson, Gorman, Hale, Hansbrough, Heyburn, Hopkins, Kean, Kearns, Kittredge, Lodge, McComas, McCreary, McCumber, Millard, Nelson, Newlands, Perkins, Pettus, Quarles, Scott, Smoot, Stewart, and Wetmore.

So it was determined that the evidence was not admissible.

During the roll call Mr. MCCREARY stated that he was authorized by Mr. CLARK of Montana to say that if he had been present he would have voted "nay."

Mr. Manager OLMSTED. Mr. President, I desire to announce the unavoidable absence to-day of Managers PALMER, POWERS of Massachusetts, PERKINS, and SMITH of Kentucky. We shall proceed as best we may in their absence, and by the courtesy of the honorable counsel for the respondent we desire to call one witness out of order to ask him about two questions—a witness who desires to depart.

Robert L. Henry sworn and examined.

By Mr. Manager OLMSTED:

Question. You reside in Waco, Tex., I think.

Answer. I do.

Q. Are you familiar with the location of the boarding house of Mrs. Downs, a witness who testified here?

A. I am.

Q. And also with the location of the court-house in which the United States courts are held?

A. I am.

Q. Will you state about the distance from one of those buildings to the other?

A. The Federal court-house is on the corner of Franklin and Fourth streets. Mrs. Downs lives about four blocks away, on the corner of Columbus and Fifth. You go north one block from the Federal building, then west one block along Austin avenue, and then north about two blocks to Mrs. Downs's residence.

Q. That is about three or four blocks?

A. A little over three. She lives in the fourth block.

Q. What is the character of the pavement between the two buildings—the walk?

A. It is a concrete sidewalk.

Q. A good pavement?

A. A good pavement.

Q. State whether you know Judge Swayne, by sight at least.

A. Oh, yes; I know Judge Swayne by sight and am personally acquainted.

Q. You have seen him there at the time of holding court?

A. Yes, sir; I have seen Judge Swayne there in 1895 and 1896, I think it was. I have seen him holding court in Waco.

Q. At various times, when holding court there?

A. Various times, several times.

Q. State whether you have seen him going from one of those buildings to the other—going and returning.

A. I do not understand the question.

Q. State whether you have seen him going from the house of Mrs. Downs to the court-house or returning from the court-house to the house of Mrs. Downs.

A. I can answer the question in this way. My law office was in the same block as the Federal court building, and when court would take a recess or adjourn I have seen Judge Swayne emerge from the Federal building, walk up Fourth street toward his boarding house, and I have seen him coming from that direction about the time that court was to convene each day, when I have observed him. I do not pretend to say on what days, though, I saw him.

Q. I simply want to know, without taking up time, whether he rode or walked.

A. I have seen him walking; I have not seen him riding.

Mr. Manager OLMSTED. That is all.

No cross-examination.

Simeon Belden recalled.

Cross-examination by Mr. THURSTON—continued.

Question. Mr. Belden, did I understand you to say that your letter, or the letter of yourself and Judge Paquet, suggesting that Judge Swayne recuse himself on the trial you have referred to, was mailed to him about August 5, 1901?

Answer. Well, I think so, but I am not certain about the date.

Q. Is your memory on that date now better than it was when you were examined as a witness before the House committee?

A. I think it is about the same.

Q. You remember the occasion of your having been before the House committee as a witness in re the proposed impeachment proceedings against Judge Swayne?

A. Yes, sir.

Q. And you were sworn and examined as a witness on one or more occasions?

A. On one occasion.

Q. On that occasion, while you were a witness, did you not state in your testimony under oath as follows: "Upon the 19th day of October Judge Paquet and myself addressed a letter to Judge Swayne requesting him to recuse himself?"

A. I might have so stated and might have been in error. If I did so state, that is an error.

Q. You wrote the letter earlier than that date?

A. Earlier than that date.

Q. Not hearing from that letter, what steps did you take, if anything, to bring your case on for trial—that is, the Florida McGuire case?

A. None whatever.

Q. Did you know the rule of the United States district court with reference to how a case shall be placed upon the trial docket for trial at the forthcoming term of a court?

A. I do not know that I do recollect it.

Q. Did you ever familiarize yourself with rule 22 of the Rules of Practice of the United States Circuit and District Courts, Northern District of Florida, reading as follows:

TRIAL LIST.

22. Hereafter, on or before the first day of each and every term of court to which a jury may be summoned, notice shall be given to the clerk, by the parties or their counsel or attorneys, of their desire for a

trial in each cause then pending on the law side of this court at or during said term of court, and thereupon it shall be the duty of the clerk to make a trial docket of all such cases, and no others will be docketed or called by the court or tried at the term except by consent.

A. I recollect the rule perfectly well. I did not have charge of the case. That was in the hands of Judge Paquet. I was sick.

Q. Having in view that rule of the court, did not yourself and Judge Paquet on the 28th day of October, 1901, join in the following notice of the docketing of case for trial or the assignment for trial, omitting the heading——

Mr. Manager DE ARMOND. Mr. President, would it not be well to show the paper to the witness before reading the contents of it?

Mr. THURSTON. If the witness has personal recollection there is no reason why I should show him the paper, Mr. President. If he has not, I will submit it to him.

Mr. Manager DE ARMOND. I do not see how he can tell whether he has any personal knowledge of it or not without seeing it; and to read it and then show it to him would not have anything to do with the question whether or not it ought to be read, it would seem to me.

The PRESIDING OFFICER. The Presiding Officer thinks the paper should be presented to the witness.

Mr. THURSTON (to the witness). Did yourself and Judge Paquet notice that case for trial at the term to commence on the 5th day of November, 1901?

A. I could not answer that, because I was in Pensacola at that time. I was sick.

Q. (Handing paper to witness.) Will you please examine the notice for trial, which I now hand you, and say if that was filed by Judge Paquet and yourself as attorneys in the Florida McGuire case?

A. Do you refer to the paper I have?

Q. I do.

A. I do not recollect this. I recognize the handwriting of Judge Paquet.

Q. Is that his signature attached to that paper?

A. Yes, sir.

Q. Is it your signature also attached with his?

A. I do not think it is. I think Judge Paquet wrote that also.

Q. As your associate, did he have authority to sign your name together with his own as counsel in the matter of these proceedings?

A. He had not—not that I recollect.

Mr. THURSTON (handing paper to Mr. Manager OLMSTED). As a part of our cross-examination we offer this paper in evidence.

Mr. Manager DE ARMOND. I suppose, Mr. President, that the regular way would be to offer the paper when the gentlemen are introducing their own testimony; but we are not very particular about it.

Mr. THURSTON. No, Mr. President, that suggestion was made the other day. If I understand evidence, a paper which is a legitimate part of the res gestæ, of the transaction upon which the witness was examined in chief, may be offered when identified as a part of the cross-examination. We may never desire to present any case on our side, but we can not tell until we have the evidence on the other side in.

The PRESIDING OFFICER. The Presiding Officer thinks it can not be very important, and may be admitted as a part of the cross-examination.

Mr. Manager DE ARMOND. Mr. President, we do not want to be understood as conceding the proposition which the counsel for the respondent has just stated. The question of the admissibility of a paper is a question that will have to be determined when it is offered; and, of course, if a paper could be introduced as a matter of cross-examination, the question of its competency could not be considered, or there would have to be delay to consider the admissibility of something offered by the opposite side when we are offering our testimony. But as to this paper, and only as to this paper, we do not care.

The PRESIDING OFFICER. The Presiding Officer understands it is offered merely as a part of the cross-examination.

Mr. THURSTON. That is all.

The PRESIDING OFFICER. Whether it becomes admissible or pertinent in any other view of the case is a matter to be determined afterwards.

Mr. THURSTON. We will ask the Secretary to read this paper. With the permission of the Senate, we will ask to retain the original, as it is a part of the record of the court, but substitute in the RECORD a certified copy. I suppose there is no objection to that.

Mr. Manager DE ARMOND and Mr. Manager CLAYTON. There is no objection.

The PRESIDING OFFICER. The Secretary will read.

The Secretary read as follows:

[Law No. 72, in the United States circuit court for the northern district of Florida. Mrs. Florida McGuire *v.* Pensacola City Company et al.]

Hon. F. W. MARSH,
Clerk United States Circuit Court, Northern District of Florida.

DEAR SIR: Please enter the above cause on the trial or call docket for trial at the coming term of court.

LOUIS P. PAQUET,
SIMEON BELDEN,
Attorneys for Plaintiff.

PENSACOLA, FLA., *October 28, 1901.*

Mr. THURSTON. Read the indorsement on the back of the paper.

The Secretary read as follows:

Florida McGuire *v.* Pensacola City Company et al. Præcipe for docketing filed at ———, October 25, 1901. F. W. Marsh, Clerk.

Q. (By Mr. THURSTON.) Mr. Belden, it is your understanding, is it not, that under the rule I read, when this notice of trial was filed by Judge Paquet and yourself, you placed at your own solicitation that case upon the trial docket of the court for the term commencing November 5, 1901?

A. Undoubtedly.

Q. That was some months after you had written the letter you have spoken of to Judge Swayne?

A. I feel very certain that the letter was written in the month of August, and I think the 5th of August.

Q. And then it was by the direct action and request of your associate and yourself that this case stood for trial on the docket of the term of that court beginning November 5, 1901?

A. That motion—I take that to be true.

Q. When did Judge Paquet or yourself go to Pensacola to attend that term of court I have referred to?

A. Judge Paquet went there. He was there a day or two before the opening of the court. I was sick and did not reach there until the 8th of the month.

Q. And Judge Paquet had remained there until your arrival?

A. Yes, sir.

Q. And was personally present on the ground looking after the interests of his clients in that case?

A. I understood so, sir.

Q. When you reached Pensacola on the 8th did you have a consultation with your associate, Mr. Paquet, about the case?

A. Certainly.

Q. Talked over the situation of it upon the docket?

A. No; we had no consultation as to its status on the docket at all.

Q. As to the prospect of its trial?

A. We supposed that it would be tried.

Q. Were you informed by your associate after your arrival in Pensacola as to the fact that Judge Swayne on the opening morning of his court had taken up the matter of the request to recuse himself from the trial, and had made a statement to the effect that he had and held no interest in the real estate that you had referred to? Was that brought to your attention?

A. At the opening of the court?

Q. No; but was it brought to your attention that Judge Swayne had made such a statement on the opening day of the court?

A. Well, I am trying to recollect whether I heard the statement or not, or whether it was on the 5th or later.

Q. Well, were you advised by your associate or others that a statement of that kind had been made from the bench by Judge Swayne?

A. Judge Paquet told me that he had seen Judge Swayne and requested a reply to the letter written in August. Whether he had told me that he had already replied to the letter before I reached Pensacola I do not remember.

Q. After you reached Pensacola were you in court when any reference was made to that matter from the bench by Judge Swayne?

A. Well, I am not certain about that.

Q. Well, as a matter of fact, Mr. Belden, you did know, did you not, that the matter had been up in the court and that Judge Swayne had made a statement from the bench and had declined to recuse himself?

A. Well, I have just stated that my mind is not clear on that—whether I heard it myself or whether Judge Paquet told me.

Q. But in one way or another you were advised that Judge Swayne had made a statement from the bench and had declined to recuse himself?

A. Oh, I was fully informed about that. Judge Swayne made two statements from the bench after I reached there.

Q. The 8th was Friday of the week, was it?

A. Yes, sir. That is the day I reached Pensacola.

Q. And you were in court that day?

A. Yes, I was, I think; about the middle of the day.

Q. Were you in court the next day?

A. I was in court the following day also, but I could not speak. I was paralyzed, and was a mere looker-on.

Q. Was that attack of paralysis of yours general paralysis or what is known as facial paralysis?

A. Facial paralysis and paralysis of the nerves of the right eye.

Q. Were yourself and associate on those two days keeping watch on the criminal docket and the trials in that court for the purpose of ascertaining when your case would probably come on?

A. I suppose Judge Paquet was; I paid no attention to it.

Q. And on Saturday afternoon the criminal docket was concluded?

A. Yes, sir.

Q. Then the judge took up the call of the civil docket, did he?

A. Yes, sir; immediately.

Q. And your case, having been noted for trial and placed on that docket by the action of your side, was called on the docket?

A. Yes. Our understanding was that when the civil docket was reached a special day would have been assigned for our case to which our witnesses could have been subpœnaed.

Q. Did you have any such understanding as that with the court?

A. None whatever.

Q. Then you took your chances that that would be done?

A. I did not think we were taking any chances.

Q. When your case was called for trial on Saturday evening an application was made, as I have understood from you, by Judge Paquet to postpone it until the following Thursday?

A. That is correct.

Q. Up to that time you had intended to go on with the trial of that case, had you?

A. As soon as a day was fixed we expected to have a day given us to which we could summon our witnesses.

Q. Then you at that time were ready, if you could secure the postponement, to go on to trial before Judge Swayne?

A. Certainly.

Q. And the only reason that you did not go to trial and dismissed your case was because you did not have time to get your witnesses; is that so?

A. Yes; that is so.

Q. That was your reason. Had yourself and associates sent any telegrams to Judge Pardee about that time or prior concerning the situation and your desire for another judge?

Q. I think Judge Paquet sent a telegram to Judge Pardee to Atlanta, Ga. I read it.

Q. State it as nearly as you can.

A. Well, I can not give the date.

Q. Well, the substance.

A. It was during the time that we were there at the term of the court.

Q. Give the substance of it as nearly as you can.

A. Well, I can give about my recollection of the reply. It was to go ahead and make up our record, and if we were not fairly dealt with take it up by writ of error to the United States circuit court of appeals.

Q. Was that telegram sent before or after your case was called for trial on Saturday evening?

A. That was before.

Q. That was sent, then, before you knew whether you would get your delay for trial?

A. Well, that telegram was sent for other reasons than the question of delay to get our witnesses before the court. Our belief was that we could not get a fair trial before Judge Sawyne owing to these transactions in reference to the Rivas tracts of land between Judge Swayne and Mr. Edgar, of New York.

Q. But you had decided to go on with the case before Judge Swayne?

A. We were prepared to go to trial after the telegram from Judge Pardee, of course, with the privilege of getting our witnesses there. We had no alternative left except to try it before Judge Swayne.

Q. You filed your notice placing this case on the trial docket on October 28. Judge Paquet was there before court commenced on the 5th, you arrived there on the 8th, and yet up to the afternoon of the 9th you had not taken any steps to subpœna witnesses. Is that true?

A. That is true. We had no day assigned to which the witnesses could be subpœnaed.

Q. Then your dismissal of that case was because you did not have time to get witnesses?

A. Unquestionably. If we had had the witnesses there we would have proceeded and would have tried it before Judge Swayne.

Q. On Saturday afternoon, when you asked for a postponement until the following Thursday, did not Judge Swayne state, in substance, from the bench that the court had no objection if the attorneys on both sides agreed to it?

A. I do not recollect very distinctly. I recollect, however, that Mr. Blount, the opposing counsel, insisted very strenuously on proceeding at once.

Q. Was not that after Judge Swayne had stated, in substance, from the bench that he was willing to grant the postponement if Mr. Blount did not object?

A. I do not recollect that. I recollect Judge Swayne said that he wanted to dispose of the case because he intended leaving Pensacola as soon as he was through with it.

Q. Mr. Blount, the attorney on the other side, did object to that postponement?

A. Yes; he objected to postponing it to Monday.

Q. Against his objection, Judge Swayne did let it go over until Monday morning?

A. He let it go over until Monday morning at 10 o'clock.

Q. And did he not do so upon a statement from the bench to the effect that on Monday morning the case would go on to trial unless you made a showing warranting a continuance or postponement?

A. Well, perhaps he made that statement.

Q. So that the case was open for you, if you had any good ground for a postponement, to have made a showing on Monday morning?

A. If we had not already made a showing we could have made the same showing on Monday at 10 o'clock.

Q. Well, you had made no showing of record, had you?

A. None. I do not think there was any showing of record there.

Q. You had filed no motion for discontinuance or postponement?

A. I think not.

Q. Supported it by no affidavits?

A. No affidavits were made that I recollect.

Q. Well, do you not know that the rules of the court require a written motion, supported by a written showing, to justify a continuance or postponement of a trial?

A. I am aware of that; yes, sir.

Q. Then, after you found the case was going on on Monday morning unless you could make a showing for continuance, you decided to dismiss it?

A. Yes, sir.

Q. And because of the fact that you did not have time to get your witnesses?

A. That is the reason.

Q. Where did your witnesses reside?

A. Well, a majority of them resided in the city of Pensacola.

Q. How many were there?

A. Some of them resided in the surrounding country some distance from there.

Q. How many of them were there altogether?

A. I do not know the exact number, but it was over forty.

Q. You testified before the House committee that there were between forty and fifty in your judgment?

A. I think that is correct.

Q. You afterwards tried that same case, after it was rebrought, in that same court?

A. Yes, sir.

Q. And there you had every opportunity to secure your witnesses, did you not?

A. We had all facilities on that trial.

Q. You got all the witnesses you wanted?

A. I think we did.

Q. I will ask you to examine this paper [handing paper to witness] and see if it is the præcipe for witnesses filed by you as the witnesses you desired subpœnaed for that trial of the case when it did come on?

A. I suppose this is the list. I did not make it out; neither did I sign it.

Q. Signed by your associate, Mr. Davis, for himself and yourself?

A. I think so.

Mr. THURSTON. Mr. President, it is not necessary to introduce this original paper in evidence, as it already constitutes a part of the record that the other side has put in. Possibly I may be mistaken; the whole record may not have gone in. I ask to have read the names of these witnesses and their residences as showing that all their witnesses, very few in number, resided immediately in and about the court-house at Pensacola.

The PRESIDING OFFICER. The Presiding Officer has some trouble about having these documents read by the Secretary. Counsel undoubtedly have a right to ask the witness on cross-examination, the witness having testified that there were forty

or fifty witnesses, how many witnesses were used when the case came to trial. But the Presiding Officer can not see how it is proper at this time to have this part of the record read. The cross-examination can proceed without the introduction of the paper.

Mr. THURSTON. Mr. President, we submit to the ruling. We will offer the paper in our own time, when that comes. [To the witness.] Did you file any other præcipe or ask for subpœnas for any other witnesses on that trial of the Florida McGuire case?

A. I could not inform you. I do not recollect.

Q. Did you file præcipes or ask for the subpœna of any other witnesses than those named in this præcipe, twelve in number?

A. I am unable to tell you.

Q. Did you file præcipes or ask for the subpœna of any witness on that trial who did not reside immediately in the city of Pensacola?

A. I am not able to inform you. I did not attend to the summoning of the witnesses at all.

Q. Will you give me the name of any one witness who lived out of Pensacola whom you wanted on that trial?

A. I could not.

Q. What was the difficulty about your having subpœnas go out on Saturday night and summoning the witnesses in the town to be there on Monday morning?

A. I thought it rather impossible, it was so late in the evening; in fact, night.

Q. You had time to get out a summons in a lawsuit and to serve the judge that night, did you not?

A. Oh, plenty of time; yes, sir.

Q. You had plenty of time for that, but not enough time to summon witnesses living in the town?

A. Not forty or fifty witnesses.

Q. How about the twelve?

A. The twelve? There were a great many more than that.

Q. Who were they?

A. I could not name them. There were a great many in the court-house, and a good many we did not use.

Q. This is the list you summoned. Did you not use all of these witnesses?

A. I could not state. I understand that the Senate has the record in the Florida McGuire case, and it will show.

Q. Can you tell me any one witness whom you wanted who is not included in this list?

A. I could not.

Q. Did not Mr. Marsh, clerk of the court, on that Saturday afternoon state in your presence and to your associates that he would keep his office open and that the marshal would be ready as long as you desired that evening for the purpose of getting out subpœnas and having your witnesses subpœnaed?

A. I am very positive he made me no such offer. No such offer was ever made in my hearing.

Q. Did you make any attempt to summon any witnesses that night?

A. Not that night.

Q. How soon after you got out of court that Saturday afternoon did you decide to dismiss the case Monday?

A. We went immediately into consultation.

Q. Who went into consultation?

A. Myself and Judge Paquet.

Q. Where?

A. I think it was at the Park Hotel, where I stopped in Pensacola.

Q. And your consultation ended in what decision?

A. We decided to discontinue the suit.

Q. For the reason that you could not get your witnesses?

A. Could not get our evidence there.

Q. What else did you decide to do at that consultation?

A. At that consultation I think we concluded to bring the suit that we did against Judge Swayne.

Q. What for?

A. To eject him from block 91, I think it is, in Pensacola.

Q. Had you examined the records to see how the title to that property, plot 91, stood of record?

A. I did not.

Q. Did you have it done?

A. I did not, because I knew the title from my examination from the original grant through De Rivas even to the present time.

Q. In whom did that plat show the title?

The WITNESS. Which?

Q. In whom did the plat show the title at that time?

The WITNESS. Which plat do you speak of?

Q. You were telling about the original plat. I mean the one that you spoke of.

The WITNESS. I said the original grant from Spain.

Q. Oh, the original grant. Had you made any examination of the official records of that county to show how the title of block 91 stood of that date?

A. I did not.

Q. Did you have it done?

A. I did not have it done. I suppose, perhaps, Judge Paquet did. I did not have it done.

Q. Did Judge Paquet tell you that he had?

A. He did not.

Q. Did anyone tell you?

A. No person.

Q. Did anyone tell you before you brought that suit as to the showing of the record on the question of the title to block 91?

A. No person that I recollect.

Q. Then you, as an attorney of that court, combining with your associates, began this suit against Judge Swayne without ever having examined the record to know how the title of block 91 stood of record?

A. Certainly we brought the suit, but knowing that Mr. Charles Edgar, who was a defendant in the suit, claimed title.

Q. You knew Mr. Edgar claimed title?

A. Yes, sir.

Q. You also knew that Judge Swayne from the bench had disclaimed title, did you not?

A. Not at the time. Speaking for myself, I never heard him disclaim that until, I think, the 11th of the month——

Q. Have you not said——

Mr. Manager CLAYTON. I insist that the witness give the whole answer.

Mr. THURSTON. I beg pardon. I may break in before the answer is all given, but I will try not to.

The PRESIDING OFFICER. The Secretary will repeat the answer.

A. Not at the time.

The PRESIDING OFFICER. The witness said something about the 11th.

Mr. Manager CLAYTON. The witness said that he did hear it on the 11th, and the Secretary failed to hear all of the answer.

The WITNESS. I will repeat the answer. I was not aware at the time of the statement of Judge Swayne——

Q. (By Mr. THURSTON.) Have you not testified this morning——

Mr. Manager OLMSTED. The witness has not yet finished the answer.

Mr. THURSTON. All right.

A. In reference to this purchase until the 11th of the month, when he referred to it at some length from the bench.

Q. (By Mr. THURSTON.) Have you not already testified this morning, in answer to my questions, that after you reached Pensacola on the 8th you were advised by Judge Paquet, your associate, that Judge Swayne had made such a statement from the bench, in refusing to recuse himself?

A. In answer to the previous question, I have stated what I heard myself, and I understood the question by you to be as to whether I had heard the statement from the bench by Judge Swayne.

Mr. THURSTON. No.

A. But I now state that Judge Paquet said that Judge Swayne had decided to retain jurisdiction there, to try the case, but he said nothing to me about the declaration as to the purchase.

Mr. MALLORY. I should like to have the question and answer repeated by the Reporter.

The Reporter read as follows:

Q. (By Mr. THURSTON.) Have you not already testified this morning, in answer to my questions, that after you reached Pensacola on the 8th you were advised by Judge Paquet, your associate, that Judge Swayne had made such a statement from the bench, in refusing to recuse himself?

A. In answer to the previous question I have stated what I heard myself, and I understood the question by you to be as to whether I had heard the statement from the bench by Judge Swayne.

Mr. THURSTON. No.

A. But I now state that Judge Paquet said that Judge Swayne had decided to retain jurisdiction there, to try the case, but he said nothing to me about the declaration as to the purchase.

Q. (By Mr. THURSTON.) Did you make any inquiry from Judge Paquet or anybody else as to whether or not Judge Swayne had any title or right or interest in block 91 before you brought that suit?

A. Judge Paquet told me that he had ascertained positively that this transaction had taken place.

Q. What transaction?

A. Between Mr. Edgar and Judge Swayne.

Q. What did he tell you it was?

A. A sale of the lot.

Q. From whom?

A. From Charles Edgar, of New York.

Q. To whom?

A. To the Judge, or his son.

Q. That is what Judge Paquet told you?

A. Yes, sir.

Q. Did he tell you that the Judge had made any statement about it?

A. He told me nothing.

Q. Do you mean to be understood as saying that your associate in consulting with you about bringing a suit against the Judge kept you in ignorance as to what the real facts were concerning the title and as to Judge Swayne's statement about it from the bench?

A. I can not say that he kept me in ignorance of anything. I can simply say that when I reached Pensacola on the 8th of the month he said nothing to me about Judge Swayne stating anything in reference to the purchase.

Q. For yourself personally, I understand you to state as a fact that you made no inquiry whatever through any source as to whether or not Judge Swayne had title or claimed right or interest in that block?

A. I did not. I was not able.

Q. You signed the præcipe in the suit against him?

A. I signed it, but I never have read it to this day.

Q. How long after you got out of court Saturday night was it before you had that paper ready to file—agreed upon the suit?

A. I was not present when it was prepared.

Q. Where was it prepared?

A. I could not tell you.

Q. I understand you on your direct examination to state that it was hurried up and served that night so as to get it in time for the rule day of the following month?

A. Yes, sir.

Q. That was the only reason for the hurry?

A. I stated another reason.

Q. What was that?

A. We wanted to have service upon Charles Swayne before he left the State.

Q. He had adjourned court until Monday morning?

A. Yes, sir.

Q. You expected him to be there?

A. Well, of course; certainly.

Q. Then why was that any reason for serving it late on Saturday night?

A. We intended to discontinue our suit, and he evidently would have left right away.

Q. He could not have got out of town without being served, could he?

A. Well, he might.

Q. That was the evening of the 9th of November?

A. Yes, sir.

Q. There were twenty-one more days in November? Is that right?

A. Yes, sir.

Q. Then whatever the first Monday in November might have been, there were at least twenty-one or two or three days between that night and the next rule day?

A. My understanding of the practice of the courts of Florida is that it requires that papers shall be served at least fifteen days before the next return day.

Q. On that statement, you had at least six days in which to serve it?

A. Certainly, if the judge had remained in town.

Q. As a matter of fact, Mr. Belden, you know, do you not, and so testified before the House committee, that the rule is ten days instead of fifteen?

A. Perhaps I am mistaken in that.

Q. Do you say that Judge Swayne had announced in your hearing that he expected to leave Pensacola as soon as he concluded that term of the court?

A. Yes, sir; on Saturday evening, the 9th.

Q. Do you not know that as a matter of fact Judge Swayne remained in Pensacola from the 1st of November till the early summer of 1902, and that he was not out of the State at any time during that period?

A. I am not aware of that fact.

Q. Do you not know that he was living there in a house furnished with his own furniture—keeping house at that time?

A. I am not aware of that.

Q. Were you present when Mr. Davis was employed as an attorney in your case?

A. Yes, sir.

Q. Where was it?

A. I think it was at the Park Hotel. It might have been in some other place.

Q. How long after court adjourned that evening, the 9th of November?

A. After we had concluded to discontinue the case, Judge Paquet having to leave for New Orleans, we requested Mr. Davis to go into the case with us.

Q. Had Davis been with you in the court room that afternoon?

A. I do not recollect whether he had or not.

Q. Had he not been sitting with you in court while the question of postponing the case was discussed?

A. He might have been there. I do not call it to mind.

Q. Had he not been consulting with you about it, making suggestions to you in open court?

A. I have no recollection of anything of the kind. I do not think so.

Q. When you employed Mr. Davis, you employed him both in the Florida McGuire case and the case you expected to bring against Judge Swayne?

A. No, sir.

Q. In which one?

A. He was never employed in the Florida McGuire case which was discontinued.

Q. He made the motion to discontinue it.

A. As a favor, as I have already stated, to Judge Paquet and myself. I could not. I could not address the court, and Judge Paquet was absent.

Q. Did he not enter his name of record as attorney in the case?

A. Not that I am aware of.

Q. Were you in court Monday morning when the case was dismissed?

A. Yes, sir; I was there.

Q. Was a written motion to dismiss filed?

A. Yes; a written motion.

Q. Was it not signed by yourself and Mr. Davis as attorneys for the plaintiff?

A. Mr. Davis signed it; yes, sir.

Q. And you knew it?

A. That he signed it? He signed it in my room; but it was as an accommodation to us simply. He was never employed.

Q. Mr. Davis was your accommodation lawyer?

A. Yes, sir; our accommodation lawyer, if you so term it.

Q. He was counsel, however, with you in the Florida McGuire case after it was recommenced.

A. After we brought the suit again in the Florida McGuire case he was counsel. Judge Paquet having left the case—no longer the attorney—I suggested to my clients that it would be better to have a local attorney there, and Mr. Davis was employed.

Q. Where did Judge Paquet and Davis go after they left the hotel that evening?

A. I could not tell that.

Q. Do you know if they went to Pryor's store to get up the papers?

A. I do not.

Q. You know who George W. Pryor is?

A. Certainly.

Q. One of your clients?

A. One of our clients in that case. I do not know where they prepared it. I heard them say it was prepared in the office of Mr. Jerry Sullivan, in Pensacola.

Q. Had you had any consultation with Mr. Davis before the bringing of that suit against Judge Swayne as to where the title in block 91 was?

A. I do not think I had.

Q. Was block 91 in the occupation of anybody?

A. I could not tell that.

Q. Did you not state on your examination before the committee of the House that so far as you knew it was vacant?

A. Well, I did. I heard that it was a vacant lot, and it is based on what I heard, not on what I know.

Q. Judge Swayne was not in possession of it?

A. I think he was constructively or we would not have brought the suit. Mr. Edgar claimed to have possession, and he being the successor to Mr. Edgar we thought he had possession.

Q. Then you thought Judge Swayne was the constructive owner and constructive possessor of the block?

A. Not the constructive owner. We believed from the evidence we had that he was the real owner.

Q. Did you ever follow up the bringing of that suit by filing a plea?

A. No, sir. We simply filed it, and the case was dropped, for the evident reason that had we proceeded we would have gone to jail again.

Q. In that case against Judge Swayne in the circuit court of Escambia County, did he afterwards come in with a sworn plea?

A. I do not know. I know nothing of it.

Q. Did he not in that case enter a sworn plea that he never was in possession of the block, never had or claimed any title, right, or interest in it.

Mr. Manager DE ARMOND. We think probably the plea itself would be the better evidence. Counsel is asking the witness about a particular plea.

Mr. THURSTON. I am asking the witness if the respondent in this case did not file a plea. If the witness does not know——

Mr. Manager DE ARMOND. And we are making the point upon that. Some things that Judge Swayne did swear to which we offered to introduce were excluded upon his objection, and we do not care to have his sworn statements proved in this way.

The PRESIDING OFFICER. The Presiding Officer understands the witness to say he does not know.

Mr. THURSTON. Then I can not pursue it any further. [To the witness.] When was notice served upon you—when was the citation served upon you, giving you notice of contempt proceedings against Mr. Paquet, Mr. Davis, and yourself?

A. I do not recollect any citation, but the charges and the rule were served on me late in the evening of the 11th of the month.

Q. I do not know myself what to call it, whether a citation or not, but a copy of the accusation against you and the rule to show cause were served on that Monday or Tuesday evening?

A. Monday.

Q. Monday evening, the 11th?

A. Yes; that is right; Monday evening, the 11th.

Q. You appeared in court the next morning?

A. The next morning at 10 o'clock.

Q. With Mr. Davis?

A. With Mr. Davis.

Q. Did you have an attorney?

A. We had not.

Q. Who acted on the other side as attorney?

A. The side of the prosecution you refer to?

Q. I say the other side from yours.

A. The other side from ours, Mr. W. A. Blount and William Fisher.

Q. Did either of them make a statement to the court?

A. I do not recollect whether they did or not. I think the case was argued—a short argument after the evidence was taken.

Q. Was the information, if I may call it so, filed against you by Mr. Blount read?

A. I do not recollect; likely it was.

Q. You knew, of course, what it was?

A. Oh, I had read it, of course.

Q. You filed an answer to it?

A. Yes, sir.

Q. Not under oath?

A. No; it was not under an oath. I do not think that the rule for contempt was sworn to, either.

Q. Did Mr. Blount call any witnesses?

A. Yes, sir.

Q. They were sworn and examined?

A. Sworn and examined.

Q. Did either you or Mr. Davis cross-examine them?

A. I know I did not. I could not. Perhaps Mr. Davis did.

Q. Did either of you interpose any objection to any of the testimony that was taken?

A. I do not think we did.

Q. When Mr. Blount closed his testimony, did either you or Mr. Davis call any witnesses?

A. I do not think we did.

Q. Did you offer to do so?

A. I do not think we even offered to do so.

Q. Or ask to do so?

A. I do not think we were asked to do so, either.

Q. But did you ask the privilege of doing so?

A. No, sir.

Q. Did you offer yourself as a witness in your own behalf?

A. I did not.

Q. Did Mr. Davis?

A. He did not.

Q. Then, Mr. Belden, these facts of what you did outside of that court and as to your motives and the honesty of your purpose in doing them were never brought to the attention of Judge Swayne on the hearing of the proceeding for contempt, were they?

A. Never. Under no circumstances would I have gone to him.

Q. And having the privilege of calling witnesses, of testifying in your own behalf, you preferred to let that case rest before him upon the showing made by the other side, and declined to interpose any testimony against it? I am asking you for the fact.

A. I am going to state it. We brought that suit against Judge Swayne—that is, Charles Swayne—the same as we had brought it against the humblest citizen, believing that Judge Swayne was amply as able to defend the case as any other litigant; and it could not, under any circumstances, operate as an injury to him. We felt that the law justified us. We felt that our professional duty to our clients required the suit. We felt that it was to the interest of Judge Swayne himself to clear up the question as to the purchase of the land then in litigation before him. There was nothing done by the attorneys intended in any manner to injure Judge Swayne. In defending ourselves under the rules for contempt it was one of those cases in which the rule itself, coupled with the knowledge that Judge Swayne had of the facts, showed evidently that he himself must have been aware that there was no ground for contempt, and that the record then being tried, with the return or answer we had made to the rule, justified our discharge instantly.

Q. Well, Mr. Belden, you have volunteered all that statement, entirely irresponsive to my question, and I have not objected to it. I should like to have my question repeated now and have it answered. I am asking for facts, and you may volunteer all the reasons you wish. I have no desire to hinder you.

The PRESIDING OFFICER. The Reporter will read the last question.

The Reporter read as follows:

Q. And having the privilege of calling witnesses, of testifying in your own behalf, you preferred to let that case rest before him upon the showing made by the other side, and declined to interpose any testimony against it? I am asking you for the fact.

Q. (By Mr. THURSTON.) Is that a true statement?

A. Now, let me hear my answer.

The Reporter read as follows:

A. I am going to state it. We brought that suit against Judge Swayne—that is, Charles Swayne—the same as we had brought it against the humblest citizen, believing that Judge Swayne was amply as able to defend the case as any other litigant; and it could not, under any circumstances, operate as an injury to him. We felt that the law justified us. We thought that our professional duty to our clients required the suit. We felt that it was to the interest of Judge Swayne himself to clear up the question as to the purchase of the land then in litigation before him. There was nothing done by the attorneys intended in any manner to injure Judge Swayne. In defending ourselves under the rules for contempt, it was one of those cases in which the rule itself, coupled with the knowledge that Judge Swayne had of the facts, showed evidently that he himself must have been aware that there was no ground for contempt, and that the record then being tried, with the return or answer we had made to the rule, justified our discharge instantly.

Q. (By Mr. THURSTON.) I will, in substance, repeat my question, and I should like to have the witness make an answer to my question, now that he has made his voluntary statement. (To the witness.) Then it is true, is it not, Mr. Belden, that having an opportunity when called before Judge Swayne to produce witnesses, to show all the outside facts that you have testified to here, to testify yourself, to show that you had no malice or animosity, and did not intend to violate your duty as an attorney—it is still true, is it not, that both Mr. Davis and yourself sat dumb and mute and made no answer except an unsworn one in writing?

Mr. Manager DE ARMOND. I believe I will interpose an objection to that question as being an argument. The gentleman understands how to ask questions, and later on it will be time to make an argument.

Mr. THURSTON. I just heard one from the witness, and I did not know but that I could follow it.

Mr. Manager DE ARMOND. The answer to the question was no more argumentative than the question to which it was an answer. I think myself this is a cross-examination.

Mr. THURSTON. I think it is a cross-examination, Mr. President.

The PRESIDING OFFICER. Does the manager insist upon his objection?

Mr. Manager DE ARMOND. No, sir; I do not care to insist upon it, but it seems to me a very bad way to put arguments as questions.

The PRESIDING OFFICER. The Presiding Officer thinks the question might have been made shorter and more direct. The witness will answer.

Mr. THURSTON. I will withdraw that question. I will ask it shorter and more direct. [To the witness.] Then it is true, is it not, that having just the same chance you had here, you did not take the witness stand in your own behalf; you did not call any witnesses?

A. We did not deem it necessary.

Q. (By Mr. THURSTON.) And Judge Swayne, in deciding your case, did not have before him any of these outside facts relating to your outside actions and motives to which you have testified here, did he?

A. I do not know whether he had or not.

Q. Neither you nor Davis presented them to him, did you?

A. I did not.

Q. Did Davis?

A. I do not know whether he did or not.

Q. I mean in court, when you were there?

A. In court, no, sir; there was no discussion whatever of the facts.

Q. Where was Judge Paquet, your associate, during those contempt proceedings?

A. Well, he was in New Orleans; so I understood.

Q. During that contempt hearing was reference made in any way to the identification of the original newspaper article that was published on Sunday morning following the bringing of your suit against the judge?

A. I read the article complained of by Judge Swayne on Sunday morning.

Q. Was the original manuscript of that article presented there in court on the trial of the contempt proceeding?

A. I do not know whether it was the original or not. They had a paper there that purported to be the report that appeared in the newspaper.

Q. And was or was not testimony introduced there to show that that was the paper sent from Pryor's store to the newspaper office for publication?

A. There was evidence, and that was most of the evidence introduced in the case.

Q. Were you shown that paper in court at that time by Mr. W. A. Blount?

A. Yes, sir.

Q. Did he ask you as to whether or not it was in your handwriting? Look at it now. [Handing paper.]

A. (Examining paper.) Yes, sir.

Q. What did you tell him?

A. I told him it was not.

Q. Did he ask you if it was in Judge Paquet's handwriting?

A. I do not recollect whether he did or not. Perhaps he did.

Q. And did you not answer him that you thought it was in Judge Paquet's handwriting?

A. Perhaps I did.

Q. Look at it now, Mr. Belden.

The WITNESS (examining). This is not my handwriting, and it does not resemble it in any way.

Q. Is that Judge Paquet's handwriting?

A. I can not say that it is.

Q. What is your best judgment?

A. My best judgment is that it is not.

Q. This contempt proceeding was brought jointly against you, Davis, and Paquet, was it not?

A. Yes, sir.

Q. At the time you have spoken of it was only tried as to Davis and yourself?

A. Yes, sir.

Q. Further proceedings were thereafter had in that case against your associate, Mr. Paquet, were they not?

A. Other proceedings were had later on.

Q. And those resulted in his making and filing a written apology, did they not?

Mr. Manager DE ARMOND. Mr. President, we are about to object to that. There is a better way of proving that, if it is true, and then it has nothing to do with the case, anyhow. There is no proceeding against Judge Swayne here regarding what he did or did not do with respect to Judge Paquet, and even if it is important to ask what he did or did not, or why he did or did not do it, there is a better way of showing it.

Mr. THURSTON. I offered it as a part of the res gestæ.

The PRESIDING OFFICER. The Presiding Officer does not see how that is a part of the cross-examination of this witness upon anything he said.

Mr. THURSTON. That, perhaps, is true.

The PRESIDING OFFICER. It may become admissible when counsel for the respondent take up the case. The Presiding Officer does not see how it is cross-examination.

Q. (By Mr. THURSTON.) Did you not testify before the committee of the House, during the time you testified there and which has been referred to, in answer to the following question:

Don't you know at the time of the bringing of the suit neither Judge Swayne nor his wife claimed any interest?

Did you not answer?

Well, we had an understanding from the reports of the agent and Mr. Edgar that the Judge had purchased the land, and when we learned that suit was pending in the county judge's court against Edgar that revealed the fact that the sale had been made to Mrs. Lydia C. Swayne.

Did you swear to that?

A. Yes, sir; that is correct.

Q. Did you know those facts before you brought that suit?

A. I did not.

Q. I mean, did you know at the time you brought the suit what you have sworn to here that you knew?

A. At the time I brought the suit we knew nothing about the suit to recover the commission.

Q. You had not heard of that at that time?

A. At the time we brought the suit we had not heard of that.

Q. Had you heard any reports from the agent for the land that Judge Swayne had bought?

A. Not myself personally. Judge Paquet told me he had had a conference with them.

Q. What did he say they said?

A. That they had sold it.

Q. To whom?

A. Judge Swayne.

Q. Who did he say told him that?

A. I do not recollect.

Q. Was it Mr. Hooten, who testified here the other day—the agent who had the transaction?

A. Well, I do not recollect.

Q. Did you prepare and sign and file a paper in the circuit court of the United States for the northern district of Florida on or about March 17, 1902, in the case rebrought of Florida McGuire in ejectment for the tract of land involved in the old suit? Did you file any paper?

A. I could not tell. Let me see; I will tell you.

Q. (Handing paper to witness.) I ask you to examine that. State if yourself and associate attorneys prepared and filed that paper.

A. (Examining.) Yes, sir; we filed that petition.

Mr. THURSTON. In view of the ruling of the Presiding Officer, I will ask to have this paper identified, and we will offer it when it comes our turn.

Mr. Manager DE ARMOND. Of course we will then see if there is any objection to it.

[The paper was marked "Respondent's Exhibit No. 2."]

Q. (By Mr. THURSTON.) I believe you have already stated that you made no effort to prosecute the case you brought in the circuit court of Escambia County against Judge Swayne?

A. None whatever. We were afraid of contempt proceedings again.

Q. Was that the same reason why you did not join him or his wife in the suit when you brought it in favor of Florida McGuire against the other defendants?

A. Well, that was the reason at the time. I left Pensacola and have not paid attention to it since.

Q. And you mean to be understood, do you, Judge Belden, that you failed to take any steps to prosecute the case you brought against Judge Swayne because you were afraid of further contempt proceedings? Is that true?

A. That is true, sir.

Mr. THURSTON. That is all.

Reexamined by Mr. Manager DE ARMOND:

Q. You have been asked about not introducing any testimony on the contempt proceeding. I will ask you whether the testimony offered upon the other side was directed to anything except the fact of the bringing of the suit against Judge Swayne, the suing out of process and service of it, and the matters in relation to this article published in the newspaper?

A. That was all.

Q. I ask whether there was any denial upon your part or any effort at evasion about the matter whether you had brought suit and had had service upon Judge Swayne?

A. None whatever; on the contrary, we acknowledged the bringing of the suit, and that we had a right so to do.

Q. Then there was nothing to offer in the way of testimony upon that matter?

A. Nothing whatever, I should think, on either side.

Q. Now, then, as to the matter of that newspaper article. I understood you to say that you knew nothing whatever about it, and that you so stated during the hearing of these contempt proceedings?

A. Yes, sir.

Q. And that Mr. Davis made a similar statement concerning himself?

A. I heard it; yes, sir.

Q. In the court during the contempt proceedings?

A. Yes, sir.

Q. I will ask you whether there was anything else offered in testimony by those supporting the complaint against you than these two matters?

A. Nothing whatever.

Q. Then I will ask you whether there was anything upon which testimony could have borne in the matter brought out against you?

Mr. THURSTON. We object to that, Mr. President.

The PRESIDING OFFICER. In that form the question is hardly admissible.

Mr. Manager DE ARMOND. Very well.

The PRESIDING OFFICER. The witness might be asked if

he supposed there was anything which was important which was overlooked.

Mr. Manager DE ARMOND. I will put the question in that way. Was it your understanding or belief that there was any point made in the testimony against you to be met by testimony for you?

A. That was my belief, and I think it to be a fact.

Q. That there was not?

A. None. I would state that, in so far as that publication is concerned—which perhaps I have stated heretofore—I knew nothing of the publication either directly or indirectly, and I first heard of it when I bought a paper the following morning and read it.

Q. Was there any testimony offered about Judge Swayne's statements or Judge Swayne's connection with this transaction showing knowledge upon your part of anything?

A. None whatever. Mr. Blount came to me and had me read the paper that has been submitted here. I told him it was not my writing; that I knew nothing of it.

Q. That was the Mr. Blount who was prosecuting this proceeding?

A. Yes, sir.

Q. And the paper referred to is that which it is alleged had appeared in the newspaper?

A. That was the manuscript of the newspaper article.

Q. State whether or not there was any testimony whatever offered tending to show that in the bringing of the suit, or in anything else that you or Mr. Davis or Judge Paquet had done, there was any contempt of court or any improper treatment of the Judge, or anything out of the line of the proper duty of an attorney.

A. Not the slightest.

Q. You were asked when you were upon the stand before some question about whether or not in this whole Florida McGuire case, or in this proceeding about this land, there had not been an effort made to get other judges off the bench. I wish you would explain to the court, if you please, what there was in the way of objection to other judges.

A. I have no knowledge of any application for a recusation of any Federal judge until Judge Swayne——

Q. What was there about the objections to State judges on former proceedings concerning this matter?

A. I was asked in reference to some proceedings that Judge Maxwell, of the circuit court, had——

Q. That is the State circuit court?

A. The State circuit court, yes, sir; and also before Judge McClellan.

Q. Now, what were the points of objection to those judges?

A. I do not think in limine there was any objection at all. The objection was that they were disqualified by reason of relationship to the plaintiffs in the case, but this objection was not urged until long after the case was decided, when they first discovered that they were disqualified.

Q. State whether or not these questions are in the Florida McGuire case as it is in court now.

A. I would state that I understand the Senate has the record in the McGuire case, and it is all fully set forth there. It is necessary, however, to state further that proceedings were taken in 1900, I think, in the circuit court at Jacksonville, the circuit judge here recusing himself, and the circuit judge at that time being the son of Judge Maxwell, who rendered the judgment.

Q. Is that the circuit judge of the State court?

A. The State circuit judge—that is, the son succeeded the father.

Q. You stated that the objection was to the relationship of these judges to some of the parties plaintiff?

A. Yes, sir. The revised statutes of the State of Florida, in reference to disqualification, disqualify a judge from presiding in a case if he is related either by consanguinity or affinity; and both of these judges were related to their respective brothers-in-law.

Q. Were the parties plaintiff in those proceedings, Florida McGuire, or those associated with her, or those who were in the other proceedings—the proceedings with which you were connected—defendants?

A. Yes, sir.

Q. Well, I do not understand. Were those who are plaintiffs in the present Florida McGuire suit the plaintiffs in that suit, or were those who are now defendants in the Florida McGuire suit the plaintiffs in the old State suits?

A. Yes, sir. I understand you now. The plaintiffs in the present Florida McGuire case are plaintiffs in a suit that they never have been parties to in any litigation heretofore. They were not defendants in that suit before Judge McClellan, and have had nothing to do with any of the litigation that has been carried on here.

Q. How about those upon the other side in the Florida McGuire case? Were they plaintiffs in those proceedings in the State courts?

A. Please state that again?

Q. I ask you about those on the other side of the Florida McGuire case. Were they the plaintiffs in the proceedings in the State court where these judges were disqualified by reason of relationship?

A. Yes, sir; they were plaintiffs.

Q. How did these plaintiffs get such possession as they may have had of this tract—I mean those who are defendants now, and were plaintiffs then?

A. They got possession in the proceedings through the judgment rendered by Judge McClellan.

Q. Was that an injunction proceeding?

A. It was an injunction proceeding, and the heirs and those holding under them were ejected by this process of injunction. One of them was sent to jail for contempt—the eldest heir to the tract.

Q. If I understand you, then, such possession as the defendants in the Florida McGuire case may have they acquired by the novel process of injunction?

A. That is correct?

Q. You stated, I believe, that you went to Florida in 1884?

A. Yes, sir.

Q. To look into this case? Just state about that. You went over there to look into this matter in 1884; you went to Florida?

A. I went to Florida in 1884.

Q. About how long were you there?

A. I remained a year.

Q. Looking into this matter?

A. My business was to look after the title to this same property. Of course, I was not occupied a whole year in the case. It was the year that Mr. Blaine was a candidate for President, and I canvassed most of the State for him. I did so at his request, as I was personally acquainted with him.

Q. The case of Florida McGuire was instituted again in the court and tried before Judge Swayne?

A. Yes, sir.

Q. Was there an effort made at that time to get the Judge to recuse himself?

A. Yes, sir.

Q. A petition filed for that purpose?

A. A petition was filed for that purpose.

Q. State to the court the reception and disposition of that petition.

A. The petition was prepared by Mr. Wilkinson, who was temporarily in this case; that is to say, in the Florida McGuire case. Mr. Wilkinson met me in Pensacola, and we drew the petition up. He presented the petition to Judge Swayne, who ordered it to be filed. A very short time after that, perhaps an hour, he called the petition up, declined to recuse himself, and refused to allow us to introduce any evidence to show the purchase of the property. We had petitioned that privilege in our petition.

Q. You had asked to be permitted to make a showing as to the judge's interest and disqualification?

A. Yes, sir. He denied us that right.

Q. He allowed you to file it?

A. He allowed us to file it, but would not allow us to make proof.

Q. He allowed you to file your petition, but did not allow you to sustain your allegations of it by proof or to offer proof for that purpose?

A. That is correct. I think it was a day or two days after, however, that the judge had filed an ex parte statement in his own behalf.

Q. Then, the only evidence taken was that which the judge took after he had disposed of the matter, apparently to sustain the disposition that he had made?

A. Yes.

Q. What was done with you when you were sent off in charge of the marshal, or deputy marshal, after the sentence had been pronounced against you in the contempt proceedings?

A. Well, I was in the custody of Mr. McGourin, United States marshal, who turned me over to a United States deputy marshal, who turned me over to Mr. Smith, the sheriff of the county.

Q. What was done with you?

A. I was locked up in the jail.

Q. What part of the jail—in a cell or not?

Mr. THURSTON. Wait a moment. We interpose the same objection that we made the other day. Nothing that possibly happened in and about that jail or the manner or method of

the confinement of the witness could be chargeable to Judge Swayne.

Mr. Manager DE ARMOND. Mr. President, when the matter was up before what we were trying to show was the general condition of the jail and the general way in which the prisoners were handled or cared for there. Now I am asking simply a narrative. There was a sentence pronounced against this gentleman and Mr. Davis, and I am asking what was done in the carrying out of that sentence. I suppose, if the sentence had not been carried out at all, it would be competent for the respondent to show it, and I think it is certainly competent for us to show whether it was carried out and how it was carried out. I do not mean in the way of going into the details or description about the jail, but what was done with these men.

The PRESIDING OFFICER. Anything more than that they were imprisoned for a certain length of time?

Mr. Manager DE ARMOND. Well, I desire to show where they were put, where they were changed to—without going into the matter of details—and how long they were kept there.

Mr. HIGGINS. It has all been testified to.

Mr. Manager DE ARMOND. No; it has just been objected to.

The PRESIDING OFFICER (to the witness). Answer the question.

The WITNESS. We were taken into the jail and into that portion of it where the general prisoners were. There were a great many of them in the jail, which threw me directly into contact with them. Shortly after that——

Q. State whether you were locked up in a cell or were not.

A. We were locked up; yes, sir.

Q. In a cell?

A. Yes.

Q. About how long did you remain in the cell?

A. Well, not very long. The citizens of the town there called upon the sheriff and requested that he give us better accommodations than we had there. The weather was at the time very cold and I was paralyzed and could not have stood it where I was first put.

Q. How long did you remain there? Did you remain after the expiration of your sentence?

A. Yes, sir. The whole country was covered with ice and my eye was in a condition that I could not go into the atmosphere. I remained there two days with the sheriff after my time was up.

Q. About what is the value of this property at issue in the Florida McGuire case, roughly stated?

A. Well, it is a very hard and difficult thing to fix the value of property.

Q. I mean a general estimate of it.

A. With the title settled to it, I suppose it is worth over a million.

Mr. Manager DE ARMOND. I believe, Mr. President, that is all.

Reexamined by Mr. THURSTON:

Q. When you filed your petition in the rebrought Florida McGuire case in 1902 Judge Swayne in deciding it filed a written statement in the case, did he not?

A. I do not know; I could not tell you that.

Q. Did you not say that he had made a written statement?

A. No, sir; I do not think so. If I did, I made a mistake.

Q. Did not that case go from that court up to the circuit court of appeals?

A. Yes, sir.

Q. You examined the record?

A. I examined. The record was complete.

Q. You prosecuted the appeal?

A. Yes.

Q. And did not Judge Swayne's written statement go up as a part of the record in that appeal case?

A. It might. I have not noticed it.

Q. That case was affirmed by the circuit court of appeals, was it not?

A. Yes, sir; it was affirmed in a few lines, but without any reference whatever to the question as to Judge Swayne presented in that petition. It omitted entirely to pass upon that question.

Q. It was affirmed by the three judges of the circuit court of appeals of your circuit?

A. I think so; yes, sir.

Q. And as far as that circuit court of appeals is concerned, they found no error in the record?

A. Perhaps they stated it that way. I do not recollect the exact phraseology of their judgment or decree.

Q. One question I wish to ask you, Mr. Belden, as to your former testimony that I overlooked before. While a witness before the House committee at the time we have referred to, did you not state, in speaking as to the rumors that Judge Swayne had purchased block 91, as follows:

The rumors were so definite and of such form as to leave no doubt in the minds of counsel of the purchase. So the 19th day of October Judge Paquet and myself addressed a letter to Judge Swayne requesting him to recuse himself for the reason I have just stated, being a party at interest; to recuse himself and notify Judge Pardee, so he could assign a disinterested judge at the November term.

Did you not further state:

The November term I was sick—had an attack of facial paralysis—but our clients telegraphed me to come over, though I could not appear before the court. Later on, the 9th or 11th, he replied to our communication, in which he declined to recuse himself, and went on to state he had not purchased the land, that a relative of his had purchased the block of ground in question, and that he had got hold of the deed and returned the deed to the vendor of the deed. The vendor of the deed was C. H. Edgar, a party defendant in the suit in question, and he being a party defendant, made Judge Swayne a party defendant to him, as we supposed. He stated that the deed had been sent on to this relative at Guyencourt, and he returned it, as he had no interest whatever.

Did you not further say:

And we also learned that a suit had been brought by Watson & Co. *v.* Edgar for commissions due them by Edgar.

And did you not further say:

Now, upon that we brought suit against Judge Charles Swayne. The first thing we did in the morning, before any business was transacted, was to discontinue the suit.

Did you not make that statement before the House committee?

Mr. Manager OLMSTED. Is that a question?

Mr. Manager DE ARMOND. I suggest that if counsel for the respondent wish to examine the witness fairly, they ought hardly to read as much as a page from different parts of a book and ask for an answer "yes" or "no." I do not suppose anybody could keep connected in his mind all those several questions, and answer them "yes" or "no."

The PRESIDING OFFICER. If the witness states that he can not answer so long a question, it can be divided.

A. The first and second questions I think I can answer. Perhaps the third I will ask to have restated. The statement as to the 19th of October being the date of the letter to Judge Swayne is an error. It was written in August; I think August 5. In regard to the second question about bringing the suit, it is an error in stating that we had before us the judgment, or rather the suit of Watson & Co. *v.* Charles Edgar. We had the other information I referred to, but not that. Now, as to the third question you asked me about——

Q. (By Mr. THURSTON). Did you not further state, referring to what you have just stated:

Now, upon that we brought suit against Judge Charles Swayne?

A. Yes, sir; but I desire to state, in connection with that, that the suit against Charles Edgar by Watson & Co. was a suit to recover their commission for the sale of the property, and that that suit was pending before the circuit court of the United States at the fall term, and was evidently known to Judge Swayne.

Q. You informed yourself about that suit, did you?

A. We finally found out about it accidentally.

Q. That suit was one of the foundation facts upon which you thought you were justified in suing Charles Swayne for the title of this property?

A. Well, certainly.

Q. Is it not a fact that that suit was brought against Edgar to recover fees claimed to have been earned, and that Edgar was a nonresident, and the only jurisdiction they got in the case was to attach block 91 as Edgar's property?

A. I know nothing of those facts.

Mr. THURSTON. That is all.

Mr. McLAURIN. Mr. President, I desire to propound a question.

The PRESIDING OFFICER. The Senator from Mississippi propounds a question, which will be read by the Secretary.

The Secretary read as follows:

Q. Was any evidence offered in the contempt proceedings by the prosecutors of the rule upon you for contempt tending to show that you or Mr. Davis had anything to do with the writing of the newspaper article?

A. Not one word.

Mr. BACON. I desire to propound a question to the witness.

The PRESIDING OFFICER. The Senator from Georgia propounds a question, which will be read by the Secretary.

The Secretary read as follows:

Q. Did you, in bringing the suit against Judge Swayne in the State court, design and intend thereby to compel him to recuse himself on the trial of the case then pending in the Federal court?

A. Of course not; no lawyer in the United States who has any sense would have taken that course.

Reexamined by Mr. Manager DE ARMOND:

Q. Was Watson a defendant in the Florida McGuire case?

A. Yes, sir.

Q. Was there a case of Larvalette tried before Judge Swayne sometime before these transactions, in which the same matter necessarily would be gone over as to the ownership and the claims of title to this land, including block 91?

A. The same; yes, sir.

Q. The claim of Larvalette was practically the same as that of McGuire?

A. They are brother and sister.

Q. They claimed through the same source of title?

A. Yes, sir; the same source.

Q. And Judge Swayne, before this transaction with relation to the purchase of block 91, had tried that case?

A. He had tried that case.

The PRESIDING OFFICER. Is that all?

Mr. Manager DE ARMOND. Yes, sir.

Mr. NELSON. I desire to propound a question.

The PRESIDING OFFICER. The Senator from Minnesota propounds a question, which will be read.

The Secretary read as follows:

Q. How long before you wrote Judge Swayne to recuse himself was the suit of Florida McGuire commenced in his court?

A. The January previous.

The PRESIDING OFFICER. Are there any further witnesses on behalf of the managers?

Mr. Manager DE ARMOND. Yes, sir; have Mr. Murphy called.

Michael Murphy sworn and examined.

By Mr. Manager DE ARMOND:

Question. Where do you reside?

Answer. Pensacola, Fla.

Q. What office did you hold in Pensacola or in Escambia County in November, 1901?

A. Deputy sheriff, sir.

Q. State whether or not you were in charge of the jail when General Belden and Mr. Davis were brought there by the United States marshal or deputy marshal.

A. Yes, sir; I was in charge of the jail.

Q. Was there a commitment brought with them?

A. To the best of my knowledge, yes, sir.

Q. State what you did with them.

A. I——

Mr. THURSTON. One moment. We object to this. We did not insist very hard on our right to this objection while Mr. Belden was testifying, but it is certain that what took place in that jail, its condition, the way the prisoners slept, the way they were fed, the way they were treated, could not be used to prejudice the court against Judge Swayne unless they first laid the foundation for it by showing that he was responsible for it or directed it.

The PRESIDING OFFICER. That was the opinion of the Presiding Officer on a former day, but the questions which were asked Mr. Belden were allowed on the ground that they were a narrative of what occurred. The Presiding Officer does not think that evidence showing that the condition of the jail was an improper one is admissible unless it be shown that it was known to Judge Swayne and that that was part of his motive in committing them there.

Mr. Manager DE ARMOND. I was not going to ask the witness about the general condition of the jail. I was going to ask questions practically the same as those asked General Belden; about what was done with them.

The PRESIDING OFFICER. What is the purpose of the questions?

Mr. Manager DE ARMOND. To show the punishment they endured.

The PRESIDING OFFICER. Unless there is something unusual in the character of the jail, which was known to Judge Swayne, the Presiding Officer thinks the evidence is inadmissible.

Mr. Manager DE ARMOND. Of course, we could show it was the jail to which Federal prisoners were ordinarily sent. It is only upon that point we wish to examine the witness. If the court excludes it, of course I will not take further time.

The PRESIDING OFFICER. The Presiding Officer thinks it is inadmissible.

Mr. Manager DE ARMOND. I will have Mr. Davis recalled. We have another witness in regard to the same matter, but I will not call him. You are excused, Mr. Murphy.

Elza T. Davis recalled.

Examined by Mr. Manager DE ARMOND:

Question. State to the court whether in the hearing of the contempt proceedings against you in Judge Swayne's court your attention was called by the judge to a paper purporting to be the original manuscript copy of what had been published in a newspaper in Pensacola.

Answer. Yes, sir; he held the paper up in his hand, and he called me to the bench. He says, "Mr. Davis, will you swear that you did not write this paper?" I replied to him, "I solemnly do," and laid the paper down upon the bench like that [indicating].

Q. That was during the hearing?

A. Yes, sir.

Q. State whether or not there was any testimony in that hearing, offered by Mr. Blount or those looking after the prosecution, upon any point except as to the bringing of the suit in the State court and the service of process and as to that article which is said to have appeared in the newspaper.

A. None that I remember.

Q. Was there any testimony offered to show or tending to show anything about what you and Mr. Belden, or either of you, knew about any declaration made by the Judge respecting his interest or the interest of any member of his family in the property?

A. None at all.

Q. Was there any testimony offered showing or tending to show anything done by you gentlemen with the intention of obstructing process or interfering with the work of the court or bringing reproach upon Judge Swayne?

A. Nothing whatever.

Q. The testimony related to those two points?

A. Yes, sir.

Q. Did it relate to anything else whatever?

A. Nothing whatever.

Q. And the testimony you offered was to show that Mr. Blount and Mr. Fisher were attorneys and parties in the Florida McGuire case?

A. Yes, sir.

Q. Is this the same Mr. Fisher who was appointed receiver when possession was obtained by those who are now the defendants in the injunction proceeding?

A. The same one.

Q. State whether or not Mr. Fisher gave a bond as receiver or whether he operated without it.

Mr. THURSTON. We certainly object to that question. It is entirely irrelevant and immaterial.

The PRESIDING OFFICER. What was the question?

Mr. Manager DE ARMOND. Whether Mr. Fisher gave a bond as receiver in the proceedings in which, by injunction, those who are now defendants in the Florida McGuire case obtained possession of the property in dispute.

Mr. THURSTON. Counsel is asking now about Fisher, an attorney, who was associated with Mr. Blount, in presenting before the court the contempt case against Mr. Davis and Mr. Belden. He is offering to show in some way—I do not know how—that Fisher at some other time and in some other place has done something that would reflect upon him. I can not conceive of any other purpose; I do not think that can be done. It has no relevancy to this case. There is no charge of any kind made here against Mr. Fisher. He is not a witness in the case. The propriety of the proceedings in that matter before the court has not been questioned. How can he be attacked collaterally here in his absence? This ought not to be a general attack. It ought to be confined to those who are before the court.

Mr. Manager DE ARMOND. Mr. President, it has been shown that Mr. Fisher and Mr. Blount were parties defendant and attorneys for other parties in the Florida McGuire case. It has also been shown, brought out originally by the cross-examination of the gentlemen on the other side when General Belden was upon the stand, that Mr. Fisher was appointed receiver when those who are now defendants in the Florida McGuire case were plaintiffs in the State court and by means of an injunction obtained possession of the property in dispute. All I am asking this witness, and that to which counsel objects, is whether William Fisher gave a bond as receiver in that proceeding. That is the matter submitted to the court.

The PRESIDING OFFICER. The Presiding Officer does not see how it is material.

Mr. Manager DE ARMOND. Very well. I will not pursue it any further. The object was to show the relation and connection of Mr. Fisher and Mr. Blount to these proceedings. [To counsel for respondent.] Cross-examine, gentlemen.

No cross-examination.

The PRESIDING OFFICER. Are there any more witnesses on behalf of the managers?

Mr. Manager DE ARMOND. I suppose it is proper to introduce in evidence the statutes of the State, and I wish to introduce in evidence sections 967 to 970 on the subject of the dis-

qualification of judges, and sections 1511, 1512, and 1513 of the Florida Revised Statutes (1892) upon the subject of ejectment I will ask the Secretary to read them.

The PRESIDING OFFICER. Does the manager desire to have the sections read?

Mr. Manager DE ARMOND. Yes, sir. It will take but little time.

The Secretary read as follows:

ARTICLE I.

DISQUALIFICATION OF JUDGES.

967. *What are disqualifications.*—No judge of any court shall sit or preside in any cause to which he is a party or in which he is interested, or in which he would be excluded from being a juror by reason of interest, consanguinity or affinity to either of the parties, nor shall he entertain any motion in the cause other than to have the same tried by a qualified tribunal.

968. *What are not disqualifications.*—No judge shall be disqualified from sitting in the trial of any suit in which any county or municipal corporation is a party, by reason that such judge is a resident or taxpayer within such county or municipal corporation.

969. *Retirement of disqualified judge.*—The judge so disqualified shall retire of his own motion and without waiting for an application to that effect.

970. *Effect of the action.*—Any and all judgments, decrees, and orders, except an order for the trial of the cause as hereinbefore provided, made by a judge so disqualified shall be of no force or validity, and shall be null and void.

EJECTMENT.

1511. *Common-law action abolished.*—In actions of ejectment it shall not be necessary to have any fictitious parties to the suit, but the party plaintiff may bring his suit directly against the party in possession or the one claiming adversely.

1512. *Summons.*—The ordinary writ of summons may be issued in all suits in ejectment in this State, and in no case shall it be necessary to serve a copy of the declaration in such suits upon the defendant therein.

1513. *Pleadings*—1. *Declaration.*—The declaration shall only contain a plain statement of the cause of action to entitle the plaintiff to recover the land in controversy, together with mesne profits. It may be in the following form, to wit:

"In the circuit court of Florida, ——— circuit, ——— county, to wit:

"A B, by his attorney, sues C D in an action of ejectment: Because the defendant is in possession of a certain tract or parcel of land situate, lying, and being in said county, known and described as follows, to wit [here describe the land], containing about ——— acres, to which said plaintiff claims title; and the defendant has received the profits of said land since the — day of ———, A. D. ———, of the yearly value of ——— dollars, and refuses to deliver possession of said land to the said plaintiff or to pay him the profits thereof."

2. *Plea.*—The plea of "not guilty" shall put in issue the title of said land in controversy. Such plea shall be held to admit the possession of the defendant, or, in case of an adverse claimant, the adverse claim of the defendant. Should the defendant wish to deny possession it shall be done by special plea.

Mr. Manager OLMSTED. Mr. President, that is our case.

The PRESIDING OFFICER. Are counsel for respondent ready to proceed?

Mr. HIGGINS. Yes, sir. Shall I proceed? I suppose I will go on until the hour of adjournment, at 5 o'clock.

The PRESIDING OFFICER. Perhaps the Senate will sit longer than 5. The Presiding Officer can not determine that.

Mr. HIGGINS. Mr. President, leaving out of the reckoning——

The PRESIDING OFFICER. If the counsel will pause for a moment, how much time will counsel probably occupy in his opening argument?

Mr. HIGGINS. I have some matters reduced to writing, but I can not confine myself to them entirely. I can not tell whether I will take one hour or two or three hours.

The PRESIDING OFFICER. But the counsel thinks at least an hour?

Mr. HIGGINS. Oh, at least an hour.

The PRESIDING OFFICER. Very well.

Mr. HIGGINS. Mr. President, leaving out of the reckoning the trial of Judge Humphries, which occurred in his absence and under the anomalous conditions of the civil war, it is seventy-five years since a Federal judge was impeached for alleged misconduct in the discharge of his official duty.

During that long period "the sword of the Constitution," as it has well been called, has not been unsheathed.

On behalf of the respondent we rest in confidence that in the present instance it has been unsheathed most improvidently.

I say this in view of the evidence laid before the court by the learned managers, and in view of the further evidence it will be our duty to submit on behalf of the respondent.

As to the contempt cases, we think it already appears that flagrant contempts were committed by Davis and Belden in the one case and by O'Neal in the other.

That Judge Swayne had jurisdiction within the terms and limitations of the act of 1831, section 725, Revised Statutes.

That the sentence he imposed was both moderate and just and without any evidence of malice, but simply in the discharge of a duty which he could not escape.

The other three charges it is difficult properly to characterize and maintain the moderation of language due to this court.

We deem them not impeachable high crimes and misdemeanors within the meaning of the Constitution of the United States, and on the facts and law without merit.

But whatever may be the proper view to take of the merits of these articles and of the evidence in support of them, there can be no uncertainty as to the importance of this case in other respects.

The respondent, because of the judgment he pronounced in criminal charges against three men, is by a prosecution of their instigation himself brought from the judgment seat of his own court and placed at the dock of yours.

If convicted it drives him from office. It ends his judicial career. It shuts him off from his retiring pension. It disqualifies him from other offices of honor. It destroys his life.

To accomplish this this court has been convened. The vast interests of a mighty nation in the closing hours of the short session of Congress are held up while the diminutive issues of this contention are thrashed out as in a law court.

But behind both respondent and court stand another body of men, whose interest in this impeachment and its outcome raise it to an importance and dignity worthy of the character of this august tribunal.

It is the Federal judiciary—the coordinate branch of the Government, the keystone of the Federal arch; at once the most powerful and the most helpless.

Shall their weapon of defense, on which rests their independence and their freedom of deliberation from force, be stricken down, and that from a quarter where they are individually helpless, except in the justice of their cause and the lofty character of their judges?

Shall they be stricken down by the Legislature through the process of impeachment?

Through them you touch the acutest interest of the American people.

You assail the balance of the Constitution. You touch its nerve center and tenderest point.

Here this cause rises to its highest dignity, to its supreme importance, and challenges the anxious attention of intelligent and thoughtful American citizens of whatever walk in life.

I shall first ask the attention of the court to the articles in the reverse order in which they have been presented, and that is to the contempt cases, and, following the course taken by the learned manager who opened the case on the other side, I shall ask the attention of the court in the first instance to the Davis and Belden case. It is to be said of it, as of the O'Neal case, that the question before the court is not whether O'Neal in the one case and Davis and Belden in the other were rightly adjudged guilty of contempt and sentenced to punishment, but it is whether Judge Swayne's conduct in rendering said judgments was both so lacking in jurisdiction and so malicious that he is amenable to impeachment therefor.

DAVIS AND BELDEN.

These four articles, 8, 9, 10, and 11, I will endeavor to treat together, as it has already been made apparent by the evidence that they relate to but one transaction, known and described as the Davis-Belden contempt case.

I will treat the question from two standpoints. First, that the adjudication of contempt against these two attorneys was within the terms of section 725 of the Revised Statutes and a just one. That the sentence, although exceeding the law, was not imposed through malice, and hence no impeachable offense has been made out by the House managers. Second, that whether or no the allegations and proofs bring the case within the true intent and meaning of section 725 of the Revised Statutes of the United States it was within the jurisdiction of the respondent, sitting as a judge in this cause, to try and determine that very question, and a wrongful determination thereof was a judicial act for which he is not impeachable, unless he be so held from a corrupt or malicious intent, which intent is wholly lacking in this cause, and can not be presumed from the fact that in imposing sentence he, through ignorance of the statute and its provisions, exceeded the law.

STATEMENT OF FACTS.

Before I ask the Secretary to read the motion and answer in this case I beg to submit certain preliminary observations.

First. There was no difficulty in these lawyers raising and having adjudicated their claim that the judge should decline to sit in the case, or as they seem to term it in the southern circuit of this country, to "recuse" himself, a phrase, I believe, drawn from the civil law.

All they had to do, and what they should have done, was to present to the court a petition or affidavit alleging their facts and praying or moving that he recuse himself.

If he should refuse their prayer or motion, they would then

have their case upon the record, and could have their question reviewed upon a writ of error.

Everything then would have been done decently and in order.

More than that, Mr. President, they were not only parties to the case who were interested in the question as to whether the judge should recuse himself or not because of his self-interest. That affected the defendants as acutely as it affected the plaintiffs, and whether the defendants did or did not want him to sit was a question in which they were concerned as much and as well as the plaintiffs, and they were entitled to be heard upon that question. And yet by the course taken by these gentlemen they gave the defendants to that suit no opportunity to be heard upon it, for they began it by the improper—I do not accuse them of any gross impropriety—but the improper way of bringing the subject to the attention of the court.

The great principle, Mr. President, is, as every lawyer knows, that the court does not move; it is moved; and a letter to a judge on the bench is no way to bring a question before him that is not ex parte, but which itself concerns both sides. So they ought to have taken this case by presenting their petition as they did when they renewed their suit. It ought to have been done so in the first instance, and in such case the defendants to the suit would have been before the court when the matter was determined, and the judge would have delivered his judgment, and that could be taken up on error, as has been done in the subsequent litigation between the same parties.

All this is made perfectly apparent and incontrovertible by the course they actually took when they renewed the suit at the next term.

Now, next, and I submit to the court most important, it is not open to dispute in this case that Judge Swayne never had any property in, title to, or ownership of block 91. The learned managers have closed their case without offering a scintilla of evidence of any title in him to that land.

Not only that, Mr. President, but up to the testimony of Mr. Belden in this cause here there has been nothing in the record which showed that either Davis or Belden claimed that he had any interest in it.

Now, when I approach that phase of the matter I must at the outset interpose another preliminary observation, which goes without saying in this discussion and this adjudication, and that is that the case the Senate is trying is the one that was before Judge Swayne, the one that was made by these two lawyers there. What was the record that they made before him? They came in with their answer. In their answer they never claimed that the judge had any such title to the property. All they asserted was that Mrs. Swayne owned it, and when ruled to show cause why they should not be punished for contempt, all they alleged in justification was that the judge had said that there was in existence an uncanceled deed to her and nothing to him.

It was left, Mr. President, for the learned manager [Mr. Manager PALMER], whose absence I regret, for I want to say nothing behind his back, and I will not, that I would not say to his face—it was left for him to make the groundless and unjustifiable, and with all respect to this court, I submit the inexcusable insinuation that the judge had bought the property for himself, but took the title in Mrs. Swayne's name so that it could be concealed, and that in the face of the fact that in the very statement of these defendants in their answer as justifying their suit against him it is stated that he had alleged there was outstanding an uncanceled deed to her, the purchase to be paid for, as the answer says, by Mrs. Swayne out of her private fortune received in inheritance from her father.

I therefore start out, Mr. President, with my feet firm on the foundation of rock in this case that there never was, and is not, any title to Judge Swayne to that land, and there never was for a moment any title nor any reason why anybody thought there was any title in him.

It is equally clear, as a matter of law, that there was no title in Mrs. Swayne. What ground do they allege that would make title in her? A deed to her uncanceled.

Why, Mr. President, does not every tyro know—does it even come up to the measure of hornbook law—that it takes delivery to make a deed? It is not its writing; it is not its signing; it is not its sealing; it is not its being witnessed; it is not its being acknowledged. None of those make a deed. A deed is made by delivery, and only by delivery.

Now, where is it claimed or set up in this case by any evidence that Mrs. Swayne had any deed delivered to her, and what was the justification of these lawyers who complained? We think it was not fair that they were charged with being ignorant, but what justification was there for them in saying that there was title in Mrs. Swayne because there was an uncanceled deed to her, without there being any allegation that it ever was delivered to her?

Now, the learned managers have produced their own witnesses. They have made their own case. They had Mr. Hooten here. He conducted the transaction. They stand on his evidence, and we do, too—that it was but a negotiation, only a negotiation, no more than a negotiation. It never was a completed purchase. Money was not paid, no deed was received, and, lo and behold! it all went off, because it is conceded upon both sides that there was a defect in the title. No wise man certainly buys a defective title.

The universal rule, subject to possible exceptions in peculiar particular cases, is that when purchase is negotiated the first thing is to submit the title to the counsel for the purchaser that he might satisfy himself in that regard. Until that is done it is all cautionary. There was no written agreement in this case. All that went on was correspondence between Watson & Co. on the one side, and Edgar, in New York, on the other; and, lo and behold, it turned up that Edgar refused to warrant the title by a warranty deed because of the fact that it was involved in this Spanish grant, indifferently called Rivas, Cheveaux, and Caro.

Now, that fact was brought to the attention of Judge Swayne, and I will ask the Secretary to read this correspondence.

The PRESIDING OFFICER. Without objection, the Secretary will read.

The Secretary read as follows:

"We have deed to block 91, New City, from Mr. Edgar, but he refuses to give a warranty deed to this block; he merely gives quitclaim deed. We have received a letter from him, in which he writes he is unwilling to give anything but a bargain and sale deed, as he is afraid of the old ——— Caro claim on this, which seems to be his objection. We have recently made an abstract of title of this property, and it seems to us we would just as soon have one deed as the other, but we lay the matter before you so as to have you perfectly satisfied. In case the deed is not satisfactory to you, of course, we will have to drop this deed or wait until you come home. Thanking you for an immediate reply.

"Yours, truly, THOMAS C. WATSON & Co."

I received a reply from him, letter dated July 22, 1901:

"GENTLEMEN: You may omit block 91 and send papers for the others along, and oblige,

"Yours, truly, CHARLES SWAYNE."

Mr. HIGGINS. So, Mr. President, the court will see that never even a deed ever got to Judge Swayne or to Mrs. Swayne. It was halted at Pensacola in the custody of Watson & Co.

Now, other deeds, it seems from the evidence—a mortgage and notes accompanying it—were sent to the Judge and returned by him, and in the lapse of time—for this was the 1st of July or early in July of that year—between that and November, when the case came up, the Judge had gotten a little mixed with regard to it, and in the statement that he placed upon the record and the one he made from the bench he said the deed had been sent to him and returned. Though that was not the fact, but as a part of the record I will ask the Secretary to read the statement put by the Judge upon the record.

The Secretary read as follows:

At the time of the presentation of the said motion by the said W. A. Blount, in open court, on November 11, 1901, the said Simeon Belden and the said E. T. Davis were present in the said court, and before making said order the said judge made and directed to be spread upon the minutes the following declaration concerning his connection with the land in the Cheveaux tract, mentioned in said motion, to wit:

"On Tuesday, November 5, 1901, at the time of the presentation of the said motion by plaintiffs, that the court recuse himself, he had then stated, and now states, that he never agreed to accept, nor ever accepted, any deed to any portion of the said Cheveaux tract; that, as he stated, a member of his family, to wit, his wife, had, with money inherited by her from her father's estate, negotiated for the purchase of some city lots in Pensacola; that certain deeds in connection therewith had been sent to her in Delaware, one of them proving to be a quitclaim deed, and upon investigation and inquiry it was found that the property in this deed was a portion of the property in litigation in the suit of Florida McGuire *v.* Pensacola City Company et al., and that thereupon, and by his advice, the said deed was returned to the proposed grantors with the statement that no further negotiations whatever could be conducted by them in relation to this property, and they thereupon refused to purchase, either at the present time or in the future, any portion of the said tract."

Mr. HIGGINS. Now, Mr. President, it does appear that no deed was delivered to Mrs. Swayne, and therefore that she never got title. No money was paid by her, and the land never was hers. An uncanceled deed outstanding is less than the baseless fabric of a dream as the foundation of title upon which to predicate a suit against her. There was not even the pretense of a suit against her husband.

Now, further, Edgar never claimed that he had sold the property to Mrs. Swayne. He resisted Watson & Co.'s suit for commissions, and the suit was abandoned, and the land was afterwards, we will show, sold. I think it has already appeared in evidence that they sold it afterwards to other parties, to wit, the Pensacola Development and Investment Company.

The very reason why the Judge refused to let Mrs. Swayne buy block 91 was that it was included in the Caro grant, involved in its disputed titles, and in this very litigation in which he was asked to recuse himself, but weeks before he received the letter from Belden and Paquet. Further, there was nothing in the record of the suit of Florida McGuire *v.* Pensacola City Company to disclose the fact that block 91 was a part of the land in dispute therein.

The declaration in the suit described the land in the following words, which I will ask the Secretary to read:

The Secretary read as follows:

The said defendants are in possession of a certain tract or parcel of land, situate, lying, and being in the county of Escambia, State of Florida, known and described as follows:

A certain parcel of land known as the "Gabriel Rivas" tract, containing about two hundred (262½) sixty-two and one-half acres, more or less, in the eastern portion of the city of Pensacola, Escambia County, State of Florida, mostly in section eight south, range twenty-nine west, forming a lot of three hundred (300) superficial arpents, according to a figurative plan of the survey from the mouth of the rivulet, as the extreme east of this population according to the plan thereof, and is bound northerly and westerly by vacant lands. Southerly it confines with the Bay of Pensacola and easterly with the rivulet of the Texar, its most westerly limit being north of the compass with a declination of seven degrees and fifty minutes to the northeast, as shown by the original Spanish grant to Gabriel Rivas, the 10th day of November, 1806, and registered in book seven, folio sixteen, number 1793, said property being as aforesaid situate in the county of Escambia, State of Florida, to which said plaintiffs claim title, and the defendants have received the profits of the said lands since the, to wit:

Mr. HIGGINS. I beg pardon of the court for taking its time.

Mr. BACON. Mr. President, with the permission of the counsel, as the hour has arrived at which, under the order the Senate sitting as a court of impeachment will adjourn, it has been suggested that possibly it might be to the convenience and in accordance with the wish of counsel for the respondent to proceed at this time. If so, I would make a motion to that effect. But before doing so I would ask that the court or the Presiding Officer ascertain whether it is in accordance with the wish of the counsel for the respondent thus to proceed.

The PRESIDING OFFICER. The order is that the Senate sitting as a court shall commence its session at 2 o'clock and continue till 5.

Mr. BACON. "Unless otherwise ordered."

The PRESIDING OFFICER. "Unless otherwise ordered." We are not limited to 5 o'clock if we wish to continue longer.

Mr. BACON. I was suggesting that we might otherwise order at this time, if agreeable to the counsel. That was the suggestion which I made.

The PRESIDING OFFICER. The Presiding Officer wishes to suggest one other thing, that after to-day there are only ten working days remaining of the session.

Mr. HIGGINS. I recognize, Mr. President, the public duties of the members of this court, and I will impose no convenience of mine in the way. I am willing to go on for some time, if it is not fatiguing to the members of the court.

Mr. TELLER. Let the Senator from Georgia ask for unanimous consent to proceed until 6 o'clock.

Mr. BACON. Mr. President, I will suggest to the Chair that he take the order of the Senate, either by unanimous consent or by a vote. It can be done by unanimous consent, I presume.

The PRESIDING OFFICER. If there be no objection, counsel will proceed until an order for an adjournment or some other order in the premises is made.

Mr. TELLER. Inasmuch as we have a standing order, it seems to me that we ought to change it. I ask the unanimous consent of the Senate that the order shall be changed from 5 o'clock to 6 o'clock.

The PRESIDING OFFICER. For each day?

Mr. TELLER. For to-day only.

The PRESIDING OFFICER. The Senator from Colorado asks unanimous consent that the order for the day be changed so that the Senate sitting as a court shall continue in session until 6 o'clock. Is there objection?

Mr. PETTUS. Mr. President, if I am allowed, the Senate made an order fixing the hour for general business and for this business. I am very much inclined to think, Mr. President, and I make the suggestion, that we are bound by that order, and we are not to trespass on it.

The PRESIDING OFFICER. The order is that we commence at 2 o'clock with the impeachment trial and continue until 5 o'clock, unless otherwise ordered. The Presiding Officer supposes that it is in the power of the Senate sitting in the impeachment trial to otherwise order.

Mr. CULLOM. Were the words "unless otherwise ordered," expressed by the Presiding Officer of the court, agreed to in the Senate or in the court of impeachment?

The PRESIDING OFFICER. They are in the order.

Mr. CULLOM. The order made by the court of impeachment?

Mr. PETTUS. Made by the Senate.

Mr. CULLOM. If made by the Senate——

The PRESIDING OFFICER. The recollection of the Presiding Officer is that the order was passed while the Senate was sitting in the impeachment trial. The Senator from Georgia [Mr. BACON] will know.

Mr. FAIRBANKS. I had the honor of presenting that order. It was an order passed by the Senate sitting as a court of impeachment.

The PRESIDING OFFICER. That was the impression of the Presiding Officer. The Senator from Colorado asks unanimous consent that the order be modified to-day so that the Senate sitting in the trial of the impeachment shall continue in session until 6 o'clock. Is there objection?

Mr. PETTUS. There is objection. Unanimous consent will not be given.

The PRESIDING OFFICER. The Senator from Alabama objects.

Mr. TELLER. I move that the session of the Senate sitting in the impeachment trial be continued until 6 o'clock to-day.

The PRESIDING OFFICER. The Senator from Colorado moves that the Senate sitting in the impeachment trial continue in session this day until 6 o'clock. Is the Senate ready for the question? The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The counsel will proceed.

Mr. HIGGINS. Mr. President, I must ask the pardon of the Senate for having read the description of the land in the declaration in the case of Florida McGuire against the Pensacola City Company. But it was necessary to make it perfectly clear to the court that that description contained no evidence or notice to anybody outside that it contained within its limits block 91. So there was nothing from the suit itself to let Judge Swayne know that that land was involved in block 91 at the time the negotiations were conducted between him and Watson & Co.

The first actual notice either Judge Swayne or his agents, Watson & Co., had of block 91 being in the McGuire litigation over the Rivas grant was when Edgar sent them the quitclaim deed and refused to give a warranty deed because of the disputed title aforesaid.

I do not leave out of account that Hooten testified that Judge Swayne said to him at the time he was negotiating for it that this was involved in the suit over the Caro grant, and that it would disqualify him in this court. I mention it now only to dismiss it as a matter of no account. It did not create any title in Judge Swayne; it created no title in Mrs. Swayne; but if it were a fact, it is contrary to the respondent's recollection, and it only showed that there was evidence to him earlier of its being involved in it.

As I have already said, Mr. President, this court must consider this case as it was presented, contested, and adjudicated before Judge Swayne in the circuit court in and for the northern district of Florida. That brings me, therefore, to the consideration of the charges against Belden and Davis, their denials and admissions as contained in the pleadings upon which they were tried; and although this has been read more than once to the Senate, I will now ask the Secretary to again read Mr. Blount's motion upon which the rule to show cause was founded.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

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 defenadants, 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 attorney 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.

Mr. HIGGINS. Mr. President, I will now ask the Secretary to read the answer of Belden and Davis.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

Before the Hon. Charles Swayne, judge circuit court United States, northern district of Florida. In re matter of contempt proceedings against Simeon Belden, Louis Paquet, and E. T. Davis.

And now comes Simeon Belden and E. T. Davis, and for reasons why they should not be punished by contempt, showeth:

First. That the grounds upon which the said contempt is based, to wit, summons in ejectment issued from the circuit court of Escambia County, Fla., wherein Florida McGuire was plaintiff, and the Hon. Charles Swayne was defendant, that said proceedings is in the jurisdiction of the circuit court of Escambia County, Fla., and that this court is without jurisdiction thereof.

Second. That the petition to recuse referred to in said motion they had nothing to do with before this court, nor were they present on the 5th day of November when submitted, as stated in said motion, nor present when any statement made by the judge concerning his connection with any of the property, except the statement made by said judge on November 11, after court convened and after the motion to discontinue the case of Florida McGuire *v.* Pensacola City Company et al., was made.

Third. To the second paragraph showeth: As above stated, they heard no declaration made by the judge referred to in said paragraph, and as for reasons to believe that he, Judge Swayne, or some member of his family was interested in block 91, Rivas tract of land, named in said summons, we simply refer to the declaration made by Hon. Charles Swayne on November 11, 1901, when said motion was made by the Hon. W. A. Blount, and that after hearing said declaration, believe that there is in existence a deed to Mr. Charles Swayne, uncanceled, and that they have no knowledge of its repudiation, and as the negotiation for the property named in said deed was one made by Mrs. Charles Swayne in her individual right, that no act of the said Hon. Charles Swayne would repudiate or render null and void any transaction made by Mrs. Charles Swayne with her own money or property.

Fourth. That E. T. Davis for himself showeth: That this court had no jurisdiction over him in said matter of Florida McGuire *v.* Pensacola City Company et al. until he requested the court to mark his name as attorney for plaintiff on the morning of November 11, when he presented the motion to discontinue the aforesaid suit.

SIMEON BELDEN.
E. T. DAVIS.

Mr. HIGGINS. Mr. President, I now beg the attention of the court for a moment while I compare the allegations of this motion and the answer. The preamble of the motion itself is important in its allegations. Mr. Blount's motion was to cite Davis and Belden to show cause why they should not be punished for contempt as attorneys of the circuit court of Escambia County in bringing suit against the judge to recover land in litigation before him in this court or in the United States court, to which the answer of Belden is:

First. That said proceedings are in the jurisdiction of the circuit court of Escambia County, Fla., and that this court was without jurisdiction therein.

So that their claim of defense to the rule was that the bringing of the suit in the State court was an act which, as an act of contempt, could only be within the jurisdiction of the State court, out of which the processes issued, and was not within the jurisdiction of the United States court whose judge had been sued.

The first paragraph of the motion was in three branches:

(1) That said suit was brought after [November 5] a petition to recuse was submitted and denied.

(2) After the Judge in open court and in the presence of Belden and Paquet had denied any title in himself or family.

(3) And had stated he had refused to permit a member of his family to take title because the land was involved in the McGuire suit before him.

Now, note the answer of Belden and Davis to those allegations:

First. That said proceedings are in the jurisdiction of the circuit court of Escambia County, Fla., and that this court was without jurisdiction therein.

Second (to article 1). That the petition to recuse before this court they had nothing to do with. That they were not present November 5, when submitted, nor when the Judge made any statement, except on November 11, after motion to discontinue F. McGuire suit was made.

I asked the witness Davis the question on cross-examination whether he at the time he brought the suit did not know that Judge Swayne had declared from the bench that he had no title in this land, that no member of his family had, and that he had refused to let any member of his family take title in it because of this suit. I asked him if he did not know that the Judge so stated, and I asked him "Why in your answer did you not say so at that time?" to which he replied, "I thought I did say so."

Mr. Manager OLMSTED. And he did.

Mr. HIGGINS. But he did not. Here is the answer. There is not one word of that. What he says is that the petition to recuse before this court they had nothing to do with; that they were not present on November 5, when submitted, nor when Judge Swayne made any statement, except on November 11, after the motion to discontiue the F. McGuire suit was made.

Why, Mr. President, whether they were present or not, Judge Paquet was present. He was their associate counsel; he was the one who was there representing their clients, their principals, and knowledge to him was knowledge to his clients and notice to his associate counsel. Then was their day in court to come in before Judge Swayne and say, "Why, if your honor please, we did not know you said that. We were not here and did not hear you. If that is what you said, then we take it back. We brought this suit against you in ignorance of the fact, and so we will withdraw that litigation and purge ourselves of this contempt."

Why, Mr. President, that case would never have gone to any punishment for contempt; and it did not in the case of Paquet when he came in and made just such an acknowledgment—made an acknowledgment that he had acted in contempt. But those gentlemen in such a case as that would absolutely have been able to purge themselves from any intent. Instead of that, they rest content with the statement that they were not present in court and did not hear the judge in what he said. They never alleged that they had not otherwise heard and did not know what he had said from the bench.

Now, as to the second article.

Second. After the declaration of the Judge, (1) the counsel were aware that neither he nor his family were owners of lot 91; (2) had no reason to believe he or they were so interested; (3) knew, or easily could have known, that said lot was unoccupied and in the possession and control of no one.

Their answer to that, Mr. President, is this:

They heard no declaration made by the judge.

And as to believing that Judge Swayne or some member of his family was interested in block 91, Rivas tract of land named in said summons, we simply refer to the declaration of the judge on November 11, and after hearing such declaration we believe there is an uncanceled deed to Mrs. Swayne, one made to Mrs. Swayne in her individual right, and that no act of Hon. Charles Swayne could render null and void any transaction made by Mrs. Charles Swayne with her own money or property.

Not one word, Mr. President, that they had heard that the judge disclaimed having any interest in it himself or of any member of his family having an interest in it. On the contrary, here is an evasive answer; they do not purge themselves of the contempt, but reiterate it.

The third allegation of the motion was:

Third. That suit against the judge was instituted on Saturday night, after motion to postpone for a week or more had been overruled, and case set for Monday.

The answer to that is nothing. There is no answer at all.

The fourth touches Davis alone:

Fourth. That before the suit against the judge, Davis was cognizant of all the facts.

He does not deny this in his answer, but says that this court had no jurisdiction over him until he marked his name on the record on Monday to move to discontinue.

In the face of that record, made by them when they had their day in court, how can they come before this court and undertake to ask it to believe that they had stated that they did not know of the judge having made any such statement from the bench, and did not know that Mrs. Swayne had no title or interest in the property. Indeed, up to this time Mr. Belden claims that she does have such interest, and they have carried the case up to the Supreme Court of the United States with the contention that she does have such interest.

Now, Mr. President, the question before this court is not merely whether Davis and Belden acted in a contemptuous way toward Judge Swayne and the circuit court of the United States for the northern district of Florida, but it is whether or not their act of contempt brought them within the jurisdiction of that court under the terms of the act of Congress passed in 1831, and now known as "section 725 of the Revised Statutes." Our proposition is that the bringing of the action of ejectment against Judge Swayne and the publication of the newspaper article on the following morning together constituted such misbehavior on the part of Belden and Davis as attorneys and counselors of the court as to constitute contempt within the terms of section 725 of the Revised Statutes of the United States.

I shall not at this stage of these proceedings go at large into the authorities upon the subject of jurisdiction under the act of

Congress of 1831. It so happens in this case that the question has already been decided, and, I respectfully submit, concluded for all concerned. After the judgment of Judge Swayne, which included imprisonment as well as fine, Davis and Belden at once sued out writs of habeas corpus before Judge Pardee, who made the same returnable before Circuit Judges McCormick and Shelby, as well as himself, who all heard the argument and concurred in the opinion. I will ask the Secretary to read the opinion.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

Pardee, circuit judge.

Section 725 of the Revised Statutes of the United States reads as follows:

"The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistence by any such officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said courts."

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. To hear and decide whether the relator was guilty of such contempt, and if found guilty to punish him for such conduct, was clearly within the jurisdiction of the court, and the court having exercised such jurisdiction and found the relator guilty of contempt, its finding against the relator can not be reviewed on habeas corpus. (In re Swan, 150 U. S., 637.)

In United States *v.* Pridgeon (153 U. S., 48, 62) the court says:

"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."

Mr. HIGGINS. I call the attention, Mr. President, of the court to the breadth of this decision. It not merely held that the judgment of Judge Swayne could not be reviewed, because the question whether Davis and Belden had been guilty of contempt was within the jurisdiction of his court, but it went further. After repeating the language of the statute, it says:

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.

That amounted to a decision that Judge Swayne had jurisdiction which could not be revised on habeas corpus, but that a case had been made which, if true, brought it within the terms of the act of 1831, or section 725 of the Revised Statutes.

This ruling, invoked by Davis and Belden themselves, settled the law of the case for them, for Judge Swayne and the circuit court for the northern district of Florida, and for all its people, namely, that if they were guilty of the acts charged then it was such misbehavior as constituted contempt of court under section 725 of the Revised Statutes.

I submit that—

1. The suit against Swayne was misbehavior of the most gross description and character in their official transactions as attorneys of his court, in the case of the same plaintiff against the Pensacola City Company et al.

2. It was at the same time misbehavior within the terms of the statute in that it constituted disobedience and resistance by them as attorneys in the suit against the Pensacola Company to the lawful decree and order of the court; and,

3. It was, under the decisions, misbehavior so near the court as to obstruct the administration of justice.

It is clear to a demonstration that their object in bringing the suit was to effect the action of the Judge on the two points upon which he had during the week decided against them, namely:

(*a*) To force him not to sit in the case, or, in other words, to recuse himself; and,

(*b*) To force him to postpone the trial on Monday, the 11th.

This is made clear by another act of contempt to the same end, and, if possible, more flagrant and outrageous, in their newspaper publication on Sunday morning, which I will ask the Secretary to read.

The Secretary read as follows:

JUDGE SWAYNE SUMMONED AS PARTY TO THE SUIT IN CASE OF FLORIDA M'GUIRE *v.* PENSACOLA COMPANY ET AL.

A decided new 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 Texas, 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 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.

Filed November 12, 1901.

Mr. HIGGINS. Mr. President, the original has already been produced before the court and will be put in evidence by us in Mr. Paquet's handwriting. It starts with the flaring headline:

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

It goes on:

A decided new move was made in the now celebrated case of Mrs. Florida McGuire, etc.

The learned managers say that the suit against the Judge had nothing to do with the suit before the Judge; but this publication is not only scandalous, it is telltale. This shows their purpose. This uncovers and discloses the scheme. This tells the whole story.

A decided new 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 Texas, 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.

They were the ones who did it. No doubt about that they knew. No scurrying for cover for them at that time as to what they intended. No endeavor to get from under the responsibility of their acts. It throws it out upon the camera for all to read and to the scandal of the court.

In an ejectment proceeding for possession of block 91 * * * which is part of the property claimed by Mrs. Florida McGuire * * * and which is alleged that Judge Swayne purchased from a real-estate agent in 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.

This is the story of the new movement in the suit before Judge Swayne:

Judge Swayne summoned as party to the suit in case.

It was false that Judge Swayne purchased block 91, as now is perfectly obvious to every member of this court, as I have already shown at the outset of my remarks. But the judge had so solemnly declared from the bench in what amounted to a judgment that he would not recuse himself, one which they could have reduced to a judgment of record had they taken the proper course by presenting their petition and having his judgment put upon the record, so that it would be carried up. But it had all the moral force of that, and here comes this statement in the paper that the statement was a lie and that he was a liar. That is what that statement amounted to.

It was a new move—the suit against the Judge—a decided new move in the now celebrated Pensacola City case.

It was a new move in that case by these three attorneys in all the glory of their titles of attorney-general and judge.

And that new move—namely, the suit leveled at the Judge—hot on the heel of his refusing their motion to postpone the trial, and brought that night, so as to make sure of the writ being served before the time set for trial on Monday morning—this new move was now driven home by this publication.

(1) The court had on Monday, November 5, made its decision and entered its judgment refusing the application to the Judge to recuse himself.

Therein and thereby it had judicially made a lawful order or decree.

Upon Saturday, the 9th, it made another judicial and lawful order in the cause, when it refused to postpone the trial, but ordered that it should be set for trial on Monday, the 11th, at 10 a. m., except for good cause to be then shown.

The suit and the publication were two blows, but making one movement, directed at the Judge for his judicial judgments adverse to the clients of these attorneys.

The suit laid ground for the article; the article gave point to the suit; the suit haled the Judge into another court to punish him for what he had done in his own, and the news article haled him before the bar of public opinion, and, if well founded, gibbeted him as a judicial outlaw.

(2) But if the suit was not brought and the article published to deter him from sitting in the case and trying it on Monday, for what object were both acts done?

Men are held to intend the natural consequences of their acts. Certainly the suit was not brought with any idea of recover-

ing thereby from Judge Swayne block 91, for they knew he did not own it or have any possession of it.

Neither was it brought against him because there was any title in Mrs. Swayne, for if there had been title in Mrs. Swayne she was the party to sue and he was not, except as it might have been proper or necessary to join him with her as a party codefendant.

(3) Again, if, as they since claim, when they brought the suit against the judge, they had already determined to discontinue the main suit aginst the Pensacola City Company et al. on Monday morning, and then bring another suit on the same cause of action—that is, on the Rivas claim, on the old Spanish grant—why did they not wait to join the judge or his wife in this renewed suit (there were about thirty defendants) instead of suing him as an individual and sole defendant that night in another suit in the State court?

(4) But why this haste?

The judge had just announced he would try their case on Monday.

There was no cause to fear he would leave town and escape their process.

They rush from the United States court room to the corner grocery, they hatch out the product of their conspiracy, order the writ, and make sure to have it served that night.

Mr. Belden says here that he did not have an idea of not discontinuing that suit upon Monday morning. Why, then, was this a new move in the Florida McGuire case? "Oh, but I never wrote that article." Mr. Belden thinks it was very ill-advised. Davis says, "I did not write it." No, gentlemen, you did not write it, but neither of you say you did not know about it.

Mr. Manager DE ARMOND. They both swore they did not know about it.

Mr. HIGGINS. Not as I remember the testimony.

Mr. Manager DE ARMOND. It is there.

Mr. HIGGINS. I ask the learned manager in his time to point it out to me. He will have his time.

Mr. Manager DE ARMOND. We will point it out.

Mr. HIGGINS. But whether they did or not, the case charged in the answer of the respondent here against these parties is that here was an unlawful combination. The case that was charged against them before Judge Swayne in the contempt case was that it was an unlawful combination, and here is the evidence that proves it. They can not repudiate in law or in fact the utterance and the confession of their coconspirator. If that was their point, I again ask why did they not put it in their answer? Why did they not make that case before the judge and before the court when he was called upon to act upon it?

Mr. Manager OLMSTED. If the learned counsel will permit a suggestion, it is probably because there was no such charge in the information.

Mr. HIGGINS. The rule upon them was to show cause why they should not be punished for contempt for bringing the suit. The article is their confession as to why they brought the suit, and that it was leveled at the judge to affect his action in the case is shown by "the new move" in the Florida McGuire case against the Pensacola City Company. It will not do to roll all this over on Paquet and say, "We had nothing to do with it."

Now, with such flagrant disrespect and contempt shown the court, and I ask this court in all solemnity, what was the judge to do? Is a court justified in lying supine under such contempt? Could it ignore this open and double blow at its commands, and its dignity aggravated into a public scandal, and yet retain the respect of the community? Was it not bound, in sheer self-defense, to take the action it did?

I beg to read to the members of this court the words that have come down from the lips of one of those among the great men of our American republic. The first important suit and litigation akin to the one now before this court was the case of Yates against Lanning, in which Chief Justice Kent, in 5 Johns, gave utterance to words I will read. In that case, I will say to the court, Chancellor Lanning imprisoned for contempt a clerk for signing the name of another solicitor to a bill or other paper in a chancery cause, which was contrary to good order and propriety. For that the chancellor adjudged him guilty of contempt. Mr. Ambrose Spencer, who many years afterwards was one of the managers of the impeachment against Judge Peck, and who was one of the associate judges of the superior court of which Kent was at the time chief justice, discharged Yates upon habeas corpus. Chancellor Lanning instantly reimprisoned him. Spencer again discharged him, and the third time Lanning imprisoned him, and then Yates brought suit against Chancellor Lanning for a penalty of a thousand dollars under the statute which provides that penalty if a writ of habeas corpus be resisted; and that was the case which was before the court when Chief Justice Kent made this utterance:

> Judicial exercise of power is imposed upon the courts. They must decide and act according to their judgment, and therefore the law will protect them. The chancellor, in the case of the plaintiff, was bound in duty to imprison and reimprison him, if he considered his conduct as amounting to a contempt of his court. The obligations of his office left him no volition. He was as much bound to punish a contempt committed in his court, as he was bound in any other case to exercise his power.

In all confidence, I ask of this court, what member of it, sitting where Judge Swayne did, would not have cited, heard, and punished these attorneys as he did?

This conduct was misbehavior on the part of Davis and Belden as officers of theUnited States court in their official transactions, under the terms of the act of 1831, because of the insult and gross disrespect thereby shown the court.

I have shown it had made two orders, which, as officers of the court, they were in duty bound to respect.

Both rulings were in refusing applications made by them; but though adverse decisions they were none the less entitled to their respect.

An attorney is an officer of the court. Judge Pardee so held in this case:

> The relator is an attorney and counselor of the circuit court for the northern district of Florida, and as such one of the officers of the court. (Ex parte Davis, 112 Fed., 139.)

And as such officer his duties have been best defined in Bradley *v.* Fisher (13 Wall., 355):

> But, on the other hand, the obligation which attorneys impliedly assume, if they do not by express declaration take upon themselves, when they are admitted to the bar is not merely to be obedient to the Constitution and laws, but to maintain at all times the respect due the courts of justice and judicial officers. This obligation is not discharged by merely observing the rules of courteous demeanor in open court, but it includes abstaining out of court from all insulting language and offensive conduct toward the judges personally for their judicial acts.

There is a statement by the highest court in the land to these lawyers as to what was their obligation to the court. "This obligation is not discharged by merely observing the rules of courteous demeanor in open court, but it includes abstaining outside of court from all insulting language and offensive conduct toward the judges personally for their official acts."

You have had the evidence here this afternoon from General Belden that it was because of these judgments that they brought the suit.

Mr. SPOONER. If it will not at all incommode the counsel, I should like to inquire, through the Presiding Officer, what time the answer of Mr. Paquet in the contempt proceedings was filed?

Mr. HIGGINS. I will state that I am instructed that it is a part of the record of the proceedings in the court, but I think the paper that was filed of record in the court was one that Judge Paquet prepared when he came in some time afterwards. In the interval he had sued out a writ of prohibition from the circuit court of appeals, but it had been adjudged against him, and when that was done he came into court in Pensacola and made his apology and was discharged. Now, afterwards he was examined as a witness before the investigating committee, and there his testimony appears. Unfortunately for us in this case, as the Senate is aware, we have been unable to obtain his attendance because of the return of his physician that he is too ill. I will state to the court that I have verified on my own inquiry that he is suffering from pneumonia and complications, and therefore can not attend. I hope that is an answer to the Senator's inquiry.

Now, we submit that the conduct of Davis and Belden was contempt under section 725, Revised Statutes, in that it was "misbehavior so near the court as to obstruct the administration of justice." Of course, I am now assuming as established for the purpose of this argument that the object in bringing this suit was because of the judgments that the judge had given, refusing to recuse himself on the one hand and refusing to postpone the trial of the case on the Monday morning, and they brought this action hurriedly and hastily in the meantime with the end and purpose stated in the article published in the Pensacola newspaper.

Now, it was held in the case in re Brule (71 Fed., 943) that—

> Bribing a person who is known to be a material witness in a pending cause to hide himself and remain away from the court, thereby preventing his testifying in such case, is a contempt of court, whether such person has been subpœnaed or not, and though punishable by indictment, under Revised Statutes, section 5399, is also punishable under Revised Statutes, section 725, as a contempt committed by misbehavior "so near" to the court "as to obstruct the administration of justice," though the act is done at the residence of the witness, at some distance from the court-house, in the town where the court sits.

In that case Judge Hawley, sitting in the district court of

Nevada, after reviewing the cases bearing on the point from the Supreme Court of the United States and the Federal Reporter, goes on to say:

Now, from the reasoning of these cases it is made perfectly clear that the misbehavior of which Brule is guilty, if it had occurred anywhere within the building where court is held, would have been "clearly a contempt, punishable as provided in section 725 of the Revised Statutes, by fine or imprisonment, at the discretion of the court, and without indictment." Why? Because, under such circumstances, it would have been misbehavior of a person in the presence of the court. But the statute says that the misbehavior of a person "so near thereto as to obstruct the administration of justice" may be likewise punished as a contempt of court. If it is a contempt to bribe a witness in front of the court-house door is it not a contempt to attempt to do the same thing on the street opposite the court building or four blocks away? Is not the result the same? Is not the motive of the accused the same? What difference does it make whether the attempt was made on the ground owned by the United States or at the residence of the witness in the same town four blocks, or about one-quarter of a mile, away from the court building? In one case the misbehavior would be construed to be in the presence of the court, and in the other "so near thereto as to obstruct the administration of justice," and the statute, in clear language, is made to apply to both cases.

It is too near the hour of adjournment, Mr. President, for me to read or have read the important decision, as we conceive it, of the supreme court of the State of Ohio in Myers *v.* The State, in 46 Ohio, 473, where that court upheld proceedings for contempt under the statute of the State of Ohio, which was a reenactment of the Federal statute in the same terms, where there was a libel printed in Cincinnati upon the court siting in Columbus, and the court say:

The publication came within section 5639, Revised Statutes, which reads: "A court, or judge at chambers, may punish summarily a person guilty of misbehavior in the presence of or so near the court or judge as to obstruct the administration of justice." It is true that the article was not written, nor was it circulated by, the respondent in the presence of the court. Indeed, it was written in the city of Cincinnati, though dated at Columbus. But the publication was in the court room, as well as elsewhere. It was intended to have effect, and did have effect, in the court-house at Columbus, and the writer was just as much responsible for that effect as though he had in the court room itself, and while the trial was progressing, circulated and read aloud the article, or uttered the libelous words verbally. The acts were thus done, if not in the very presence of the court, at least so near thereto as to obstruct its business.

Therefore we say under these authorities that the action of these two lawyers in bringing the suit and making this insulting and scandalous publication was in the same terms violating the statute by obstructing the administration of justice near the court.

I think now it has reached the hour when I will end for the time being.

Mr. FORAKER. I move that the Senate sitting as a court for the trial of the impeachment adjourn until 2 o'clock to-morrow.

The motion was agreed to; and (at 6 o'clock p. m.) the Senate sitting as a court adjourned until to-morrow, Tuesday, February 21, at 2 o'clock p. m.

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

The PRESIDENT pro tempore resumed the chair.

Mr. SPOONER. I move that the Senate adjourn.

Mr. CULLOM. I hope the Senator will not insist on that motion. I want to have an executive session for a few minutes.

Mr. SPOONER. Very well.

Mr. CULLOM. I move 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 five minutes spent in executive session the doors were reopened, and (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, February 21, 1905, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 20, 1905.

SURVEYOR OF CUSTOMS.

Fenton W. Gibson, of Louisiana, to be surveyor of customs for the port of New Orleans, in the State of Louisiana. (Reappointment.)

PROMOTIONS IN THE CORPS OF ENGINEERS.

Lieut. Col. Thomas H. Handbury, Corps of Engineers, to be colonel, with rank from February 16, 1905, vice Heap, retired from active service.

Maj. Dan C. Kingman, Corps of Engineers, to be lieutenant-colonel, with rank from February 16, 1905, vice Handbury, promoted.

Capt. Francis R. Shunk, Corps of Engineers, to be major, with rank from February 16, 1905, vice Kingman, promoted.

First Lieut. Horton W. Stickle, Corps of Engineers, to be captain, with rank from February 16, 1905, vice Shunk, promoted.

Second Lieut. Richard C. Moore, Corps of Engineers, to be first lieutenant, with rank from February 16, 1905, vice Stickle, promoted.

DEPUTY AUDITOR FOR NAVY DEPARTMENT.

Byron J. Price, of Wisconsin, to be Deputy Auditor for the Navy Department, to succeed Robert S. Cowie, resigned.

POSTMASTERS.

ALABAMA.

J. W. Clayton to be postmaster at Ensley, in the county of Jefferson and State of Alabama, in place of Thomas B. Lawler, resigned.

James L. Davis to be postmaster at Lafayette, in the county of Chambers and State of Alabama, in place of William B. Nichols, jr. Incumbent's commission expired January 16, 1905.

CALIFORNIA.

Frank H. Bangham to be postmaster at Susanville, in the county of Lassen and State of California, in place of Frank H. Bangham. Incumbent's commission expires March 2, 1905.

COLORADO.

Ira L. Herron to be postmaster at Longmont, in the county of Boulder and State of Colorado, in place of Orange W. Richardson, deceased.

IDAHO.

Joseph R. Collins to be postmaster at Moscow, in the county of Latah and State of Idaho, in place of Robert H. Barton, removed.

ILLINOIS.

William M. Goudy to be postmaster at Fairfield, in the county of Wayne and State of Illinois, in place of William M. Goudy. Incumbent's commission expired March 22, 1902.

A. H. McTaggart to be postmaster at Pana, in the county of Christian and State of Illinois, in place of Gabriel C. Butts. Incumbent's commission expired March 16, 1902.

Thomas J. Wimmer to be postmaster at Cerro Gordo, in the county of Piatt and State of Illinois, in place of Thomas J. Wimmer. Incumbent's commission expired December 20, 1904.

INDIANA.

Albert E. Martz to be postmaster at Arcadia, in the county of Hamilton and State of Indiana, in place of Albert E. Martz. Incumbent's commission expires March 2, 1905.

INDIAN TERRITORY.

George S. Gray to be postmaster at Coalgate, in District Twenty-three, Indian Territory, in place of Frank L. McInnis, removed.

KANSAS.

Pearl E. Frayer to be postmaster at Ness City, in the county of Ness and State of Kansas, in place of Pearl E. Frayer. Incumbent's commission expired February 11, 1905.

LOUISIANA.

D. S. Edwards to be postmaster at Opelousas, in the parish of St. Landry and State of Louisiana, in place of Louis Desmarais, jr. Incumbent's commission expires March 1, 1905.

Lavinia Insley to be postmaster at Delhi, in the parish of Richland and State of Louisiana. Office became Presidential January 1, 1905.

MASSACHUSETTS.

Charles W. Bemis to be postmaster at Foxboro, in the county of Norfolk and State of Massachusetts, in place of Charles W. Bemis. Incumbent's commission expires March 1, 1905.

Horace I. Pinkham to be postmaster at Haverhill, in the county of Essex and State of Massachusetts, in place of Horace I. Pinkham. Incumbent's commission expires February 22, 1905.

MICHIGAN.

Robert C. Faucett to be postmaster at Laurium, in the county of Houghton and State of Michigan, in place of Mathias Sailer. Incumbent's commission expires March 1, 1905.

Ebenezer A. Litchfield to be postmaster at Elsie, in the county of Clinton and State of Michigan, in place of Berton M. Wooley, resigned.

Charles H. Stevens to be postmaster at Perry, in the county of Shiawassee and State of Michigan, in place of Charles H. Stevens. Incumbent's commission expires March 1, 1905.

MINNESOTA.

Charles M. Nelson to be postmaster at Elbow Lake, in the county of Grant and State of Minnesota, in place of Lars J. Hauge. Incumbent's commission expired January 31, 1905.

David J. Price to be postmaster at Lake Crystal, in the county of Blue Earth and State of Minnesota, in place of David J. Price. Incumbent's commission expired December 20, 1904.

MISSISSIPPI.

Harvey E. Fitts to be postmaster at Aberdeen, in the county of Monroe and State of Mississippi, in place of Harvey E. Fitts. Incumbent's commission expires March 1, 1905.

MISSOURI.

Alexander T. Boothe to be postmaster at Pierce City, in the county of Lawrence and State of Missouri, in place of Alexander T. Boothe. Incumbent's commission expires March 2, 1905.

Clark Brown to be postmaster at Union, in the county of Franklin and State of Missouri. Office became Presidential January 1, 1905.

E. S. Brown to be postmaster at Edina, in the county of Knox and State of Missouri, in place of Robert F. Schofield. Incumbent's commission expires March 2, 1905.

John H. Fisher to be postmaster at Sullivan, in the county of Franklin and State of Missouri. Office became Presidential January 1, 1905.

Sebastian Netscher to be postmaster at Pacific, in the county of Franklin and State of Missouri. Office became Presidential January 1, 1905.

Philip A. Thompson to be postmaster at Craig, in the county of Holt and State of Missouri, in place of Charles M. Ward. Incumbent's commission expired January 31, 1905.

NEVADA.

Amelia E. Roth to be postmaster at Virginia City, in the county of Storey and State of Nevada, in place of Amelia E. Roth. Incumbent's commission expires March 1, 1905.

NEW JERSEY.

Harry Bacharach to be postmaster at Atlantic City, in the county of Atlantic and State of New Jersey, in place of Harry Bacharach. Incumbent's commission expires March 1, 1905.

Palmer H. Charlock to be postmaster at Elizabeth, in the county of Union and State of New Jersey, in place of Palmer H. Charlock. Incumbent's commission expired January 29, 1905.

Samuel L. Gillin to be postmaster at Belmar, in the county of Monmouth and State of New Jersey, in place of William S. Jackson, resigned.

NEW YORK.

Watson J. Matteson to be postmaster at Marcellus, in the county of Onondaga and State of New York, in place of Watson J. Matteson. Incumbent's commission expires March 2, 1905.

Ambrose C. Montross to be postmaster at Larchmont, in the county of Westchester and State of New York, in place of Ambrose C. Montross. Incumbent's commission expires March 2, 1905.

NORTH CAROLINA.

Charles M. Hoover to be postmaster at Thomasville, in the county of Davidson and State of North Carolina, in place of Charles M. Hoover. Incumbent's commission expired February 7, 1905.

OHIO.

William L. Maddox to be postmaster at Ripley, in the county of Brown and State of Ohio, in place of Jennie L. Gardner. Incumbent's commission expired December 12, 1903.

William H. Ray to be postmaster at Carrollton, in the county of Carroll and State of Ohio, in place of John H. Tripp, resigned.

OKLAHOMA.

Burton S. Barnes to be postmaster at Ponca, in the county of Kay and Territory of Oklahoma, in place of Burton S. Barnes. Incumbent's commission expired February 11, 1905.

PENNSYLVANIA.

Lehman E. Gantt to be postmaster at Newport, in the county of Perry and State of Pennsylvania, in place of Lehman E. Gantt. Incumbent's commission expires March 1, 1905.

Alexander B. Grosh to be postmaster at New Bloomfield, in the county of Perry and State of Pennsylvania, in place of Alexander B. Grosh. Incumbent's commission expires March 1, 1905.

Edwin S. Holcomb to be postmaster at Westfield, in the county of Tioga and State of Pennsylvania, in place of Edwin S. Holcomb. Incumbent's commission expires March 1, 1905.

David I. Stadden to be postmaster at Glen Campbell, in the county of Indiana and State of Pennsylvania. Office became Presidential January 1, 1905.

Edward Weir to be postmaster at Malvern, in the county of Chester and State of Pennsylvania, in place of George R. Walton. Incumbent's commission expired February 8, 1905.

TENNESSEE.

William L. Green to be postmaster at Spring Hill, in the county of Maury and State of Tennessee. Office became Presidential January 1, 1905.

TEXAS.

Thomas H. Danforth to be postmaster at Goliad, in the county of Goliad and State of Texas, in place of Thomas H. Danforth. Incumbent's commission expires March 2, 1905.

Thomas J. Epperson to be postmaster at Livingston, in the county of Polk and State of Texas. Office became Presidential January 1, 1905.

John N. Johnson to be postmaster at Rockwall, in the county of Rockwall and State of Texas, in place of Aron B. Gardenhire. Incumbent's commission expires March 2, 1905.

William S. Strain to be postmaster at Lancaster, in the county of Dallas and State of Texas, in place of William S. Strain. Incumbent's commission expires March 2, 1905.

VIRGINIA.

Howard P. Dodge to be postmaster at Manassas, in the county of Prince William and State of Virginia, in place of Howard P. Dodge. Incumbent's commission expires February 22, 1905.

John C. Davis to be postmaster at Leavenworth, in the county of Chelan and State of Washington. Office became Presidential January 1, 1905.

WASHINGTON.

Jesse J. Flanigan to be postmaster at Salem, in the county of Harrison and State of West Virginia, in place of Jesse J. Flanigan. Incumbent's commission expires February 22, 1905.

James W. Hughes to be postmaster at Huntington, in the county of Cabell and State of West Virginia, in place of James W. Hughes. Incumbent's commission expires March 2, 1905.

WISCONSIN.

George B. Parkhill to be postmaster at Thorp, in the county of Clark and State of Wisconsin, in place of William R. McCutcheon, removed.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 20, 1905.

POSTMASTERS.

ILLINOIS.

A. H. McTaggart to be postmaster at Pana, in the county of Christian and State of Illinois.

MARYLAND.

George E. Mullin to be postmaster at Brookville, in the county of Franklin and State of Maryland.

HOUSE OF REPRESENTATIVES.

MONDAY, *February 20, 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.

ISAAC F. CLAYTON.

The SPEAKER laid before the House the bill (H. R. 15305) granting a pension to Isaac F. Clayton, with Senate amendment; which was read.

Mr. LOUDENSLAGER. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

TO AMEND THE HOMESTEAD LAWS AS TO CERTAIN UNAPPROPRIATED AND UNRESERVED LANDS.

Mr. MARTIN. Mr. Speaker, I am directed by the Committee on the Public Lands to move the suspension of the rules and pass the following resolution:

The Clerk read as follows:

Resolved, That for the remainder of this session the bill (H. R. 18464) to amend the homestead laws as to certain unappropriated and unreserved lands in South Dakota and the bill (H. R. 18787) to amend the homestead laws as to certain unappropriated and unreserved lands in Colorado shall be in order for consideration in the House as in Committee of the Whole at any time: *Provided*, That this order shall not interfere with appropriation or revenue bills, House bills returned with Senate amendments, and conference reports.

Mr. MADDOX. Mr. Speaker, I demand a second.

The SPEAKER. The gentleman from Georgia [Mr. MADDOX] demands a second.

Mr. NEEDHAM. As a member of the Committee on Public Lands I filed a minority report on one of those bills.

The SPEAKER. The gentleman from California, being on the committee and having filed a minority report, will be recognized to demand a second.

Mr. MADDOX. I did not know there was a minority report.

Mr. MARTIN. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.