Also, petition of the Republican county convention of Platte County, Nebr., favoring the postal telephone bill—to the Committee on the Post-Office and Post-Roads.

By Mr. BURLEIGH: Petition of citizens of Maine, against repeal of the Grout law—to the Committee on Agriculture.

Also, petition of citizens of Harmony, Me., favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. BUTLER of Pennsylvania: Petition of Edwin P. Sellew et al., against further armament—to the Committee on Military Affairs.

By Mr. CROMER: Petition of citizens of Anderson, Ind., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. EMERICH: Petition of the Heath & Milligan Manufacturing Company, of Chicago, favoring the original or Long-Lodge bill relative to the consular service—to the Committee on Foreign Affairs.

Also, petition of Hibbard, Spencer, Bartlett & Co., of Chicago, Ill., favoring legislation on railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Aermotor Company, of Chicago, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Olbrich & Goelbreek, of Chicago, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lord & Bushnell Company, of Chicago, favoring the passage of the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of B. Heller & Co., of Chicago, favoring bill H. R. 9303—to the Committee on Ways and Means.

Also, petition of the American Luxfer Prism Company, of Chicago, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Armstrong Cork Company, of Chicago, favoring more power for the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Illinois Malleable Iron Company, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Marshall Field & Co., of Chicago, favoring the long-form Lodge bill for the reorganization of the consular service—to the Committee on Foreign Affairs.

Also, petition of Hibbard, Spencer, Bartlett & Co., favoring bill H. R. 15600—to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Paper to accompany bill for relief of Electa E. Brooks, of Lynn, Wis.—to the Committee on Pensions.

By Mr. FITZGERALD: Petition of the American Institute of Marine Underwriters of New York, favoring bill S. 2262—to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the National Association of Agricultural Implement and Vehicle Manufacturers, favoring repeal of the commutation clause of the homestead act, the timber and stone act, and the desert-land law—to the Committee on the Public Lands.

Also, petition of the Atlantic Carriers' Association, asking relief from unjust discrimination against sail vessels engaged in the coasting trade—to the Committee on the Merchant Marine and Fisheries.

By Mr. GOLDFOGLE: Petition of the Atlantic Carriers' Association, asking for the abolition of compulsory pilotage—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Ex-Letter Carriers' Association, of Philadelphia, favoring bill for the adjustment and payment of letter carriers under the eight-hour law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Hodensyl & Sons, of New York, against repeal of the bankruptcy act—to the Committee on the Judiciary.

Also, petition of Walter N. Walker, of New York, against repeal of the bankruptcy law—to the Committee on the Judiciary.

Also, petition of the American Institute of Marine Underwriters, of New York, favoring bill S. 2262—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Maritime Association of New York City, asking for passage of a bill for the construction of a vessel to remove derelicts in the North Atlantic Ocean—to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON: Petition of citizens of Barry County, Mich., favoring the Gallinger-Stone amendment to statehood bill—to the Committee on the Territories.

By Mr. LITTLEFIELD: Petition of 84 citizens of Maine, against repeal of the Grout oleomargarine law—to the Committee on Agriculture.

Also, petition of 140 citizens of Maine, favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. McCALL: Petition of the Massachusetts State Board of Trade, asking for repeal of the tax of 15 per cent ad valorem on hides imported into the United States—to the Committee on Ways and Means.

Also, petition of Christian Endeavor societies to authorize the President to invite the governments of the world to join in establishing an international congress to deliberate upon questions of common interest to the nations and to make recommendations thereon to the governments—to the Committee on Foreign Affairs.

By Mr. SCOTT: Petition of the Kansas State Temperance Union, favoring passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. SHOBER: Petition of citizens of New York State, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULLIVAN of Massachusetts: Petition of the Massachusetts Associated Board of Trade, favoring repeal of the duty on hides—to the Committee on Ways and Means.

By Mr. SULLIVAN of New York: Petition of the mayor of New York City, suggesting an amendment to sections 4281–4289, inclusive, of the Revised Statutes of the United States—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the American Federation of Musicians, for increase of pay for the Marine Band—to the Committee on Naval Affairs.

Also, petition of the American Hardware Manufacturers' Association, for repeal of the desert-land act, the timber and stone act, and the commutation clause of the homestead act—to the Committee on the Public Lands.

Also, petition of the Congress of the Knights of Labor, urging passage of the bill to prevent adulteration of drugs—to the Committee on Agriculture.

Also, petition of the Clothiers' Association of New York, against repeal of the bankruptcy law—to the Committee on the Judiciary.

By Mr. WEBBER: Petition of the Oberlin Board of Commerce, for provision by Congress for absolute security of national banks by authorizing the Comptroller of the Currency to make the necessary assessments on national banks in order to guarantee their deposits and to supply deficiencies of assets in case of failure—to the Committee on Banking and Currency.

SENATE.

WEDNESDAY, *February 22, 1905.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. EDWARD E. HALE, offered the following prayer:

*Who raised up the righteous man, * * * called him to his foot, gave the nations before him, and made him rule over kings? He gave them as dust to his sword, and as driven stubble to his bow. Who hath wrought and done it? * * * I, the Lord, the first, and with the last, I am He.*

Even so, Father; and on this day, sacred to the memory of the father of this nation, we thank Thee that Thou didst lead him forth from the people to be ruler of the nation, to give to it its life, its independence, its new light before Thee. We thank Thee for the past—yes, and for to-day. We ask Thee to renew this gift to children and to children's children, to the people who know him as first in war, first in peace, and first in the hearts of his countrymen; that Thou wilt be with the boys and girls, the men and women, who celebrate his birth to-day; that Thou wilt be with them for to-morrow and for the days that are to come, that they may walk in the way of righteousness, that they may look first to Thee and last to Thee, the Lord God, who leads the nations of the world.

And in this temple of Thine own Holy Spirit, in this Capitol of the nation, made sacred to Thee by the prayers of the brave men of the past, of the wise men of the past, for the men of to-day and for the men of the future, we ask Thee to consecrate it anew to Thy holy presence, to the memories of him who loved his country better than himself, and to the memories of all those who have made this nation under God what it is.

Be with us all, and be with us always.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done, on earth as it is done in heaven. Give us this day our daily bread. Forgive us our trespasses as we forgive those who trespass againt us. Lead

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us not into temptation; but deliver us from evil, for Thine is the kingdom, and the power, and the glory, forever. Amen.

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

The PRESIDENT pro tempore. The Journal will stand approved.

GOVERNMENT OF CANAL ZONE.

The PRESIDENT pro tempore. The Senator from Maryland [Mr. GORMAN] does not seem to be here. There was a request made by the Senator from Maryland, and as he first made the request it was that immediately after the routine business the Canal Zone bill should be taken up for consideration. The Chair, however, misunderstanding him, put the request for unanimous consent in the form "immediately after the reading of the Farewell Address." The Senator from Maryland responded "Yes." So that was the agreement entered into. It would be much more convenient to the business of the Senate, for the printing, and all that sort of thing, if the unanimous consent could have been granted as the Senator from Maryland first asked it, to take up the bill immediately after the morning business.

Mr. ALLISON. I ask unanimous consent now that that question be postponed until after the morning business is concluded.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the Canal Zone bill be taken up for consideration immediately after the routine morning business is concluded. Is there objection? The Chair hears none. Will the Senator from North Dakota [Mr. MCCUMBER] please take the chair? The President pro tempore is obliged to leave for the purpose of taking part in the ceremonies at the unveiling of the bust of Washington.

Mr. MCCUMBER assumed the chair.

Mr. PETTUS. Mr. President, there is not a quorum in the Senate.

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). The Secretary will call the roll.

The Secretary called the roll; and, after some delay, the following Senators answered to their names:

Alger	Burnham	Foster of La.	Morgan
Allee	Carmack	Foster of Wash.	Overman
Allison	Clay	Fulton	Perkins
Bacon	Crane	Hansbrough	Pettus
Bailey	Dick	Heyburn	Proctor
Ball	Dietrich	Hopkins	Quarles
Bate	Dillingham	Kittredge	Smoot
Berry	Dryden	McCumber	Stewart
Beveridge	Elkins	Mallory	Teller
Blackburn	Fairbanks	Martin	Warren

The PRESIDING OFFICER. Forty Senators have responded to the call. A quorum is not present.

Mr. BACON. I move that the Sergeant-at-Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The Senator from Georgia moves that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant-at-Arms will execute the order of the Senate.

Mr. GALLINGER, Mr. KEAN, Mr. LATIMER, Mr. MCCREARY, Mr. LODGE, Mr. MILLARD, and Mr. SCOTT entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty-seven Senators have responded to the call. A quorum is present. If there is no objection, further proceedings under the call will be dispensed with. By the appointment of the President pro tempore, the Senator from California [Mr. PERKINS] will read the Farewell Address of Washington.

READING OF WASHINGTON'S FAREWELL ADDRESS.

Mr. PERKINS (at the Secretary's desk) read the address, as follows:

An address of George Washington to the people of the United States, September 19, 1796.

To the people of the United States:

FRIENDS AND FELLOW-CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that in withdrawing the tender of service, which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this previous to the last election had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations and the unanimous advice of persons entitled to my confidence impelled me to abandon the idea. I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety, and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust I will only say that I have, with good intentions, contributed toward the organization and administration of the Government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my political life my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me, and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals that under circumstances in which the passions, agitated in every direction, were liable to mislead; amidst appearances sometimes dubious; vicissitudes of fortune often discouraging; in situations in which not unfrequently want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guaranty of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free Constitution which is the work of your hands may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare which can not end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation and to recommend to your frequent review some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget as an encouragement to it your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth, as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it, accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The South, in the same intercourse, benefiting by the same agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated, and while it contributes in different ways to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvements of interior communications by land and water will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined can not fail to find in the united mass of means and efforts greater strength, greater resource, proportionately greater security from external danger, a less frequent interruption of their peace by foreign nations, and, what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same governments, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by geographical discriminations—Northern and Southern, Atlantic and Western—whence designing men may endeavor to excite a belief that there is a real diffeence of local interests and views. One of the expedients of a party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You can not shield yourselves too much against the jealousies and heartburnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen in the negotiation by the Executive and in the unanimous ratification by the Senate of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government and in the Atlantic States unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties—that with Great Britain and that with Spain—which secure to them everything they could desire in respect to our foreign relations toward confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your union a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a constitution of government better calculated than your former for an intimate union and for the efficacious management of your common concerts. This Government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community, and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction rather than the organ of consistent and wholesome plans, digested by common counsels and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely in the course of time and things to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves

the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.

Toward the preservation of your Government and the permanency of your present happy state it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which may impair the energy of the system, and thus to undermine what can not be directly overthrown. In all the changes to which you may be invited remember that time and habit are at least as necessary to fix the true character of governments as other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country; that facility in changes upon the credit of mere hypothesis and opinion exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember especially that for the efficient management of your common interests in a country so extensive as ours a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

The spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself through the channels of party passion. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true, and in governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose, and there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments, ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duty of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, Where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric? Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursement to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars have occasioned, not ungenerously throwing upon posterity the burthen which we ourselves ought to bear. The execution of these maxims belongs to your representatives; but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty it is essential that you should practically bear in mind that toward the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the Government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice toward all nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct. And can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period a great nation to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded, and that in place of them just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more

readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur.

Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation prompted by ill will and resentment sometimes impels to war the government contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject. At other times it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions by unnecessarily parting with what ought to have been retained, and by exciting jealously, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity, gilding with the appearances of a virtuous sense of obligation a commendable deference for public opinion or a laudable zeal for public good the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils? Such an attachment of a small or weak toward a great and powerful nation dooms the former to be the satellite of the latter. Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots who may resist the intrigues of the favorite are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not legally hazard the giving us provocation; when we may choose peace or war, as our interests, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world, so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs that honesty is always the best policy. I repeat, therefore, let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good—that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both Houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take and was bound in duty and interest to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverence, and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity toward other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my Administration I am unconscious of intentional error, I am, nevertheless, too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence, and that, after forty-five years of my life dedicated to its service with an up-

right zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love toward it which is so natural to a man who views it in the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow-citizens the benign influence of good laws under a free government—the ever-favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors, and dangers.

GO: WASHINGTON.

UNITED STATES, *September 19, 1796.*

APPRAISERS' STORES, SAN FRANCISCO, CAL.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting an estimate recommended for inclusion in the general deficiency appropriation bill or the sundry civil appropriation bill for appraisers' stores, San Francisco, Cal., to fit up offices for customs officials during the construction of the new custom-house building, and incidental expenses, $12,000; which was referred to the Committee on Appropriations, 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 agreed to the amendments of the Senate to 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.

The message also announced that the House insists upon its amendments to the bill (S. 4156) for the establishment of public-convenience stations in the District of Columbia, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BABCOCK, Mr. ALLEN, and Mr. COWHERD managers at the conference on the part of the House.

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

H. R. 11218. An act setting aside a certain island in Bartlett Lake, Minnesota, as a park and forest reserve;

H. R. 18751. An act to extend the time for the construction of a bridge across Rainy River by the International Bridge and Terminal Company;

H. R. 18862. An act to provide for a land district in Yellowstone, Rosebud, and Carbon counties, in the State of Montana, to be known as the Billings land district;

H. R. 18965. An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes; and

H. J. Res. 217. Joint resolution to return to the proper authorities certain Union and Confederate battle flags.

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

S. 2354. An act to authorize the promotion of 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 Company of New Jersey;

S. 6351. An act granting an increase of pension to Martin T. Cross;

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

H. R. 15305. An act granting a pension to Isaac F. Clayton;

H. R. 17331. An act relating to a dam across the Rainy River; and

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

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of sundry citizens of Phoenix, Ariz., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a memorial of sundry citizens of Minnesota, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of the Dominican Republic, praying that an investigation be made into the conditions existing in that Republic; which was referred to the Committee on Foreign Relations.

Mr. FAIRBANKS presented the petition of James E. Piety and 91 other members of the bar of Terre Haute, Ind., praying for the enactment of legislation to establish four terms of the United States court at that city; which was referred to the Committee on the Judiciary.

He also presented a petition of the Merchants' Association of Richmond, Ind., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented a petition of the Travelers' Protective Association of Terre Haute, Ind., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. PLATT of New York presented a petition of the Navy League of the United States, praying that an appropriation be made providing for the restoration and fitting out of the old frigate *Constitution;* which was referred to the Committee on Naval Affairs, and ordered to be printed in the RECORD, as follows:

[Navy League of the United States, headquarters Maritime Exchange Building, 78 Broad street, New York City.]

The following preamble and resolutions, having been unanimously approved by the Headquarters Section of the Navy League of the United States and twelve others, are respectfully presented to Congress for its consideration:

Whereas an item of $400,000 in the naval appropriation bill presented at the last Congress for the restoration and fitting out of the old frigate *Constitution* as a training ship was thrown out, after having passed the Senate, by the Committee on Naval Affairs of the House of Representatives as an unwarranted extravagance; and

Whereas the *Constitution,* popularly known as *"Old Ironsides,"* the most historic ship of the United States Navy, appeared in the gloomiest hours of the war of 1812 like a gleam of light in the darkness; and

Whereas throughout her whole career *Old Ironsides* has ever been associated in the minds of the American people with deeds of valor which have made her name an inspiration in the American Navy; and

Whereas by strange fatality the *Constellation,* a ship of the same period, which through ill fortune was blockaded in Chesapeake Bay during the entire war of 1812, was rebuilt as a training ship for midshipmen; and

Whereas the glorious old frigate, bearing a name that is synonymous with all that is noble and bright in our nation's history, lies a dismantled and rotting hulk at the wharf whence one hundred and seven years ago she sailed to enter upon her heroic career: Now, therefore, be it

Resolved, That we, members of Headquarters Section, No. 10, of the Navy League of the United States, hereby unite with all sections of the Navy League at home and abroad in respectfully urging upon Congress that the appropriation which was rejected at the last session be now allowed; and be it further

Resolved, That we feel it to be the duty of our nation to preserve the famous old *Constitution* as an object lesson to the youth of our land and as a reminder to the officers and men of our Navy that they, through their own valorous deeds, may one day make the name of the ships confided to their trust likewise immortal.

William Boerum Section, No. 22, Allenhurst, N. J.; Decatur Section, No. 20, Cambridge, Md.; Commodore Perry Section, No. 14, Kenyon, R. I.; Admiral Dahlgren Section, No. 31, Scranton, Pa.; London Section, No. 48, London, England; Ben Franklin Section, No. 52, Poplar Bluff, Mo.; Paris Section, No. 36, Paris, France; Admiral Bunce Section, No. 42, Hartford, Conn.; Admiral H. C. Taylor Section, No. 49, Southampton, L. I.; Captain Gridley Section, No. 45, Copper Cliff, Ontario; Constitution Section, No. 43, Bayonne, N. J.; Battle Ship Oregon Section, No. 25, The Oranges, N. J.

ROBERT S. SLOAN,
Secretary Navy League of the United States.

Mr. PLATT of New York presented memorials of H. D. Fargo, of Batavia; of the congregation of the Methodist Episcopal Church of Rochester; of Thomas Wildes, of New York City; of Andrew A. Ayres, of Brooklyn; of W. C. Black, of New York City; of A. C. Gardner, of New York City, and of S. R. Knapp, of Peekskill, all in the State of New York, remonstrating against the use of trust funds for sectarian school purposes; which were ordered to lie on the table.

He also presented petitions of sundry citizens of Holley, Lowville, Newhaven, Jamestown, New York City, Schenectady, Silver Creek, Canaan Four Corners, Montgomery, New Brighton, Rensselaer County, Lestershire, Stamford, Newfane, Oneonta, Watertown, Lake Placid, Chatham, Otsego County, Cort-

land, and Haverstraw, all in the State of New York, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. NELSON presented memorials of sundry citizens of Roseau, Sherburne, Philbrook, Duluth, Drywood, Mankato, Sauk Center, Fort Ripley, Faribault, and Roseau County, all in the State of Minnesota, 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.

He also presented a petition of the legislature of Minnesota, praying for the enactment of legislation providing for the free importation of Canadian seed wheat; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the chapter of the American Institute of Bank Clerks of St. Paul, Minn., praying for the enactment of legislation providing for the redemption of mutilated paper currency; which was referred to the Committee on Finance.

Mr. HOPKINS presented petitions of Musicians' Protective Union No. 204, of Mattoon; of Musical Union No. 89, of Decatur; of Local Union No. 178, Musicians' Protective Association, of Galesburg, and of Local Union No. 29, Musicians' Union, of Belleville, all in the State of Illinois, praying for the enactment of legislation to increase the salaries of the members of the Marine Band, and also to prohibit the unfair competition of that organization with professional civilian musicians; which were referred to the Committee on Naval Affairs.

He also presented petitions of sundry citizens of Aurora and Braidwood, in the State of Illinois, praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which were referred to the Committee on Patents.

He also presented the petition of Marion Talbot, dean of women of the University of Chicago, Chicago, Ill., praying for the enactment of legislation providing compulsory education in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented memorials of sundry citizens of Normal and Monmouth, in the State of Illinois, remonstrating against the enactment of legislation providing for the closing on Sundays of certain places of business in the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented petitions of sundry citizens of Danville, Peoria, Rockford, Freeport, Joliet, and Wauconda, all in the State of Illinois, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

He also presented a petition of the faculty of Rush Medical College, of Chicago, Ill., praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented the petitions of Lake Division, No. 302, Brotherhood of Locomotive Engineers, of Chicago, and W. F. Hynes Lodge, No. 48, Brotherhood of Locomotive Firemen, of Peoria, and of Local Division No. 386, Order of Railway Conductors, of East St. Louis, all in the State of Illinois, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

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

He also presented a petition of sundry citizens of Manila, P. I., praying for a reduction of the duty on tobacco imported from the Philippine Islands into the United States; which was referred to the Committee on the Philippines.

He also presented a petition of the Chamber of Commerce of Sitka, Territory of Alaska, praying for the adoption of a certain amendment to the civil code of that Territory providing for a reduction of the license on electric and power plants; which was referred to the Committee on Territories.

He also presented a petition of Local Lodge No. 327, American Federation of Musicians, of Crestline, Ohio, praying for the enactment of legislation to increase the salaries of members of the Marine Band and to prohibit that organization from entering into competition with civilian musicians; which was referred to the Committee on Naval Affairs.

He also presented a memorial of the Christian Endeavor Society of Norwalk, Ohio, and a memorial of the congregation of the Methodist Episcopal Church of Youngstown, Ohio, remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Enterprise Manufacturing Company, of Akron, Ohio, and a memorial of the Employers' Association of Columbus, Ohio, remonstrating against the passage of the so-called "anti-injunction bill;" which were referred to the Committee on the Judiciary.

He also presented petitions of Grange No. 1368, of Tawawa; of Grange No. 998, of Trenton; of Grange No. 54, of Pomona; of Powell Grange, No. 1584, of Powell, all Patrons of Husbandry, and of the Farmers' Institute of Holmesville, all in the State of Ohio, praying for the passage of the so-called "postal savings bank bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of sundry citizens of Kenton, Ohio, and a memorial of sundry citizens of Akron, Ohio, remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Cincinnati Clergymen's Association, of Cleveland; of the congregation of the Unity Church of Toledo; of the Woman's Suffrage Association of Ada, and of sundry citizens of Akron, all in the State of Ohio, praying for the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

He also presented memorials of Pomono Grange, No. 54, of Delaware County; of Grange No. 32, of Ravenna, and of Grange No. 186, of Andover, all of the Patrons of Husbandry, in the State of Ohio, remonstrating against any reduction of the duty on colored oleomargarine; which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Board of Commerce of Oberlin, Ohio, praying for the enactment of legislation providing for the protection of depositors in national banks; which was referred to the Committee on Finance.

He also presented petitions of the Woman's Christian Temperance Unions of Ashtabula and Mechanicsburg; of the Friday Club, of Hillsboro; of the Emerson Club, of Dayton, and of the Farmers' Institute of New Philadelphia, all in the State of Ohio, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of A. Overholt & Co., of Pittsburg, Pa., remonstrating against the adoption of any amendment to the so-called "pure-food bill" relating to whisky; which was ordered to lie on the table.

He also presented a memorial of the National Wine Growers' Association of Cleveland, Ohio, and a memorial of sundry citizens of Cincinnati, Ohio, remonstrating against the adoption of any amendment to the so-called "pure-food bill" relating to native wines; which were ordered to lie on the table.

He also presented a petition of Local Lodge No. 183, Brotherhood of Locomotive Engineers of Collinswood, Ohio, and a petition of Local Lodge No. 9, Brotherhood of Locomotive Firemen, of Columbus, Ohio, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented petitions of the Home Missionary Society of Wooster, of the Young People's Alliance of Galion, of the Ministerial Associations of Youngstown, Delaware, and East Liverpool, of the Woman's Christian Temperance Unions of Norwalk and Bairdstown, and of the congregation of the Methodist Episcopal Church of Oberlin, all in the State of Ohio, praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the new States to be formed; which were ordered to lie on the table.

He also presented petitions of the Shippers' Association of Columbus; of the South Side Business Men's Association, of Columbus; of the Wholesale Fruit and Produce Association of Cleveland; of the Commission Merchants' Leagues of Toledo and Cincinnati; of the Millers' Association of Ohio; of the Commercial Travelers' Club of Cincinnati, and of the Carriage Makers' Club of Cincinnati, all in the State of Ohio, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

Mr. GAMBLE presented petitions of R. R. Jewett and 17 other citizens of Geddes, of George H. Ballweg and 19 other citizens of Bath, of W. O. Johnson and 63 other citizens of Alcester, of P. H. Christenson and 9 other citizens of Spink County, of N. M. Jorgenson and 69 other citizens of Beresford, of F. Mann and 63 other citizens of Iroquois, of Alfred Johnson and 61 other citizens of Britton, of George Bolles and 58 other citizens of Aberdeen, of H. C. Pfeiffer and 139 other citizens

of Parker, of C. Stotz and 63 other citizens of Roscoe, of J. S. Thompson and 69 other citizens of Bancroft, of R. C. Reinsche and 64 other citizens of Milltown, of Anna Patzkouski and 63 other citizens of Westford, of N. C. Petersen and 62 other citizens of Turner County, and of John Nelson and 63 other citizens of Irene, all in the State of South Dakota, 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. GALLINGER presented a petition of sundry citizens of Wolfeboro, N. H., 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 memorials of sundry citizens of Washington, D. C., remonstrating against the enactment of legislation requiring the closing of certain places of business in the District of Columbia on Sunday; which were referred to the Committee on the District of Columbia.

Mr. McCUMBER presented memorials of Marie Winter and 11 other citizens of McHenry County, of Edward T. Burke and 65 other citizens of Valley City, and of John H. Apperspach and 30 other citizens of Jamestown, all of the State of North Dakota, 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.

Mr. BURROWS presented petitions of the Christian Reform Federation of Milford, of sundry citizens of Michigan, of the Christian Endeavor Union of Detroit, and of the Woman's Club of Grand Haven, all in the State of Michigan; of the National Woman's Christian Temperance Union of New York City, of the Legislative League of New York City, and of the Woman's Club of Ord, Nebr., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented memorials of Raisinville Grange, No. 910, Patrons of Husbandry, of Ida; of Anne Grange, Patrons of Husbandry, of Camden; of Sitka Grange, No. 861, Patrons of Husbandry, of Newaygo County; of Davis Grange, No. 1085, Patrons of Husbandry, of Davison; of County Line Grange, No. 671, Patrons of Husbandry, of Sand Lake; of Wheatland Grange, No. 273, Patrons of Husbandry, of Pittsford; of Glennie Grange, Patrons of Husbandry, of Glennie; of Lakeview Grange, No. 872, Patrons of Husbandry, of Otsego County; of Hope Grange, No. 1016, Patrons of Husbandry, of Midland County; of Maple Hill Grange, No. 691, Patrons of Husbandry, of Central Lake; of Montgomery Grange, No. 948, Patrons of Husbandry, of Montgomery, and of Butternut Grange, No. 1235, Patrons of Husbandry, of Butternut, all in the State of Michigan, remonstrating against the repeal of the present oleomargarine law; which were referred to the Committee on Agriculture and Forestry.

He also presented petitions of sundry citizens of Davison, Lawton, Detroit, Alpena, Lansing, Luther, Saginaw, Grand Rapids, and Reading, all in the State of Michigan, praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which were referred to the Committee on Patents.

He also presented memorials of sundry citizens of Jackson, Milford, Petoskey, Lesterville, Arden, Montcalm, Battlecreek, Dewitt, Pomona, Berrien Springs, Douglas, Pawpaw, Grand Traverse County, Potterville, Alandon, Elk Rapids, and Kent County, all in the State of Michigan, 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.

Mr. PROCTOR presented the petition of C. A. Bump and 56 other citizens of West Salisbury, Vt., praying for the establishment of a parcels-post and post-check currency; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. STEWART presented a memorial of the legislature of Nevada, relative to reequipping and reopening to coinage the United States branch mint at Carson City, in that State; which was referred to the Committee on Appropriations, and ordered to be printed in the RECORD, as follows:

Senate memorial and joint resolution to Congress relative to reequipping and reopening to coinage the United States branch mint at Carson City.

To the Senate and House of Representatives, in Congress assembled:

Your memorialists, the legislature of the State of Nevada, respectfully show that one of the great industries by which the people of Nevada live is mining for gold and silver. Whatever, therefore, burdens, discourages, or imposes restraints upon the production of the precious metals, retards or delays the conversion of same into the coins authorized by the General Government, works a hardship hurtful to our miners and detrimental to the bringing of foreign capital for investment in our mining enterprises.

The mineral resources of the State are vast, almost beyond belief. No region of the earth excels Nevada in richness and extent.

The bullion output of the region to be accommodated by the Carson branch mint not only embraces a greater area than any mineral belt or mineral deposit surrounding any of the United States mints, while the country naturally tributary to this mint establishes its location as a most favorable point beneficial to the producers of the precious metals.

The famous Comstock lode, situated but a few miles from this mint, and which, during the dark days of the rebellion, furnished the gold and silver warranting the redemption of the paper currency forced into circulation to meet the great emergency facing the life of the nation, continues to yield her precious treasures in bounteous quantities, later to pass by the doors of this mint to the San Francisco mint, to other mints thousands of miles distant, or to private assay offices and smelting works. The same can be said of every ounce of bullion produced in this State.

The rich mineral discoveries commencing in 1900 in the southwestern portion of the State, embracing the Tonopah and Goldfield districts, with equally rich deposits now being developed in that vicinity, indisputably assure the future production of mineral wealth equal to that at any period in the history of the State.

The large ore deposits in these new mineral fields, excelling in richness and extent all late mineral discoveries throughout the inhabited world, are to-day attracting prospectors, miners, and capitalists seeking possession and investments unequaled in the search for hidden treasures.

Railroads to meet the needs other transportation facilities can not accommodate are being rushed to completion, while the increased population everywhere denotes an upward tendency in mining the precious metals. Other industries are going forward in keeping with the impetus given to mining.

The bullion output of these districts also passes the very door of the Carson branch mint, denying to the producer that just recognition and speedy return for his toil and energies.

Your memorialists are informed the Carson branch mint has been dismantled to some extent in the transference of certain portions of its machinery to other mints, but that a moderate appropriation would restore it to its original coining capacity. With this accomplished, and the enactment of requisite laws and regulations for reopening same to coinage, our citizens would again be the recipients of benefits the General Government a few years ago accorded them: Therefore, be it

Resolved by the senate (the assembly concurring), That our Senators and Representative in Congress be instructed to use all honorable means in their power toward reequipping and reopening to coinage the United States branch mint at Carson City; and be it further

Resolved, That the governor be requested to transmit a duly authenticated copy of this memorial and joint resolution to the honorable the Secretary of the Treasury, to each of our United States Senators, and to our Representative in Congress.

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 senate memorial and joint resolution to Congress, 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 14th day of February, A. D. 1905.

[SEAL.]

W. G. DOUGLASS,
Secretary of State.

Mr. FOSTER of Washington presented a petition of the Palouse Implement Dealers' Association, of Moscow, Idaho, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. CLAPP presented memorials of sundry citizens of Minnesota, 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.

Mr. DRYDEN presented a petition of the New Jersey Lumbermen's Protective Association, of Newark, N. J., praying for the passage of the so-called "Townsend railroad-rate bill;" which was referred to the Committee on Interstate Commerce.

He also presented a memorial of Enterprise Harbor, No. 2, American Association of Masters and Pilots of Steam Vessels, of Camden, N. J., remonstrating against the enactment of legislation to remove discriminations against American sailing vessels in the coasting trade; which was referred to the Committee on Commerce.

He also presented a petition of sundry citizens of Newark, N. J., praying for the enactment of legislation to restore the canteen to the army posts; which was referred to the Committee on Military Affairs.

Mr. CLARK of Montana presented a petition of the legislature of Montana, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce, and ordered to be printed in the RECORD, as follows:

Senate joint memorial No. 1.

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

Whereas experience and the decisions of the Federal courts have demonstrated that legislation applying to public carriers engaged in inter-

state commerce is required for the protection and preservation of the rights of the shipper and passenger: Therefore, be it

Resolved, That we, your memorialists, the ninth legislative assembly of the State of Montana, respectfully petition your honorable body, in the exercise of the power to regulate commerce between the several States granted by the Constitution of the United States, to speedily enact such legislation as will insure reasonable and equitable rates and charges for the transportation of property and passengers between the States and prevent unreasonable and unjust discrimination in the conduct of the business of interstate commerce, and to that end that the Interstate Commerce Commission be given the power and authority not only to determine when rates are unreasonable, but also to determine and establish reasonable rates in lieu of such rates as may be by said Commission adjudged unreasonable; be it further

Resolved, That the secretary of the State be, and he is hereby, directed to transmit copies of this memorial to the President of the United States, the President of the Senate, the Speaker of the House, and our Senators and Representatives in Congress.

EDWIN NORRIS,
President of the Senate.
WYLLYS A. HEDGES,
Speaker of the House.

Approved January 30, 1905.

J. K. TOOLE, *Governor.*

Filed January 30, 1905, at 3.20 p. m.

A. N. YODER,
Secretary of State.

Mr. WARREN presented a petition of the Twentieth Century Club, of Newcastle, Wyo., requesting that the Interstate Commerce Commission be given authority to fix, subject to review by the proper courts, reasonable railroad rates to take the place of such rates as may have been found to be unreasonable; which was referred to the Committee on Interstate Commerce.

Mr. TELLER presented a petition of Fred H. Beecher Post, No. 70, Department of Colorado, Grand Army of the Republic, of Colorado, praying for the enactment of legislation to modify and simplify the pension laws of the United States; which was referred to the Committee on Pensions.

He also presented a memorial of the Chamber of Commerce of Colorado Springs, Colo., remonstrating against any reduction of the duty on sugar imported from the Philippine Islands; which was referred to the Committee on the Philippines.

He also presented a memorial of sundry wholesale grocers of Denver, Colo., and a memorial of sundry citizens of Denver, Colo., remonstrating against the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

He also presented petitions of Garfield Lodge, No. 349, Brotherhood of Railroad Trainmen, of Grand Junction; of Grand Valley Lodge, No. 594, Brotherhood of Locomotive Firemen, of Grand Junction, and of Mount Ouray Lodge, No. 140, Brotherhood of Locomotive Firemen, of Salida, all in the State of Colorado, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

Mr. CULBERSON presented a memorial of sundry citizens of Fort Worth, Tex., and a memorial of sundry citizens of Poetry, Tex., 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.

Mr. DIETRICH presented a memorial of the Nebraska Federation of Commercial Clubs, remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

Mr. COCKRELL. I present the affidavit of Josiah Buck and Pavalle Buck, of Dr. N. A. Williams, and of Rev. J. W. Day and F. W. Cohass, together with an additional petition of the claimant relative to an increase of pension to David Bartlett. I move that the papers be referred to the Committee on Pensions to accompany the bill (S. 67) granting an increase of pension to David Bartlett.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to whom was referred the amendment submitted by Mr. WARREN on the 20th instant, providing for the resurvey of certain townships in the State of Wyoming, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

Mr. BURNHAM, from the Committee on Territories, to whom was referred the bill (S. 6980) to aid in the construction of a railroad and telegraph and telephone line in the Territory of Alaska, reported it with amendments, and submitted a report thereon.

Mr. McCUMBER. I move that the bill (S. 5264) establishing an additional recording district in Indian Territory, and for other purposes, be recommitted to the Committee on Indian Affairs, it having been inadvertently reported.

The PRESIDENT pro tempore. The bill will be recommitted to the Committee on Indian Affairs.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (H. R. 4390) granting an increase of pension to Francis W. Seeley, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 13888) granting a pension to Elizabeth Augusta Russell, reported it without amendment, and submitted a report thereon.

Mr. SPOONER, from the Committee on the Judiciary, to whom was referred the bill (H. R. 2531) to divide Washington into two judicial districts, reported it with amendments, and submitted a report thereon.

Mr. WARREN, from the Committee on Claims, to whom was referred the bill (S. 7218) authorizing and directing the Secretary of State to examine and settle the claim of the Wales Island Packing Company, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 1520) for the relief of the Mission of St. James, in the State of Washington, asked to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

Mr. WARREN. I am directed by the Committee on Claims, to whom was referred the bill (H. R. 10089) for the relief of R. D. Ashford, of Lockport, Niagara County, N. Y., to report it with an amendment, and to submit a report thereon. It is a small bill, which has passed the House, and it is to be amended. It may require a conference, and I therefore ask for its present consideration.

Mr. HALE. In view of the absolute necessity of proceeding with appropriation bills, I must object to the passage of any other bill.

The PRESIDENT pro tempore. Objection is made, and the bill will be placed on the Calendar.

Mr. MARTIN, from the Committee on Claims, to whom was referred the bill (H. R. 6984) for the relief of Kate R. Sharretts and Edward A. Sharretts, administrators of George E. W. Sharretts, reported it without amendment.

Mr. DIETRICH. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 18279) to authorize the Secretary of the Interior to accept the conveyance from the State of Nebraska of certain described lands and granting to said State other lands in lieu thereof, and for other purposes, to report it without amendment.

It is intended to correct the title to a homestead upon which the party has lived for thirty-three years, and I ask for its immediate consideration.

Mr. HALE. I must object, Mr. President.

The PRESIDENT pro tempore. The Senator from Maine objects, and the bill will be placed on the Calendar.

Mr. PETTUS, from the Joint Select Committee of the Senate and House of Representatives on the Disposition of Useless Papers in the Executive Departments, submitted a report on the files and papers described in the report of the Secretary of the Treasury in House Document No. 595, Fifty-eighth Congress, second session, dated March 8, 1904.

He also, from the same joint select committee, submitted a report on the files and papers described in the report of the Secretary of the Interior in Senate Document No. 236, Fifty-eighth Congress, second session, dated March 28, 1904, and in House Document No. 255, Fifty-eighth Congress, third session, being the report of the Secretary of the Interior, dated January 23, 1905.

Mr. PLATT of Connecticut, from the Committee on the Judiciary, to whom was referred the bill (H. R. 14589) to provide for terms of the United States district and circuit courts at Washington, N. C., reported it with an amendment.

Mr. CULBERSON, from the Committee on the Judiciary, to whom was referred the bill (H. R. 17579) to create a new division of the western judicial district of Louisiana, and to provide for terms of court at Lake Charles, La., and for other purposes, reported it with amendments.

Mr. McCUMBER. I am directed by the Committee on Pensions, to whom was referred the bill (H. R. 17330) 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, to report it without amendment, and I submit a report thereon. I give notice that immediately after the consideration of the Indian appropriation bill has been concluded I shall call up this bill for consideration.

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

Mr. HANSBROUGH, from the Committee on Public Lands, to whom were referred the following bills, reported them each without amendment, and submitted reports thereon:

A bill (S. 7247) ceding a strip or parcel of land to the city of Hot Springs, Ark., for use as a public street; and

A bill (S. 5860) for the relief of settlers upon the abandoned Fort Rice Military Reservation.

Mr. HANSBROUGH, from the Committee on the District of Columbia, to whom was referred the amendment submitted by Mr. STEWART on the 1st instant, relative to an appropriation for the Providence Hospital in the city of Washington, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

IMPROVEMENT OF PUBLIC ROADS.

Mr. PLATT of New York, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate, That there be printed for the use of the Senate document room 10,000 copies each of Senate bill No. 4098 and the report thereon, being report No. 2626, third session Fifty-eighth Congress.

BILLS INTRODUCED.

Mr. LONG introduced a bill (S. 7249) providing that the act of May 19, 1902, entitled "An act for the protection of cities and towns of the Indian Territory, and for other purposes," shall be applicable to any incorporated town in Indian Territory having a population of 1,000 or over; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. PROCTOR introduced a bill (S. 7250) to establish a national military park on St. Michaels Island, Lake Champlain, and to erect a monument in honor of the American sailors and soldiers killed in the battle of Plattsburg; which was read twice by its title, and referred to the Committee on Military Affairs.

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

A bill (S. 7251) granting a pension to Julia L. Parrott; and

A bill (S. 7252) granting a pension to Mary J. Chenoweth.

Mr. BURROWS introduced a bill (S. 7253) for the relief of the estate of Joshua Hill, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. ALLISON introduced a bill (S. 7254) for the relief of Bert E. Barnes; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CLARK of Montana submitted an amendment relative to the reservation of lands embraced within the limits of the Flathead Indian Reservation, in the State of Montana, for Catholic mission schools, etc., intended to be proposed by him to the Indian appropriation bill; which was ordered to lie on the table, and be printed.

He also submitted an amendment authorizing the President to reserve not to exceed 5,000 acres of timber land within the limits of the Flathead Indian Reservation, in the State of Montana, for the use of the Flathead Indians as a fuel supply, intended to be proposed by him to the Indian appropriation bill; which was ordered to lie on the table, and be printed.

Mr. CLAPP submitted an amendment providing for a preliminary survey with a view of constructing a canal between Lake Winibogoshish and Portage Lakes, in the State of Minnesota, 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. McCOMAS submitted an amendment authorizing the Secretary of the Treasury to make full rebate of all duties imposed by law on anthracite coal imported into any port of the United States from foreign countries from October 6, 1903, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to appropriate $15,000 to purchase the Peabody and Gunton properties adjacent to the site of the customs-house building, Baltimore, Md., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment authorizing the Secretary of the Treasury to repay $14,060.39 paid as duty upon anthracite coal at the port of Baltimore, Md., to the persons who paid the same after the 6th day of October, 1902, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BEVERIDGE submitted an amendment authorizing the accounting officers of the Treasury Department to adjust and settle the claims of West Virginia, Nebraska, Kansas, Louisiana, and South Carolina, and the claims of like character of other States now on file or hereafter filed on or before the 1st day of January, 1906, before the Treasury Department, etc., 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 Military Affairs.

STATUE OF FRANCES E. WILLARD.

Mr. CULLOM 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 and bound of the proceedings in Congress upon the acceptance of the statue of the late Frances E. Willard, presented by the State of Illinois, 16,500 copies, of which 5,000 shall be for the use of the Senate, 10,000 for the use of the House of Representatives, and the remaining 1,500 shall be for the use and distribution by the governor of the State of Illinois; and the Secretary of the Treasury is hereby directed to have printed an engraving of said statue to accompany said proceedings, said engraving to be paid for out of the appropriation for the Bureau of Engraving and Printing.

PAYMENT OF WITNESSES IN IMPEACHMENT TRIALS.

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

Resolved, That the rule for paying witnesses summoned to appear before the Senate in impeachment trials shall be as follows:

For each day that a witness shall attend, $4, and $4 for each day spent in traveling to or from the place of examination by the usual route. A witness shall also be entitled to be reimbursed his necessary expenses for traveling to and from the place of examination, in no case to exceed the sum of 7 cents a mile for the distance by him actually traveled for the purpose of appearing as a witness.

THE IMPEACHMENT TRIAL.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day.

The Secretary read the resolution submitted yesterday by Mr. HALE, as follows:

Resolved, That all proceedings in the impeachment trial now before the Senate sitting as a court shall be terminated on Saturday, February 25 next, and a final vote shall be taken on the afternoon of that day at 4 o'clock.

Mr. HALE. I offer as a substitute for that resolution what I send to the desk. I ask that it may be read and printed, and that then the whole matter shall go over, because I am informed that arrangements are now being made by which it is hoped and expected that the entire proceedings will terminate with the end of this week. If that can be done I am entirely willing to waive asking the Senate to make any established rule about it. For the present let it lie on the table.

The PRESIDENT pro tempore. The Senator from Maine withdraws his former resolution and in place substitutes the order sent to the desk. Does he desire to have it read?

Mr. HALE. I desire to have it read.

The Secretary read as follows:

Ordered, That all proceedings before the Senate sitting in the trial of the impeachment against Charles Swayne, judge of the United States in and for the northern district of Florida, shall terminate on Saturday, February 25 next, and, in pursuance of this order, all testimony upon either side shall be closed on Friday, the 24th day of February next, and the Senate shall commence its session sitting for the trial of said impeachment proceedings at 12 o'clock meridian on said Saturday, the 25th day of February next; and, without any other motion or proceeding intervening, the counsel for the defense shall have until 2 o'clock of said day to present the case of the defendant, said time to be apportioned or divided as said counsel may determine; the managers on the part of the House of Representatives shall have, to present the case against said Charles Swayne, the time from 2 o'clock until 4 o'clock of said day, said time to be apportioned or divided as the managers may determine; at 4 o'clock, without further motion or proceeding intervening, the final vote shall be taken upon said impeachment proceedings.

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

Mr. PLATT of Connecticut. With regard to the resolution which has been introduced by the Senator from Maine, which is to lie upon the table and be printed, I wish to remark that the present rules, as I recollect them, provide—which it seems to me ought to be the provision—that the argument shall be opened by the managers and closed by the managers. This proposed resolution would seem to have the argument opened

by the defense. I merely make the suggestion to the Senator from Maine.

Mr. HALE. I said before the Senator came in——

Mr. PLATT of Connecticut. I heard the statement.

Mr. HALE. That in view of an arrangement being made which would be satisfactory to all parties to terminate the proceedings this week, I would not urge it. If it comes up again the terms of it can be made so that they may cover the point raised by the Senator, but I hope it will not come up again at all, and that other arrangements will be made by which we shall have the matter out of the way this week and be able to proceed to other business.

There are now, Mr. President, untouched by the Senate, five of the great appropriation bills, aggregating $500,000,000, for the coming fiscal year, and after Saturday there are practically but five legislative days. The Senate will have to average more than one great appropriation bill a day, and it becomes a very serious matter whether we can so attend to this business that all those bills will be gotten through. But if this proceeding can be removed from us and give us our time we can, I hope and believe, put the appropriation bills through. If it is allowed to drag its slow length along and no halt to the proceeding is called and no arrangement is enforced, Senators may be prepared to see it continued for three hours every day until noon on the 4th of March.

I wish to prevent that and at the same time, Mr. President, I do not seek—I have no pride in this matter—to force it now; but if the proceeding is prolonged beyond this week I shall find some method of bringing the Senate to a vote in some way to draw the proceeding to a close.

Mr. BACON. Mr. President, I quite agree with the Senator from Maine that the legislative business before this Senate is of extreme importance, but I do not think that anything is of more importance than that the Senate shall give such direction to any measures which it may deem necessary for expedition of the impeachment trial as will not bring into discredit and disrepute the very high and important function which we are now performing. In trying the impeachment presented by the House we are complying with the requirements of the Constitution, through which alone the purity and integrity of the public service can be guarded and secured.

The suggestion which I desire to make in this connection, in order that a wrong impression may not go abroad, is that everything which looks to expedition of the impeachment trial should, so far as necessary and practicable, be in the nature of additional time given by the Senate to this work in the interval which now remains at our command, and that it should not be directed to the arbitrary abridgment of the necessary presentation of this case by the House of Representatives, performing as it does a high constitutional function in bringing and presenting to the Senate its case. If we desire that the impeachment trial shall close by Saturday, then the proper course is to give more time to it each day, so that the managers on the part of the House and the counsel for the respondent may have before them full time in which to fully present their respective cases to the Senate. We all know that this session must end at noon on the 4th of March and that we are limited in time by law; and the objection which I make to the suggestion of the Senator is not to his effort that we may by proper expedition in the disposition of the impeachment matter have sufficient time for the proper discharge of the important duties of another kind which devolve upon us. My objection is to the method proposed. I prefer that, instead of that, the direction should be given to this matter which will impose upon us, if it need be, additional labor by providing for additional time to be devoted to the trial each day, and that it be not disposed of by the suggestion of an arbitrary abridgment in the opportunity of the House of Representatives to present its case here, and of the time for the proper consideration by ourselves as to how this important matter shall be determined, and what final disposition shall be given to it.

Mr. STEWART. Mr. President, I should like to make one suggestion in regard to this matter. It is suggested that the Constitution restrains the Senate, and that to comply with the provisions of the Constitution no limitation should be put upon time. We have a constitutional right to trial by jury, we have a constitutional right to have cases heard by the courts, and the courts exercise in pursuance of that a reasonable discretion as to the time to be used. The Supreme Court of the United States have rules in regard to the time to be used in cases to be argued there, and in criminal proceedings the courts put a reasonable limit to the time to be allowed for argument. They have to facilitate a trial in order to comply with the Constitution at all.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. STEWART. Certainly.

Mr. SPOONER. Has the Senator ever known a court before which there was a criminal case to fix a limit of time within which limit testimony for the defense should be presented?

Mr. BACON. Mr. President, I hope we may have an opportunity to hear the Senator.

Mr. STEWART. I have known cases very frequently.

Mr. SPOONER. Of course, limiting the argument.

Mr. STEWART. I have known frequently when the court would say, "You must have your witnesses here to-morrow, so that we may get through with the case." It is necessary to do it in order to discharge the business of the court.

ADDITIONAL COPIES OF THE "JEFFERSON BIBLE."

The PRESIDENT pro tempore. The Senator from Maine [Mr. HALE] has sent to the desk a further resolution, which will be read.

The Secretary read as follows:

Resolved by the Senate, That 130 copies of House Document No. 775, Fifty-eighth Congress, second session, The Life and Morals of Jesus of Nazareth, be reprinted by photolithographic process from the same plates and bound in the same style for the use of the Senate, the cost of the same not to exceed $500.

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

Mr. GORMAN. I ask that the resolution just submitted to the Senate may be read again.

The PRESIDENT pro tempore. The resolution will be again read.

The Secretary again read the resolution.

Mr. GORMAN. I do not know who offered the resolution.

Mr. BLACKBURN. The Senator from Maine [Mr. HALE].

Mr. GORMAN. I wish to say that while I know there is a great demand for this work it must be remembered that the Government has been held to have no right to print these copies without paying the owner of the original work a dollar and a quarter a volume. I think the Senate Committee on Printing, which has had this matter under consideration, should consider the resolution, and I suggest to the Senator whether it had not better go to the Committee on Printing and have a report made.

Mr. HALE. Let me say that the question of a new edition does not enter into it.

Mr. GORMAN. It will be a new edition in this case, I wish to say to the Senator, and the publication can only be had from the original volume, for which we are to pay the owner a dollar and a quarter for each volume. It can not, in my judgment, come within the rule of the Senate limiting the cost of a publication to $500. I suggest to the Senator to let the resolution go to the committee.

Mr. HALE. I wish to say in answer to the Senator that it is not an edition. It is simply to afford certain Senators their quota under the old act. It does not touch my own case, but certain Senators have not received and will not receive their quota because some books have disappeared. It is simply to cure that which has been done through the fault of no one of the officials in charge of the books. Inquiry has been made and it has found that of the old edition a small number, perhaps a hundred or more, can be printed inside of the limit of $500. No new edition is required, and it enables such Senators who have not had their quota to get it. It does not give a volume to a Senator who has had his quota, and does not in any way suggest a new edition, but simply serves the Senators whose volumes have disappeared. It all comes within the limit of $500.

Mr. GORMAN. I see the force of what the Senator says, but unless the Committee on Printing has been misinformed by the Public Printer I think the Senator is mistaken. We have had information in the other direction, and unless we pay to the owner of this volume one dollar and a quarter a volume it can not be done.

Mr. HALE. Does not the resolution in terms direct that the cost shall not exceed $500?

The PRESIDENT pro tempore. It does.

Mr. GORMAN. It does.

Mr. HALE. I can assure the Senator that there will be no practical difficulty about it. All that matter has been looked into.

Mr. GORMAN. I will say to the Senator that the Committee on Printing has had that information.

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

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

HOUSE BILLS REFERRED.

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

H. R. 11218. An act setting aside a certain island in Bartlett Lake, Minnesota, as a park and forest reserve; and

H. R. 18862. An act to provide for a land district in Yellowstone, Rosebud, and Carbon counties, in the State of Montana, to be known as the Billings land district.

H. R. 18751. An act to extend the time for the construction of a bridge across Rainy River by the International Bridge and Terminal Company was read twice by its title, and referred to the Committee on Commerce.

H. R. 18965. An act to revise and amend the tariff laws of the Philippine Islands, and for other purposes, was read twice by its title, and, on motion of Mr. LODGE, referred to the Committee on the Philippines.

H. J. Res. 217. Joint resolution to return to the proper authorities certain Union and Confederate battle flags was read twice by its title, and referred to the Committee on Military Affairs.

GOVERNMENT OF CANAL ZONE.

The PRESIDENT pro tempore. Under the unanimous-consent agreement, the Chair lays before the Senate House bill 16986.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes.

The Secretary resumed the reading of the bill at page 7, line 19, and read to line 24, on page 7.

Mr. McCOMAS. I rise to make an inquiry only. The bill is being read now to pass upon the committee amendments?

The PRESIDENT pro tempore. It is being read to pass upon the committee amendments.

Mr. McCOMAS. An amendment I offered and is pending will be in order thereafter?

The PRESIDENT pro tempore. It will.

The reading of the bill was resumed. The next amendment of the Committee on Interoceanic Canals was, in section 9 (6), page 10, line 21, after the word "upon," to strike out "reasonable" and insert "such;" and in line 22, after the word "party," to insert "as the court shall prescribe;" so as to read:

Evidence of the value of the property sought to be condemned may be presented by either party before the appraisers upon such notice to the opposite party as the court shall prescribe, and for this purpose the appraisers may subpœna witnesses and compel their attendance and compel the production of books and papers.

The amendment was agreed to.

The next amendment was, in section 9 (6), page 11, line 6, after the word "hearing," to insert "such notice as the court shall direct being first given to the opposite party;" so as to read:

Upon the filing of such report in court, the court shall, upon hearing, such notice as the court shall direct being first given to the opposite party, at a time and place to be fixed by the court, accept the same and render judgment in accordance therewith, or for cause shown, the court may recommit the report to the appraisers for further report of facts; or it may accept the report in part and reject or recommit in part, and may make such order and judgment as shall secure to the United States the title to the corporate stock and to the defendant or denfendants just compensation for the property so taken and the title transferred and the judgment shall require payment to the defendant or defendants or into court of the amount fixed as compensation before the United States can appropriate said stock to the public use.

The amendment was agreed to.

The next amendment was, to insert as an additional section the following:

SEC. 7. That to enable the United States to secure at all times a sufficient supply of money to meet the necessities of the Government on said Canal Zone, the President is hereby authorized to deposit such sum of money as he may deem sufficient for said purposes, not to exceed $1,500,000, of any sums appropriated for canal purposes, in some bank or banks in the United States having a fiscal agent on the Isthmus of Panama, to be selected by the President: *Provided*, That such deposit shall be on terms which shall preserve the title to said money in the United States, enable the United States to withdraw said funds from said deposit at any time, and proper and sufficient security be given by the bank of deposit for the return of said money or the lawful accounting therefor.

Mr. MORGAN. Mr. President, before we pass away from the sections that have just been read on the subject of condemning stock in this canal I wish to make a statement about the matter.

The sections of the bill numbered here 3 to 6, inclusive, were adopted in substance if not in exact form by the Committee on Interoceanic Canals, and reported here by the committee. The House at that time, having under consideration the bill we are now considering in the Senate, adopted those amendments. Am I correct about that?

Mr. KITTREDGE. Yes.

Mr. MORGAN. The House adopted those amendments. When those amendments were pending in the Committee on Interoceanic Canals I opposed them. My reasons for it were that I was not satisfied that we have the constitutional authority to condemn property of this kind, which is held under a charter in New York, by an act of Congress. My opinion was that we ought to go to the State authorities of New York and prosecute this proceeding of condemnation in accordance with their laws; that the United States in its relation to this canal stock is only what we might call a private corporation. It has no sovereign power connected with its ownership of that stock at all. It is a mere corporator standing on the footing of all other corporators, and if the company or any of the corporators desire to proceed to have a portion of the stock of that railroad company condemned for the use of the company, my judgment is that the proper forum is in the courts of New York, and that that is not only our duty, but altogether a matter of due respect to the authorities of New York.

I have very great doubt as to whether such property as that can be condemned for public uses on the application of one of the corporators. The Panama Canal Company was chartered in the State of New York. That is an existing legal entity or being. It is not the Government of the United States, and not connected with it in any way, except that the United States has become the owner of the great majority of the stock of this corporation.

Now, if this corporation wants to condemn any of the stock for public uses the proceeding, it occurs to me, ought to be in the name of the corporation. That has been the rule always in those very unusual and extraordinary proceedings in which railroad corporations have prosecuted with success in some of the State courts propositions to condemn stock for the use of the company at large on the ground that thereby public uses were being subserved.

I have very serious doubt as to the authority of Congress to prosecute this proceeding in one of the United States courts in the name of the United States, and I wished before this matter passed away to state that I entertain those opinions and that I opposed this amendment in committee. I am not going to ask any division upon it here now, because I recognize the necessity of going through with this matter, as we are forced to do, in a hurry and without proper consideration. That is not the fault of anybody, as far as I know.

The next proposition upon the bill, which is contained in section 7, is entirely outside of my course of studies, and I do not clearly understand the advantage or value of it at all. It has not been yet read, but it will be read presently; and while I am on the floor I thought I would merely state that I ask some explanation of some member of the committee or some Senator who can point out the necessity of the Government of the United States putting $1,500,000 in some bank with an office or agency or a branch in the Canal Zone in order to facilitate the financial or fiscal operations of the United States in paying for material and labor and the like of that. I do not see why it is that the Government of the United States must go to a bank to do that. I do not see why the credit of the United States needs any reenforcement by the credit or capital of any bank. I do not see why we can not put this money into the hands of a paymaster of the Army, where it belongs, and have it disbursed under the laws and rules and regulations which control disbursements in the Treasury Department, and I wish some one would explain it to me.

I am making no point upon these amendments against them in stating my objection so as to raise any question about them, because the House has taken the proposition of the Senate and voted it into the bill, and I do not feel authorized to antagonize the vote of the House.

The PRESIDING OFFICER (Mr. KEAN in the chair). The next amendment reported by the committee will be stated.

The SECRETARY. The next amendment reported by the Committee on Interoceanic Canals is on page 12, after line 24, to add as a new section the following:

SEC. 7. That to enable the United States to secure at all times a sufficient supply of money to meet the necessities of the Government on said Canal Zone, the President is hereby authorized to deposit such sum of money as he may deem sufficient for said purposes, not to exceed $1,500,000, of any sums appropriated for canal purposes, in some bank or banks in the United States having a fiscal agent on the Isthmus of Panama, to be selected by the President: *Provided*, That such deposit shall be on terms which shall preserve the title to said money in the United States, enable the United States to withdraw said funds from said deposit at any time, and proper and sufficient security be given by the bank of deposit for the return of said money or the lawful accounting therefor.

The PRESIDING OFFICER. The question is on the amendment which has just been read. Without objection, it will be regarded as agreed to.

Mr. KITTREDGE. Mr. President, the committee have two clerical amendments to suggest. The first is on page 6, line 8, after the word "be," in line 7, to strike out "turned" and insert "covered."

The PRESIDING OFFICER. The amendment proposed by

the Senator from South Dakota on behalf of the committee will be stated.

The SECRETARY. On page 6, section (4) 2, after the word "be," in line 7, it is proposed to strike out "turned" and insert "covered;" so as to read:

All income at any time received by the United States from rentals, dividends, or otherwise in respect of any property now possessed or hereafter acquired in connection with the canal, the railroad, or other works, shall be covered into and credited to the fund for the construction of said canal and works.

The amendment was agreed to.

Mr. KITTREDGE. On behalf of the committee, on page 7, line 4, after the word "necessity," I move to strike out "requires" and insert "require."

The PRESIDING OFFICER. The amendment proposed by the Senator from South Dakota will be stated.

The SECRETARY. On page 7, section (6) 3, line 4, after the word "necessity," it is proposed to strike out "requires" and insert "require;" so as to read:

And whereas the public use and necessity require for the accomplishment of the public work, etc.

The amendment was agreed to.

Mr. KITTREDGE. Mr. President, the committee have no further amendment to propose.

Mr. McCOMAS. I now move to insert the amendment which I offered last evening, to come in at the end of section 2 of the bill reported by the committee.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MORGAN. Mr. President, I suggest that no action has been taken on the last section of this bill, which is the committee amendment to insert section 7.

The PRESIDING OFFICER. The Chair will consider that an open question if the Senator so desires.

Mr. MORGAN. I did not hear any question put upon that amendment.

The PRESIDING OFFICER. Does the Senator desire to have the question put?

Mr. MORGAN. There ought to be some explanation of it. I want to understand, if I can, why there is any necessity for putting a million and a half dollars in a bank to reenforce the credit of the United States or to facilitate the payment of money. It seems to me like a proposition to pick up some favorite bank and to make it the fiscal agent of the United States in the Canal Zone. That is the appearance it has to me; and I want some Senator who, perhaps, does understand it to give us some information about it.

Mr. McCOMAS and Mr. KITTREDGE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized. Does he yield to the Senator from South Dakota?

Mr. McCOMAS. I yield.

Mr. KITTREDGE. Mr. President, the explanation of that amendment, in the judgment of the committee, is that in order to meet the necessities of the government of the Canal Zone it was wise to have this deposit authorized. Under present conditions, if the Government require money, as they do, to pay the employees upon the zone, it is necessary to go to some local bank in Panama and secure the necessary coin to make such payment. This simply authorizes the President, in his discretion, to deposit a sum of money, not exceeding one million and a half of dollars, of any sums appropriated, in some bank of the United States, to facilitate the securing of the necessary coin to pay employees.

Mr. MORGAN. Well, Mr. President, I do not think that explanation at all explains the proposition. We have paymasters in the Army, well secured by bond, amply supplied with all necessary regulations and power to transmit money to the Army at any place in the world, and to pay it out as it may be required. There is an ample provision which the President may avail himself of for paying any debt that we may happen to owe in the Isthmus. I do not see how it is that this money must be deposited—a million and a half dollars—and remain on deposit in a bank in the United States, so that that bank, through its agents in the Canal Zone, can furnish us with a supply of money there.

How does the bank get its money down there? It must be by transporting it in some way and keeping it deposited there. Why can not the paymasters of the Army do that? What is the occasion for having a million and a half of the Treasury of the United States locked up on deposit in a bank to support and sustain the credit of the United States in respect of paying its installments of money to laborers and operatives there, or anything of the kind?

I have not yet heard any explanation of the necessity of the proposition; and I am very much inclined, Mr. President, to think that the purpose of this amendment must necessarily be to give a privilege or advantage to some bank selected by the President of the United States to conduct the fiscal operations of the Government in that Zone. I see no necessity for that. We have got to pay commissions on that, or else we have got to lose interest on the deposits. Why do we segregate a million and a half dollars and hold it up for a purpose like this, when the Government of the United States finds no difficulty in paying its troops anywhere in the world that it may choose to send them? It found no difficulty in paying our army in China, when it was over there protecting our interests in Pekin. Really I can not see that there is anything else in it but just that.

I am disposed, Mr. President, so far as I may be permitted to have any voice in this matter at all, to try to prevent jobs and arrangements for the benefit and advantage of private people. There is enough of that going on; and we have got to be guarded and careful about the handling of money in connection with this canal; otherwise we shall find ourselves in a very serious condition about it. I do not want any unnecessary opportunities for scandals to be connected with this canal in the early days of its institution down there and in the work to be done.

I object to the amendment because I do not understand the necessity for it, and I ask the Chair to put the question to the Senate on the amendment.

Mr. McCOMAS. I ask that my amendment may be acted on.

The PRESIDING OFFICER. The Chair will first put the question on agreeing to the amendment reported by the committee, to add to the bill a new section, to be known as section 7. [Putting the question.] The ayes appear to have it.

Mr. MONEY. Mr. President, before the Chair decides on the adoption of the amendment, I should like to have the amendment read.

The PRESIDING OFFICER. The amendment will be again stated.

The SECRETARY. At the end of the bill the committee report an amendment, to insert as a new section the following:

SEC. 7. That to enable the United States to secure at all times a sufficient supply of money to meet the necessities of the Government on said Canal Zone, the President is hereby authorized to deposit such sum of money as he may deem sufficient for said purposes, not to exceed $1,500,000, of any sums appropriated for canal purposes, in some bank or banks in the United States having a fiscal agent on the Isthmus of Panama, to be selected by the President: *Provided*, That such deposit shall be on terms which shall preserve the title to said money in the United States, enable the United States to withdraw said funds from said deposit at any time, and proper and sufficient security be given by the bank of deposit for the return of said money or the lawful accounting therefor.

Mr. McCREARY. I desire to ask the Senator from South Dakota a question. I notice in the first section, as it is now, of the bill this provision:

All the military, civil, and judicial powers of the United States in the Canal Zone at Panama, * * * are vested in such person or persons, and shall be exercised in such manner, as the President shall direct, etc.

There is a Panama Commission at present, and I ask the Senator from South Dakota what becomes of the existing Panama Commission under this bill?

Mr. KITTREDGE. Mr. President, while the matter directly under consideration is the adoption of section 7, which the committee propose to add to the bill, I am very happy to answer the Senator's question at the present time. If the bill as it is proposed to be amended passes the Senate, the Commission as established by the act of June 28, 1902, remains unchanged.

Mr. McCREARY. The Commission, then, remains unchanged?

Mr. KITTREDGE. Yes, sir.

Mr. McCREARY. And will be entitled to such salaries as the President, in his discretion, may allow them?

Mr. KITTREDGE. The Senator is correct, Mr. President.

Mr. GORMAN. Mr. President, only a word in regard to section 7, authorizing the deposit, not to exceed $1,500,000, of any sums appropriated for canal purposes, which has been commented on by the Senator from Alabama [Mr. MORGAN].

As a member of the committee I agreed to the insertion of this section of the bill, because in the operations of the Departments of the Government in all of our payments in foreign countries, etc., we have, as a matter of convenience, selected some bank or banks in the United States to transmit funds abroad. That system has also been applied to the Philippines, and has been found to be a matter of very great convenience. Therefore a similar provision is incorporated in this section.

It is true that it will inure greatly to the benefit of whatever bank may be selected by the Government as such depository; of that I have no doubt. But, as I have stated, that has been the general policy heretofore. Of course, in exchange and in a great many other ways it will be a matter of profit to the bank so selected.

Mr. MORGAN. Mr. President——

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

Mr. GORMAN. With pleasure.

Mr. MORGAN. May I ask the Senator whether it has been the policy of the Government heretofore observed to deposit money in those banks which have been selected as fiscal agents?

Mr. GORMAN. I so understand.

Mr. MORGAN. Without interest?

Mr. GORMAN. I think without interest. I do not know of any case where interest has been charged. This has been the policy of the Government as to all funds which it has been found necessary to use abroad; it certainly has been the established policy in the Philippines and also in Cuba. I do not think that the Government can possibly lose anything in this matter, provided the securities are sufficient.

The profit, however, will probably be very great to the bank which shall be selected, growing out of this system into which we have entered. It will, I have no doubt, facilitate very much the payment of laborers employed in the construction of the canal on the Isthmus, where otherwise such payment might be considerably delayed. In the case of their death from yellow fever or from some other disease, payment to their legal representatives will in this manner also be very much facilitated. I do not think there is anything more than that involved in the matter. It is one of the incidents arising out of the construction of the canal.

I want to say a word or two in reply to what was yesterday suggested by the senior Senator from Texas [Mr. BAILEY] as to the Government ownership of the Panama Railroad. I am as much opposed as the Senator from Texas or the Senator from Colorado [Mr. TELLER] can be to the Government ownership of transportation lines. Such a proposition can not at any time meet with my approval. But the ownership of this road on the Isthmus was acquired under the treaty which we made with Panama. It is an absolute necessity to have the railroad, and to have its exclusive operation, if the canal is to be constructed with economy and in any sort of reasonable time. It is as much a facility as is the mechanism to dig out the prism of the canal.

Mr. SPOONER. And if there had been no railroad there the Government would have been obliged to build one.

Mr. GORMAN. Unquestionably; and that would have been so whether the canal was to be built at Panama or at Nicaragua. So the question of the ownership by the Government of railroads, of ordinary transportation facilities in the United States, has no relation whatever to the project that is before us, while the question of the ownership of the isthmian railroad was determined when we ratified the treaty; and there has never been any means of escape from it.

Now, there is a minority holding of the stock of that railroad. There ought never to have been. That is one of the matters concerning which I think I have a perfect right to say that some of us who opposed the project in the form in which it originally came insisted at the time that whenever we acquired the right to construct the canal and the majority of the stock of the railroad we should have insisted upon having a complete transaction as to both. If we are to have the entire control of that stock, we can not escape by pursuing any other method than that which is provided for in this bill, by the condemnation of the property itself upon the Isthmus, for the reason that we are under treaty obligations to maintain that road for a series of years and to pay $250,000 annually to Panama for its interest in it. It was therefore thought—and it is a matter of demonstration—that the only way in which the object can be attained is by the method provided in this bill. It is, I am told by the lawyers who have examined it, a very extraordinary proceeding; yet it is said that the matter is amply provided for under the laws of New York, under which this railroad corporation was chartered.

Mr. President, there is no doubt about the power. It has heretofore been exercised by the United States, and it can acquire the stock at a fair price. But that is a matter that I am not now discussing.

Referring to the powers contained in this bill, I want to call the attention of the Senator from Kentucky [Mr. MCCREARY] to the fact that the public act approved April 28, 1904, which is the act upon which this canal is now being constructed——

Mr. TELLER. 1904?

Mr. GORMAN. Yes; the act approved April 28, 1904, which contains the identical language used in the first section of the bill before us. There is no enlargement, as I understand, of the powers of the President. It leaves the construction of the canal precisely as provided for in what is known as the "Spooner Act," and in the act to which I have just referred. That act expires with this Congress, and this bill simply extends the time, under the identical terms of the present law, until the expiration of the session beginning December next. It goes one step beyond that, and provides what was not provided for in the former acts, that estimates shall be submitted to the President of the United States annually, and oftener if Congress desires it, and transmitted to Congress in detail; and that hereafter, that is to say, after 1906, no amount of money shall be taken from the Treasury on account of this work unless it shall be appropriated by Congress.

The appropriations heretofore made were in lump sums; no report in detail was required; and no action of Congress was necessary to get the money out of the Treasury. This act goes back to the true principle and says that after 1906 the general appropriation that we have already made shall not be applicable except upon estimates submitted to Congress and appropriations made by Congress.

Mr. MCCREARY. Mr. President, it is on that point that I wish to ask the Senator from Maryland a question. The section says:

That until the expiration of the session of the Fifty-ninth Congress, beginning the first Monday of December, 1905, unless other provision be sooner made by Congress, etc.

I desire to ask the Senator from Maryland if only one session is allowed to intervene, does he think that will be sufficient in this case?

Mr. GORMAN. Mr. President, that was the opinion of the committee, who thought it was unwise to extend the time beyond that. This provision is identically the same as the one now in force, which I will read to the Senator:

SEC. 2. That until the expiration of the Fifty-eighth Congress—

Which will be the 3d day of next month—

unless provision for the temporary government of the Canal Zone be sooner made by Congress, all the military, civil, and judicial powers as well as the power to make all rules and regulations necessary for the government of the Canal Zone and all the rights, powers, and authority granted by the terms of said treaty to the United States shall be vested in such person or persons and shall be exercised in such manner as the President shall direct for the government of said Zone, etc.

It is believed by the Secretary of War, and by the committee as well, that there is ample time between now and next December to perfect a general act, because it will be remembered that the President at this session of Congress has sent us a special message upon this subject, asking, in fact, that the present Commission be abolished and that he be permitted to appoint five, or preferably three, commissioners and undo the whole work, practically, that was provided for in the original act, known as the "Spooner Act," all of which is a very large and important question. We considered that between now and the expiration of the next session we could frame a much better act than could be prepared at this time, and that such an act could then be passed by Congress.

That is all there is of the bill. I see the Senator from Texas [Mr. BAILEY] is here, and I want to repeat in his presence what I said a moment ago, that while the acquisition of this railroad was provided for in the original act and in the treaty itself, I do not consider myself by any means committed in any way to the proposition looking to the governmental ownership of railroads. I agree with the Senator from Texas and with the Senator from Colorado upon that point, but this is a unique and special case; and now that the treaty has been ratified and the road already acquired we simply want to perfect the present conditions.

Mr. BAILEY. Mr. President, I understand the Senator from Maryland and other Senators, in reporting this proposition, only go so far as to say that they will there acquire a railroad which the Government needs to use as an agency in doing some governmental work?

Mr. GORMAN. Yes.

Mr. BAILEY. I unhesitatingly say that that is sound doctrine; and, of course, the Senator from Maryland will understand that I meant no criticism——

Mr. GORMAN. Oh, no.

Mr. BAILEY. Against him or the committee. Whatever I said in relation to the general subject of governmental ownership and operation of railroads was in reference to a question submitted by the junior Senator from Colorado [Mr. PATTERSON].

Mr. GORMAN. No, Mr. President, I did not understand it as a criticism; but as the matter which the Senator from Texas suggested is so important, as it now confronts us, and will come, as a matter of course, with great force a little later on, I could not let the occasion pass without saying to him that I agree with him thoroughly upon the general proposition.

Mr. PATTERSON. Mr. President, expression of personal views as to the governmental ownership of railroads seems to be quite in order, and I want to say that for myself I do not regard such Government ownership as an unmixed evil by any means, but I am rather glad that the Government has got pos-

session of the Panama Railroad, whether by treaty or otherwise, for the reason that in the ownership of the road the Government must operate it as a corporation would operate a railway, and it can not be transformed by the Government into a mere instrument with which to assist in the construction of the Panama Canal. Under the franchise by which the railroad was constructed it must be kept open for public use. Both passengers and freight must be transported over it as any other railway is required to transport them.

I am pleased that the Government has possession of this railway under such circumstances for another reason. It will enable the Government, if it will, to demonstrate in some degree with it what the evil or the good is in the management of railroads by the Government.

The Senators who have spoken upon the question have borne testimony to the marked increase of sentiment in the United States for the Government ownership of railroads. I believe, Mr. President, that if Congress years and years ago had taken the stand that the President now asks Congress to take, and through courts and law officers of the Government these great quasi public corporations had been compelled to deal justly with the people, the sentiment in behalf of governmental railroads that now confronts both Members of the House of Representatives and Senators, while it might exist in some degree, would not be nearly so acute.

Mr. President, it hardly does justice to the President to say that he is a student of any other man on this great subject of transportation, whether of Mr. Bryan or of anybody else. Both Mr. Bryan and the President have been scholars in the great school of public opinion. They may have sat upon the same benches. They have certainly listened to the same teachers, and they have been made to realize what wrong the public have been compelled to endure through railroad injustice and what the remedy is.

The truth is, if the great railway combinations of the country would only realize it, that the President in his message to Congress has done more to check the growth of sentiment in the United States in favor of Government ownership of railways than have all the preachments of railway presidents and attorneys and railway journals of the country combined. Public sentiment in favor of Government ownership is a necessary outgrowth of the evils attendant upon private railway ownership and the manner in which that private ownership has been exercised. If under the leadership of President Roosevelt those evils shall be appreciably mitigated, if the matter of discrimination as between shippers and localities and sections, and if the gross injustice and inequalities in transportation rates shall be remedied by Congress through the agency of the Interstate Commerce Commission, sitting both as a Commission and a court, or by the Commission with the aid of a court, then much will be accomplished toward arresting the growth of this sentiment in favor of public ownership.

As a distinguished gentleman outside of this Chamber has said, and said strongly and eloquently, the people of this country have made up their minds that unless the railroads go out of the government business the Government will go into the railroad business; and the Government will see that these great public corporations are conducted, if the courts must interfere, so that while profits may go into the pockets of the stockholders, the railways shall not discriminate so as to destroy the business of one man and build up the business of another, and so as to destroy the prosperity of one locality or one city or one town and enhance the prosperity of others.

Government ownership has been magnified into a bugaboo. It is not socialism any more than is the transportation of the mails by the Government of the United States or the transportation of packages and the delivery of them to their owners by the Government. Our Agricultural Department, under almost every test that can be applied to socialism—not after the teachings of Karl Marx, but as socialism is generally understood by intelligent people—is nothing less than a great governmental institution, managed and controlled in the spirit of socialism.

I do not believe, Mr. President, that a great question like this is to be put down by an epithet or the misapplication of a name or the misunderstanding of a term. Next to education transportation is the burning question with the people of the United States, and it is as great a factor in the civilization of the country and in its permanent advancement and prosperity as is education itself. It is not so long since, Mr. President, when the transportation of the world was dependent upon the wind and the ox cart; and within the lives of Senators upon this floor the only means of transportation were sails upon rivers and oceans and lakes and the ox cart or the wagon and the horse on the land.

While such was the case, the question of government control of transportation was not nearly so important to the people as it is now. But with the tremendous powers and the tremendous wealth which the ownership of great steam lines of transportation, both on land and by sea, have concentrated in the hands of the few, transportation has become as great and as tremendous a question in the domestic, commercial, industrial, and intellectual life of the country as are the common schools, the churches, the colleges, or anything else that is essential to the well-being of the people.

So far as I am concerned, I do not now advocate Government ownership; but unless these great public corporations, Mr. President, once numbered by the thousands, but with their holdings now concentrated into eight or nine great systems, and these great systems combined so as to destroy competition, so as almost to defy the powers of Government, shall learn the lesson that the agitation lately so greatly accelerated by the President is intended to teach, the sentiment for public ownership will grow and increase in strength and intensify until Congress will yield to that sentiment, as the House was compelled to do a few days ago, and as the Senate ultimately will be compelled to do. The House and the Senate, after all, are supposed to represent public opinion, and when public opinion becomes so strong that private interests will be overborne, as it can and has often demonstrated its ability to do, then will come either Government ownership or the enforcement of the right of the Government to control these great lines of transportation. It will be either Government ownership or the elimination of discrimination and unjust rates from railroad management under the guidance of the Government.

For that reason, Mr. President, I am glad that the Government owns a line of railway. I am glad it owns it under such circumstances that it must be a common carrier for such passengers and freights as may be offered; and the Government can, if it will, make it a tremendous factor, as great a factor as the power to fix rates conferred on anybody can be, in holding the great transcontinental lines within the limits of justice in their dealings with the people and the commerce that emanates from them.

Mr. CARMACK. Mr. President, I think the Senator from Colorado [Mr. PATTERSON] is entirely mistaken if he supposes that the operation of this railroad by the Government will furnish any object lesson whatever with respect to the practicability of Government ownership of railroads. The Panama Railroad is not to be owned and operated by the Government as a common carrier, but chiefly as an instrumentality of Government in the performance of Government work in the construction of the canal. Its character as a common carrier will be subordinated entirely to that object, and it will furnish no object lesson whatever, in my judgment, as to the practicability or feasibility of Government ownership.

Mr. PATTERSON. May I ask the Senator from Tennessee a question?

Mr. CARMACK. Certainly.

Mr. PATTERSON. Is it the theory of the Senator from Tennessee that when the outstanding shares of stock have been condemned and become the property of the Government, the Government will stop the use of the Panama Railway as a common carrier and use it merely as an adjunct to the Panama Canal?

Mr. CARMACK. I say its character as a common carrier will be subordinate to its character as an instrumentality of government for the construction of the canal.

Mr. PATTERSON. It may be made subordinate, but it must be a common carrier or else it would have to go out of business.

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

The amendment was agreed to.

Mr. MCCOMAS. I ask that my amendment may be stated. It is to be added to section 2.

Mr. MONEY. What is the amendment, Mr. President?

The PRESIDENT pro tempore. It will be read.

The SECRETARY. On page 6, at the end of section 2, it is proposed to insert the following:

That vessels of the United States, or vessels belonging to the United States, and no others, shall be employed in the transportation by sea from the United States of all materials, supplies, machinery, and equipment employed on, or used for, the Panama Railroad, or for the construction and operation of the canal across the Isthmus of Panama, and each contract for such articles shall provide specifically for transportation by vessels of the United States, and vessels of the United States or belonging to the United States and no others shall be employed in the return by sea to the United States of such materials, supplies, machinery, and equipment, unless the President shall find that the rates of freight charged by such vessels are excessive and unreasonable or that vessels of the United States or belonging to the United States are not available for prompt service: *Provided*, That no greater

charges be made by such vessels for transportation of such articles for the use of the Panama Railroad or the construction and operation of the canal across the Isthmus of Panama than are made by such vessels for the transportation of like goods for private parties or companies.

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

Mr. McCOMAS. Mr. President, I hope the amendment will be accepted, as it is in the exact terms of the provision reported from the Committee on Commerce, and that is identical with the requirement that American ships shall haul supplies for the Army and Navy unless the President deems their charges excessive. I should like to have the amendment pending, if there is to be opposition to it, because I think the same Senate which has required that supplies for the Army and Navy shall be carried in American bottoms will declare that supplies for the canal shall be transported in American bottoms. I should like to have an opportunity to have the amendment pending.

The PRESIDENT pro tempore. The amendment is now before the Senate.

Mr. MONEY. I move to lay the amendment on the table.

The PRESIDENT pro tempore. The Senator from Mississippi moves to lay the amendment on the table.

Mr. GALLINGER and Mr. McCOMAS called for the yeas and nays, and they were ordered.

Mr. KITTREDGE. As the hour of 2 o'clock has about arrived, I ask unanimous consent that immediately upon the completion of the proceedings in the Swayne impeachment trial this evening the Senate shall proceed with the consideration of the pending bill.

Mr. STEWART. I am willing that unanimous consent shall be granted to that effect for this evening, but after that I shall insist that the Indian appropriation bill shall have the right of way.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent that the unfinished business be temporarily laid aside at the adjournment of the Senate sitting as a court of impeachment, and that the Senate proceed with the consideration of this bill. Is there objection? The Chair hears none, and that order is made.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

The PRESIDENT pro tempore. The hour of 2 o'clock has arrived, to which the Senate sitting as a court of impeachment 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, United States judge in and for the northern district of Florida. The Sergeant-at-Arms will make proclamation.

The Sergeant-at-Arms made the usual proclamation.

The PRESIDING OFFICER. The Sergeant-at-Arms will ascertain whether the managers on the part of the House are in attendance.

The managers on the part of the House of Representatives appeared, and were conducted to the seats assigned them.

The PRESIDING OFFICER. The Sergeant-at-Arms will ascertain whether the respondent and his counsel are in attendance.

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

The PRESIDING OFFICER. The Journal of the proceedings of the last trial day will be read.

The Secretary read the Journal of the Senate sitting for the trial of impeachment of Charles Swayne Tuesday, February 21.

The PRESIDING OFFICER. The Presiding Officer is informed that a witness has been discharged both by the managers and by counsel whom some Senators desire to have recalled—Mr. Blount. If there be no objection, the Sergeant-at-Arms will telegraph for him and endeavor to intercept him and have him come back.

Mr. THURSTON. Mr. President, the respondent has at all times insisted, and still does insist, upon the pleas to the jurisdiction as to the first seven counts. It had been the purpose of my associate, Mr. Higgins, to present our statement and arguments with respect to those pleas as a part of his opening statement. In deference to the evident wish of the Senate and to the imperative demand for the completion of the legislative duties of the Senate, he decided to waive that privilege.

We have prepared a statement and argument as to those pleas to the jurisdiction which we could, of course, use on the final arguments in the case. But we feel it would be fairer to the Senate and to the managers to present those now, and as our position upon the pleas to the jurisdiction and as a part of our presentation of the case we now ask to present our statement and argument and have it printed in the RECORD, so that the Senate and the managers may have an opportunity before the close of the case to consider it. [To the managers on the part of the House.] Is there any objection?

Mr. Manager PALMER. We do not object.

Mr. THURSTON. We present it and ask that it go in as a part of the record without taking the time to read it.

The PRESIDING OFFICER. The brief prepared by counsel on the question of jurisdiction as to the first seven articles will be inserted in the RECORD unless there be objection on the part of the managers or of Senators.

Mr. THURSTON. Mr. President, I feel it is our duty to state that this presentation of the historical, constitutional, and parliamentary procedure in impeachment proceedings has been prepared not by counsel for respondent, whose names are attached to it, but by a gentleman who is renowned as a scholar along constitutional lines and a lawyer of great ability, and without naming him we wish to disclaim any credit that may attach to the preparation of this document.

Mr. Manager PALMER. I should like to understand exactly what this document, which is very formidable in character and nature, purports to be. There are some forty-eight pages. We now have a couple of copies of it. It is the first time we have seen a copy of it. I should like to ask counsel what it amounts to?

Mr. THURSTON. It is the argument in support of our pleas.

Mr. Manager PALMER. Are you demurring to the first seven articles of impeachment upon the ground that they do not charge an impeachable offense? Is that the idea?

Mr. THURSTON. Our pleas are in to that effect, if the manager has read them.

Mr. Manager PALMER. Exactly. I understand you are filing a demurrer to the first seven articles on the ground that they do not charge impeachable offenses.

Mr. THURSTON. We did interpose special pleas to those articles.

Mr. Manager PALMER. And this argument is intended to support those pleas?

Mr. THURSTON. Yes, sir.

Mr. Manager PALMER. Of course your demurrer admits the truth of all that is stated in those articles.

Mr. THURSTON. I beg pardon.

Mr. Manager PALMER. It could not be a demurrer if it did not.

Mr. THURSTON. I beg pardon, Mr. President. We have not demurred. Our pleas stand, and the manager can take any legal view of them that he chooses to present.

Mr. Manager PALMER. All right; I simply want to understand what you are driving at.

The argument referred to is as follows:

In the Senate of the United States sitting as a court of impeachment. The United States of America against Charles Swayne, a judge of the United States, in and for the northern district of Florida. Upon articles of impeachment presented by the House of Representatives.

Argument in support of the pleas to the jurisdiction interposed in behalf of the respondent to articles 1, 2, 3, 4, 5, 6, and 7, such pleas presenting the contention that the facts set forth in said articles, even if true, do not constitute impeachable high crimes and misdemeanors as defined in the Constitution of the United States.

I. WHAT ARE IMPEACHABLE "HIGH CRIMES AND MISDEMEANORS," AS DEFINED IN ARTICLE II, SECTION 4, OF THE CONSTITUTION OF THE UNITED STATES?

By a strange coincidence, the death of parliamentary impeachment, as a living and working organ of the English constitution, synchronizes with its birth in American constitutions, State and Federal. Leaving out of view the comparatively unimportant impeachment of Lord Melville (1805), really the last of that long series of accusations by the Commons and trials by the Lords, which began in the fiftieth year of the reign of Edward III (1376), was the case of Warren Hastings, who was impeached in the very year in which the Federal Convention of 1787 met at Philadelphia. Before that famous prosecution, with its failure and disappointment, drew to a close, the English people resolved that the ancient and cumbrous machinery of parliamentary impeachment was no longer adapted to the wants of a modern and progressive society. But before this ancient method of trial thus passed into desuetude in the land of its birth, it was embodied, in a modified form, first in the several State constitutions and finally in the Constitution of the United States.

Article II, section 4, of the Federal Constitution provides that "the President, Vice-President, and all civil officers of the

United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, *or other high crimes and misdemeanors.*" Article I, section 2, provides that "the House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment." Article I, section 3, provides that "the Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law." Article III, section 2, provides that "the trial of all crimes, except in cases of impeachment, shall be by jury."

II. PROVISIONS BORROWED FROM THE ENGLISH CONSTITUTION.

Mr. Bayard said in his argument in Blount's trial (Wharton's St. Tr., 264): "On this subject, the convention proceeded in the same manner it is manifest they did in many other cases. They considered the object of their legislation as a known thing, having a previous definite existence. Thus existing, their work was solely to mould it into a suitable shape. They have given it to us, not as a thing of their creation, *but merely of their modification.* And therefore I shall insist that it remains as at common law, with the variance only of the positive provisions of the constitution. * * * That law was familiar to all those who framed the constitution. Its institutions furnished the principles of jurisprudence in most of the States. *It was the only common language intelligible to the members of the convention.*"

A recent writer of note, speaking on the same subject, has said: "If we examine the clauses of the Constitution, we perceive at once that the phraseology is applied to a method of procedure already existing. 'Impeachment' is not defined, but is used precisely as 'felony,' 'larceny,' 'burglary,' 'grand jury,' 'real actions,' or any other legal term used so long as to have acquired an accepted meaning, might be. The Constitution takes impeachment as an established procedure, and lodges the jurisdiction in a particular court, declaring how and by whom the process shall be put in motion, and how far it shall be carried. They have given to us a thing not of their creation, but of their modification. To ascertain, then, what this established procedure was, what were, at the time of the constitutional convention, impeachable offenses, we must look to England, where the legal notions contained in the clauses quoted had their origin." (American Law Review, vol. 16, p. 800. Article by G. Willett Van Nest.) Madison, in No. 65 of the Federalist, said: "The model from which the idea of this institution has been borrowed pointed out the course to the convention. In Great Britain it is the province of the House of Commons to prefer the impeachment and of the House of Lords to decide upon it. Several of the State constitutions have followed the example."

III. HIGH CRIMES AND MISDEMEANORS AS DEFINED IN ENGLISH PARLIAMENTARY LAW.

The English Parliament as a whole has always been considered and styled "The high court of Parliament," which is governed by a single body of law peculiarly its own. As Sir Thomas Erskine May (Parl. Prac., pp. 71 and 72) has well expressed it: "Each house, as a constituent part of Parliament, exercises its own privileges independently of the other. They are enjoyed, however, not by a separate right peculiar to each, but solely by virtue of the law and custom of Parliament." In the words of Lord Coke (4 Inst., 15), "As every court of justice hath laws and customs for its direction—some the civil and canon, some the common law, others their own peculiar laws and customs—so the high court of Parliament hath also its own peculiar law, called the *lex et consuetudo parliamenti.*" Blackstone (Bk. I, 163) in commenting upon the statement of Coke, that the law of Parliament, unknown to many and known by few, should be sought by all, observes that, "It is much better to be learned out of the rolls of Parliament and other records and by precedents and continual experience than can be expressed by any one man." Chitty, in commenting upon the statement of Blackstone, has said:

"The law of Parliament is part of the general law of the land, and must be discovered and construed like all other laws. The members of the respective houses of Parliament are in most instances the judges of that law; and, like the judges of the realm, when they are deciding upon past laws, they are under the most sacred obligation to inquire and decide what the law actually is, and not what, in their will and pleasure, or even in their reason and wisdom, it ought to be. When they are declaring what is the law of Parliament their character is totally different from that with which, as legislators, they are invested when they are framing new laws; and they ought never to forget the admonition of that great and patriotic Chief Justice, Lord Holt, viz, 'that the authority of the Parliament is from the law, and as it is circumscribed by law, so it may be exceeded; and if they do exceed those legal bounds and authority their acts are wrongful, and can not be justified any more than the acts of private men.' 1 Salk, 505." (Chitty's Blackstone, vol. 1, p. 119, note 21.) It has always been conceded that the phrase "other high crimes and misdemeanors," embodied in Article II, section 4, of the Constitution of the United States, must be construed in the light of the definitions fixing its meaning in the parliamentary law of England as that law existed in 1787. The construction then given to the phrase in question was incorporated into our Federal Constitution *as a part of the phrase itself*, which is unintelligible and meaningless without such construction. The following elementary principles (as stated by Hon. William Lawrence, in the brief prepared by him for use in the trial of Andrew Johnson, Vol. I, pp. 125, 136), seem upon that occasion, to have passed unchallenged:

"As these words are copied by our Constitution from the British constitutional and parliamentary law, they are, so far as applicable to our institutions and condition, to be interpreted not by English municipal law but by the *lex parliamentaria.* * * * Whatever 'crimes and misdemeanors' were the subject of impeachment in England prior to the adoption of our Constitution, and as understood by its framers, are therefore subjects of impeachment before the Senate of the United States, subject only to the limitations of the Constitution. * * * 'Treason, bribery, and other high crimes and misdemeanors' are, of course, impeachable. Treason and bribery are specifically named, but 'other high crimes and misdemeanors' are just as fully comprehended as though each was specified. The Senate is made the *sole judge* of what they are. There is no revising court. The Senate determines in the light of parliamentary law. *Congress can not define or limit by law that which the Constitution defines in two cases by enumeration and in others by classification, and of which the Senate is sole judge.* * * * Now, when the Constitution says that all civil officers shall be removable on impeachment for high crimes and misdemeanors, and the Senate shall have the sole power of trial, the jurisdiction is conferred and its scope is defined by common parliamentary law."

While the Senate sitting as a court of impeachment is the sole and final judge of what impeachable "high crimes and misdemeanors" are, no arbitrary discretion so to determine is vested. The power of the court simply extends to the construction of the phrase in question as defined in English constitutional and parliamentary law as it existed in 1787. That is made plain by Story in his Commentary on the Constitution, section 797, when he says: "Resort then must be had either to parliamentary practice, and the common law, in order to ascertain what are high crimes and misdemeanors; or the whole subject must be left to the arbitrary discretion of the Senate for the time being. The latter is so incompatible with the genius of our institutions that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice, which might make that a crime at one time or in one person which would be deemed innocent at another time or in another person. The only safe guide in such cases must be the common law."

IV. A RULE OF CONSTITUTIONAL CONSTRUCTION AS DEFINED BY THE SUPREME COURT OF THE UNITED STATES.

The fundamental principles of English constitutional law were first reproduced in the constitutions of the several States. In the light of the construction put upon them there, they were embodied, so far as applicable and desirable, in the Constitution of the United States. Thus the Federal Supreme Court was called upon at an early day to interpret the immemorial formulas or "terms of art" through which the cardinal principles of English constitutional law were incorporated in our governmental systems, State and Federal. The uniform rule for construing such formulas or "terms of art" adopted at the outset has been continued in force until the present time. When, in the trial of Aaron Burr, Chief Justice Marshall was called upon to construe Article III, section 3, of the Constitution, which provides that "treason against the United States shall consist only in *levying war* against them, or in adhering to their enemies, giving them aid and comfort," he said, "What is the natural import of the words 'levying war?' and who may be said to levy it? * * * The term is not for the first time applied to treason by the Constitution of the United States. It is a tech-

nical term. It is used in a very old statute of that country whose language is our language and whose laws form the substratum of our laws. It is scarcely conceivable that the term was not employed by the framers of our Constitution in the sense which had been affixed to it by those from whom we borrowed it. So far as the meaning of any terms, particularly terms of art, is completely ascertained, those by whom they are employed must be considered as employing them in that ascertained meaning, unless the contrary be proved by the context. It is therefore reasonable to suppose, unless it be incompatible with other expressions of the Constitution, that the term 'levying war' is used in that instrument in the same sense in which it was understood in England and in this country to have been used in the statute of twenty-fifth of Edward III, from which it was borrowed." (Burr's Trial, vol. 2, pp. 401, 402.)

When in the case of *Murray* v. *The Hoboken Land Co.* (18 How., 272) it became necessary for the Supreme Court to construe the formula "due process of law," as embodied in the fifth amendment, Mr. Justice Curtis, speaking for the court, said: "The words 'due process of law' were undoubtedly intended to convey the same meaning as the words 'by the law of the land' in Magna Charta. Lord Coke, in his commentary on those words (2 Inst., 50), says they mean due process of law. The constitutions which had been adopted by the several States before the formation of the Federal Constitution, following the language of the Great Charter more closely, generally contained the words 'but by the judgment of his peers, or the law of the land.' The ordinance of Congress of July 13, 1787, for the government of the territory of the United States northwest of the river Ohio, used the words."

When in the case of *Davidson* v. *New Orleans* (96 U. S., 97) it became necessary to again construe the same formula—"due process of law," as embodied in the fourteenth amendment—Mr. Justice Miller, speaking for the court, said: "The prohibition against depriving the citizen or subject of his life, liberty, or property without due process of law is not new in the constitutional history of the English race. It is not new in the constitutional history of this country, and it was not new in the Constitution of the United States when it became a part of the fourteenth amendment, in the year 1866. The equivalent of the phrase 'due process of law,' according to Lord Coke, is found in the words 'law of the land,' in the Great Charter, in connection with the writ of *habeas corpus*, the trial by jury, and other guarantees of the rights of the subject against the oppression of the Crown." In *Smith* v. *Alabama* (124 U. S., 465) it was held that "the interpretation of the Constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history," a statement affirmed by the adoption in *United States* v. *Wong Kim, Ark* (169 U. S., 649).

V. IMMEMORIAL FORMULAS TRANSPLANTED FROM THE ENGLISH CONSTITUTION, UNCHANGEABLE BY SUBSEQUENT CONGRESSIONAL LEGISLATION.

The foregoing authorities put the fact beyond all question that the immemorial formulas or "terms of art" transferred from the English constitution to our own were adopted, not as isolated or abstract phrases, but as epitomes or digests of the great principles which they embodied. That is to say, the term "levying war" carried with it the identical meaning given it as a part of the statute of Edward III; the term "due process of law," the identical meaning given to it as a part of Magna Charta; the term "high crimes and misdemeanors," the identical meaning given it as a part of the law of the High Court of Parliament. Or, in other words, when such formulas were embedded in the Constitution of 1787, their historical meaning and construction went along with them as completely as if such meaning and construction had been written out at length upon the face of the instrument itself. If that be true, the conclusion is self-evident that no subsequent Congressional legislation can change in any way, by addition or subtraction, the definitions embodied in such formulas at the time of their adoption. If the contrary were true, Congress could any day give to the term "levying war" or "due process of law" a definition, conveying ideas of which the fathers never dreamed. Or if the term "high crimes and misdemeanors" could be subjected to a new Congressional definition, acts which were such in 1787 could be relieved of all criminality, and new acts not then criminal could be added to the list of impeachable offenses. So obvious is the fact that Congress can not legislate at all on the subject that Mr. Lawrence, whose brief has been heretofore quoted, frankly admitted, while striving to give to the powers of Congress the widest possible construction, that "Congress can not define or limit by law that which the Constitution defines in two cases by enumeration, and in others by classification, and of which *the Senate is sole judge*."

The last phrase is specially suggestive of the fact that if Congress could, by subsequent legislation, "define or limit by law that which the Constitution defines," the Senate sitting as a court of impeachment could be entirely deprived by such legislation of the power to determine what were impeachable high crimes and misdemeanors as defined by the fathers in 1787. In other words, if Congress can add to or subtract from the constitutional definition in any particular, it can destroy it altogether. In the great case of *Marbury* v. *Madison* (1 Cranch., 137), the first in which an act of Congress was ever declared unconstitutional, the question of questions was this: Does the fact that the Constitution itself has defined the original jurisdiction of the Supreme Court prohibit Congress from enlarging such original jurisdiction by subsequent legislation? The solemn answer was that the attempt of Congress to do so was void. Why? Because the dividing line between the original and appellate jurisdiction, having been drawn by the Constitution itself, it is immovable by legislation. In the words of the great Chief Justice: "If Congress remains at liberty to give this court appellate jurisdiction where the Constitution has declared their jurisdiction shall be original, and original jurisdiction where the Constitution has declared it shall be appellate, the distribution of jurisdiction made in the Constitution is form without substance." Thus it follows that any act of Congress which attempts to change the constitutional definition of impeachable high crimes and misdemeanors, by adding to the list some offense unknown to the parliamentary law of England as it existed in 1787, is simply void and of no effect.

VI. IMPEACHMENTS IN ENGLAND: FIRST EPOCH.

The only pertinent definitions of the term "high crimes and misdemeanors," as contained in Artcle II, section 4, of the Federal Constitution, must be drawn (1) from the law of Parliament as it existed in 1787; (2) from the contemporaneous expositions of that law embodied in the constitutions of the several States. In order to present anything like an adequate statement of the English law of impeachment as it existed at the time in question, some account must be given of the process of growth through which it had passed prior to that time. The history of that growth is divided into two epochs, easily distinguishable from each other. The first begins with the proceedings against the Lords Latimer and Neville, which took place in the Good Parliament in the fiftieth of Edward III (1376). These proceedings are regarded by the constitutional historians as the earliest instances of a trial by lords upon a definite accusation made by the Commons. (Hallam, M. A., Vol. III, p. 56; Stubbs, Const. Hist., Vol. II, p. 431.) Not until early in the reign of Edward III was Parliament definitely and finally divided into two houses that deliberated apart; not until near the close of that reign did the Commons, as the grand jury of the whole realm, attempt to present persons accused of grave offenses against the State to the Lords for trial. At the outset, the new method of accusation was rivaled by what were known as "appeals," which have been thus defined: "It was the regular course for private persons, even persons who were not members of Parliament, to bring accusations of a criminal nature in Parliament, upon which proceedings were had." (Stephen, Hist. of the Criminal Law of England, Vol. I, 151.)

The results of the private warfare thus instituted were so inconvenient that "appeals" were finally abolished by the statute of I Hen. 4, c. 14. Thus left without a rival, proceedings by impeachment were occasionally employed during the reigns of Richard II, Henry IV, Henry V, and Henry VI. In the reign last named Lord Stanley was impeached in 1459 for not sending his troops to the battle of Bloreheath. That trial terminates the first epoch in the history of the law of impeachment in England. It was not again employed during the period that divides 1459 from 1621, an interval of one hundred and sixty-two years. The primary cause for the suspension is to be found in the fact that during that interval it was that the decline in the prestige and influence of Parliament was such that the directing power in the state passed to the King in council, the judicial aspect of which was known as "the star chamber." There it was that the great state trials took place during the reign of Edward IV and during the following reigns of the princes of the house of Tudor. Such impeachment trials as did take place during the first or formative epoch are not as distinctly defined as those that occurred during the later period, and have now only an antiquarian interest.

VII. IMPEACHMENTS IN ENGLAND: SECOND EPOCH.

With the revival of the powers of Parliament in the reign of James I, impeachment was resumed as a weapon of consti-

tutional warfare. From that time its modern history, with which this discussion is concerned, really begins. The first impeachment case to occur during the second epoch was that of Sir Giles Mompesson in 1621, the last that of Lord Melville in 1805. Including the first and last the total is fifty-four, catalogued by an eminent authority as follows:

1621. Sir Giles Mompesson. Proceedings against him for monopoly and abuse of patents. A private person. No definite articles presented in modern form.
1621. Lord Bacon. Lord Chancellor. *A judicial impeachment for bribery.*
1621. Sir F. Mitchell. Case identical with that of Sir Giles Mompesson. A private person.
1621. Sir H. Yelverton. Attorney-General, charged with improper conduct in his office, respecting persons concerned in monopolies and abuses of patents.
1625. The Earl of Middlesex. Lord treasurer, charged with high crimes and misdemeanors, including bribery and corruption.
1626. The Earl of Bristol. Charged with high treason.
1626. The Duke of Buckingham. Charged with high crimes and misdemeanors.
1640. The Earl of Strafford. Charged with high treason.
1640. The Lord Keeper Finch. Charged with high treason.
1640. Sir R. Berkley and other judges. A judicial impeachment. Charged with high treason and other great misdemeanors on account of judicial acts and opinions.
1641. Sir G. Ratcliffe. Charged with being concerned in the treasons of the Earl of Strafford.
1642. Archbishop Laud. Charged with high treason.
1642. Dr. John Cosin. Impeached "for introducing Popish ceremonies."
1642. Bishop Wren. Impeached "for favoring Popish ceremonies in the church."
1642. Daniel O'Neill. Charged with participation in two army plots.
1642. Sir E. Herbert. Attorney-general, impeached for high crimes and misdemeanors, in advising and delivering the articles against the Five Members.
1642. Sir E. Dering. Impeached for high crimes and misdemeanors in contriving and presenting the Kentish petition.
1642. Mr. Strode. Impeached for high treason. One of the Five Members.
1642. Mr. Spencer. (Not reported in State Trials.)
1642. Nine lords. (Not reported in State Trials.)
1642. Sir R. Gurney. Lord mayor of London, impeached for high crimes and misdemeanors.
1642. Mr. Hastings. Impeached for high treason in raising forces against the Parliament.
1642. Marquis of Hertford. (Not reported in State Trials.)
1642. Lord Strange. Impeached for high treason in raising forces against the Parliament.
1642. Mr. Wilde. (Not reported in State Trials.)
1642. Mr. Broccas. (Not reported in State Trials.)
1661. Mr. Drake. Impeached for publishing a seditious pamphlet.
1666. Lord Mordaunt. Impeached for high crimes and misdemeanors.
1667. Lord Clarendon. Impeached for high treason and other high crimes and misdemeanors.
1668. Sir W. Penn. Impeached for high crimes and misdemeanors.
1678. Lord Stafford and four other Roman Catholic Lords. Impeached for participation in what is generally called the "Popish plot."
1678. Lord Danby. Impeached for high treason and other high crimes and misdemeanors.
1680. Edward Seymour. Impeached for misconduct in the office of treasurer of the navy.
1680. Sir W. Scroggs. Chief justice of the King's Bench. *A judicial impeachment.* Charged with high treason and other great crimes and misdemeanors.
1680. Earl of Tyrone. (Not reported in State Trials.)
1681. Fitz-Harris. Impeached of high treason in being concerned in the "Popish plot."
1689. Sir A. Blair and others. Impeached of high treason, with others, for dispersing a treasonable and seditious paper.
1689. Lord Salisbury. Impeached of high treason for departing from his allegiance and being reconciled with the Church of Rome.
1689. Earl of Peterborough. Charged with the same offense.
1695. Duke of Leeds. Impeached of high crimes and misdemeanors. Second impeachment of him.
1698. John Goudet and others. (Not reported in State Trials.)
1701. Lord Portland. Whig peer impeached by Tory House of Commons for promoting Spanish partition treaties in 1700.
1701. Lord Somers. Same charge.
1701. Lord Halifax. Same charge.
1709. Dr. Sacheverell. Rector of St. Savior's, Southwark. Impeached for preaching two sermons inculcating unlimited passive obedience.
1715. Lord Oxford, Tory minister. Impeached by Whig House of Commons for share in negotiating the peace of Utrecht in 1713.
1715. Lord Bolingbroke. Same charge.
1715. Duke of Ormond. Same charge.
1715. Earl of Strafford. Impeached for misconduct as British plenipotentiary at Utrecht.
1715. Lord Derwentwater. Impeached, with several others, for high treason.
1724. Lord Macclesfield, Lord Chancellor. *A judicial impeachment for bribery.*
1746. Lord Lovat. Impeached of high treason for being concerned in the rebellion of 1745.
1787. Warren Hastings. Impeached on charges of misgovernment in India.
1805. Lord Melville. Impeached for malversation in office respecting the appropriation of public money to his own use.

See Sir J. F. Stephen, Hist. of the Crim. Law of Eng., vol. 1, p. 159, and State Trials, as to each case reported therein.

VIII. IMPEACHMENTS OF ENGLISH JUDGES.

An examination of the foregoing list reveals the fact that many of the impeachments in question were directed against private individuals, it having always been the law of England that all subjects, as well out of office as in office, might be thus accused and tried. A good illustration may be found in the notable case of Doctor Sacheverell, rector of St. Savior's, Southwark, who was impeached by the Commons and convicted by the Lords for having preached two sermons inculcating the doctrine of unlimited passive obedience. (State Trials, XV, p. 1.) As that branch of the law of impeachment, which authorized the accusation of private individuals out of office, was never reproduced in this country, cases of that class may be dismissed from consideration. By far the greater number of the remaining cases are what are known as "political impeachments," whereby one party in the State would attempt to crush its adversaries in office by impeaching them for high treason, which generally involved commitment to the Tower.

As illustrations, reference may be made to the case of Portland, Halifax, and Somers, three Whig peers impeached of high treason by a Tory House of Commons for their share in promoting the Spanish partition treaties in 1700; and to that of Oxford, Bolingbroke, and Ormond, Tory ministers impeached by the triumphant Whigs in the Commons for their share in negotiating the peace of Utrecht in 1713. (State Trials, Vol. XIV, p. 233. Parl. Hist., Vol. VII, p. 105.) A well-known English writer has described the latter as "the last instance of purely political impeachment." (Taswell-Langmead, English Const. Hist., p. 549, note.) Cases of that class shed but a dim light upon the definition of the term "high crimes and misdemeanors" as applied to those offenses for which English judges have been punished for misbehavior in office. No clear or authoritative definitions of the term in question can be found, as applied to that subject, outside of what are known as judicial impeachments as contradistinguished from political. As the purely judicial impeachment cases which have occurred in England are very few in number, their results may be stated within narrow limits.

The earliest of the accusations which have been made against English judges have been for the crime of bribery, the crime for which Lord Bacon was impeached by the Commons in 1621. The charges against Bacon particularly set forth instances of judicial corruption by the acceptance of bribes, and in his "confession and submission" he said: "I do plainly and ingeniously confess that I am guilty of corruption, and do renounce all defense." (State Trials, Vol. II, 1106.) Such cases, though rare, had occurred before Bacon's time. In the words of Sir J. F. Stephen, Coke "gives two instances in which judges were punished for taking bribes, namely, Sir William Thorpe, in 1351, who took sums amounting in all to 90 pounds for not awarding an exigent against five persons at Lincoln assizes, and certain commissioners (probably special commissioners) of oyer and terminer, who were fined one thousand marks each for taking a bribe of four pounds. I have elsewhere referred to the impeachment of the Chancellor Michael de la Pole, by Cavendish, the fishmonger, for taking a bribe of forty pounds, three yards of

scarlet cloth, and a quantity of fish, in the time of Richard II. * * *

Lord Macclesfield was also impeached and removed from his office for bribery in 1725." (Hist. of the Crim. Law of Eng., Vol. III, pp. 251–52, citing as to the case of Lord Macclesfield Sixteen State Trials, p. 767.) That case was the last judicial impeachment in England. It is not therefore strange that bribery, as a distinct and substance offense, should have been named, *side by side with treason*, as an impeachable crime, in the Constitution of the United States. After the bribery cases of Lord Chancellor Bacon and Lord Chancellor Macclesfield have been subtracted from the foregoing list, but two judicial impeachments remain in the entire history of the English people. Only in those two cases have the Commons impeached and the Lords tried English judges upon charges of judicial misconduct other than bribery.

IX. IMPEACHMENT OF SIR ROBERT BERKLEY AND OTHER JUDGES.

In 1635 Charles I announced his intention to extend the exaction of ship money to the inland counties. When the writs of that year were resisted the judges gave answers in favor of the prerogative. When in 1636 another set of ship writs were issued Hampden made a test case by refusing to pay the assessment on his lands at Great Missenden, and the issue thus raised was argued in November and December, 1637, before a full bench. The contention made in favor of the Crown was sustained by seven of the judges; Finch, chief justice of the common pleas; Bramston, chief justice of the king's bench; Berkley, one of the justices of that court; Crawley, one of the judges of the common pleas; Davenport, lord chief baron of the exchequer; Weston and Trevor, barons of that court. When the day of reckoning came Finch fled to Holland, and the remaining six were impeached by the Commons for their judgments rendered in favor of the royal contention, the charges being delivered to the Lords July 6, 1641. As Berkley's opinion in favor of the legality of ship money was the most emphatic, he was made the special object of attack in articles which charged him not only with the ship-money opinion, but with other acts of judicial misconduct on the bench. The nature of the accusations against him can be best explained by extracts from the articles themselves, which open with the general statement "that the said Sir Robert Berkley, then being one of the justices of the said court of king's bench, hath traitorously and wickedly endeavored to subvert the fundamental laws and established government of the realm of England, and instead thereof to introduce an arbitrary and tyrannical government against law, which he hath declared, by traitorous and wicked words, opinions, judgments, practices, and actions appearing in the several articles ensuing."

The following are a fair sample of the special charges: "4. That he, the said Robert Berkley, then being one of the justices of the King's Bench, and having taken an oath for the due administration of justice, according to the laws and statutes of the realm, to His Majesty's liege people, on or about the last of December subscribed an opinion, *in hæc verba:* 'I am of opinion, that where the benefit doth more particularly redound to the good of the ports,' etc. * * * 6. That he, the said Sir Robert Berkley, then being one of the justices of the Court of King's Bench, and duly sworn as aforesaid, did on ——— deliver his opinion in the exchequer chamber against John Hampden, esq., in the case of ship money. * * * 7. That he, the said Sir Robert Berkley, then being one of the justices of the Court of King's Bench, and one of the justices of the assize for the county of York, did, at the assizes held at York in Lent, 1636, deliver his charge to the grand jury, 'that it was a lawful and inseparable flower of the Crown for the King to command, not only the maritime counties, but also those that were inland, to find ships for the defense of the kingdom,' * * * 8. The said Sir R. Berkley then being one of the justices of the Court of King's Bench, in Trinity term last, then sitting on the bench in said court, upon debate of the said case between the said Chambers and Sir E. Bromfield, said openly in the court, 'that there was a rule of law, and a rule of government;' and that 'many things which might not be done by the rule of law might be done by the rule of government;' and would not suffer the point of legality of ship money to be argued by Chambers' counsel. * * 9. The said Sir R. Berkley, then and there sitting on the bench, did revile and threaten the grand jury returned to serve at the said session, for presenting the removal of the communion table in All Saints Church in Hertford aforesaid, * * 11. He, the said Sir R. Berkley, being one of the justices of the said Court of King's Bench, and sitting in said court, deferred to grant a prohibition to the said Court-Christian in said cause, although the counsel did move in the said court many several times, and several times, for a prohibition." (State Trials, vol. 3, pp. 1283–1291.) The impeachment against Berkley ended in his paying a fine of £10,000.

X. IMPEACHMENT OF SIR WILLIAM SCROGGS, CHIEF JUSTICE OF THE KING'S BENCH.

In the reign of Charles II, Sir William Scroggs, chief justice of the King's Bench, was impeached of high crimes and misdemeanors, the nature of which may be best explained by the following extracts from the articles themselves. The general accusation is "that the said William Scroggs, then being chief justice of the Court of King's Bench, hath traitorously and wickedly endeavored to subvert the fundamental laws, and the established religion and government of this Kingdom of England; and, instead thereof, to introduce popery and arbitrary and tyrannical government against law; which he has declared by divers traitorous and wicked words, opinions, judgments, practices, and actions." Chief among the special charges are the following: "II. That he, the said Sir William Scroggs, in Trinity term last, being then chief justice of the said court, and having taken an oath duly to administer justice according to the laws and statutes of this realm, in pursuance of his said traitorous purposes, did, together with the rest of the justices of the said court, several days before the end of said term, in an arbitrary manner, discharge the grand jury which then served for the hundred of Oswaldston, in the county of Middlesex, before they had made their presentments, etc. * * * III. That, whereas one Henry Carr had, for some time before, published every week a certain book, entitled 'The Weekly Pacquet of Advice from Rome, or The History of Popery,' wherein the superstitions and cheats of the Church of Rome were from time to time exposed, he, the said Sir William Scroggs, then chief justice of the Court of King's Bench, together with the other judges of the said court, before any legal conviction of the said Carr of any crime, did in the said Trinity term, in a most illegal and arbitrary manner, make and cause to be entered a certain rule of that court against the printing of said book, *in hæc verba.* * * * IV. That the said Sir William Scroggs, since he was made chief justice of the King's Bench, hath, together with the other judges of the said court, most notoriously departed from all rules of justice and equality in the imposition of fines upon persons convicted of misdemeanors in said court." The result was that the chief justice was removed from office and given a pension for life. (State Trials, Vol. VIII, pp. 195, 216.)

XI. PROCEEDING AGAINST LORD CHIEF JUSTICE KEELING.

Intervening between the case of Berkley and other judges (1640) and that of Sir William Scroggs (1680) are proceedings by the Commons against Lord Chief Justice Keeling, which occurred in 1667, notable for the reason that they clearly illustrate what kind of judicial acts were considered as impeachable high crimes and misdemeanors at that time. "A copy of Judge Keeling's case, taken out of the Parliament Journal, December 11, 1667: 'The House resumed the hearing of the rest of the report touching the matter of restraint upon juries; and that upon the examination of divers witnesses, in several causes of restraints put upon juries, by the Lord Chief Justice Keeling; whereupon the committee made their resolutions, which are as follows: 1. That the proceedings of the Lord Chief Justice, in the cases now reported, are innovations in the trial of men for their lives and liberties; and that he hath used an arbitrary and illegal power, which is of dangerous consequence to the lives and liberties of the people of England, and tends to the introducing of an arbitrary government. 2. That in the place of judicature, the Lord Chief Justice hath undervalued, vilified, and condemned Magna Charta, the great preserver of our lives, freedom, and property. 3. That he be brought to trial, in order to condign punishment, in such manner as the House shall judge most fit and requisite.'" (State Trials, vol. 6, p. 991, seq.)

"On the 16th of October, 1667, the House being informed 'that there have been some innovations of late in trials of men for their lives and deaths, and in some particular cases restraints have been put upon juries in the inquiries,' this matter is referred to a committee. On the 18th of November this committee are empowered to receive information against the Lord Chief Justice Keeling for any other misdemeanors besides those concerning juries. And on the 11th of December, 1667, the committee report several resolutions against the Lord Chief Justice Keeling of *illegal and arbitary proceedings in his office.* The chief justice desiring to be heard, he is admitted on the 13th of December and heard in his defense to the matters charged against him, and being withdrawn, the House resolve 'that they will proceed no farther in the matter against him.'" (4 Hatsel Prec., pp. 123–4, cited in Chase's Trial, Vol. II, p. 461.)

XII. REMOVAL BY ADDRESS PROVIDED BY THE ACT OF SETTLEMENT.

By the foregoing analysis of the only English precedents to which we can look for expositions of the meaning of the phrase "high crimes and misdemeanors," as applied to the conduct of

English judges, the fact is put beyond all question that the only judicial acts which the House of Commons ever regarded as falling within that category are such acts as a judge performs while sitting upon the bench, administering the laws of the realm, either between private persons or between the Crown and the subject. In the case of Mr. Justice Berkley the gravamen of the charge was that he rendered a judgment in the matter of ship money in conflict with what his triers considered the law of the realm to be. In the case of Chief Justice Scroggs the gravamen of the charge was that he arbitrarily discharged grand juries; that in a libel case he rendered an illegal judgment, and that he imposed unjust fines upon those convicted of misdemeanors. In the proceedings against Chief Justice Keeling the gravamen of the charge was that he had put "restraint" upon juries by fining them for their verdicts. "Wagstaff and others of a jury were fined an hundred marks a piece by Lord Chief Justice Keeling." (4 Hatsell Prec., p. 124, note.) Excepting bribery there is no case in the parliamentary law of England which gives color to the idea that the personal misconduct of a judge, *in matters outside of his administration of the law in a court of justice*, was ever considered or charged to constitute a high crime and misdemeanor. When the question is asked by what means is the personal misconduct of an English judge, *not amounting to a high crime and misdemeanor*, punished, the answer is easy.

Prior to the passage in 1701 of the famous Act of Settlement (12 and 13 Will. III, C. 2) neither the tenure nor the compensation of English judges rested upon a firm or definite foundation. Hallam (Const. Hist., Vol. III, p. 194) tells us that "it had been the practice of the Stuarts, especially in the last years of their dynasty, to dismiss judges, without seeking any other pretense, who showed any disposition to thwart government in political prosecutions." As the hasty and imperfect Bill of Rights had failed to provide a remedy for that condition of things, it became necessary for the authors of the Act of Settlement, "the complement of the Revolution itself and the Bill of Rights," to provide that English judges should hold office during good behavior (*quandiu se bene gesserint*), and that they should receive ascertained and established salaries. But, while the judges were being thus entrenched in their offices, the fact was not forgotten that the remedy by impeachment extended only to high crimes and misdemeanors which did not embrace personal misconduct. Therefore a method of removal was provided by address, which was intended to embrace all misconduct not included in the term "high crimes and misdemeanors."

In the light of that statement it will be easier to understand the full purport of that section of the Act of Settlement which provides "that after the said limitations shall take effect as aforesaid, judges' commissions be made *quandiu se bene gesserint*, and their salaries ascertained and established; *but upon the address of both Houses of Parliament it may be lawful to remove them.*" Thus, for seventy-five years prior to the severance of the political tie which bound the English colonies in America to the parent State, the twofold method for the removal of English judges was clearly defined and perfectly understood on both sides of the Atlantic. That twofold method embraced (1) the removal by impeachment for all acts constituting "high crimes and misdemeanors," a term then clearly defined in English parliamentary law; (2) the removal by address for all lesser acts of personal misconduct not embraced within that term. That such was the general and accepted view on this side of the Atlantic in 1776 of the English parliamentary law on impeachment and address will be put beyond all question by the following references to the several State constitutions in which that law reappeared.

XIII. IMPEACHMENT AND ADDRESS AS DEFINED IN THE CONSTITUTIONS OF THE SEVERAL STATES.

On May 10, 1776, the Continental Congress recommended to the several conventions and assemblies of the colonies the establishment of independent governments "for the maintenance of internal peace and the defence of their lives, liberties, and properties." (Charters and Constitutions, vol. 1, p. 3.) Before the end of the year in which that recommendation was made the greater part of the colonies had adopted written constitutions, in which were restated, in a dogmatic form, all of the vital principles of the English constitutional system. Illustrations of the adoption of the England plan for the removal of judges by impeachment and address may be drawn from the following State constitutions: The constitution of Pennsylvania of 1776, Article V, section 2, provides that "the judges of the supreme court and of the several courts of common pleas shall hold their offices during good behavior. But for any reasonable cause, *which shall not be sufficient ground for impeachment*, the governor may remove any of them, on the address of two-thirds of each branch of the legislature."

The Constitution of Delaware of 1792, Article VI, section 2, provides that "the chancellor and the judges of the supreme court of common pleas shall hold their office during good behavior; but for any reasonable cause, *which shall not be sufficient ground for impeachment*, the governor may, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the legislature." The constitution of South Carolina of 1868, Article VII, section 4, provides that "for any willful neglect of duty or other reasonable cause, *which shall not be sufficient ground of impeachment*, the governor shall remove any executive or judicial officer on the address of two-thirds of each house of the general assembly." Here are explicit and dogmatic statements of the settled rule of English parliamentary law that judges may be removed by impeachment for grave offenses of judicial misconduct, and by address for lesser offenses of personal misconduct. As this distinction was so well known, many of the State constitutions simply presuppose it without stating it in express terms. The constitution of Massachusetts of 1780, Chapter III, article 1, after providing for removal by impeachment, declares that "all judicial officers duly appointed, commissioned, and sworn shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: Provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature."

The constitution of Georgia of 1798, Article III, section 1, provides that "the judges of the superior court shall be elected for the term of three years, removable by the governor on the address of two-thirds of both houses for that purpose, or by impeachment and conviction thereon." The constitution of New Hampshire of 1784, Article I, part 2, provides that "all judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution: Provided, nevertheless, the president, with the consent of council, may remove them upon the address of both houses of the legislature." The constitution of Connecticut of 1818, Article V, section 3, provides that "the judges of the supreme court and of the superior court shall hold their offices during good behavior; but may be removed by impeachment, and the governor shall also remove them on the address of two-thirds of the members of each house of the general assembly." It is said that the constitution of New York of 1777 was the model from which the impeachment clauses of the Constitution of the United States were copied. (6 Am. Law Reg., N. S., 277.)

The New York constitution of that date expressly limited impeachment to persons in office, and omitted removal by address. Such an omission was, however, exceptional. The rule was to introduce into the State constitutions both processes of removal by impeachment and address. And if it were not for fear of wearying the court by reiteration, the list of instances could be greatly lengthened in which both methods were introduced into later State constitutions not here mentioned, together with the recognized distinction between impeachable offences and the lesser acts of misconduct justifying only removal by address, expressed in the words "not sufficient ground of impeachment." (See Appendix.)

XIV. ENGLISH PARLIAMENTARY LAW OF IMPEACHMENT AS EMBODIED IN THE CONSTITUTION OF THE UNITED STATES.

Before the Federal Convention of 1787 met, the original State constitutions had been in operation for at least ten years. As a general rule the framers looked to that source for light when the adoption of a principle of English constitutional law was concerned.

The questions that constantly arose were: In what form has such a principle reappeared in the several States? Is its operation an effect satisfactory therein? Such examples were sometimes taken, however, not as guides, but as warnings. It did not always follow that a principle adapted to the wants of a single State was to be ingrafted without modification upon the constitution of a Federal State. The debates touching the adoption of impeachment and address pointedly illustrate that fact, as the Convention resolved to adopt the one without the other. The record is specially clear and direct upon that point. In the Madison Papers, pp. 481–2, the following appears:

"Article 11 being taken up, Doctor Johnson suggested that the judicial power ought to extend to equity as well as law, and moved to insert the words 'both in law and equity' after the words 'United States,' in the first line of the first section."

Mr. Read objected to vesting these powers in the same court.

On the question, New Hampshire, Connecticut, Pennsylvania, Virginia, South Carolina, Georgia, aye—6; Delaware, Maryland, no—2; Massachusetts, New Jersey, North Carolina, absent.

On the question to agree to article 11, section 1, as amended, the States were the same as on the preceding question.

Mr. Dickinson moved, as an amendment to article 11, section 2, after the words "good behavior," the words, "*Provided that they may be removed by the Executive on the application by the Senate and House of Representatives.*" (The words of the Act of Settlement are, "but upon the address of both houses of Parliament, it may be lawful to remove them.") Mr. Gerry seconded the motion. Mr. Gouverneur Morris thought it a contradiction in terms to say that the judges should hold their offices during good behavior and yet be removable without a trial. Besides, it was fundamentally wrong to subject judges to so arbitrary an authority.

Mr. Sherman saw no contradiction or impropriety if this were made a part of the constitutional legislation of the judiciary establishment. *He observed that a like provision was contained in the British statutes.*

Mr. RUTLEDGE. If the Supreme Court is to judge between the United States and particular States, this alone is an insuperable objection to the motion.

Mr. Wilson considers such a provision in the British Government as less dangerous than here; the House of Lords and House of Commons being less likely to concur on the same occasions. Chief Justice Holt, he remarked, had *successively* offended, by his independent conduct, both houses of Parliament. Had this happened at the same time, he would have been ousted. The judges would be in a bad situation, if made to depend on any gust of faction which might prevail in the two branches of our Government. *Mr. Randolph opposed the motion, as weakening too much the independence of the judges.*

Mr. Dickinson was not apprehensive that the legislature, composed of different branches, constructed on such different principles, would improperly unite for the purpose of displacing a judge.

On the question for agreeing to Mr. Dickinson's motion, it was negatived.

Connecticut, aye; all the other States present, no.

Thus the proposition to engraft upon our Federal Constitution that provision of the Act of Settlement, specially referred to in the debate by Mr. Sherman, was rejected with only one dissenting voice. When, at another time, Mr. Dickinson attempted to provide that the President should be removed by address, his proposal was rejected by the same majority. As Mr. William Lawrence (Impeachment of Andrew Johnson, Vol. I, p. 135) has stated it: "Removal on the address of both houses of Parliament is provided for in the Act of Settlement, 3 Hallam, 262. In the convention which framed our Constitution, June 2, 1787, Mr. John Dickinson, of Delaware, moved 'that the Executive be made removable by the National Legislature on the request of a majority of the legislatures of individual States.' Delaware alone voted for this, and it was rejected. *Impeachment was deemed sufficiently comprehensive to cover every proper case for removal.*" The last sentence states the essence of the whole matter. The convention resolved that neither the executive nor judicial officers of the United States should be removed from office except "on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

As a well-known authority has expressed it: "The first proposition was to use the words, 'to be removable on impeachment and conviction for *malpractice and neglect of duty.*' It was agreed that these expressions were too general. They were therefore stricken out. It was voted that the clause should be simply 'removable on impeachment.' The debate shows that the members did not wish the Senate to be able to remove a civil officer whenever he acted in a way detrimental to the public service, for such a power was expressly refused. (Citing Madison Papers, p. 481, heretofore quoted.) A general debate took place on a clause in one draft which made the President triable only for treason and bribery. It was urged that the jurisdiction was too limited. The following are extracts from the debate which ensued: Colonel Mason said: 'Treason, as defined in the Constitution, will not reach many great and dangerous offenses. Hastings is not guilty of treason. Attempts to subvert the Constitution may not be treason as above defined.' He moved to insert after 'bribery' the words '*or maladministration.*' Madison: 'So vague a term will be equivalent to a tenure during the pleasure of the Senate.' Mason withdrew 'maladministration,' and substituted 'other high crimes and misdemeanors against the State.' In the final draft the words 'against the State' were omitted, doubtless as surplusage, and the expressions finally adopted, 'crimes' and 'misdemeanors.' were words which had a well-defined signification in the courts of England and in her colonies as meaning criminal offenses at common (parliamentary) law." American Law Review, vol. 16, p. 804. Article on "Impeachable offenses under the Constitution of the United States." The term "common" instead of "parliamentary" law is carelessly used in that excellent statement, as it often is elsewhere. After quoting Rawle on Const., 200, Lawrence (Johnson's Imp., Vol. I, p. 125) remarks: "This author says in reference to impeachments, 'we must have recourse to the common law of England for the definition of them;' that is, to the *common parliamentary law.* 3 Wheaton, 610; 1 Wood, and Minot, 448."

XV. IMPEACHMENT TRIALS UNDER THE CONSTITUTION OF THE UNITED STATES.

Seven impeachment trials have taken place under the machinery provided for that purpose by the Constitution of the United States: That of William Blount (1798), that of John Pickering (1803), that of Samuel Chase (1804), that of James H. Peck (1830), that of West H. Humphreys (1862), that of Andrew Johnson (1868), and that of William W. Belknap (1876). Three of the foregoing were political impeachments and four judicial, as those terms are understood in English parliamentary law. The articles presented by the House of Representatives against the four judges—Pickering, Chase, Peck, and Humphreys—illustrate in the most emphatic manner possible that the popular branch of Congress has heretofore always perfectly understood the meaning of the term "high crimes and misdemeanors," as applied to the misconduct for which a judge may be impeached. When placed side by side with the English precedents on that subject heretofore examined they agree in every particular. The House of Representatives, in the only four cases of the kind ever tried, limited its accusations, *with the greatest strictness*, to the acts of judgment *performed by the judge on the bench*, as contradistinguished from personal acts performed by the judge while in office, which might have been the ground of removal by address.

Turning first to the case against John Pickering, judge of the district court of New Hampshire, for practical illustrations, we find that judge charged with misconduct while adjudicating a certain admiralty case pending in said district court: "Yet the said John Pickering, being then judge of the said district court, and then in court sitting, with intent to defeat the just claims of the United States, did refuse to hear the testimony of the said witnesses so as aforesaid produced in behalf of the United States, and without hearing the said testimony so adduced in behalf of the United States in the trial of said cause did order and decree the ship *Eliza*, with her furniture, tackle, and apparel, to be restored to the said Eliphalett Ladd, the claimant, contrary to his trust and duty as judge of the said district court, in violation of the laws of the United States and to the manifest injury of their revenue." (Art. II.) Again (Art. III), when an appeal was prayed in open court in behalf of the United States, the charge is that "the said John Pickering, judge of the said district court, disregarding the authority of the laws, and wickedly meaning and intending to injure the revenues of the United States, and thereby to impair their public credit, did absolutely and positively refuse to allow the said appeal as prayed for."

And again (Art. IV), after the statement was made that said Pickering was "a man of loose morals and intemperate habits," he was thus accused: "On the eleventh and twelfth days of November, in the year one thousand eight hundred and two, being then judge of the district court in and for the district of New Hampshire, *did appear upon the bench of said court*, for the purpose of administering justice, in a state of total intoxication, produced by the free and intemperate use of inebriating liquors, and did then and there frequently, in a most profane and indecent manner, invoke the name of the Supreme Being, to the evil example of all good citizens of the United States, and was *then and there* guilty of other high misdemeanors, disgraceful to his own character as a judge and degrading to the honor and dignity of the United States." It should be specially noted here that no pretense was made that "loose morals and intemperate habits" or profanity constituted a high crime and misdemeanor. Upon the contrary, the accusation was strictly limited to acts done "*upon the bench of the said court*" while "administering justice in a state of total intoxication." There was no attempt in Pickering's case to claim that personal misconduct, which might have been the ground of removal by address, was an impeachable offense.

The articles of impeachment presented against Judge Samuel Chase contain equally pointed illustrations. In Article I he is charged with delivering an opinion in writing on the question of law, on the construction of which the defense of the accused materially depended, tending to prejudice the minds of the jury against the said John Fries, the prisoner, before the counsel

had been heard in his defense; in Article II the charge is that "the said Samuel Chase, with intent to oppress and procure the conviction of the said Callender, did overrule the objection of John Bassett, one of the jury, who wished to be excused from serving on said trial;" in Article III the charge is that on the trial the judge refused to permit a witness to testify; in Article IV the charge is of various acts of judicial misconduct during a trial; and in the remaining articles the charges are of various acts of judicial misconduct on the bench in charging and refusing to discharge grand juries.

The accusation against Judge James H. Peck was contained in a single article, based upon the judicial conduct of the judge while sitting upon the bench in a case of contempt against Luke E. Lawless, who had published a newspaper article criticising a judgment rendered by Judge Peck in a case in which Lawless was plaintiff's counsel. The gravamen of the charge was this: "The said James H. Peck, judge as aforesaid, did afterwards, on the same day, under the color and pretenses aforesaid, and with intent aforesaid, in the said court, then and there unjustly, oppressively, and arbitrarily order and adjudge that the said Luke Edward Lawless, for the cause aforesaid, should be committed to prison for the period of twenty-four hours, and that he should be suspended from practicing as an attorney or counsellor at law in the said district court for the period of eighteen calendar months from that day; and did then and there further cause the said unjust and oppressive sentence to be carried into execution."

The impeachment of Judge West H. Humphreys was begun and concluded during the civil war. He was tried and condemned in his absence and without a hearing. While such an anomalous proceeding can have but little weight as a precedent, what it does contain of matter relevant to a judicial impeachment supports the contention made herein. The first charge contained in the articles presented against Judge Humphreys was that he was guilty of treason, in that he "then being district judge of the United States, as aforesaid, did then and there, to wit, within said State, unlawfully and in conjunction with other persons, organize armed rebellion against the United States *and levy war against them.*" When the allegations incident to the accusation of treason are subtracted from the articles, all that remains is a charge of judicial misconduct upon the part of Judge Humphreys while sitting in a court of the Confederate States.

The words of the accusation are that the said Humphreys "did unlawfully act as judge of an illegally constituted tribunal within said State, called the district court of the Confederate States of America, and as judge of said tribunal last named, said West H. Humphreys, with the intent aforesaid, then and there assumed and exercised powers unlawful and unjust, to wit, in causing one Perez Dickinson, a citizen of said State, to be unlawfully arrested and brought before him, as judge of said alleged court of said Confederate States of America, and required him to swear allegiance to the pretended government of said Confederate States of America; * * *. In decreeing within said State, and as judge of said illegal tribunal, the confiscation to the use of said Confederate States of America, of property of citizens of the United States, and especially of property of one Andrew Johnson and one John Catron." Thus in this anomalous proceeding, carried on amid the passions of a great civil war, the idea was not for one moment lost sight of that the misconduct upon the part of a judge, which constitutes an impeachable high crime and misdemeanor, must occur while he is actually presiding in a judicial tribunal and abusing its powers.

XVI. WHY THE PLEAS INTERPOSED TO THE FIRST SEVEN ARTICLES OF IMPEACHMENT AGAINST JUDGE SWAYNE SHOULD BE SUSTAINED.

If the foregoing argument is a sound one, the following conclusions have been fixed upon a firm foundation:

First. That the definition of the term "high crimes and misdemeanors," as employed in Article II, section 4, of the Constitution, must be drawn from the parliamentary law of England as it existed in 1787, construed in the light of the contemporaneous expositions of that law embodied in the provisions of the constitutions of the several States as to impeachment and address.

Second. That the definition of that term, as thus fixed at the time of the adoption of the Federal Constitution, is organic and unchangeable by subsequent Congressional legislation; that no act, not an impeachable offense when the Constitution was adopted, can be made so by a subsequent act of Congress.

Third. That the "high crimes and misdemeanors" for which English judges were impeachable in 1787 can only be clearly ascertained from an examination of what are known as the English judicial impeachment cases, as contradistinguished from the political.

Fourth. That English judges have never been impeached except for bribery, or for judicial misconduct occurring in the actual administration of justice in court, either between private individuals or between the Crown and the subject.

Fifth. That since the act of settlement (1701), when the tenure and compensation of English judges was first fixed on a definite basis, such judges have been removable for judicial misconduct, *not amounting to an impeachable high crime and misdemeanor*, by address.

Sixth. That the plain distinction between the acts for which a judge may be impeached and the acts for which he may be removed by address was clearly recognized and defined in the constitutions of many of the States.

Seventh. That after careful consideration and debate the Federal Convention of 1787, with only one dissenting vote, rejected the proposition to embody the removal of Federal judges by address in the Constitution of the United States "as weakening too much the independence of the judges." After rejecting the more ample provisions upon the subject of impeachment embodied in some of the State constitutions, it was resolved that Federal judges should only be removed by impeachment for and conviction of "high crimes and misdemeanors" in the limited sense in which that phrase was defined in the parliamentary law of England as it existed in 1787.

Eighth. That in no one of the four judicial impeachments which have taken place since the adoption of our Federal Constitution has the House of Representatives ever attempted to impeach a Federal judge for "high crimes and misdemeanors," except in those cases in which he would have been impeachable under the English parliamentary precedents. That is to say, the proceedings against Justice Berkley and other judges (1640), the proceedings against Chief Justice Keeling (1667), the proceedings against Chief Justice Scroggs (1680), the proceedings against Judge Pickering (1803), the proceedings against Judge Chase (1804), the proceedings against Judge Peck (1830), the proceedings against Judge Humphreys (1862), so far as they relate to judicial misconduct, rest upon a single proposition, which is this: In English and American parliamentary and constitutional law the judicial misconduct which rises to the dignity of a high crime and misdemeanor must consist of judicial acts, *performed with an evil or wicked intent*, by a judge while administering justice in a court, either between private persons or between a private person and the government of the State. All personal misconduct of a judge, occurring during his tenure of office and not coming within that category, must be classed among the offenses for which a judge may be removed by address, A METHOD OF REMOVAL WHICH THE FRAMERS OF OUR FEDERAL CONSTITUTION REFUSED TO EMBODY THEREIN.

When the allegations contained in articles 1, 2, and 3, presented against this respondent, are examined, it appears that they set forth in three forms an identical charge, which is in substance that the respondent, in settling his accounts with certain United States marshals under a certain act of Congress providing for the reasonable expenses for travel and attendance of a district judge, when lawfully directed to hold court outside of his district, exacted and received in payment for such expenses from the said marshals sums in excess of the amounts contemplated in said act. It is charged that such acts constitute "a high crime, to wit, the crime of obtaining money from the United States by a false pretense, and of a high misdemeanor in office." The short answer to such a charge is that no such offence was ever thought of or defined in the parliamentary law of England as a high crime and misdemeanor in 1787, or at any other time; that it bears no relation whatever to the acts known in English parliamentary law as an impeachable offence. If it be true, as alleged, that the respondent was guilty in making such settlements of "obtaining money from the United States by a false pretense," then the remedy is by indictment by a grand jury and a trial by a petit jury, as in the case of any other citizen of the country. The Constitution expressly provides, Article I, section 3, that persons subject to impeachment "shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law." While it is quite possible to understand how such personal misconduct upon the part of a judge, entirely disconnected with the conduct of judicial business on the bench, might subject him to removal by address in a State which had adopted that plan of removal for nonimpeachable offenses, it is hard to conceive how any effort of the imagination could reach the conclusion that such an act constitutes an impeachable high crime and misdemeanor as defined in English parliamentary law.

The same comments are applicable to the charges made in articles 4 and 5 as to the use by the respondent of a certain car

belonging to a certain railroad, "the said railroad company being at the time in the possession of a receiver appointed by said Charles Swayne, judge as aforesaid, on the petition of creditors." Even if it could be established that the circumstances attending such a transaction would warrant removal by address, no advance would be made toward the conclusion that such acts constitute an impeachable high crime and misdemeanor as defined in English parliamentary law, because the further allegation that "the said Charles Swayne, acting as judge, allowed the credit claimed by the said receiver for and on account of the said expenditure as part of the necessary expenses of operating said road" falls far short of the English and American rule *as to the evil or wicked intent* which must accompany a judgment or opinion delivered on the bench in order to render it impeachable. Nothing is better settled than the fact that a judge is not impeachable even for a judgment, order, or opinion rendered contrary to law unless it is alleged and proved that it was rendered with *an evil, wicked, or malicious intent.* Justice Berkley was impeached not simply because he decided in favor of ship money, but because he "traitorously and wickedly endeavored to subvert the fundamental laws" of the realm thereby. Chief Justice Scroggs was impeached not simply for imposing "fines upon persons convicted of misdemeanors in said court," but because he imposed them "for the further accomplishing of his said traitorous and wicked purposes."

Justice Chase was impeached because he "with intent to oppress and procure the conviction of the said Callender did overrule the objection of John Bassett, one of the jury;" "that, with intent to oppress and procure the conviction of the prisoner, the evidence of John Taylor, a material witness on behalf of the aforesaid Callender, was not permitted by the said Sampel Chase to be given in." Judge Peck was impeached not because he punished Lawless for contempt, but because he did so "with intention wrongfully and unjustly to oppress, imprison, and otherwise injure the said Luke Edward Lawless under color of law, * * * under the color and pretense aforesaid and with the intent aforesaid, in the said court then and there did unjustly, oppressively, and arbitrarily order and adjudge," etc. If further illustrations of the necessity for averments as to the wicked and malicious intent with which a judicial act must be performed need be given, they may be drawn from articles 8, 9, 10, 11, and 12, presented against this respondent, in which impeachable offenses are properly charged under the rule which the Constitution prescribes—that is to say, the rule of English parliamentary law. It is charged in one article that the said Charles Swayne "did *maliciously and unlawfully adjudge* guilty of contempt of court and impose a fine of $100 upon and commit to prison for a period of ten days E. T. Davis, an attorney at law, for an alleged contempt of the circuit court of the United States;" and in another that he "*did maliciously and unlawfully adjudge* guilty of a contempt of court and impose a fine of $100 upon and commit to prison for a period of ten days Simeon Belden, an attorney and counselor at law, for an alleged contempt of the circuit court of the United States."

With the plain and settled rule thus recognized clearly in view, the draftsmen of articles 4 and 5 have not only failed to charge that the respondent "allowed the credit claimed by said receiver for and on account of the said expenditure," etc., "*maliciously and unlawfully,*" but what is more to the point, they have failed to charge that he did so "*knowingly.*" There is no reason to suppose, in the absence of such an allegation, that a judge, approving the mass of accounts presented to the court by a receiver of a railroad, would have personal knowledge of every trivial item which such accounts contain. The presumption is clearly to the contrary. In articles 4 and 5 there is no charge either that the respondent ever "knowingly" passed upon the items of expense in question or that he approved them "maliciously and unlawfully." In the absence of such allegations articles 4 and 5 fall to the ground.

The charge of nonresidence contained in article 6 presupposes the validity of section 551, Revised Statutes of the United States, which provides that "a district judge shall be appointed for each district, except in cases hereinafter provided. Every judge shall reside in the district for which he is appointed, *and for offending against this provision shall be deemed guilty of a high misdemeanor.*" If the foregoing argument proves anything, it is the fact that when the phrase "high crimes and misdemeanors" was embodied in the Federal Constitution in 1787 it drew along with it, *as an integral part of it,* the definitions which fixed its meaning in English parliamentary law at that time. The phrase, coupled with the definitions of it, thus became organic and unchangeable by subsequent Congressional legislation, just as the definition of the original and appellate jurisdiction of the Supreme Court became organic and unchangeable. The convention pointedly refused to make impeachable offenses an uncertain or changeable quantity. "The first proposition was to use the words 'to be removable on impeachment and conviction for malpractice and neglect of duty.' It was agreed that these expressions were too general. They were therefore stricken out. * * * Colonel Mason said: 'Treason, as defined in the Constitution, will not reach many great and dangerous offenses. Hastings is not guilty of treason. Attempts to subvert the Constitution may not be treason as above defined.' He moved to insert after 'bribery' the words 'or maladministration.' Madison: 'So vague a term will be equivalent to a tenure during the pleasure of the Senate.' Mason withdrew 'maladministration' and substituted 'other high crimes and misdemeanors against the State.'" (American Law Review, vol. 16, p. 804.)

The fathers knew exactly the limitations of the phrase adopted, and they repelled the idea that it was ever to be enlarged or diminished. If nonresidence of a judge in his district could be *added by Congress to the list of impeachable offenses,* that list could be thus indefinitely extended; or, by the same authority, every impeachable offense as understood in 1787 could be abolished. If it is admitted that Congress can change the organic definition, either by addition or subtraction, it follows as clearly as a mathematical demonstration that the scheme of impeachment provided in the Constitution can be entirely remodeled by legislation. The validity of the section in question, making nonresidence a high misdemeanor, can not be supported by serious argument. Even if it could be, the fact can not be lost sight of that its plain provision is that "every such judge shall reside in the district for which he is appointed." It will not be disputed that Judge Swayne was so residing in the district for which he was appointed at the time that subsequent legislation excluded the place of his residence from such district. Certainly nothing more can be put forward by those who assert the validity of section 551 than the contention that it was respondent's duty to remove, within a reasonable time, from the district for which he was appointed into the new one for which he was not appointed. It follows, therefore, that the accusation now made amounts to nothing more than the charge that respondent did not act with sufficient alacrity; that he did not remove his residence into the new district with sufficient promptness. How could such laches possibly constitute an impeachable high crime and misdemeanor?

XVII. TWO UNSOUND CONTENTIONS.

When sitting as a high court of impeachment the Senate is the sole and final judge of the meaning of the phrase "high crimes and misdemeanors." It has been well said that "'Treason, bribery, and other high crimes and misdemeanors' are of course impeachable. Treason and bribery are specifically named. But 'other high crimes and misdemeanors' are just as fully comprehended as though each was specified. The Senate is made the *sole judge* of what they are. There is no revising court. The Senate determines in the light of parliamentary law. Congress can not define or limit by law that which the Constitution defines in two cases by enumeration and in others by classification, and of which the Senate is sole judge." (Lawrence, Johnson's Imp., Vol. I, p. 136.) And yet the Senate sitting as a court of impeachment has in no one of the seven cases tried before it ever attempted to define the momentous phrase in question, and probably never will. When a new case arises nothing can be learned except what may be gleaned from the individual utterances of Senators, and from the arguments of counsel made in preceding cases, too often under the temptation to bend the precedents to the necessities of the particular occasion. One good result has, however, been the outcome of such discussions, and that is the elimination of two propositions which have perished through their own inherent weakness. On the one hand, a grotesque attempt has been made to narrow unreasonably the jurisdiction of the Senate sitting as a court of impeachment by the claim that the power of impeachment is limited to offences positively defined by the statutes of the United States as impeachable crimes and misdemeanors.

Apart from its other infirmities, this contention loses sight of the fact that Congress has no power whatever to define a high crime and misdeameanor. On the other hand, an equally untenable attempt has been made to widen unreasonably the jurisdiction of the Senate sitting as a court of impeachment by the claim that, under the general principles of right, it can declare that an impeachable high crime or misdemeanor is one in its nature or consequence subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers for improper motives or for an improper purpose. This expansive and nebulous definition embodies an attempt to clothe the Senate sitting as a court with such a jurisdiction as

it would have possessed had the Federal Convention seen fit to extend impeachment "to malpractice and neglect of duty," or to "maladministration," a proposition rejected with a single dissent because, as Madison expressed it, "So vague a term will be equivalent to a tenure during the pleasure of the Senate."

Even that school which gives the widest possible interpretation to the Federal Constitution will hardly be willing to go so far, even under the general-welfare clause, as to write into the Constitution phrases and meanings which the framers expressly rejected, in order to accomplish what may be considered by some a convenient end. Certainly that school which still respects the canons of strict construction can not listen to such an argument. Between the two extremes, those who have made a careful study of the subject find no difficulty in reaching the obvious conclusion that the term "high crimes and misdemeanors" embraces simply those offenses impeachable under the parliamentary law of England in 1787, subject to such modifications as that law suffered in the process of reproduction. When the objection is made that the phrase thus construed covers too narrow an area, the answer is that it was the expressly declared purpose of the framers so to restrict it within narrow limits perfectly understood at the time. In the first place, the proposition to adopt removal by address was rejected with only one dissent; in the second, the proposal to adopt such a comprehensive term as "maladministration" was rejected and the limited phrase in question substituted. The declaration was clearly made at the time that there must be no undue weakening of the independence of the Federal judiciary. The necessity for such a precaution was soon justified by events.

A leading authority upon the subject tells us that upon the destruction of the Federalist party on the election of Jefferson "An assault upon the judiciary, State and Federal, was made all along the lines. In some States, as New Hampshire, old courts were abolished and new ones with similar jurisdiction created for the sole purpose of obtaining new judges. In Pennsylvania an obnoxious Federal judge was removed from the common pleas by impeachment; and an impeachment of all the Federal judges of the highest court was made, but failed through the uprising of the entire bar, irrespective of party lines, in defense of their official chiefs. A similar attack was made upon the Federal judiciary." (Foster on the Constitution, Vol. I, p. 531.) With the possibility of such an assault impending it is not strange that the makers of our Federal Constitution should have confined the power of removing judges by impeachment within the well-known limits which the English constitution had defined.

The pleas to the jurisdiction interposed in behalf of respondent to articles 1, 2, 3, 4, 5, 6, and 7 should be sustained, because the facts set forth in said articles, even if true, do not constitute "high crimes and misdemeanors," as defined in Article II, section 4, of the Constitution of the United States.

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Counsel for Respondent.

APPENDIX.

The Constitution of the United States and the State constitutions—Impeachment provisions.

UNITED STATES CONSTITUTION.

Article II, section 4:

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article I, section 3:

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States, but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

THE THIRTEEN ORIGINAL STATES.

NEW HAMPSHIRE.

Constitution of 1784, article 1, part 2:

The senate shall be a court with full power and authority to hear and determine all impeachments made by the house of representatives against any officer or officers of the State for misconduct or maladministration in their offices. But previous to the trial of any such impeachment the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit under the State; but the party so convicted shall nevertheless be liable to indictment, trial, judgment, and punishment according to laws of the land. (Charters and Constitutions, Ben: Perley Poore, 1286.)

Judiciary power:

All judicial officers duly appointed, commissioned, and sworn shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution: *Provided, nevertheless*, The president, with consent of counsel, may remove them upon the address of both houses of the legislature. (Charters and Constitutions, 1290.)

MASSACHUSETTS.

Constitution of 1780, Chapter I, section 2:

ART. VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives against any officer or officers of the Commonwealth for misconduct and maladministration in their offices; but, previous to the trial of every impeachment the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit under this Commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment according to the laws of the land. (Charters and Constitutions, 963.)

Chapter III, "Judiciary power:"

ARTICLE I. * * * All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: *Provided, nevertheless*, The governor, with consent of the council, may remove them upon the address of both houses of the legislature. (Charters and Constitutions, 968.)

RHODE ISLAND.

Constitution of 1842, Article X:

SEC. 4. The judges of the supreme court shall be elected by the two houses in grand committee. Each judge shall hold his office until his place shall be declared vacant by a resolution of the general assembly to that effect; which resolution shall be voted for by a majority of all members elected to the house in which it may originate, and be concurred in by the same majority of the other house. Such resolution shall not be entertained at any other than the annual session for the election of public officers; and in default of the passage thereof at said session the judge shall hold his place as is herein provided. But a judge of any court shall be removed from office if, upon impeachment, he shall be found guilty of any official misdemeanor. (Charters and Constitutions, 1611, 1612.)

Constitution of 1842, Article XI:

SEC. 3. The governor and all other executive and judicial officers shall be liable to impeachment, but judgment in such cases shall not extend further than to removal from office. The person convicted shall, nevertheless, be liable to indictment, trial, and punishment according to law. (Page 1612.)

CONNECTICUT.

Constitution of 1818, Article V:

SEC. 3. * * * The judges of the supreme court and of the superior court shall hold their offices during good behavior, but may be removed by impeachment, and the governor shall also remove them on the address of two-thirds of the members of each house of the general assembly. (Page 263.)

Article IX:

SEC. 3. The governor and all other executive and judicial officers shall be liable to impeachment, but judgment in such cases shall not extend further than to removal from office and disqualifications to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law. (Page 265.)

NEW YORK.

Constitution of 1777, Paragraph XXXII:

And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that a court shall be instituted for the trial of impeachments and the correction of errors, under the regulations, which shall be established by the legislature. (Page 1337.)

Chapter XXXIII:

That the power of impeaching all officers of the State for mal and corrupt conduct in their respective offices be vested in the representatives of the people in assembly; but that it shall always be necessary that two-third parts of the members present shall consent to and agree in such impeachment. That previous to the trial of every impeachment the members of the said court shall, respectively, be sworn truly and impartially to try and determine the charge in question according to evidence and that no judgment of the said court shall be valid unless it be assented to by two-third parts of the members then present; nor shall it extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit under this State. But the party so convicted shall be, nevertheless, liable and subject to indictment, trial, judgment, and punishment according to the laws of the land. (Page 1337.)

Chapter XXXIV:

And it is further ordained, That in every trial on impeachment, or indictment for crimes, or misdemeanors, the party impeached or indicted shall be allowed counsel, as in civil actions. (Page 1337.)

Constitution of 1821, Article V:

SEC. 1. The court for the trial of impeachments, and the correction of errors, shall consist of the president of the senate, the senators, the chancellor, and the justices of the supreme court, or the major part of them. (Page 1346.)

SEC. 2. The assembly shall have the power of impeaching all civil officers of this State for mal and corrupt conduct in office, and for high crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment.

No person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in case of impeachment, shall not extend further than the removal from office and the disqualification to hold and enjoy any office of honor, trust, or profit under this State, but the party convicted shall be liable to indictment and punishment according to law.

Constitution of 1846, Article VI:

SEC. 1. The assembly shall have the power of impeachment by the vote of the majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or a major part of them, and the judges of the court of appeals, or the major part of them. * * * No person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party impeached shall be liable to indictment and punishment according to law. (Page 1358.)

SEC. XI. Justices of the supreme court and judges of the court of appeals may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to the assembly and a majority of all the members elected to the senate concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace and the judges and justices of inferior courts not

of record, may be removed by the senate on the recommendation of the governor, but no removals shall be made by virtue of this section unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journal. (Page 1359.)

Article VI:

Amendments to constitution of 1846. (Page 1368.)

SEC. 1. [Same as section 1 of constitution of 1846.] (Page 1358.)

NEW JERSEY.

Constitution of 1776, Paragraph XII:

Provided always, That the said officers, severally, shall be capable of being reappointed, at the end of the terms severally before limited; and that any of the said officers shall be liable to be dismissed, when adjudged guilty of misbehavior, by the council, on an impeachment of the assembly. (Page 1312.)

Constitution of 1844, Article VI, "Judiciary:"

SEC. 3. The house of assembly shall have the sole power of impeaching, by a vote of a majority of all the members; and all impeachments shall be tried by the senate; the members when sitting for that purpose to be on oath or affirmation "truly and impartially to try and determine the charge in question according to evidence;" and no person shall be convicted without the concurrence of two-thirds of all the members of the senate.

2. Any judicial officer impeached shall be suspended from exercising his office until his acquittal.

3. Judgment, in cases of impeachment, shall not extend further than to removal from office and to disqualification to hold and enjoy any office of honor, profit, or trust under this State; but the party convicted shall nevertheless be liable to indictment, trial, and punishment according to law. (Pages 1320–1321.)

PENNSYLVANIA.

Constitution of 1776:

SEC. 20. The president, and in his absence the vice-president, with the council, five of whom shall be a quorum, shall have power to appoint and commissionate judges, * * *.

SEC. 22. Every officer of State, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office or after his resignation or removal for maladministration. All impeachments shall be before the president or vice-president and council, who shall hear and determine the same.

SEC. 23. The judges of the supreme court of judicature shall have fixed salaries, be commissioned for seven years only, though capable of reappointment at the end of that term, but removable for misbehavior at any time by the general assembly; * * *. (Page 1545.)

Constitution of 1790, Article IV:

SEC. 3. The governor, and all other civil officers under this Commonwealth, shall be liable to impeachment for any misdemeanor in office. But judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this Commonwealth. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law. (Page 1552.)

Article V:

SEC. 2. The judges of the supreme court and of the several courts of common pleas shall hold their offices during good behavior. BUT FOR ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND OF IMPEACHMENT, the governor may remove any of them on the address of two-thirds of each branch of the legislature.

Constitution of 1838, Article IV:

SEC. 3. The governor and all other civil officers under this Commonwealth shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under the Commonwealth. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law. (Page 1561.)

Article V:

SEC. 2. The judges of the supreme court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well. The president judges of the several courts of common pleas, and of such other courts of record as are or shall be established by law, and all other judges, required to be learned in the law, shall hold their offices for the term of ten years, if they shall so long behave themselves well. The associate judges of the courts of common pleas shall hold their offices for the term of five years, if they shall so long behave themselves well. BUT FOR ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND OF IMPEACHMENT, the governor may remove any of them on the address of two-thirds of each branch of the legislature.

Amendments to Pennsylvania constitution of 1838, Article V:

SEC. 2. The judges of the supreme court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well, * * * all of whom shall be commissioned by the governor, BUT FOR ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUNDS OF IMPEACHMENT, the governor shall remove any of them on the address of two-thirds of each branch of the legislature. (Page 1568.)

Article VI:

SEC. 3. The governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this Commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 4. All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record and the superintendent of public instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except governor, lieutenant-governor, members of the general assembly, and judges of the courts of record learned in the law, shall be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the senate. (Page 1582.)

DELAWARE.

Constitution of 1776:

ART. 23. * * * And all officers shall be removed on conviction of misbehavior at common law, or on impeachment, or upon the address of the general assembly. (Page 277.)

Constitution of 1792, Article V:

SEC. 2. The governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law. (Page 283.)

Article VI:

SEC. 2. The chancellor and the judges of the supreme court of common pleas shall hold their offices during good behavior; but FOR ANY REASONABLE CAUSE WHICH SHALL NOT BE A SUFFICIENT GROUND FOR AN IMPEACHMENT the governor may, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the legislature.

Constitution of 1831, Article V:

SEC. 2. (Page 294.) [Same as section 2, Article V, of constitution of 1792, p. 293.]

Article VI:

SEC. 14. The governor may, for any reasonable cause, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the general assembly. In all cases where the legislature shall so address the governor the cause of removal shall be entered on the journals of each house. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied with the causes alleged for his removal, at least five days before the day on which either house of the general assembly shall act thereupon. (Page 297.)

MARYLAND.

Constitution of 1851, Article IV, "Judiciary department:"

SEC. 4. Subject to removal for incompetency, willful neglect of duty, or misbehavior in office, on conviction in a court of law, or by the governor upon the address of the general assembly, two-thirds of the members of each house concurring in such address. (Pages 848–849.)

Constitution of 1864, Article IV, "Judiciary department," part 1:

SEC. 4. Any judge shall be removed from office by the governor on conviction, in a court of law, of incompetency, of wilful neglect of duty, of misbehavior in office, or any other crime; or on impeachment according to this constitution, or the laws of the State; or on the address of the general assembly, two-thirds of each house concurring in such address, and the accused having been notified of the charges against him and had opportunity of making his defense. (Page 873.)

Constitution of 1867, Article 14, "Judiciary department," part 1:

SEC. 4. (Page 902.) [Same as section 4 of constitution of 1864, set out above.]

VIRGINIA.

Constitution of 1776:

The governor, when he is out of office, and others offending against the State, either by maladministration, corruption, or other means, by which the safety of the State may be endangered, shall be impeachable by the house of delegates, such impeachment to be prosecuted by the attorney-general or such other person or persons as the house may appoint in the general court according to the laws of the land. If found guilty he or they shall be either forever disabled to hold any office under government or be removed from such office pro tempore, or subjected to such pains or penalties as the laws shall direct.

If all or any of the judges of the general court should on grounds (to be judged of by the house of delegates) be accused of any of the crimes or offenses above mentioned, such house of delegates may, in like manner, impeach the judge or judges so accused, to be prosecuted in the court of appeals, and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause. (Page 1912.)

Constitution of 1830, Article III:

SEC. 13. The governor, the judges of the court of appeals and superior court, and all others offending against the State, either by maladministration, corruption, neglect of duty, or any other high crime or misdemeanor, shall be impeachable by the house of delegates, such impeachment to be prosecuted before the senate, which shall have the sole power to try all impeachments. When sitting for that purpose, the senate shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the Commonwealth; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law. (Page 1917.)

Article V:

SEC. 2. No law abolishing any court shall be construed to deprive a judge thereof of his office unless two-thirds of the members of each house present concur in the passing thereof; but the legislature may assign other judicial duties to the judges of courts abolished by any law enacted by less than two-thirds of the members of each house present. (Page 1918.)

Constitution of 1830, Article V:

SEC. 4. The judges of the supreme court of appeals and of the superior courts shall be elected by the joint vote of both houses of the general assembly. (Page 1919.)

SEC. 6. Judges may be removed from office by a concurrent vote of both houses of the general assembly; but two-thirds of the members present must concur in such vote, and the cause of removal shall be entered on the journals of each. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereupon.

Constitution of 1850, Article IV:

SEC. 18. The governor, lieutenant-governor, judges, and all others offending against the State by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the house of delegates and be prosecuted before the senate, which shall have the sole power to try impeachments. When sitting for that purpose they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the Commonwealth; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law. The senate may sit during the recess of the general assembly for the trial of impeachments. (Page 1928.)

Article VI:

SEC. 17. Judges may be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the journal of each house. The judge against

whom the general assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereupon. (Page 1934.)

Constitution, 1864, Article IV:

SEC. 18. (Page 1943.) [Same as section 18, constitution of 1850, Article IV, page 1928.]

Article VI:

SEC. 16. (Page 1949.) [Same as section 17, constitution of 1850, Article VI, page 1934.]

Constitution of 1870, Article V:

SEC. 16. (Page 1962.) [Same as section 18, constitution of 1850, Article IV, page 1928.]

Constitution of 1870, Article VI:

SEC. 23. Judges shall be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the journal of each house. The judge against whom the general assembly may be about to proceed shall have notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereon. (Page 1966.)

NORTH CAROLINA.

Constitution of 1776:

XIII. That the general assembly shall, by joint ballot of both houses, appoint judges of the supreme courts of law and equity, judges of admiralty, and attorney-general, who shall be commissioned by the governor, and their offices during good behavior.

XXIII. The the governor and other officers offending against the State by violating any part of this constitution, maladministration, or corruption, may be prosecuted, on the impeachment of the general assembly or presentment of the grand jury of any court of supreme jurisdiction in this State. (Page 1412.)

Amendments to constitution of 1776, ratified in 1835, Article III:

SEC. 1. The governor, judges of the supreme court, and judges of the superior courts, and all other officers of this State (except justices of the police and militia officers), may be impeached for wilfully violating any article of the constitution, maladministration, or corruption.

Judgment in cases of impeachment shall not extend further than to remove from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party convicted may nevertheless be liable to indictment, trial, judgment, and punishment according to law. (Page 1417.)

SEC. 3. Upon the conviction of any justice of the peace of any infamous crime, or of corruption and malpractice in office, the commission of such justice shall be thereby vacated, and he shall be forever disqualified from holding such appointment.

Constitution of 1868, Article IV:

SEC. 4. The judicial power of the State shall be vested in the court for the trial of impeachments, a supreme court, a superior court, courts of justices of the peace, and especial courts. (Page 1426.)

SEC. 5. The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

SEC. 6. The house of representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the senators present. When the governor is impeached the chief justice shall preside.

Amended constitution of 1876, Article I:

SEC. 2. (Page 1442.) [Same as section 4, constitution of 1868, page 1426, except last line, which says "and such other courts inferior to the supreme court as may be established by law."]

Sections 3 and 4, same as sections 5 and 6 of constitution of 1868, page 1426.

Constitution of 1876, Article IV:

SEC. 31. Any judge of the supreme court, or of the superior courts, and the presiding officers of such courts inferior to the supreme court as may be established by law, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both houses of the general assembly. The judge or presiding officer against whom the general assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereon. (Page 1444.)

SOUTH CAROLINA.

Constitution of 1776, Paragraph XX:

That all other judicial officers shall be chosen by ballot, jointly by the general assembly and legislative council, and, except the judges of the court of chancery, commissioned by the President and Commander in Chief during good behavior, but shall be removed on address of the general assembly and legislative council. (Page 1619.)

Constitution of 1778, Paragraph XXIII:

That the form of impeaching all officers of the State for mal and corrupt conduct in their respective offices, not amenable to any other jurisdiction, be vested in the house of representatives. But that it shall always be necessary that two-third parts of the members present do consent to and agree in such impeachment. That the senators, and such of the judges of this State as are not members of the house of representatives, be a court for the trial of impeachments under such regulations as the legislature shall establish, and that previous to the trial of every impeachment the members of the said court shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence, and no judgment of the said court, except judgment of acquittal, shall be valid unless it shall be assented to by two-third parts of the members then present, and on every trial, as well on impeachments as on others, the party accused shall be allowed counsel. (Page 1624.)

Paragraph VII:

That all other judicial officers shall be chosen by ballot, jointly by the senate and house of representatives, and, except the judges of the court of chancery, commissioned by the governor and commander in chief during good behavior, but shall be removed on address of the senate and house of representatives.

Constitution of 1790, Article III:

SEC. 1. The judicial power shall be vested in such superior and inferior courts of law and equity as the legislature shall from time to time direct and establish. The judges of each shall hold their commissions during good behavior. (Page 1631.)

Article V:

SEC. 1. The house of representatives shall have the sole power of impeaching, but no impeachment shall be made unless with the concurrence of two-thirds of the house of representatives. (Page 1632.)

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor, lieutenant-governor, and all the civil officers shall be liable to impeachment for any misbehavior in office; but judgment in such cases shall not extend further than to a removal from office and a disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

Article VI:

SEC. 1. The judges of the superior courts shall be elected by the joint ballot of both houses in the house of representatives.

Constitution of 1828; ratified, 1828.

That the third section of the fifth article of the constitution of this State shall be altered to read as follows, viz:

"SEC. 3. The governor, lieutenant-governor, and all civil officers shall be liable to impeachment for high crimes and misdemeanors, for any misbehavior in office, for corruption in procuring office, or for any act which shall degrade their official character. But judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law." (Page 1636.)

SEC. 4. All civil officers whose authority is limited to a single election district, a single judicial district, or part of either, shall be appointed, hold their office, be removed from office, and in addition to liability to impeachment may be punished for official misconduct in such manner as the legislature previous to their appointment may provide.

SEC. 5. If any civil officer shall become disabled from discharging the duties of his office by reason of any permanent bodily or mental infirmity, his office may be declared to be vacant by a joint resolution, agreed to by two-thirds of the whole representation in each branch of the legislature: *Provided*, That such resolution shall contain the grounds for the proposed removal, and before it shall pass either house a copy of it shall be served on the officer and a hearing be allowed him.

Constitution of 1865, Article III:

SEC. 1. The judicial power shall be vested in such superior and inferior courts of law and equity as the general assembly shall from time to time direct and establish. The judges of the superior courts shall be elected by the general assembly; shall hold their offices during good behavior. (Pages 1641–1642.)

Article VI:

SEC. 2. [Same as section 2 of constitution of 1790, p. 1632.]

SEC. 3. [Same as section 3, constitution of 1828, p. 1636.]

SEC. 4. [Same as section 4, constitution of 1828, p. 1636, except in two last lines, which read "as the general assembly previous to their appointment may provide."]

SEC. 5. [Page 1462.] [Same as section 5, constitution of 1828, p. 1636.]

Constitution of 1868, Article IV, "Judicial department:"

SEC. 2. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum. They shall be elected by a joint vote of the general assembly for the term of six years. [Page 1654.]

Article VII, "Impeachments:"

SEC. 3. The governor and all other executive and judicial officers shall be liable to impeachment, but judgment in such case shall not extend further than removal from office. The persons convicted shall, nevertheless, be liable to indictment, trial, and punishment according to law. (Pages 1657–1658.)

SEC. 4. For any wilful neglect of duty OR OTHER REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND OF IMPEACHMENT, THE GOVERNOR shall remove any executive or judicial officer on the address of two-thirds of each house of the general assembly: *Provided*, That the cause or causes for which said removal may be required shall be stated at length in such address and entered on the journals of each house: *And provided further*, That the officer intended to be removed shall be notified of such cause or causes and shall be admitted to a hearing in his own defense before any vote for such address, and in all cases the votes shall be taken by yeas and nays and be entered on the journals of each house, respectively.

GEORGIA.

Constitution of 1798, Article III:

SECTION 1. The judges of the superior court shall be elected for the term of three years, removable by the governor on the address of two-thirds of both houses for that purpose, or by impeachment and conviction thereon. (Page 393.)

SEC. 4. Justices of the inferior courts shall be appointed by the general assembly and be commissioned by the governor, and shall hold their commissions during good behavior or as long as they respectively reside in the county for which they shall be appointed, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly.

Constitution of 1835, Article III:

SECTION 1. The supreme court shall consist of three judges, who shall be elected by the legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. * * * The judges of the superior court shall be elected for the term of four years, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. (Page 399.)

Constitution of 1865, Article IV:

SECTION 1. The supreme court shall consist of three judges, who shall be elected by the general assembly for such term of years, not less than six, as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified; removable by the governor on the address of two-thirds of each branch of the general assembly or by impeachment and conviction thereon. (Pp. 408–409.)

SEC. 2. The judges of the superior courts removable by the governor on the address of two-thirds of each branch of the general assembly or by impeachment and conviction thereon.

Constitution of 1868, Article III:

SEC. 2. The senate shall have the sole power to try impeachments. When sitting for that purpose the members shall be on oath or affirmation, and shall be presided over by one of the judges of the supreme

court, selected for that purpose by a viva voce vote of the senate; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgments in cases of impeachments shall not extend further than removals from office and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law. (P. 416.)

Constitution of 1868, Article V:

SEC. 9. The judges of the supreme and superior court, the attorney-general, solicitors-general, and the district judges and attorneys shall be appointed by the governor, with the advice and consent of the senate, and shall be removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon. (Page 421.)

STATES ADMITTED AFTER THE ORIGINAL THIRTEEN.

ALABAMA.

Constitution of 1819, Article V, "Judiciary department:"

SEC. 12. Chancellors, judges of the supreme court (judges of the circuit courts, and judges of the inferior courts), shall be elected by joint vote of both houses of the general assembly. (Page 40.)

SEC. 13. The judges of the several courts in this State shall hold their offices during good behavior; and for willful neglect of duty, or other reasonable cause, WHICH SHALL NOT BE SUFFICIENT GROUND FOR IMPEACHMENT, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly: *Provided, however,* That the cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journal of each house: *And provided further,* That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house, respectively.

IMPEACHMENTS.—SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than removal from office and to disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

Constitution of 1865, Article VI, "Judicial department:"

* * * for any willful neglect of duty, or any other reasonable cause, which shall not be a sufficient ground of impeachment, the governor shall remove any judge on the address of two-thirds of each house of the general assembly: *Provided,* That the cause or causes for which said removal may be required shall be stated at length in such address and entered on the journals of each house: *And provided further,* That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense, before any vote for such address; and in all such cases the vote shall be taken by yeas and nays and be entered on the journals of each house, respectively. (Page 58.)

Article VII:

SEC. 7. All civil officers of the State, whether elected by the people or by the general assembly or appointed by the governor, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law. (Page 59.)

Constitution of 1867, Article IV:

SEC. 23. All State officers may be impeached for any misdemeanor in office, but judgment shall not extend further than removal from office and disqualification to hold office under the authority of this State. The party impeached, whether convicted or no, shall be liable to indictment, trial, and judgment according to law. (Page 65.)

Constitution of 1867, Article VI:

SEC. 12. * * * For any wilful neglect of duty, or any other reasonable cause WHICH SHALL NOT BE A SUFFICIENT GROUND OF IMPEACHMENT, the governor shall remove any judge on the address of two-thirds of each house of the general assembly: *Provided,* That the cause or causes for which said removal may be required shall be stated at length in such address and entered on the journals of each house: *And provided further,* That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense before any vote for such address; and in all such cases the vote shall be taken by yeas and nays, and be entered on the journal of each house respectively. (Page 68.)

Constitution of 1875, Article VII, "Impeachment:"

SEC. 1. The governor, secretary of state, auditor, treasurer, attorney-general, superintendent of education, and judges of the supreme court may be removed from office for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offense involving moral turpitude while in office, or committed under color thereof or connected therewith, by the senate sitting as a court for that purpose, under oath or affirmation, on articles or charges preferred by the house of representatives. (Page 89.)

SEC. 2. The chancellors, judges of the circuit courts, judges of the probate courts, solicitors of the circuits, and judges of inferior courts from which an appeal may be taken directly to the supreme court, may be removed from office for any of the causes specified in the preceding section, by the supreme court, under such regulations as may be prescribed by law.

ARKANSAS.

Constitution of 1836, Article IV:

SEC. 26. The governor, secretary of state, auditor, treasurer, and all the judges of the supreme, circuit, and inferior courts of law and equity, and the prosecuting attorneys for the State shall be liable to impeachment for any malpractice or misdemeanor in office; but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust, or profit under this State. The party impeached, whether convicted or acquitted, shall nevertheless be liable to be indicted, tried, and punished according to law. (Page 106.)

SEC. 27. * * * and for reasonable causes, WHICH SHALL NOT BE SUFFICIENT GROUND OF IMPEACHMENT, the governor shall, on the joint address of two-thirds of each branch of a legislature, remove from office the judges of the supreme and inferior courts: *Provided,* The cause or causes of removal be spread on the journals and the party charged be notified of the same and heard by himself and counsel before the vote is finally taken and decided.

Constitution of 1864, Article IV:

SEC. 24. (Page 125.) [Same as section 26, constitution of 1836, p. 106.]

SEC. 25. [Same as section 27, same constitution, p. 106.]

Constitution of 1868, Article VII:

SEC. 2. (Page 143.) The governor and all other civil officers under this State, etc. [Same as section 3, constitution Alabama, 1819, p. 40.]

Constitution of 1874, Article XV:

SEC. 1. The governor, and all State officers, judges of the supreme and circuit courts, chancellors, and prosecuting attorneys shall be liable to impeachment for high crimes and misdemeanors and gross misconduct in office, but the judgment shall go no further than removal from office and disqualification to hold any office of honor, trust, or profit under this State. An impeachment, whether successful or not, shall be no bar to an indictment.

SEC. 3. The governor, upon the joint address of two-thirds of all the members elected to each house of the general assembly, for good cause may remove the auditor, treasurer, secretary of state, attorney-general, judges of the supreme and circuit courts, chancellors, and prosecuting attorneys. (Page 174.)

CALIFORNIA.

Constitution of 1849, Article IV:

SEC. 19. The governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, surveyor-general, justices of the supreme court, and judges of the district courts shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the legislature may provide. (Page 198.)

COLORADO.

Constitution of 1876, Article XIII:

SEC. 2. The governor and other State and judicial officers, except county judges and justices of the peace, shall be liable to impeachment for high crimes or misdemeanors or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 3. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law. (Page 241.)

FLORIDA.

Constitution of 1838, Article V:

SEC. 12. * * * and at the expiration of five years the justices of the supreme court and the judges of the circuit courts shall be elected for the term of and during their good behavior, and for wilful neglect of duty, or other reasonable cause, WHICH SHALL NOT BE SUFFICIENT GROUND FOR IMPEACHMENT, the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however,* That the cause or causes shall be stated at length in such address and entered on the journal of each house: *And provided further,* That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass; and in such cases the vote shall be taken by yeas and nays and entered on the journals of each house, respectively. (Page 322.)

Constitution of 1838, Article VI:

SEC. 22. (Page 325.) [Same as section 3, "Impeachments," Alabama constitution of 1819.]

Constitution of 1865, Article V:

SEC. 10. There shall be appointed by the governor, by and with the advice and consent of the senate, a chief justice and two associate justices of the supreme court of this State, who shall reside in this State and hold their office for the term of six years from their appointment and confirmation, unless sooner removed under the provisions of this constitution for the removal of judges by address or impeachment; and for wilful neglect of duty, or other REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND FOR IMPEACHMENT, the governor shall remove any of them on the address of two-thirds of the general assembly: *Provided, however,* That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such removal shall pass, and in such case the vote shall be taken by yeas and nays and entered on the journal of each house, respectively, and in case of the appointment to fill a vacancy in said offices the person so appointed shall only hold office for the unexpired term of his predecessor. (Page 339.)

Article VI:

SEC. 18. (Page 341.) [Same as section 3, "Impeachments," Alabama constitution of 1819, p. 40.]

Constitution of 1868, Article V:

SEC. 28. The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall, nevertheless, be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office. All other civil officers shall be tried for misdemeanors in office in such manner as the legislature may provide. (Page 351.)

Article XVII:

SEC. 9. In addition to other crimes and misdemeanors for which an officer may be impeached and tried shall be included drunkenness and other dissipations. Incompetency, malfeasance in office, gambling, or any conduct detrimental to good morals shall be considered sufficient cause for impeachment and conviction. Any officer, when impeached by the assembly, shall be deemed under arrest and shall be disqualified from performing any of the duties of his office until acquitted by the senate. But any officer so impeached and in arrest may demand his trial by the senate within ten days of the date of his impeachment. (Page 361.)

Constitution of 1868, Article IX:

That the following portion of section 9, Article XVII, of the constitution is hereby abrogated:

"Any officer when impeached by the assembly shall be deemed under arrest and shall be disqualified from performing any of the duties of his office until acquitted by the senate; but any officer so impeached and in arrest may demand his trial by the senate within one year from the date of his impeachment." (Page 365.)

IDAHO.

Constitution of 1889, Article V:

SEC. 3. The court for the trial of impeachments shall be the senate. A majority of the members elected shall be necessary to a quorum, and the judgment shall not extend beyond removal from and disqualification to hold office in this State; but the party shall be liable to indictment and punishment according to law. (Page 469.)

SEC. 4. The house of representatives solely shall have the power of impeachment. No person shall be convicted without the concurrence of two-thirds of the senators elected.

ILLINOIS.

Constitution of 1818, Article II:

SEC. 23. (Page 441.) The governor and all other civil officers under this State, etc. [same as section 3, constitution of Alabama, 1819, page 40].

Article IV:

SEC. 5. The judges of the inferior courts shall hold their offices during good behavior, but for ANY REASONABLE CAUSE WHICH SHALL NOT BE SUFFICIENT GROUND FOR IMPEACHMENT, both the judges of the supreme and inferior courts shall be removed from office on the address of two-thirds of each branch of the general assembly: *Provided always*, That no member of either house of the general assembly nor any person connected with a member by consanguinity or affinity shall be appointed to fill the vacancy occasioned by such removal. (Page 444.)

Constitution of 1848, Article II:

SEC. 28. The governor, and other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law. (Page 452.)

Constitution of 1848, Article V:

SEC. 12. For any reasonable cause, to be entered on the journals of each house, WHICH SHALL NOT BE A SUFFICIENT GROUND FOR IMPEACHMENT, both justices of the supreme court and judges of the circuit court shall be removed from office on the vote of two-thirds of the members elected to each branch of the general assembly: *Provided always*, That no member of either house of the general assembly shall be eligible to fill the vacancy occasioned by such removal: *Provided also*, That no removal shall be made unless the justice or judge complained of shall have been served with a copy of the complaint against him and shall have an opportunity of being heard in his defense. (Page 460.)

Constitution of 1870, Article IV:

SEC. 24. The house of representatives shall have the sole power of impeachment, but a majority of all the members elected must concur therein. All impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall be upon oath, or affirmation, to do justice according to law and evidence. When the governor of the State is tried, the chief justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law. (Page 476.)

SEC. 15. The governor and all civil officers of this State shall be liable to impeachment for any misdemeanor in this State. (Page 478.)

INDIANA.

Constitution of 1816, Article III:

SEC. 24. The governor and all civil officers of this State shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors; but judgment in such cases shall not extend, etc. [Same as in other sections.] (Page 503.)

Constitution of 1851, Article VI:

SEC. 7. All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the house of representatives, to be tried by the senate, or by a joint resolution of the general assembly, two-thirds of the members elected to each branch voting in either case therefor. (Page 520.)

SEC. 12. Any judge or prosecuting attorney who shall have been convicted of corruption or other high crime may, on information, in the name of the State, be removed from office by the supreme court, or in such other manner as may be prescribed by law. (Page 521.)

IOWA.

Constitution of 1846, Article III:

SEC. 20. (Page 540.) The governor, judges of the supreme and district courts, and other State officers shall be liable to impeachment for any misdemeanor or malfeasance in office, etc. [Same as Florida constitution, 1868, Article V, p. 351.]

Constitution of 1857:

SEC. 20. (Page 556.) [Same as section 20, Iowa constitution of 1846. Article III, p. 540.]

KANSAS.

Constitution of 1855, Article VI:

SEC. 16. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house coucur therein; but no such removal shall be made upon complaint, the substance of which shall be entered upon the Journal, nor until the party charged shall have had notice thereof and an opportunity to be heard. (Page 588.)

Constitution of 1857, Article VI:

SEC. 23. (Page 605.) The governor and all civil officers, etc. [same as in constitution of Illinois of 1848, Article II, section 28, page 452].

Constitution of 1858, Article IV:

SEC. 22. (Page 618.) [Same as Illinois constitution, section 28, page 452.]

Article VI:

SEC. 14. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered upon the Journal, nor until the party charged shall have notice thereof and an opportunity to be heard.

Constitution of 1859, Article II:

SEC. 28. The governor and all other officers under this constitution shall be subject to impeachment for any misdemeanor in office, etc., as in other sections. (Page 634.)

Article III, section 15:

Justices of the supreme court and judges of the district court may be removed from office by resolution of both houses, if two-thirds of the members of each house concur. But no such removal shall be made, etc. [Same as section 14, constitution Illinois, p. 452.]

KENTUCKY.

Constitution of 1792:

Article IV. (Page 651.) [Same as section 3, constitution of Alabama, p. 40.]

Article V. The judges of both the supreme and inferior courts shall hold their offices during good behavior; but, for ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND OF IMPEACHMENT, the governor may remove any of them on the address of two-thirds of each branch of the legislature.

Constitution of 1799, Article IV:

SEC. 3. (Page 662.) [Same as section 13, Alabama constitution, p. 40.]

Article V, page 663, section 3. [Same as section 3, Alabama constitution of 1819, p. 40.]

Constitution of 1850, Article IV:

SEC. 3. For any reasonable cause the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal may be required shall be stated at length in such address and on the journal of each house. (Page 675.)

Constitution of 1850, Article V:

SEC. 3. (Page 678.) [Same as section 3, constitution of Alabama of 1819, p. 40.]

LOUISIANA.

Constitution of 1812, Article IV:

SEC. 5. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; but, for ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUNDS FOR IMPEACHMENT, the governor shall remove any of them on the address of three-fourths of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal may be required shall be stated at length in the address and inserted on the journal of each house. (Page 705.)

Article V:

SEC. 3. (Page 705.) [Same as section 3, Alabama constitution, 1819, p. 40.]

Constitution of 1845, Title IV:

ART. 73. The judges of all courts shall be liable to impeachment; but, for ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUNDS FOR IMPEACHMENT, the governor shall remove any of them on the address of three-fourths of the members present of each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address and inserted in the journal of each house. (Page 718.)

Title V:

ART. 86. Judgments in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law. (Page 719.)

ART. 87. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency of such impeachment. The appointing power may make a provisional appointment to replace any suspended officer until the decision of the impeachment.

ART. 88. The legislature shall provide by law for the trial, punishment, and removal from office of all other officers of the State by indictment or otherwise.

Constitution of 1852, Title IV:

ART. 73. (Page 732.) [Same as article 73, Louisiana constitution of 1845, page 718.] Title V:

ARTS. 87, 88, 89. (Page 733.) [All same as articles 86, 87, and 88 of Louisiana constitution of 1845, page 718.]

Constitution of 1864, Title V:

ART. 77. The judges of all courts shall be liable to impeachment; but for ANY REASONABLE CAUSE WHICH SHALL NOT BE SUFFICIENT GROUNDS FOR IMPEACHMENT the governor shall remove any of them on the address of a majority of the members elected to each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address and inserted in the journal of each house. (Page 747.)

Title VI:

ARTS. 87, 88, 89. (Page 748.) [Same as articles 86, 87, 88 of Louisiana constitution of 1845, page 718.]

Constitution of 1868, Title IV:

ART. 81. The judges of all courts shall be liable to impeachment for crimes and misdemeanors. For any reasonable cause the governor shall remove any of them, etc. [Same as article 77, page 747, constitution 1864.] (Page 763.)

Title V:

ART. 97. (Page 765.) [Same as article 86, Title V, page 719, Louisiana constitution of 1845.]

MAINE.

Constitution of 1820, Article IV, part 2:

SEC. 7. The senate shall have the sole power to try all impeachments, and, when sitting for that purpose, shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Their judgment, however, shall not extend further than to removal from office and disqualification. [Same as other like sections.] Page 793.)

Article IX:

SEC. 5. Every person holding any civil office under this State may be removed, by impeachment, for misdemeanor in office; and every person holding any office may be removed by the governor, with the advice of the council, on the address of both branches of the legislature. But, before such address shall pass either house, the causes of removal shall be stated and entered on the journal of the house in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defense. (Page 798.)

Constitution of 1820, amended 1839, Article III:

All judicial officers now in office, or who may be hereafter appointed, shall, from and after the 1st day of March, in the year 1840, hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the legislature to the executive) and no longer, unless reappointed thereto. (Page 804.)

MICHIGAN.

Constitution of 1835, Article VIII:

SEC. 1. The house of representatives shall have the sole power of impeaching all civil officers of the State for corrupt conduct in office or

for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment. (Page 989.)

SEC. 2. * * * judgment, in cases of impeachment, shall not extend further than to removal from office; but the party convicted shall be liable to indictment and punishment according to law.

SEC. 3. FOR ANY REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND FOR THE IMPEACHMENT OF THE JUDGES OF ANY OF THE COURTS, the governor shall remove any of them on the address of two-thirds of each branch of the legislature; but the cause or causes for which such removal may be required shall be stated at length in the address.

Constitution of 1850, Article XII:

SEC. 1. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors. (Page 1006.)

Constitution of 1850, Article XII:

SEC. 2. * * * judgment, in case of impeachment, shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law. (Page 1006.)

SEC. 4. No judicial officer shall exercise his office after an impeachment is directed until he is acquitted.

SEC. 5. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

SEC. 6. FOR REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND FOR THE IMPEACHMENT OF A JUDGE, the governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the legislature; but the cause for which such removal is required shall be stated at length in such resolution.

MINNESOTA.

Constitution of 1857, Article XIII; "Impeachment and removal from office:"

SEC. 1. The governor, secretary of state, treasurer, auditor, attorney-general, and the judges of the supreme and district courts may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office, etc., as in other sections. (Page 1040.)

SEC. 2. The legislature of this State may provide for the removal of inferior officers from office for malfeasance or nonfeasance in the performance of their duties.

SEC. 3. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

MISSISSIPPI.

Constitution of 1817, Article V:

SEC. 9. (Page 1062.) [Same as section 13, constitution Alabama, p. 40.]

SEC. 3. [Same as section 3, Alabama constitution, p. 40.]

Constitution of 1832, Article IV:

SEC. 27. (Page 1073.) The judges of the several courts of this State, for willful neglect of duty or other reasonable cause, shall be removed by the governor on the address of two-thirds of both houses of the legislature; the address to be joint vote of both houses. The cause or causes for which such removal shall be required, etc. [Like Article VI, constitution Alabama of 1865, p. 58.]

Constitution of 1832, Article VI:

SEC. 3. (Page 1076.) [Same as section 3, Alabama constitution of 1819, p. 40.]

Constitution of 1868, Article IV:

SEC. 28. The governor and all other civil officers under this State shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. (Page 1085.)

SEC. 30. Judgments in such cases shall not extend further than removal from office and disqualification to hold any office of honor, etc., as in other sections.

SEC. 31. [Same as section 27 of Arkansas constitution of 1836, p. 106.]

MISSOURI.

Constitution of 1820, Article III:

SEC. 29. (Page 1108.) [Same as section 26, Article IV, Arkansas constitution, 1836, p. 106.]

Article V:

SEC. 16. Any judge of the supreme court, or of the circuit court, or the chancellor, may be removed from office on the address of two-thirds of each house of the general assembly to the governor for that purpose, but each house shall state on its respective journal the cause for which it shall wish the removal of such judge or chancellor, and give him notice thereof, and he shall have the right to be heard in his defense in such manner as the general assembly shall by law direct; but no judge or chancellor shall be removed in this manner for any cause for which he might have been impeached.

Constitution of 1865, Article VI:

SEC. 19 (p. 1151). [Same as section 16, Article V, constitution 1820, p. 1108.]

Article VII:

SEC. 1. (p. 1152). [Same as section 19, constitution 1849, California, p. 198.]

Constitution of 1875, Article VI:

SEC. 1. The governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, superintendent of public schools, and judges of the supreme, circuit, and criminal courts, and of the St. Louis court of appeals shall be liable to impeachment for high crimes or misdemeanors, and for misconduct, habits of drunkenness, or oppression in office. (Page 1182.)

MONTANA.

Constitution of 1889, Article V:

SEC. 17. The governor and other State and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit under the laws of the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law. (Page 1206.)

SEC. 18. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law.

NEBRASKA.

Constitution of 1866, Article II:

SEC. 29. The governor, secretary of state, auditor, treasurer, and judges of the supreme and district court shall be liable to impeachment for any misdemeanor in office, etc., as in other sections. (Page 1207.)

Constitution of 1875, Article III:

SEC. 14. The senate and house of representatives in joint convention shall have the sole power of impeachment; but a majority of the members elected must concur therein. * * * A notice of an impeachment of any officer other than a justice of the supreme court shall be forthwith served upon the chief justice by the secretary of the senate, who shall thereupon call a session of the supreme court to meet at the capital within ten days after such notice to try the impeachment. A notice of an impeachment of a justice of the supreme court shall be served by the secretary of the senate upon the judge of the judicial district within which the capital is located, and he thereupon shall notify all the judges of the district court in the State to meet with him within thirty days at the capital to sit as a court to try such impeachment, which court shall organize by electing one of its members to preside. (Page 1217.)

NEVADA.

Constitution of 1864, Article VII:

SEC. 2. The governor and other State and judicial officers, except justices of the peace, shall be liable to impeachment for misdemeanor or malfeasance in office. (Page 1257.)

SEC. 3. [Same as section 12, Illinois constitution, 1848, p. 460.]

NORTH DAKOTA.

Constitution, Article XIV:

SEC. 196. The governor and other State and judicial officers, except county judges, justices of the peace, and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification, etc., as in other sections. (Page 127.)

SEC. 197. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime, or misdemeanor in office, or for habitual drunkenness or gross incompetency, in such manner as may be provided by law.

OHIO.

Constitution of 1802, Article I:

SEC. 24. (Page 1457.) [Same as section 3, Alabama constitution, 1819, p. 40.]

Constitution of 1851, Article II:

SEC. 24. (Page 1468.) The governor, judges, and all State officers may be impeached for any misdemeanor in office, etc., as in other sections.

Constitution of 1851, Article IV:

SEC. 17. (Page 1472.) [Same as section 16, Kansas constitution of 1855, p. 588.]

OREGON.

Constitution of 1857, Article VII:

SEC. 19. Public officers shall not be impeached; but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law. (Page 1501.)

SEC. 20. The governor may remove from office a judge of the supreme court or prosecuting attorney, upon the joint resolution of the legislative assembly in which two-thirds of the members elected to each house shall concur, for incompetency, corruption, malfeasance, or delinquency in office, or other sufficient cause, stated in such resolution.

SOUTH DAKOTA.

Constitution of 1890, Article XVI:

SECS. 3 and 4. (Page 393.) [Like sections 196 and 197 of constitution of North Dakota, p. 127.]

TENNESSEE.

Constitution of 1796, Article IV:

SEC. 4. The governor and all civil officers under this State shall be liable to impeachment for any misdemeanor in office. (Page 1671.)

Constitution of 1834, Article V:

SEC. 4. The governor, judges of the supreme court, judges of inferior courts, chancellors, attorneys for the State, and secretary of state shall be liable to impeachment whenever they may, in the opinion of the house of representatives, commit any crime in their official capacity which may require disqualification.

SEC. 6. Judges and attorneys for the State may be removed from office by a concurrent vote of both houses of the general assembly, each house voting separately; but two-thirds of all the members elected to each house must concur in such vote. (Page 1683.)

Constitution of 1870, Article V:

SEC. 4. (P. 1703.) [Same as section 4, constitution of 1834, p. 1683.]

Article VI:

SEC. 6. Judges and attorneys for the State may be removed from office by a concurrent vote of both houses of the general assembly, each house voting separately, etc., same as section 6 immediately preceding. (Page 1704.)

TEXAS.

Constitution of 1836, Article VI:

SEC. 16. The president, vice-president, and all civil officers of the Republic shall be removable from office by impeachment for, and on conviction of, treason, bribery, and other high crimes and misdemeanors. (Page 1759.)

Constitution of 1845, Article IV:

SEC. 8. (Page 1772.) [Same as section 13, Alabama constitution, 1819, p. 40.]

Article IX:

SEC. 1. The power of impeachment shall be vested in the house of representatives. (Page 1780.)

SEC. 2. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district courts shall be tried by the senate.

SEC. 3. Impeachments of judges of the supreme court shall be tried by the senate.

Constitution of 1866, Article IV:

SEC. 11. The judges of the supreme and district courts shall be removed by the governor, on the address of two-thirds of each house of the legislature, for wilful neglect of duty or other reasonable cause, WHICH SHALL NOT BE SUFFICIENT GROUND FOR IMPEACHMENT: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed; and he shall be admitted to a hearing in his own defense before any vote for such address shall pass. And in all such cases the vote shall be taken by

yeas and nays and entered on the journals of each house, respectively. (Page 1790.)

Article IX:

SECS. 2 and 3. (Page 1798.) [Same as sections 2 and 3, constitution of 1845, p. 1780.]

Constitution of 1868, Article V:

SEC. 10. (Page 1812.) [Same as first clause of section 11, constitution of 1866, p. 1790.]

Article VIII:

SECS. 2 and 3. (Page 1814.) [Same as sections 2 and 3, constitution of 1845, p. 1780.]

Constitution of 1876, Article XV:

SEC. 2. Impeachment of the governor, lieutenant-governor, attorney-general, treasurer, commissioner of the general land office, comptroller, and the judges of the supreme court, court of appeals, and district court shall be tried by the senate. (Page 1850.)

Address:

SEC. 8. [Same as section 11, constitution of 1866, Article IV, p. 1790.]

UTAH.

Constitution of 1895, Article VI:

SEC. 19. The governor and other State and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes, misdemeanors, or malfeasance in office.

SEC. 21. All officers not liable to impeachment shall be removed for any of the offenses specified in this article in such manner as may be provided by law.

Article VIII:

SEC. 11. Judges may be removed from office by the concurrent vote of both houses of the legislature, each voting separately; but two-thirds of the members to which each house may be entitled must concur in such vote. The vote shall be determined by yeas and nays, and the names of the members voting for or against a judge, together with the cause or causes of removal, shall be entered on the journal of each house. The judge, against whom the house may be about to proceed, shall receive notice thereof, accompanied with a copy of the cause alleged for his removal, at least ten days before the day on which either house of the legislature shall act thereon.

VERMONT.

Constitution of 1793, chapter 11:

SEC. 24. Every officer of the State, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office or after his resignation or removal, for maladministration. All impeachments shall be before the governor, or lieutenant-governor and council, who shall hear and determine the same and may award costs; and no trial or impeachment shall be a bar to a prosecution at law. (Page 1880.)

WASHINGTON.

Constitution of 1889, Article V:

SEC. 2. (Page 623.) [Like sections 3 and 4 of constitution of South Dakota, 1890, Art. XVI, page 393.]

WEST VIRGINIA.

Constitution of 1861, Article III:

SEC. 10. Any officer of the State may be impeached for maladministration, corruption, incompetence, neglect of duty, or any high crime or misdemeanor. (Page 1980.)

Article VI:

SEC. 13. Judges may be removed from office for misconduct, incompetence, or neglect of duty, or on conviction of an infamous offense by the concurrent vote of a majority of all the members elected to each branch of the legislature, and the cause of removal shall be entered on the journals. (Page 1986.)

Constitution of 1872, Article IV:

SEC. 9. Any officer of the State may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. (Page 1997.)

Article VII:

SEC. 18. Judges may be removed from office by concurrent vote of both houses of the legislature, where, from age, disease or mental or bodily infirmity, they are incapable of discharging the duties of their offices. But two-thirds of the members elected to each house must concur in such vote; and the cause of removal shall be entered upon the journal of each house. (Page 2007.)

WISCONSIN.

Constitution of 1848, Article VII:

SEC. 1. The court for the trial of impeachments shall be composed of the senate. The house of representatives shall have the power of impeaching all civil officers of this State for corrupt conduct in office or for crimes and misdemeanors, but a majority of all the members elected shall concur in an impeachment. (Page 2034.)

SEC. 13. Any judge of the supreme or circuit court may be removed from office by address of both houses of the legislature if two-thirds of all the members elected to each house concur therein; but no removal shall be made by virtue of this section unless the judge complained of shall have been served with a copy of the charges against him as the ground of address, and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journal. (Page 2036.)

WYOMING.

Constitution, Article II:

SEC. 18. (Page 769.) [Same as section 17, constitution of Montana, 1889, Article V, page 1206.]

Mr. THURSTON. Call Mr. F. W. Marsh.

Frederick W. Marsh sworn and examined.

By Mr. THURSTON:

Question. Where do you reside?

Answer. Pensacola, Fla.

Q. What is your profession, if any?

A. I am an attorney at law.

Q. How long have you been practicing law?

A. Nearly eleven years.

Q. Where?

A. Pensacola, Fla.

Q. What official position, if any, have you held, or now hold?

A. I am clerk of the United States circuit and district courts for the northern district of Florida.

Q. And have been for how long?

A. For nearly ten years.

Q. Are you familiar with the record of the case of Florida McGuire *v.* Others that was pending in your court on November 5, 1901?

A. Yes, sir.

Q. Will you state as to whether or not in that suit one Edgar was a defendant?

A. Charles H. Edgar, described as living in New York City, was named in the præcipe for process for summons as a party defendant, and also in the declaration. But no service was made on him in that suit, and he did not appear in the suit.

Q. Were you present in court on November 5, 1901?

A. Yes, sir.

Q. Were you there when Judge Swayne made a statement from the bench in reference to a letter which he had received asking him to recuse himself in the trial of the Florida McGuire case?

A. Yes, sir; I was present.

Q. Do you remember as to whether or not Judge Paquet was there?

A. He was present.

Q. Was Mr. Belden?

A. I would not state definitely. My opinion is that he was not there.

Q. Was Mr. Davis?

A. I do not think Mr. Davis was there on November 5.

Q. Will you please tell us what the substance of that statement of the judge was?

A. The criminal docket was being disposed of, and Judge Paquet came into court. The judge suspended proceedings and called him to the bench, or called him up close to the bench, and told him that he was in receipt of a letter from him, and that he had not answered it owing to the fact that it brought to his attention matters which he thought should be disposed of in court when the other side was represented. Mr. Blount was present at the time.

He then took up the suggestions in the letter, and stated in answer to them that during the past summer he, on behalf of a relative—at that time he stated "a relative"—had negotiated for a certain block of land in the city of Pensacola known as "block 91 of the new city tract;" that during the negotiations a quitclaim deed had been forwarded for block 91, and on inquiry it was found—on inquiry from himself—it was ascertained from the agents that the reason the quitclaim was offered was that the party did not care to warrant the title against the claim of the Caro heirs.

Q. Was that the claim being litigated in the Florida McGuire case?

A. Yes.

Q. Now proceed.

A. That thereupon this deed was returned and all negotiations for that property terminated, that the matter had not been formally called to his attention in the regular way; but inasmuch as a letter had been addressed to the court in this form, unless the parties insisted on a formal application he would then undertake to dispose of it in that way; and he said that he thought under the circumstances he was qualified to try the case and felt in duty bound to go on. On the following Friday, the 8th, Judge Paquet——

Q. One moment, Mr. Marsh, before you go further. Was the letter that Judge Swayne had received presented there in court?

A. Yes, sir; Judge Swayne had the letter at the time.

Q. What became of it?

A. Judge Paquet requested to withdraw the letter, and the judge handed it to me and I stepped over and handed it to Judge Paquet.

Q. Now, please go on and state what took place on Friday.

A. On Friday morning—I think it was Friday morning between 10 and 11 o'clock—Judge Paquet, Mr. Belden, and Mr. Davis and their clients came into court, and Judge Swayne then stated to these attorneys, referring to the previous declaration he had made in relation to his connection with this tract, and said that he desired to state further in that connection that the relative referred to was his wife, and that she had been looking for an opportunity to invest money, her own money, inherited from some relative's estate—her father's estate—I think.

Q. Were you present in court generally during that week commencing November 5?

A. Yes, sir; I was present all the time during the session of the court.

Q. How frequently was Mr. Davis there?

A. Mr. Davis came in, as I recall now, either on Wednesday or Tuesday morning. I think it was on Wednesday morning the first I noticed him. He came in accompanied by Judge Paquet and Mr. Belden and J. C. Keyser and Alberto Caro. He came in again Thursday morning, was present in the court at the times that these other parties were present, also on Friday and Saturday.

Q. During those times did Mr. Davis have anything to do or make any actual suggestion or inquiry with reference to the Florida McGuire case?

A. The only thing I noticed was that he was in conversation; during the presence of these attorneys in court he seemed to be conversing with them at various times.

Q. Did Mr. Davis at any time during that week speak to you about the case?

A. I do not think that he spoke to me, except to make some inquiries about how the docket was progressing. I spoke to him about it.

Q. Well, state what was said.

A. At the time of the argument that Judge Paquet was making to the court, asking that the case be postponed until the Thursday of the following week, among other remarks he said that, owing to the large number of witnesses, it would be impossible for them to get the witnesses subpœnaed in time for the hearing Monday morning.

I came down from my desk and went over to Mr. Davis and told Mr. Davis that if they desired to get any witnesses summoned that night I would stay in my office as long as he desired; that I would get out any summons for witnesses that they might file a præcipe for. Mr. Davis then said to me, "I will see about it," and that terminated the conversation. He went from me over to Judge Paquet and held some consultation with him. They then, after the termination of the proceedings, went out of the courtroom, and I saw nothing further of them that evening. I stayed in my office until about 7 o'clock transacting—closing up—some business that had accumulated, and heard nothing further from them.

Q. Were you ready and prepared at any time that evening to have issued any subpœna that they might desire for witnesses?

A. I could have gotten out summons for any number they could have filed—any reasonable number.

Q. In what length of time?

A. I could have summoned thirty or forty witnesses in ten to fifteen minutes—that is, gotten the summons out.

Q. Filled in and signed the blanks?

A. Yes, sir; blank forms; they require very little time.

Q. On that application Saturday afternoon, the 8th, at the close of the criminal docket, and when the request was made for a postponement, was any written application made?

A. For continuance or postponement?

Q. Yes, sir.

A. No, sir.

Q. Was there ever?

A. No, sir.

Q. What did Judge Swayne state from the bench when that application was made?

A. Judge Swayne stated that there was no business requiring the attendance of a jury during the ensuing week except this case; that if the counsel agreed he would set the case for Thursday; if they did not agree he would have to take it up in the usual order. On the suggestion of Mr. Blount that he demanded a trial on the ensuing Monday, the judge stated that he would set the case for trial Monday morning at 10 o'clock unless some showing was made for continuance under the rule.

Q. Showing made on Monday morning?

A. Showing made on Monday morning at 10 o'clock, when the case was set.

Q. Was there any suggestions or any demand made by the judge that the case should proceed to trial on that Saturday afternoon?

A. No, sir. It was a late hour and there never was any intimation that the case was to be taken up at that time.

Q. Did Judge Swayne make any statement at that time or in relation to that matter of his purpose to leave the city at an early day?

A. No, sir; not the slightest suggestion of anything of the kind.

Q. Do you know personally how long Judge Swayne remained in Pensacola at that time?

A. Yes, sir; I do. He was then living in the Simmons cottage. His wife and family were there. He continued to hold court in Pensacola during all that week, in Tallahassee the ensuing week, and in Pensacola from the time of his return from Tallahassee until the middle of April of the ensuing year. He was there in Pensacola all of that time. I will state in that connection that the records of the court disclose the fact that Judge Swayne was present and presiding during all that time during sessions of the court.

Mr. MALLORY. I should like to ask what year was that?

Mr. THURSTON. The period was the period beginning November 5, 1901, and continuing down to April, 1902. [To the witness.] Were you present in court at the time of the proceedings under the rule to show cause why Belden, Davis, and Paquet should not be adjudged guilty of contempt?

A. I was.

Q. State, in substance, what occurred.

A. Mr. Davis and Mr. Belden appeared at 10 o'clock, as cited, and read their answer. Mr. Davis read the answer. The counsel representing the court called as the first witness, I think, Mr. Beverly H. Burton, the deputy clerk of the court.

By Mr. HIGGINS:

Q. What court?

A. The State court—the deputy clerk of the court of Escambia County, Fla. He testified that he had been called up by Mr. Keyser at his home about 8.20 Saturday night—the previous Saturday night—and had been requested to go to his office and issue a summons ad respondendum in ejectment against Charles Swayne; that on that præcipe were signed the names of Simeon Belden, Louis P. Paquet, and E. T. Davis; that Mr. Davis was an attorney of the State court, and he felt bound to comply with the request; that he went down to his office——

Mr. MALLORY. I would like to inquire what this statement is. Who made the statement the witness is detailing?

Mr. THURSTON. Mr. President, I am asking the witness now for the proceedings that took place in court on the trial of the contempt case.

Mr. MALLORY. The witness seems to be repeating the statement of somebody else.

Mr. THURSTON. Mr. President, he is now stating what the witness testified before the court on the contempt proceeding, and that testimony never having been recorded, what it was has been gone into and related by the witnesses for the managers.

The PRESIDING OFFICER. The witness is stating what Mr. Burton, the clerk of the court, testified.

Mr. THURSTON. The clerk of the State court.

The WITNESS. Mr. Burton is here, and I suggest that he make his own statement in that respect.

Q. I should like you to state what took place in court there. You can go on with that line.

A. The next witness then was, I think, Mr. John Denham.

Q. Who was he?

A. He was the editor of the Pensacola Press. He was unable to identify a certain document, and the city editor, Mr. William P. Barker, was then placed on the stand and identified a certain document in connection with the newspaper article that had been published on Sunday morning.

Q. (Producing paper.) Is that the original document that he identified?

A. (Examining.) Yes, sir; that is the document produced by Mr. Barker.

Q. Do you know in whose handwriting that is?

A. Mr. Louis P. Paquet told me personally that it was his own handwriting.

Q. Are you acquainted with his handwriting?

A. Yes, sir.

Q. Judging from your knowledge of his handwriting, state as to whether or not that is in his handwriting.

A. Yes, sir; I think it is.

Q. And in addition to that he told you so himself?

A. Yes, sir.

Mr. THURSTON. Mr. President, we offer this in evidence, being the manuscript copy of the article which appeared in the Pensacola paper of Sunday morning, November 10, 1901.

The WITNESS. There is a certified copy of it there.

Mr. THURSTON. I will ask to have this read, and for the convenience of the Secretary ask that he read from the copy.

Mr. Manager DE ARMOND. Mr. President, I think it is already in. We have no objection to its being put in two or three times, however.

Mr. THURSTON. It will take only a moment.

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," on 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.

F. W. MARSH, *Clerk.*

UNITED STATES OF AMERICA, *Northern District of Florida.*

I, F. W. Marsh, clerk of the circuit court of the United States for the northern district of Florida, hereby certify that the foregoing is a true and correct copy of an original paper or document filed in the cause therein specified in said court on the day therein set forth as the same remains of record and on file in said court.

Witness my hand and the seal of said court at the city of Pensacola, in said district, this 3d day of February, A. D. 1905.

[SEAL.] F. W. MARSH, *Clerk.*

Q. (By Mr. THURSTON.) Mr. Marsh, will you continue your statement of the testimony that was given in the case?

A. Mr. J. C. Keyser was also summoned and testified that he had received the præcipe from Louis P. Paquet, Simeon Belden, and E. T. Davis; that he was present——

Q. Did he say where?

A. At the store of George W. Pryor; that he was present at a conference at which that præcipe had been signed.

Q. Who was Keyser?

A. J. C. Keyser was one of the parties who claimed to have an interest in this tract and who had been in and about the court with these attorneys.

Q. Who was Pryor, at whose store they met?

A. Mr. Pryor had paid all costs in the case, had paid my costs, and had signed the bond for costs of the plaintiff in the case. That is all I know personally of his connection with it.

Q. Now, what did Keyser testify to?

A. I have just stated that.

Q. Oh, yes. Calling your attention to the newspaper witness, what was his name?

A. E. P. Barker.

Q. Did he state anything as to what person brought this manuscript of the article to him, and when?

A. Yes, sir; he stated that Mr. George W. Pryor had brought the article to him late Saturday evening; that he had taken it and published it as a news item.

Q. In what paper?

Mr. SPOONER. I ask that the answer may be repeated.

The PRESIDING OFFICER. The Reporter will read the last question and answer.

The Reporter read as follows:

Q. Did he state anything as to what person brought this manuscript of the article to him, and when?

A. Yes, sir; he stated that Mr. George W. Pryor had brought the article to him late Saturday evening; that he had taken it and published it as a news item.

Q. (By Mr. THURSTON.) What further testimony was presented?

A. I do not recall any other witnesses.

Q. Did the respondents in that proceeding present, Belden and Davis, ask to call any witnesses?

A. They called Mr. W. A. Blount and Mr. William Fisher, had them sworn; asked Mr. Blount, I think, two questions and Mr. Fisher one or two.

Q. What did they ask them, if you remember?

A. They asked them if they were interested in that litigation, in the property in issue in the Florida McGuire case.

Q. What did they answer?

A. They answered that they were.

Q. Who was Mr. Fisher?

A. Mr. William Fisher was an attorney at Pensacola, Fla.

Q. And was then and there associated with Mr. Blount in presenting the contempt case to the court?

A. Yes, sir. Mr. Fisher is now dead.

Q. Yes; that is what I was about to ask you. Did Davis or Belden make any argument in the case?

A. Mr. Davis produced a copy of the American and English Encyclopædia of Law, I think it was the second edition, and read some citations there on the construction to be given to the act of 1831, known as section 725 of the Revised Statutes.

Q. Did either of them testify in the case?

A. No, sir.

Q. Did either of them offer to be sworn and testify?

A. No, sir.

Q. Were they denied or refused any request for time?

A. No, sir; there was no suggestion.

Q. Were they refused or denied any opportunity to present witnesses?

A. No, sir; all the time that was necessary for the trial was given. There was no haste.

Q. Were they refused or denied the right to make such argument as they desired?

A. No, sir.

Mr. Manager PALMER. Mr. President, I am not objecting to this testimony, but it seems to me that the proper function of the witness is to state what did happen and not what did not happen.

Mr. THURSTON. Mr. President, if I have fallen into the unfortunate habit of asking leading questions it is because I have been so splendidly schooled in that line in the last few days.

The PRESIDING OFFICER. Neither the managers nor counsel for the respondent ought to ask leading questions.

Mr. Manager PALMER. The objection is not that the question is leading, but the objection is that counsel is asking witness to tell what did not happen instead of what did happen; and he has taken a great deal of time to do it in.

The PRESIDING OFFICER. The question might have been asked in this form, whether Mr. Davis, Mr. Belden, or Mr. Paquet asked for any time to be given for them to prepare their defense.

Q. (By Mr. THURSTON.) At the conclusion of that hearing, Mr. Marsh, will you state as nearly as you can what Judge Swayne said and did?

A. I think I can best answer that question by saying that I read carefully Mr. Blount's summing up of that.

Mr. Manager PALMER. If the court please, I object to that. We do not care about hearing of Mr. Blount's testimony. If the witness knows anything about the subject-matter let him state it.

The PRESIDING OFFICER. The objection is sustained.

The WITNESS. The judge, as I recollect, took up the reference to the rule and what was charged in the rule. He then took up the answer and pointed out the allegations in the rule that had not been answered to, and called attention to the evasive manner of the answer, and that it was in no way responsive to the rule. He took up next, that part of the answer made by Mr. Davis alone, in which he took objection to the jurisdiction of the court on the ground that he had not asked his name to be placed of counsel until Monday morning, and said that they had in no way responded to the charge against him; that the acts in and about the court room had led the court to believe that he was of counsel in the case previous to that time. He then commented on the character of the testimony adduced; that the bringing of the suit Saturday night late, and the instructions given to the sheriff to serve the processes Saturday night by all means or by all hazards, and that the evident haste of that suit led the court to believe that there was but one purpose, and that was to influence the court in its action in the case at the time it was to be called for Monday morning; that the attempt to dismiss the case had in his mind been an afterthought and could not affect the contemptuous conduct.

He then characterized the profession of the law as the highest calling to which, in his opinion, a man could be called; that it required the utmost observance of the rules of courteous demeanor toward one another and toward the court; that the conduct of these attorneys had been very different in that respect; that the course they had pursued was crooked, or appeared to the court to be crooked, and had a vicious tendency. He spoke of the age of one of the defendants; said it was the saddest duty that he had ever had to perform in his twelve years upon the bench, and that he had looked for some extenuating circumstance in his case, but had been unable to find any that would differentiate his case from that of Mr. Davis. Then he proceeded to pronounce the sentence, which was entered, with this exception, that he had included in the sentence a provision which disbarred the attorneys from practicing in his court for two years. This portion of the sentence was retracted almost immediately—before it was entered.

Q. (By Mr. THURSTON.) Was the attention of the court at that time or in the court that day called by Belden or Davis, or any representative of theirs, to the fact that the statute only permitted a sentence of fine or imprisonment, whereas a judgment of both had been entered?

A. No, sir.

Q. What afterwards became of that portion of that proceeding remaining against the defendant Paquet?

A. Judge Paquet was served by the marshal of the district in Louisiana with the rule after the decision on the writ of habeas corpus. He appeared and filed an answer, which raised the question of the jurisdiction of the court in his case. He sued out, shortly after that, a writ of prohibition in the circuit court of appeals, which petition was denied, and he came over personally and presented a written statement or apology in court.

Q. (Handing paper to the witness.) Is that the original written statement presented Mr. Paquet?

A. (Examining paper.) Yes, sir; that is the original.

Q. Does it show the filing of it?

A. Yes, sir; the file mark is on there. It has been in my possession ever since.

Mr. THURSTON. Mr. President, this is the document as to the existence of which some doubt was expressed on yesterday. I do not ask to have it read, because we presented and had put into the testimony an exact copy on yesterday. I present it now for the mere purpose of removing any doubt in the minds of the Senate or of the managers that that document did and does exist. [To the witness.] What was the apparent physical condition of Mr. Belden at the time of these contempt proceedings?

A. Well, Mr. Belden came into the court in the usual way. I saw no evidence of feebleness, except that one corner of his mouth was drawn a little bit up, and his lower eyelid on the right-hand side was drawn a little down. It gave his features a slightly distorted appearance.

Q. Was either Davis or Belden asked any questions on that hearing by Judge Swayne?

A. No, sir. My recollection is quite clear on that, that Mr. Belden never said a word during the entire hearing.

Mr. Manager PALMER. That is not any answer to the question.

The WITNESS. Mr. Davis was presented by Mr. Blount with this paper that Mr. Barker produced. Mr. Blount asked him if that was his handwriting, and Mr. Davis said "No; it was not," and Mr. Blount asked him whose handwriting it was, and he said he thought it was Judge Paquet's.

Q. Did Judge Swayne from the bench ask either of them any questions?

A. No, sir; the paper had not been in Judge Swayne's possession at that time.

Q. Was any statement made at that time by either Davis or Belden, in substance, that they had never heard the Judge's statement from the bench of the reasons why he had refused to recuse himself?

A. There was no statement made by either Mr. Davis or Mr. Belden except what was contained in their answer and read.

Q. Did either of them make any statement to the effect that they had decided to dismiss the Florida McGuire suit before removing the action against Judge Swayne in the State court?

A. No, sir; there was no such statement made.

Q. Did either of them make or offer to make any statement explaining what they had done, or seeking to show that it did not constitute a contempt?

Mr. Manager PALMER. Mr. President, I object to that question. We might as well raise the issue now as at any time.

The PRESIDING OFFICER. Will counsel repeat the question?

Mr. THURSTON. The Reporter will please repeat the question.

The Reporter read the question, as follows:

Q. Did either of them make or offer to make any statement explaining what they had done or seeking to show that it did not constitute a contempt?

Mr. Manager PALMER. The objection is that it is competent for the witness to state what was done and not what was not done. It is perfectly idle to take up the time of the court in asking whether Mr. Davis or Mr. Belden did not do this, that, or the other thing, when the witness has testified what did transpire there. It is a matter of fair argument whether they did thus and so, but I submit that it is not proper for the witness to testify to anything except as to what occurred on that occasion.

The PRESIDING OFFICER. On what ground does counsel ask the question?

Mr. THURSTON. Mr. President, in a matter of this sort when what has taken place has been sworn to upon the other side, I deem it entirely proper as a matter of correct examination to show that certain other things did not take place, and to contradict the statements of both Belden and Davis.

Mr. Manager PALMER. Mr. President, we have not claimed that any such thing took place. It does not contradict anything.

Mr. THURSTON. Then I will withdraw the question on that admission by the managers.

Mr. Manager PALMER. There is no admission at all; we have only proved what took place there, not what did not take place.

Mr. THURSTON. If it is not an admission I will let it go for what it is worth.

The PRESIDING OFFICER. The Presiding Officer understands the question is withdrawn.

Mr. THURSTON. It is withdrawn. [To the witness.] Do you know one Donald McLellan?

A. Yes, sir.

Q. Who was a witness here during this trial?

A. Yes, sir.

Q. I do not see the date of that conversation here. To save time looking it up, I will ask you, Mr. Marsh, do you remember the date at which you had a conversation with Mr. McLellan in your office, and also a conversation had with him in the street the following day, if you will state it?

The PRESIDING OFFICER. It is on page 269 of the record.

Mr. THURSTON. Thanks, Mr. President.

The WITNESS. The date is January 27.

Mr. THURSTON. I withdraw that last question. [To the witness.] Did you have a conversation with Mr. Donald McLellan at your office in the United States court building, city of Pensacola, Fla., on or about the 27th day of January last?

A. I did, sir.

Q. Did he, or did he not, state to you at that time in substance and effect as follows: That on the trial of Davis and Belden for contempt he took down the judge's remarks just as given?

A. He stated that to me; yes, sir.

Q. Did he, or did he not, on that occasion further say that he afterwards took the manuscript to Judge Swayne and he looked it over, but made no correction?

A. He made that statement to me.

Q. Did he, or did he not, further state at that time and place that Judge Swayne then said to him that his statement was about right?

A. Yes, sir; he made that statement.

Q. Did he, or did he not, then and there state to you that there was no abusive language used by Judge Swayne at the time of the sentence?

A. Yes, sir; he made that statement.

Q. Did he, or did he not, then and there state to you that Judge Swayne did not use the expression that Mr. Davis and General Belden were a stench in the nostrils of the people, and that he did not state that their conduct was a stench in the nostrils of the people, or words to that effect?

A. Yes, sir; he made that statement.

Q. Did he, or did he not, then and there state to you that Judge Swayne did not use the expression that Mr. Davis and General Belden were a stench in the nostrils of the people, and that he did not state that their conduct was a stench in the nostrils of the people, or words to that effect?

A. Yes, sir.

Q. Did he, or did he not, then and there state to you that Judge Swayne's conduct at the trial of Davis and Belden for contempt was dignified, and that it was what he thought a judge's conduct should be?

A. Yes, sir; he made that statement.

Q. Did he, or did he not, then and there further state to you that at that time Judge Swayne's appearance was that of sadness and not of anger?

A. Yes, sir; he made that statement to me.

Q. Did you have any further conversation with him?

The PRESIDING OFFICER. What the witness McLellan stated was that Judge Swayne was sad, not angry, when sentencing Judge Belden.

Mr. THURSTON. I understand. [To the witness.] I will ask you, Mr. Marsh, did he limit that statement as to the sentence of Judge Belden?

A. No, sir; not to me.

Q. Did you have another conversation with the same gentleman on the street of Pensacola in front of the Parlor Market about that same date or the next day?

A. As I recall, it was the same day that I had the conversation with him in front of the Parlor Market.

Q. I think he said "the same day." At that time and place did he, or did he not, state to you that he had been up to the Escambia Hotel to see Judge Liddon and had been asked about the article; that he expected that he would be summoned to Washington, but did not want to go for fear he would say something he ought not to say?

A. Yes, sir; he made that statement to me.

Q. Are you familiar with the rules of practice of the circuit court of the State of Florida?

A. Yes, sir; I am.

Q. What would be the rule day for the return of process or appearance after præcipe had been served?

A. Under the laws of the State of Florida service of summons must be effected ten days before the return day, which is the first Monday of each month. The præcipe therefore must be filed the previous day. Our practice is to file a præcipe not later than the second Thursday before the first Monday of the

month, and the summons must be served not later than the ensuing Friday.

Mr. THURSTON. Mr. President, I have noticed that in Judge Belden's testimony he speaks of the suit of Watson & Co. against Edgar for commission as having been pending in the United States court of Pensacola. I think he evidently made a slip of the tongue, or else was incorrectly reported. In order to make that certain, however, I will ask this witness. [To the witness.] Was any such case as that brought in the United States circuit court or district court at Pensacola?

A. No, sir; that case—I examined the record myself—was brought in the county judge's court of Escambia County.

Q. In the reincarnated suit of Florida McGuire after November, 1901—for brevity's sake I call it "the Florida McGuire case"—did Mr. E. T. Davis appear as one of the attorneys?

A. Yes, sir.

Q. Was there a præcipe for witnesses filed in that case?

A. Yes, sir.

Q. (Handing paper to witness.) Is that it?

The PRESIDING OFFICER. Was that introduced yesterday?

Mr. THURSTON. No, your honor. I did not introduce it. I stated that I would introduce it.

The WITNESS (examining paper). Yes; that is the præcipe.

Mr. THURSTON. I will offer this in evidence, with the permission of the Senate. I will not ask to have it read. There is a copy here that I will furnish for use in printing. [To the witness.] Were you present when that case in which the subpœnas were issued was tried?

A. Yes, sir.

Q. Do you remember the witnesses called for the plaintiff, Florida McGuire?

A. Only in a general way.

Q. About how many were there?

A. I think there were sixteen or seventeen witnesses called.

Q. Were any of them called for the plaintiff who resided outside of Pensacola?

A. I do not think there were. There was no summons issued for a witness residing outside of the city limits.

Q. Have you examined your records to see whether any further præcipes were filed for subpœnas in that case?

A. I have been unable to find any other præcipes for witnesses.

Q. Just one more thing. In the case of Florida McGuire—I have called it that without naming the defendants, in order to be brief—pending in the circuit court at Pensacola on November 5, and which was dismissed on November 11, did Mr. Davis appear formally of record in that case; and, if so, when?

A. On the morning of November 11 Mr. Davis asked that his name be entered of counsel in the cause.

Q. Was it done?

A. It was done.

Q. Did he file any paper?

A. He presented an application for an order of discontinuance. Later, in December, Mr. Davis presented to me a statement in the matter of taxation of costs which made some objections to some items that were in the process of being taxed. This paper was signed by himself and by Simeon Belden and Louis P. Paquet as attorneys.

Mr. THURSTON. Mr. President, I find that I put that paper in evidence on yesterday. I therefore withdraw my offer of it to-day.

The PRESIDING OFFICER. The Presiding Officer recollected that objection was made to it, and he decided the paper bore on the question, though it was not conclusive, and that it was put in evidence.

Mr. THURSTON. Yes, Mr. President, I do not wish to duplicate it. (To the witness.) That is all.

The WITNESS. I have not answered the question yet.

The PRESIDING OFFICER. The witness has not answered the question fully. The Reporter will read the last question and answer.

Mr. THURSTON. The witness had partially answered the question, and I thought he had concluded; but if there is anything further to add I should like to have read what he did say, and then let him complete his answer.

The Reporter read as follows:

Q. Did he file any paper?
A. He presented an application for an order of discontinuance. Later, in December, Mr. Davis presented to me a statement in the matter of taxation of costs which made some objections to some items that were in the process of being taxed. This paper was signed by himself and by Simeon Belden and Louis P. Paquet as attorneys.

The WITNESS. After the taxation of costs, Mr. Davis filed with me an appeal from that taxation signed by himself and Simeon Belden on, I think, January 4. I notified him the matter would be called up before the court. He accepted this notice and appeared in person and argued the matter before the court.

Mr. THURSTON. That is all.

Mr. PATTERSON. Mr. President, I desire to propound to the witness the questions which I send to the desk.

The PRESIDING OFFICER. The questions of the Senator from Colorado will be read.

The Secretary read the first question of Mr. PATTERSON, as follows:

Q. On the contempt trial was the statute declaring the punishment for contempt read or called to the attention of Judge Swayne?

A. Not that I recall.

The Secretary read the second question of Mr. PATTERSON, as follows:

Q. After the dismissal of the suit of Florida McGuire when was it recommenced?

A. The 13th day of February, 1902, as I recall, or thereabouts.

Mr. PETTUS. I desire to propound to the witness the questions which I send to the desk.

The PRESIDING OFFICER. The Senator from Alabama propounds questions, which will be read by the Secretary.

The Secretary read the first question of Mr. PETTUS, as follows:

Q. By what authority did you allow the original records and papers in the Florida McGuire case to be taken from your office and brought here?

A. I just simply brought them. There is an independent record of all these transactions recorded in books and kept at Pensacola. I brought the files only.

The Secretary read the second question of Mr. PETTUS, as follows:

Q. Did not Mr. Davis read to the judge on the trial of the contempt case the statute of the United States defining contempts of courts?

A. Only in so far as it was recited in the American and English Encyclopædia, out of which he read. The statute itself was not given in full, but only by reference.

The Secretary read the third question of Mr. PETTUS, as follows:

Q. After a civil case is placed on the trial docket, is there any rule or practice as to setting cases for trial on particular days?

A. No settled practice. The usual course is for the parties to agree. This agreement is recognized by the court, providing it would not result in holding the jury an unreasonable length of time, the requirement of the court being that the business be dispatched as rapidly as possible.

Mr. CULBERSON. I desire to propound four questions to the witness in consecutive order, they being numbered.

The PRESIDING OFFICER. The questions will be read by the Secretary.

The Secretary read the first question of Mr. CULBERSON, as follows:

Q. Did Judge Swayne ever, within your knowledge, register or cast a vote in Florida? If so, when and where did he do so?

A. No, sir.

The Secretary read the second question of Mr. CULBERSON, as follows:

Q. Did Judge Swayne ever, within your knowledge, pay a poll tax in Florida? If so, when and where was it paid?

A. I have no knowledge about those matters at all.

The Secretary read the third question of Mr. CULBERSON, as follows:

Q. State any fact within your personal knowledge, aside from any mere claim of legal residence, tending to show that Judge Swayne prior to 1900 had in Pensacola, Fla., or elsewhere in his district, a house, residence, or place of abode for himself and family.

A. Prior to October, 1900, Judge Swayne had no house rented or fixed place where he kept furniture that I know of.

The Secretary read the fourth question of Mr. CULBERSON, as follows:

Q. State any fact within your personal knowledge showing or tending to show that Judge Swayne, prior to 1900, exercised any right, performed any duty, or took advantage of the privilege as a resident of Pensacola, Fla., or his district.

A. That is a pretty broad question. I should have to reflect on that a moment. Just read the question again, please.

The Secretary again read the last question propounded by Mr. CULBERSON.

A. Early in my acquaintance with Judge Swayne he often spoke to me of——

Mr. Manager PALMER. If the court please, I object to that answer. That is not an answer to the question.

The WITNESS. That is the only kind of an answer I can give to it—that is, conversations with Judge Swayne.

Mr. CULBERSON. I ask that the question be again read to the witness. It asks for any fact within his knowledge. A

witness yesterday objected that a legal question had been asked. I ask this witness to state any fact within his knowledge, and therefore would request that the question be again propounded.

The WITNESS. I understand the question now, I think.

The PRESIDING OFFICER. The question will be again read.

The Secretary again read the last question propounded by Mr. CULBERSON, as follows:

Q. State any fact within your personal knowledge showing, or tending to show, that Judge Swayne prior to 1900 exercised any right, performed any duty, or took advantage of the privilege as a resident of Pensacola, Fla., or his district.

A. If that question refers to voting and paying taxes, I have no information on the subject at all. The only information I could give would be conversations with Judge Swayne——

Mr. Manager PALMER, Mr. Manager POWERS, and Mr. Manager OLMSTED. Do not give them.

A. And his endeavors to get a house in Pensacola.

Cross-examined by Mr. Manager PALMER:

Q. Mr. Marsh, you say that Davis called the attention of Judge Swayne to the act of 1831?

A. He read some provision out of the encyclopædia. I do not recall the exact citation.

Q. He called his attention to the fact that a contempt could not be punished summarily unless it was committed within the presence of the court or so near thereto as to disturb the administration of justice or in violation of some positive decree, order, or judgment of the court?

A. I do not think that was the character of the citation he gave. It was on some other point.

Q. You say that what he did read he read out of the American and English Encyclopædia?

A. Yes, sir.

Q. Did he have the book there?

A. Yes, sir.

Q. Did Judge Swayne have the act of 1831, providing for the punishment of contempts, before him during the trial of that case?

A. If I recall, the Revised Statutes were not used at all during the trial.

Q. How long was it after the testimony in the case closed before Judge Swayne imposed the sentence on these men?

A. He deliberated only a few moments. Probably two or three minutes.

Q. Did he examine the statutes between the time the testimony was closed and the time he pronounced sentence?

A. I do not recall that he did.

Q. Did Judge Swayne to your knowledge ever examine that statute with reference to this case?

The WITNESS. Afterwards or before?

Q. Before.

A. Not before that I recall.

Q. Did he examine the statute afterwards?

A. I think; yes, sir.

Q. That is to say, after these men went to jail, then he did examine the statute?

A. No; it was after the decision in the circuit court of appeals.

Q. Then it was after the men had been put in jail, was it not?

A. Yes, sir.

Q. Up to the time the men were committed to jail, to your knowledge had Judge Swayne ever examined the statute?

A. No, sir; not in my presence or that I recall.

Q. Were the Revised Statutes in the library of the court?

A. Yes, sir; I had possession of them.

Q. And the judge could have examined them if he had asked for them?

A. I should have certainly afforded them; yes, sir.

Q. Now, you say on Monday, the 5th of November, Judge Swayne made a statement that he had received a letter from Belden and Paquet stating that they had understood that he had negotiated the purchase of a part of the tract of land in dispute in the Florida McGuire case?

A. That, I think, was Tuesday, November 5.

Q. On Tuesday, November 5, was it?

A. Yes, sir.

Q. And Paquet was present in court?

A. Yes, sir.

Q. And Judge Swayne stated that when he ascertained that this land was in controversy before him he broke off the negotiations?

A. He stated that when the quitclaim deed——

Q. You just answer the question that I asked. Did he state then and there that he broke off the negotiations when he found out that the land was in controversy before him?

A. When he found out it was a quitclaim deed——

Q. Do you know what statement was put on record on the 11th of November?

A. Yes, sir.

Q. Does he say anything about a quitclaim in that statement?

A. In that statement he says that when the quitclaim was sent to him he discovered by inquiry that the property was the same as that in litigation before him.

Q. Did he in his statement on the 5th of November say anything about a quitclaim deed?

A. I think he did, yes, sir; that is my recollection.

Q. Now listen. Was not the reason he gave for breaking off negotiations that he discovered that the land was in litigation before him?

A. Only inferentially. I do not think he stated——

Q. He did not state that proposition?

A. I do not think he stated that proposition squarely, no, sir.

Q. Did he state then and there that Mr. Hooton had told him when he purchased the land that it was a part of the Cheveaux or Rivas tract and was in suit before him?

A. No; he did not refer to that.

Q. He stated then and there that he never found out that the property was in controversy before him until after he received the letter from the agent?

A. No; he did not go to that extent.

Q. Did he state the time when he ascertained that the property was in litigation before him?

A. He said on inquiry in relation to the quitclaim deed he found that the property was in litigation in that suit.

Q. Then he stated practically that he did not find out that the property was in litigation until after the deed was sent to him?

A. I am not testifying as to conclusions.

Q. I call your attention to the American and English Encyclopædia of Law on page 32, and ask you to state whether the portion I will read was what Mr. Davis called to the attention of the court:

United States Statutes, section 724 (U. S. Rev. Stat.) limits the power of the Federal courts to punish for contempts, and defines contempts to be either: (1) contempts committed in the presence of the court; (2) the misbehavior of an officer of the court in his official transactions; or (3) the disobedience or the resistance by any officer, party, juror, or other person, to any lawful writ, process, order, rule, decree, or command of the court.

Was not that what Davis read?

A. I do not recall that he read that portion. I think it was some subsequent citation from that book. I am not certain about that. I would not attempt——

Q. Is there any subsequent citation in this book on the subject of the act of 1831?

A. My recollection is not clear as to what he did read.

Q. If there is not in this book any reference to the act of 1831 except that, it must be the one he read?

A. That would be the conclusion; yes, sir.

Q. Did Judge Swayne state that the reason why he returned the quitclaim deed was because he found that the property was in litigation before him?

A. Well——

Q. You can answer that yes or no.

A. I can not recall exactly the ground on which he placed it. I took down his statement in writing and reduced it to the record—the statement of November 11.

Q. You put on the record on November 11 the statement he made on November 5?

A. No; the statment he made on November 11 I took down——

Q. This is the statement he made on Tuesday, November 5, according to the record that you have certified in this case? Listen:

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 Chevaux 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.

Q. Is that the memorandum you wrote down?

A. I made that record on November 11—of the statement of Judge Swayne made on November 11.

Q. Then the reason the judge gave for refusing to go on

with the negotiations is because he found the property was in litigation before him?

A. I do not understand that that is stated——

Q. That is what the statement says. I am asking you if that is what was said at that time.

A. That is what I reduced to the record.

Q. How did you come to talk with this man McLellan?

A. I had received a request from Senator Higgins to find out who the reporter was who wrote the article in the Pensacola News of November 12. I had inquired of the business manager——

Q. Then you were interested in getting testimony in this case, because Senator Higgins asked you to?

A. Yes, sir.

Q. That is the reason why you inquired of the reporter?

A. Yes, sir.

Q. You say the reporter told you that Judge Swayne did not state then and there that the conduct of these men was a stench in the nostrils of the community?

A. Yes, sir; I put that question squarely to him.

Q. The reporter was mistaken in that statement, because Judge Swayne did say that, according to your testimony?

A. No; not my testimony. I have not said so in my testimony.

Q. I will ask you now if Judge Swayne did not say that the conduct of these men was a stench in the nostrils of the community?

A. I have no recollection of any such statement.

Q. Did you not just state that on the witness stand here?

A. I have just stated that Judge Swayne said that their conduct had a vicious tendency, and that they had adopted crooked methods. That——

Q. Did you not state——

Mr. THURSTON. Let him answer.

Mr. Manager PALMER. All right.

A. That is my recollection.

Q. (By Mr. Manager PALMER.) Did you not state here within ten minutes that he said that the conduct of these men was a stench in the nostrils of the community?

A. No, sir; I will stand by my testimony on that subject.

Q. How long was it after the contempt proceedings before these lawyers were put into the hands of the marshal and started to jail?

A. About an hour and ten or fifteen minutes.

Q. Then the whole trial, the testimony of the witnesses and the deliverance of the judge, occupied an hour and ten minutes?

A. Yes, sir.

Q. Have you given all the testimony that was given on that occasion, or, substantially all?

A. I think I have given in substance——

Q. You have given the names of the witnesses who were sworn and substantially what they testified to?

A. No; I have not gone into detail.

Q. What officer took these men to prison?

A. The United States marshal.

Q. Was he there in court?

A. Yes, sir.

Q. Did the judge order him to take them to prison?

A. There was no specific order. The sentence was that they stand committed until the terms of the sentence were complied with.

Q. Did the marshal walk up and take them?

A. I do not know.

Q. Did he have a commitment?

A. Not for ten or twenty minutes; probably a half hour afterwards.

Q. The commitment had not been prepared when the marshal took them away?

A. I do not know what he did on that subject. I went out to prepare the commitment.

Q. What did you do with it?

A. Gave it to the marshal.

Q. The men were then in prison?

A. I do not know.

Q. Were they there?

A. They were not in the marshal's office.

Q. They had gone to some place?

A. They had gone.

Q. The marshal was there alone?

A. I do not know that I noticed whether they were in court or not.

Q. Then, beyond any doubt, they were in prison by the time you delivered the commitment?

A. Yes, sir; but I have no knowledge——

Q. The marshal made haste to put them in prison before he received the commitment?

A. I do not know what he did.

Q. Where was Judge Swayne?

A. He went to his office immediately.

Q. As soon as he pronounced sentence he left the place?

A. Within a few moments.

Q. Did he order you to make out the commitment?

A. No, sir.

Q. You did of your own motion?

A. I made it out as a matter of course.

Q. Who issued the subpœnas in this case?

A. I did.

Q. To whom did you give them?

A. To the marshal.

Q. Who ordered you to issue them?

A. Mr. Fisher filed the præcipe for the witnesses.

Q. Who is Mr. Fisher?

A. An attorney at law at Pensacola.

Q. And one of the defendants in the Florida McGuire case?

A. One of the attorneys appointed by the court.

Q. To do what?

A. For the purpose of investigating this charge made by Mr. W. A. Blount.

Q. When did the court appoint attorneys to investigate this charge?

A. On Monday morning.

Q. Did you have any conversation with Judge Swayne on this subject?

A. None whatever.

Q. Did he have any conversation with Blount or Fisher on Monday morning?

A. Not in my presence.

Q. Or to your knowledge?

A. No, sir.

Q. Was anybody else appointed to investigate this case and present it to the court than Blount and Fisher?

A. That is all.

Q. And they were both defendants in the case?

A. Yes, sir.

Q. Now, in the Paquet case, did not Paquet come there and have a trial before Judge Swayne and bring a lawyer from New Orleans to defend him?

A. Judge Paquet came over to file an answer.

Q. I am not asking you about that. Listen to my question and answer it. Did not Judge Paquet come to Pensacola and bring a lawyer from New Orleans and have a trial before Judge Swayne?

A. I do not recall that he had anything, except possibly an argument on his answer, and not a trial.

Q. Did he make the argument himself, or did his counsel whom he brought from New Orleans make it?

A. I do not recall. I think possibly Mr. Wilkins came over with him.

Q. Did not Mr. Boatner come?

A. Possibly it was Mr. Boatner.

Q. Why is not your recollection as vivid on that subject as it is as to the details of the contempt proceedings?

A. I have recalled it substantially.

Q. After it was determined that Paquet had to go to jail, he apologized to keep out of jail?

A. It was not determined before. A point was raised as to the jurisdiction of the court in the nature of an exception.

Q. Did Judge Swayne decide that against him?

A. There is no record of any decision.

Q. I am not asking whether there is any record.

A. No; it was not determined.

Q. Did he intimate his decision?

A. On the argument? I think not.

Q. At any other time?

A. No, sir.

Q. If the Judge was going to decide in favor of Mr. Paquet, there would have been no occasion for making the apology?

A. I do know that he filed a petition for a writ of prohibition.

Q. On the contempt trial, the first thing was to sentence the men to be disbarred for two years?

A. That was included in the sentence.

Q. Whether it was the first or the middle or the last, it was somewhere along the line?

A. Yes, sir.

Q. Why did he take that back?

A. Mr. Blount spoke to him.

Q. What did he say?

A. I did not hear it.

Q. Did Mr. Blount walk up to the desk and speak to Judge Swayne?

A. Yes, sir.

Q. And immediately Judge Swayne took it off.
A. Yes, sir.
Q. And you do not know what was said?
A. I did not hear the conversation. It was in a whisper.
Q. It was in whispers?
A. Yes, sir.
Q. Did Judge Swayne at that time examine the act of 1831 to see whether Mr. Blount was right or whether he was right?
A. I do not think he did; no, sir.
Q. Did Barker tell you from whom he got that article?
A. Barker testified in the trial that Mr. George W. Pryor delivered it to him.
Q. That is, at the printing office?
A. Yes, sir.
Q. How did you come to be so observant of Mr. Davis during the week that preceded the contempt proceedings?
A. I do not know how I came to. I know that I recall the circumstances very distinctly. That is all I can say.
Q. Can you give the same account of the actions and conversations of every other lawyer who came into court during that week?
A. I think I can recall in a general way circumstances of that kind at any period. I may and I may not be able to——
Q. Have you any reason to suppose that Mr. Davis was counsel in the Florida McGuire case other than those you have given here?
A. I accepted it as a matter of course, and that is the reason I made my proposition to him about the witnesses.
Q. You say you saw him conversing with Paquet, and therefore you concluded that he must be of counsel.
A. He came in with them and left with them, and that was the only affair or only business he had in court. He had no other case——
Q. That is the only reason you had for concluding that he was of counsel in that case?
A. Yes, sir.
Q. He was not counsel of record?
A. No, sir.
Q. Until Monday——
A. No, sir.
Q. When he came in and asked to have his name put of record and asked to have the case discontinued?
A. I will say that is a very usual proceeding.
Q. I am not asking you whether it is a usual proceeding. Please answer my question. Who appointed you to your office?
Mr. SCOTT. Mr. President, I should like it if the manager would give the witness time to answer the question. Before he can answer a question, counsel propounds another.
Mr. GALLINGER. Mr. President, I was about to rise to a point of order, that the witness ought to be allowed the privilege of answering questions in full. He has been interrupted time and again by the honorable manager.
Mr. Manager PALMER. If I may be permitted, I only interrupt the witness when he is giving an unresponsive answer.
Mr. GALLINGER. Not always.
Mr. SCOTT. Give him time to answer.
Q. (By Mr. Manager PALMER.) I ask you who appointed you to your office?
A. Judge Pardee.
Q. When?
A. May 28, 1895.
Q. Have you any interest in the result of this case?
A. Well, friendly interest; yes, sir.
Q. Have you any interest in the event?
A. Only in a friendly way, so far as I understand——
Q. If Judge Swayne should be removed do you expect to lose your office?
A. I have no such expectation.
Q. Have you taken a lively interest in the preparation of this case?
A. Yes, sir. I will amend an answer that I made. I started to make the answer. I was appointed by Judge Pardee on May 28, 1895, clerk of the circuit court. I was appointed June 12 following by Judge Swayne clerk of the district court.
Q. Then you are an appointee of Judge Swayne?
A. So far as the district clerkship is concerned.
Q. Have you consulted with Judge Swayne from time to time about the preparation of this case?
A. Yes, sir.
Q. And you have been instrumental in securing witnesses and have assisted in the preparation of the case?
A. Yes, sir.
Q. State whether or not this office you hold under Judge Swayne's appointment, that of clerk of the district court, is at his pleasure.
A. Yes, sir; at the pleasure of the district judge.
Q. Was Judge Swayne on the bench at the time the marshal took these men away to prison?
A. I do not recall whether Judge Swayne was on the bench when he took them away. I did not see the taking away of Mr. Davis and Belden. I went immediately to my room and fixed up the warrant of sentence.
Mr. Manager PALMER. That is all.
Mr. THURSTON. That is all.
Mr. MORGAN. I have some questions I desire to have propounded to the witness.
The PRESIDING OFFICER. The Senator from Alabama propounds questions to the witness. They will be read by the Secretary.
The Secretary read as follows:
Q. When Mr. Paquet presented his apology to Judge Swayne had the prohibition proceeding and the proceedings on the writ of habeas corpus been decided?
A. Yes, sir.
The Secretary read as follows:
Q. Had Davis paid the fine and had Belden suffered the imprisonment imposed upon them before Paquet made his apology?
A. Yes, sir.
The Secretary read as follows:
Q. At the time Paquet made his apology did he have any causes or business in the court over which Judge Swayne was presiding?
A. I think not. I think at that time he had withdrawn from the Florida McGuire case. That was in March, and as I recall now, when the second suit was brought Judge Paquet's name was not of counsel, and that was the only case he had before the court at that time or since.
Mr. BACON. I wish to propound a question.
The PRESIDING OFFICER. The Secretary will read the question.
The Secretary read as follows:
Q. Did Judge Swayne pronounce sentence orally, or did he read it from a written paper?
A. He pronounced sentence orally, without reference to any paper, so far as I remember.
The PRESIDING OFFICER. Who is the next witness?
Mr. THURSTON. Call Beverly Burton.

Beverly H. Burton sworn and examined.
Mr. HIGGINS. Possibly the Secretary had better repeat the answers of the witness; he seems to have a cold.
The reading clerk repeated the answers of the witness.
By Mr. THURSTON:
Question. What official position did you hold, if any, on the 9th day of November, 1901?
Answer. I was deputy clerk of the circuit court.
Q. Of what county?
A. Escambia County, Fla.
Q. At any time on that day or evening did you receive a præcipe for the issuance of a writ in a case of ejectment brought by Florida McGuire against Charles Swayne?
A. Yes, sir.
Q. What attorney's name, if any, was signed to it?
A. Simeon Belden, E. T. Davis, and Paquet, I think.
Q. Who brought it to you?
A. It was brought by Joseph Keyser.
Q. Where were you at the time?
A. At my home.
Q. Your residence?
A. Yes, sir.
Q. Not at your office?
A. No, sir.
Q. At what time in the evening?
A. It was about 8.20.
Q. When it was presented to you, what did Keyser say?
A. He asked me to go down to the office and issue it and then get the sheriff to serve it immediately.
Q. Was that all he said?
A. Yes, sir; I think so.
Mr. THURSTON. That is all.
Mr. Manager PALMER. We have no questions.
The PRESIDING OFFICER. The next witness.

Elijah B. Barker, sworn and examined.
By Mr. THURSTON:
Question. Where do you reside?
Answer. I now reside in Uniontown, Ala.
Q. Where did you reside in November, 1901?
A. Pensacola, Fla.

Q. What was your business then?
A. I was city editor of the Daily Press.
Q. On the evening of November 9, 1901, did anyone bring this manuscript article to you [handing witness manuscript]?
A. (After examining.) Yes, sir.
Q. Where were you at the time?
A. I had just started to leave my office, and I met Mr. Pryor—George W. Pryor—at the door. He told me that Mr. Paquet had sent this to me for publication—Paquet, of New Orleans. He was then in Pensacola. I read it and saw it was a good piece of news, and I told him I would publish it if he would promise not to give it to the other papers.
Mr. Manager PALMER. I do not think a conversation between this man and Mr. Pryor is of any consequence, and I object to it.
The PRESIDING OFFICER. Is it claimed by the counsel?
Mr. THURSTON. I do not need to claim that, because I can reach it in another way. [To the witness.] Were you a witness in court at the trial for contempt of Belden and Davis?
A. Yes, sir.
Q. Were you sworn as a witness there?
A. Yes, sir.
Q. Will you detail what statement you made as a witness there concerning this same transaction?
A. Well, I was asked did I write this article. I had then a copy of the paper with me also, and I carried this into court. I told him I did not. Then he asked me where I got it. I told him George W. Pryor brought it to me between 10 and 11 o'clock on Saturday night, the 9th—I think this was on Monday I was being examined—and that Mr. Pryor told me that Mr. Paquet had written it and sent it to the paper. I told Mr. Pryor that I would publish it and would not charge anything for it if he would give me the scoop—not to carry it to the other papers. He promised that he would.
Mr. THURSTON (producing paper). Mr. President, I exhibit the paper identified and testified to by the witness in order to show that it is the same paper already in evidence.
The WITNESS. I wrote the headlines to it myself.
Mr. THURSTON. I think the witness discloses the fact that he was an enterprising newspaper man. That is all, Mr. Barker.
The PRESIDING OFFICER. Do the managers on the part of the House desire to cross-examine the witness?
Mr. Manager PALMER. No, sir.

Thomas F. McGourin sworn and examined.

By Mr. THURSTON:

Question. Where do you reside?
Answer. Pensacola, Fla.
Q. In November, 1901, did you hold any office? If so, what?
A. Yes, sir; I was United States marshal in and for the northern district of Florida.
Q. Were you present at the proceedings in contempt against Davis and Belden on November 12 of that year?
A. I was present during the concluding part of that trial, which covered only the period in which the judge passed sentence on the defendants.
Q. Did you hear the statement of the judge in proceeding to render judgment and in sentencing the defendants?
A. I did.
Q. Will you please state it, according to your best recollection?
A. I can state it in substance and effect only.
Q. Yes. Please do so.
A. The Judge began his remarks by a reference to the rule and answer and testimony as showing to the court that these attorneys in bringing the case would bring it for the purpose of impeding and influencing the action of the court in this case; that their purpose was to discredit the court in the eyes of the people. The Judge spoke of the nobility of the profession of the law, and how well the ethics of that profession had been maintained by members of the bar. He also spoke of the age of one of the defendants and the great regret he felt in having to pronounce sentence upon him. That is the gist of the remarks, as I remember.
Q. In your recollection was there any expression used to the effect that the action of the defendants was a stench in the nostrils of the community?
A. No, sir; I remember no such remark.
Q. You heard all that was said?
A. I did; all that the Judge said.
Q. Yes; all that the judge said. What was the general appearance of Judge Swayne in the delivery of these remarks?
A. As I recall it, I thought the judge spoke with a little more than ordinary deliberation and calmness and firmness, and the impression that was created on my mind was that——
Mr. PALMER. Mr. President, I object to the impression created on the witness's mind. What he is entitled to testify to are facts that occurred there at that time.
Mr. THURSTON. Mr. President, they asked their own witnesses questions of that kind and they were permitted to answer.
Mr. Manager PALMER. Did you object?
Mr. THURSTON. No, sir; I did not object, because if I had objected to all the improper questions asked we would have been here until next summer.
Mr. Manager PALMER. No; I think not.
The PRESIDING OFFICER. The Presiding Officer was not paying strict attention to the answer of the witness.
Mr. THURSTON. There is no objection made to my question, but they object now to what the witness was beginning to say. I should like to have the Reporter read it.
The PRESIDING OFFICER. The last question and the answer will be read by the Reporter.
The Reporter read as follows:

Q. What was the general appearance of Judge Swayne in the delivery of these remarks?
A. As I recall it, I thought the judge spoke with a little more than ordinary deliberation and calmness and firmness, and the impression that was created on my mind was that——

The PRESIDING OFFICER. Let the last phrase be stricken out. The witness can not testify to the impression made on his mind.
Q. (By Mr. THURSTON.) What was the appearance of the Judge, as to his speaking in anger or not?
A. He exhibited no anger whatever that I could observe. He appeared as sad rather than angry—sadness.
Q. Did you see Mr. Belden at that time?
A. Yes, sir.
Q. What was his general appearance as far as you noticed as to health?
A. Well, he seemed to be suffering from some facial trouble—paralysis, I believe.
Q. Aside from that, was there any appearance of any special trouble or ill health?
A. None whatever, that I know of.
Q. (Producing paper.) I show you that list of witnesses with the residence opposite their names, and I will ask you how long it would have taken you to have served subpœnas on all those witnesses if you had been requested to do so?
A. (Examining paper.) There are, let me see, how many?
Mr. THURSTON. Twelve, I believe.
The WITNESS. The most of them were within easy reach of the court-house. I would say two hours. I believe they could all have been reached within two hours' time.
Q. (By Mr. THURSTON.) If subpœnas for them had been placed in your hands on Saturday evening, November 9, 1901, could you have served them all that evening?
A. Yes, sir; unless they were out of the city, or something of that kind.
Q. Was any subpœna placed in your hands or any request made upon you in the matter of summoning witnesses for the plaintiff, Florida McGuire, on the trial then pending in your court at any time on the afternoon or evening of Saturday, November 9, 1901?
A. I think not. I am speaking from memory. It is reasonably certain there was not.
Mr. THURSTON. That is all, Mr. President.

Cross-examined by Mr. Manager POWERS:

Q. Mr. McGourin, are you the marshal of the district court of the northern district of Florida at the present time?
A. I am.
Q. And you were in 1900 and 1901?
A. I was.
Q. Did anyone request you to be in court at the time that Belden and Davis were sentenced?
A. Did anyone request me to be in court?
Q. Yes.
A. No, sir.
Q. And you came in, as I understand, when the trial was in progress?
A. Yes, sir.
Q. And that trial lasted about one hour?
A. I do not know how long.
Q. Well, how far had it advanced when you came into court?
A. It had advanced to the period just before Judge Swayne began to pronounce sentence.
Q. Then I understand that you heard the entire sentence of Judge Swayne?

A. Yes, sir.
Q. And how long did that occupy?
A. Very few moments; I do not know. Do you want me to approximate the time?
Q. Well, about how many minutes?
A. Oh, I would say from five to ten minutes.
Q. Now, did Judge Swayne, in pronouncing that sentence, state under what statute he rendered it?
A. Well, I could not state as to that.
Q. Did he refer to any statute under which the respondents were guilty?
A. Well, I could not answer that, either.
Q. Did he state for what offense he sentenced Belden and Davis?
A. My recollection is, for contempt.
Q. Well, what was the form of contempt? What had they done that made them liable to be committed for contempt?
A. Something along their professional lines that had occurred some time prior.
Q. I know; but I understood you to say that you heard the entire sentence?
A. I did.
Q. Did not the judge in that sentence state what he was sentencing them for?
A. He may have. I also stated, sir, that I did not remember the judge's language. I remember the substance and effect of it only.
Q. Can you not tell this court for what offense, as Judge Swayne expressed it, he sentenced these men?
A. That was for contempt of court.
Q. And what had they done that constituted contempt?
A. Well, I could not answer that only in a general way. Then it would be upon general knowledge, not from any personal.
Q. Did you take these men to prison?
A. I took one of them.
Q. Which one?
A. Mr. Belden.
Q. Who took Davis?
A. One of my deputies.
Q. How soon after the sentence was completed was it that you had them in jail?
A. Well, I do not know as to that either.
Q. How many minutes?
A. I do not know.
Q. Did you have any commitment when you went to jail?
A. I presume I had, for I would hardly take a man to jail without authority to do so.
Q. Well, did you detain them until the commitment was completed?
A. I think it is a safe proposition to say that I did; but at the same time I could not state now, definitely. The matter has passed out of my recollection almost completely.
Q. What occasion was there, Mr. Marshal, why these men should be hurried off to jail?
A. They were not hurried off to jail.
Q. How many minutes was it between the sentence and the time these men reached the jail?
A. I do not know.
Q. Now, I understood you to say that Judge Swayne's manner was deliberate, but was not angry?
A. That is what I said.
Q. Did you hear him use the expression that these men were ignorant?
A. I think not.
Q. Did you hear him use the expression that they were guilty of crooked transactions?
A. I do not know that I did.
Q. You did not, I understand, hear him use the expression that their conduct was a stench in the nostrils of the people?
A. I did not; at least, I do not remember it, and I think I would have remembered it if I had.
Q. Then you heard nothing in that sentence that led you to assume that the language which was used by the judge was in any way in criticism of those respondents?
A. Well, I do not quite understand your question, sir.
Q. I understand you to say that Judge Swayne was not angry; that he was deliberate; that when he referred to Belden he spoke with great sadness; that he did not use the expression that the counsel were ignorant or crooked or that their conduct was a stench in the nostrils of the people?
A. I said I did not remember of his using those words, save the last ones with reference to their being a stench in the nostrils of the people.
Q. Do you remember that?
A. I do not.
Q. You heard the entire sentence?
A. I did.
Q. And you have stated to the best of your recollection just what took place at that trial and that commitment?
A. At that sentence—not the trial, the sentence.
Q. Well, at the sentence?
A. Yes, sir.
Mr. Manager POWERS. I think that is all.
Mr. THURSTON. That is all.

Herman Wolf sworn and examined.

By Mr. THURSTON:

Question. Where do you live?
Answer. In Pensacola, Fla.
Q. Did you hold any official position in November, 1901?
A. I did.
Q. What?
A. I was chief deputy in the United States marshal's office.
Q. Were you present in the court room at any time during the hearing of the contempt proceedings against Belden and Davis?
A. I was there when the sentence was pronounced.
Q. Did you hear what Judge Swayne said in pronouncing that sentence?
A. I did.
Q. State as nearly as you can remember and in substance and effect what he said.
A. I could not give any correct idea at this time of just what he did say. I could not say.
Mr. TELLER. Mr. President, there is too much noise in the Chamber. The witness does not speak very loud, and we can not hear over here at all.
The PRESIDING OFFICER. The Senate will please be in order.
Q. (By Mr. THURSTON.) Did he use any such expression as that the action of the attorneys defendant was a stench in the nostrils of the people, or words to that effect?
A. I do not recall any such language. I do not think it was used.
Q. What was the general appearance and manner of Judge Swayne in the delivery of that sentence?
A. Very dignified, deliberate, and calm.
Q. What, if any, evidences were there in his manner or appearance or delivery of the sentence indicating anger on his part?
A. Not that I could observe.
Q. What, if any, exhibition of feeling did he appear to give?
A. He appeared to be kind; perfectly calm.
Mr. THURSTON. That is all.

Cross-examined by Mr. Manager POWERS:

Q. A single question. Did I understand that you are at the present time a deputy marshal?
A. I am.
Q. And under Marshal McGourin?
A. I am.
Q. And you were present in the court with Marshal McGourin at the time of the sentence of Davis and Belden?
A. I was.
Q. Did you enter the court room with Marshal McGourin?
A. I did not.
Q. How happened you to be in the court room that morning?
A. I go in, as a general thing, when sentence is passed of any kind, because it is a part of my duty to be there to know what has to be done with those parties that sentence is passed upon.
Q. Did you hear the trial of Belden and Davis?
A. I heard part of it only.
Q. You heard the entire sentence of Judge Swayne?
A. I did.
Q. Did I understand you to say that he spoke with great kindness and used no harsh language?
A. I did not say "great kindness." I said with kindness; but he did not use any harsh language.
Q. That is, he spoke with kindness and used no harsh language?
A. I did say that.
Q. Now, did you hear the Judge in the course of the sentence make any reference to the defendants or respondents being ignorant men?
A. I did not.
Q. Or being men who were guilty of crooked conduct?
A. I do not recall language of that kind. There might have been something of that kind used, but not in that way.
Q. Or being men whose conduct was a stench in the nostrils of the people?

A. If such language was used I do not remember it. I am positive that I did not hear it.

Q. Did you hear any language used by the court which reflected upon the conduct of the respondents?

A. I did not.

Q. In other words, the Judge sent these men to prison without any criticism of their conduct? Is that so?

A. I did not say that.

Q. You say you heard no language that reflected upon their conduct?

A. There is a difference between criticism and reflection.

Q. Then, as I understand, you have left it that Judge Swayne, in his sentence of Belden and Davis, said nothing which reflected upon their conduct?

A. That is the way I understood it.

Q. They went to prison all the same?

A. They did.

Q. You took one, did you?

A. I did not.

Q. Who did take them to prison?

A. The field deputy.

Q. How soon after the sentence was it that they were on their way to prison?

A. Almost immediately thereafter.

Q. And did you see Judge Swayne in the court-house when they were taken out?

A. After the prisoners were turned over to the field deputy I went to the side door and went into my office, and I do not know that Judge Swayne left the court room at that moment or not.

Q. Who made out the commitment?

A. Clerk Marsh.

Q. And was the commitment made out before the hearing, the trial, or after the trial?

A. I am not aware of that. It does not come into my hands until it is necessary for it to be served.

Q. Did that commitment come into your hands?

A. The commitment did come into my hands.

Q. How soon after the sentence did it reach your hands?

A. I could not say; it is a small circumstance that escaped my memory entirely. I do not know just when.

Q. Well, how many minutes?

A. I could not say.

Q. Would you say it was more than five minutes before the commitment reached your hands after the sentence?

A. How?

Q. Was it more than five minutes after the sentence before the commitment reached you?

A. I would not express any opinion on that matter, because I do not recall it at all.

Q. You would not say, then, that it was more than five minutes?

A. I would not say anything about it, because I could not make a definite statement of it.

Mr. Manager POWERS. That is all.

Reexamined by Mr. THURSTON:

Q. Mr. Wolf, a question on one other subject. Did you have a conversation with Donald McLellan on Tuesday or Wednesday, February 7 or 8 of the present month, in the United States marshal's office at Pensacola?

A. I did, on Wednesday, the 8th.

Q. Who else was present, if anyone, at that conversation?

A. R. P. Wharton, deputy marshal.

Q. Did, or did not, Mr. McLellan say to you at that time, in substance and effect, that when he took his account as a reporter for the newspaper of the contempt proceedings he was looking the greater part of the time at his notes and the defendant, Mr. Davis, and that he was not certain whether Judge Swayne said that Davis and Belden were a stench in the nostrils of the people or that their conduct was such?

A. He used such language as that in substance.

Mr. THURSTON. That is all.

The PRESIDING OFFICER. Call the next witness.

Mr. THURSTON. Call Percy S. Hayes.

Percy S. Hayes, sworn.

Mr. THURSTON. With the permission of the Senate, I will excuse this witness for a few moments. I do not seem to have at hand a paper that I wish to identify by him. I will call him a little later. Call Mr. Greenhut in place of this witness.

Adolph Greenhut, sworn and examined.

By Mr. THURSTON:

Question. Where do you live?

Answer. Pensacola, Fla.

Q. Are you the Greenhut who was a witness in the contempt proceeding against Mr. O'Neal in Judge Swayne's court?

A. I am, sir.

Q. And you are the party therein named who brought the complaint against Mr. O'Neal.

A. I am, sir.

Q. Will you please state to the Senate and show, so far as you can, the nature of the injuries that were inflicted upon you in that encounter with Mr. O'Neal?

Mr. Manager POWERS. Mr. President, I must object to that line of examination. There is before the court already a certified transcript of the court records, together with a certified transcript of all the testimony in that trial, including the full testimony of the present witness, so that all the testimony that was before the respondent at the time he sentenced O'Neal for contempt is in the record at the present time, and nothing else was offered, except the testimony of Mr. Blount, whom I called to ask him what authority—that is, what statutes and what decisions, were brought to the attention of the court at the time he argued his demurrer to the complaint of Mr. Greenhut. Now, it strikes me that there is no occasion to travel outside of that record. More than that, the question of the extent of the injuries growing out of the altercation between O'Neal and Greenhut was thoroughly gone into, not only by the witnesses to that affray, but also by the doctors in attendance; and it does not seem to me that it is competent at this time, in view of that phase of the case, to introduce the character of testimony which the learned counsel is inquiring into.

Mr. THURSTON. Mr. President, I agree fully with the general proposition laid down by the distinguished manager, but I have no purpose to go into the transaction that was testified to in the court. I only am seeking now, because it is better evidence than can be secured in any other way, from a mere reading of the record, to show the exact character of the injuries this man received and the serious extent of the same.

Mr. Manager POWERS. I desire to say, in reply to that, that we do not in any way undertake to mitigate the serious injuries which grew out of the altercation. Our contest will be, when we come to argue that evidence, that it was a case in which the court had no jurisdiction, and that the respondent assumed jurisdiction without having jurisdiction. There is no question but that is was a serious altercation, and there is no question but that this witness was seriously injured in it.

Mr. THURSTON. Mr. President, on that statement by the manager I will discharge the witness.

Ezra P. Axtell sworn and examined.

By Mr. THURSTON:

Question. Where do you reside?

Answer. Jacksonville, Fla.

Q. What is your profession?

A. I am a lawyer.

Q. How long have you been practicing law?

A. Since 1885.

Q. What professional relation did you hold toward the receivership of the Jacksonville, Tampa and Key West Railroad in 1893, and subsequently thereto?

A. I was his general attorney during the whole time that he was receiver of that property.

Q. Do you remember about what time it was that the limits of the northern judicial district of Florida were changed by act of Congress?

A. It was in the summer of 1894, in July, I believe.

Q. Jacksonville before that was in that district, was it?

A. It was in the northern district of Florida; yes, sir.

Q. And that part of the State including Jacksonville was taken away from the district?

A. Yes, sir.

Q. And attached to the southern district?

A. Yes, sir.

Q. Now, your receivership was begun before the district was changed, was it?

A. Yes, sir; in April, 1893.

Q. And did it continue down after the time of the change in the district?

A. Yes, sir; until some time in the year 1900—the receivership was discharged.

Q. After the change in the district was the jurisdiction or supervision of the receivership changed from the northern district of Florida, or Judge Swayne's district, to the southern district of Florida?

A. Yes, sir. All the property of the company was then in the southern district of Florida.

Q. What court, then, was it that passed upon the receiver's final accounts?

A. The circuit court of the southern district of Florida.
Q. How were the accounts of the receiver passed upon by the court—from time to time or at the end of the receivership?
A. In the year 1895 the judges of the circuit court of the fifth judicial circuit, including Justice White, of the Supreme Court of the United States, promulgated an order that receivers of property appointed by the Federal courts in that circuit should file their reports in the clerk's office quarterly, and, unless exceptions were taken to those reports within thirty days, they stood confirmed as of course.
Q. When was that order made?
A. That was made in the summer of 1895.
Q. Well, now, prior to that time, for the year 1893, how were the accounts passed upon—from time to time, or did they stand over for final review and approval?
A. Prior to that time masters in chancery were appointed to pass upon the accounts of the receivers as they were filed before the master. This order of which I speak did away with all standing masters, and these masters, prior to that time, passed upon the accounts of the receiver and his vouchers as they were filed with the master, and no order of the court was made until the final disposition of the case.
Q. Prior to the change in the district did Judge Swayne ever have before him for approval or disapproval, and did he ever approve or disapprove, any of the accounts of the receivership up to the time of the change of the district?
A. None, excepting in some particular instances where special permission was obtained of the court to do certain things and make certain improvements upon the property as to which the receiver deemed it necessary that he should obtain permission of the court before making any contract for.
Q. Then, as I understand you, the general accounts of that receivership up to the time of the change of the district were passed upon and approved by the judge of the southern district of Florida after the change in boundaries?
A. Yes, sir; in this way: Upon the promulgation of the order to which I referred the receiver was required to file up to that date his accounts, which he did; and no objection or exception being taken to them, they stood confirmed as a matter of course, without any special action of even the judge of the southern district of Florida.
Mr. THURSTON. That is all, I believe.

Cross-examined by Mr. Manager POWERS:

Q. Mr. Axtell, I think you acted as counsel for Judge Swayne in the hearing before the subcommittee of Congress when evidence was taken in Florida?
A. I did one day; yes, sir.
Q. Now, with reference to the expense of this private car. I understand that that expense was not passed upon by Judge Swayne in any approval of the receivers' accounts. Is that correct?
A. That is correct, sir.
Q. Can you state whether or not the expenses of that car from Guyencourt, Del., to Jacksonville, together with the expenses of running that car to California and return, ever appeared as such in any receiver's account?
A. I can not, sir.
Q. And can you tell the court whether or not the judge who passed upon the accounts, which included the expenses of operating that private car, had any knowledge that it had been used for the purpose for which it had been used?
A. I think I explained that no judge passed upon those accounts, because no exceptions were ever filed to them.
Q. And, so far as you know, no party in interest—that is, no creditor or no stockholder—had any knowledge of the expenses of operating the car in the way in which it has been testified it was operated?
A. I know that the attorneys of the parties in interest knew that the car made those trips.
Q. Did they ever advise their clients of that knowledge?
A. I have not the slightest idea, sir.
Q. Well, now, as I understand, these accounts were filed and open for inspection for a given length of time?
A. Yes, sir.
Q. And after a certain length of time, nobody objecting, the accounts were approved?
A. Yes, sir.
Q. Can you tell the court whether or not the receiver, in making up those accounts, placed in a separate item of expense the use of this private car by Judge Swayne?
A. I can not, sir.
Q. Well, do you not know, as a matter of fact, that that expense was not disclosed in any of the receiver's reports?
A. I do not, sir. I assume that all the expenses of the receivership were disclosed in those reports.
Q. Did you have anything to do with making up those accounts?
A. I had to examine them, after they were made up, in a general way.
Q. Now, did you ever see a separate item for the expense of that private car as used by this respondent?
A. I did not, sir.
Q. And are you not satisfied that it did not appear?
A. Indeed, I do not know whether it did or not.
Q. Where are those accounts at the present time?
A. Those that are in existence are on file in the clerk's office of the circuit court at Jacksonville.
Q. Well, are they not all in existence at the present time?
A. So far as I know.
Mr. Manager POWERS. That is all.
Mr. THURSTON. That is all. Call Percy Hayes.

Percy S. Hayes recalled.

By Mr. THURSTON:

Question. Where do you live?
Answer. Pensacola, Fla.
Q. What is your business?
A. Newspaper reporter.
Q. What was your business in November, 1901?
A. Newspaper reporter.
Q. Were you present in court at the time of the contempt proceedings on the 11th day of November, 1901, against Belden and Davis?
A. Yes, sir.
Q. In what capacity were you there?
A. In the same capacity—newspaper reporter.
Q. Did you give careful attention, so as to secure a correct newspaper statement?
A. I did, sir.
Q. Did you do so, sir?
A. I did.
Q. Did you publish an account of that transaction there the next morning?
A. I did, sir.
Q. In what paper?
A. The Pensacola Journal.
Q. (Handing paper to witness.) I will ask you if this is a copy of it?
A. Shall I read this entire article?
Q. No. I just ask you if that is a true copy of that article as prepared by you and furnished your paper and published in it?
A. Without reading the entire article, I think it is.
Q. Well, now, will you read it through and tell me as to whether or not that is a fair report and statement of what took place at the trial?
A. All right, I will read it through.
Mr. Manager POWERS. Mr. President, if the purpose of having the witness read that article is to introduce it in evidence we certainly must object. If I understand the rule of evidence correctly, the witness may look over the article and use it for the purpose of refreshing his recollection with a view to testifying, independent of the article, except so far as it refreshes his recollection of what took place at that trial; but I did not suppose that he could read over the article, and then that the article could be put in evidence as a fair account of what took place.
The PRESIDING OFFICER. The managers make no objection to the article being put in evidence, as the Presiding Officer understands.
Mr. Manager POWERS. We certainly do make objection to the article being put in evidence. We do not object to the witness using the article to refresh his recollection for the purpose of testifying as to what took place.
The PRESIDING OFFICER. An article in another newspaper was put in evidence by the managers.
Mr. Manager POWERS. Yes; but that was upon entirely a different ground, I imagine. It was put in evidence because there was testimony that the article had been approved by the respondent, had been submitted to Judge Swayne, and by him revised and published, so that it came in the nature of an admission from the respondent. I do not understand that the circumstances surrounding this article are of that character at all.
Mr. THURSTON. Mr. President, I would suggest that if the honorable managers would wait until we made some offer before making objections they might not lose so much time in the trial. We have not offered anything yet.
The PRESIDING OFFICER. The Presiding Officer understands that the objection was to the witness reading the article in order to testify.
Mr. Manager POWERS. No.

Mr. THURSTON. No.

The PRESIDING OFFICER. The Presiding Officer understood that the objection was to the reading of the article, and then having it introduced in evidence.

Mr. Manager POWERS. We made no objection to the witness, Mr. President, reading the article. We understood the offer on the part of the learned counsel was to have him read the article and then to produce the article in evidence. I feel quite confident that that was his proposal at the time he asked the question.

Mr. THURSTON. I ask that the Reporter read the question.

The Reporter read as follows:

Q. Well, now, will you read it through and tell me as to whether or not that is a fair report and statement of what took place at the trial?

Mr. THURSTON. It will be very clearly seen that I have made no offer of this paper. There was nothing to object to, and all this time has been thrown away because of their anxiety to anticipate what I might do.

The PRESIDING OFFICER. What is now the question?

Mr. THURSTON. I will ask another question.

Mr. Manager POWERS. The witness has not answered the previous question.

Mr. THURSTON. No; he has not answered that question.

Mr. Manager CLAYTON. We object to it.

Mr. THURSTON. I withdraw that question to save time. (To the witness.) Have you now read this article?

A. Yes, sir; I have.

Q. After reading it, is your recollection refreshed as to what took place at that trial?

A. Yes, sir; to a certain extent.

Q. Where were you sitting in the court at the time Judge Swayne delivered his opinion?

A. To the best of my recollection, I was leaning against the desk of the clerk—Clerk Marsh. I was not sitting anywhere.

Q. Will you please state, as nearly as you can, in substance what the judge said at that time?

A. The judge, in passing sentence, if that is what you refer to——

Mr. THURSTON. That is what I refer to.

A. The judge, in passing sentence, stated it was one of the most painful duties he had been called upon to perform during his incumbency of the bench; that owing to the age of one of the prisoners or the defendants he regretted it very much; that the conduct, though, of the attorneys was a disgrace to the community. What else he said I do not remember.

Q. (By Mr. THURSTON.) What was his appearance and manner in the delivery of that sentence?

A. That of a judge presiding upon the bench.

Q. Did he exhibit any evidences of anger?

A. I did not notice it, sir, if he did.

Mr. THURSTON. I think that is all.

The PRESIDING OFFICER (to the managers on the part of the House). Inquire.

Mr. Manager PALMER. We have no questions.

Mr. THURSTON. I now offer a certified copy of the opinion rendered by Judge Pardee, circuit judge of the fifth circuit, in the matter of the writ of habeas corpus ex parte Davis and Belden. I will not ask to have it read, but will ask that it may go into the RECORD.

Mr. Manager PALMER. All right.

The PRESIDING OFFICER. It will be printed in the RECORD without reading, unless there is a request that it be read on the part of the managers or of some Senator.

The opinion referred to is as follows:

United States circuit court, fifth judicial circuit. Proceedings before Don A. Pardee, circuit judge, in chambers. Ex parte Ezra T. Davis. Writ of habeas corpus.

The petition, setting forth the commitment and detention of the relator, charges that his detention is illegal on the following grounds:

"1. That the commitment under which your petitioner is held is illegal and void.

"2. That the court was without jurisdiction or power to sentence your petitioner in the premises.

"3. That the motion upon which the proceedings were had was not sworn to or verified.

"4. That the said motion does not charge petitioner with contempt either directly or by implication.

"5. Because by the said motion it appears that petitioner only did that which he was authorized to do as an attorney at law in behalf of his clients.

"6. Because there is no allegation that the acts done by him as alleged in said motion were done wrongfully or with improper motives.

"7. Because the commitment is irregular in that it is not directed to the keeper of the county jail of Escambia County, but only to the United States marshal for the northern district of Florida.

"8. Because the said commitment does not set forth such acts of petitioner as in law amount to contempt of court.

"9. Because it appears therefrom that the said court has punished as a contempt an act of petitioner, which in law is not contempt.

"10. Because the facts set forth in said commitment do not constitute a contempt of court.

"11. Because the acts of petitioner set forth and related in said commitment were legal and proper.

"12. Because it is not alleged in said commitment that the acts of petitioner were contrary to right.

"13. Because it does affirmatively appear that the acts set forth in said commitment, and that by the said court were held to be contempt, were done and performed by petitioner in the proper and just discharge of his duty as an attorney at law.

"14. Because it is not alleged in said motion or commitment that the action of petitioner tended in its operation to degrade or make impotent the authority of the court.

"15. Because it is not alleged in said motion or commitment that the action of petitioner tended in any manner to impede or embarrass the due administration of justice.

"16. Because there is no allegation in said motion or commitment that petitioner intentionally committed the said alleged contempt.

"17. Because from the motion filed it is apparent that no contempt was intended."

The writ having issued, the keeper of the prison makes return that he holds the relator by virtue of the following commitment:

United States of America, circuit court of the United States, fifth circuit, northern district of Florida.

The President of the United States to the marshal of the United States for the northern district of Florida, greeting:

Whereas at a session of the circuit court of the United States for the fifth circuit and northern district of Florida, held at the city of Pensacola, in said circuit and district, on the eleventh day of November, A. D. 1901, a rule to show cause why he should not be punished for contempt of the said court was duly made and entered by the said court against Ezra T. Davis for causing and procuring, as attorneys of the circuit court of Escambia County, Florida, a summons in ejectment, wherein Florida McGuire was plaintiff and the Honorable Charles Swayne was defendant, to be issued from the said court and served upon the said judge of this court, to recover the possession of block 91, Cheveaux tract, in the city of Pensacola, Florida, a tract of land involving a controversy in ejectment then depending in the said circuit court of the United States in a case wherein the said Florida McGuire was plaintiff and the Pensacola City Company and others were defendants, upon the grounds:

1. That the said suit in ejectment against the judge of this court was instituted after a petition to this judge to recuse himself in the said case of Florida McGuire *v.* The Pensacola City Company and others had been submitted to the court on November 5th, 1901, and denied, and after the said judge had said in open court, and in the presence of the said , that the 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 by Florida McGuire, involving the title to 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 whatever of the said tract, and had no reason 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 was instituted against the said judge on Saturday night, the 9th instant, after 6 o'clock, and after the court had overruled the motion of said attorneys to postpone the trial of the said cause of Florida McGuire *v.* Pensacola City Company and others for a week or more and after the said judge had announced to the counsel aforesaid 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 institution of the said suit against the said judge, cognizant of all the facts herein set forth.

Which charges were in violation of the dignity and good order of the said court and a contempt thereof.

And afterwards, to wit, on the 12th day of November, A. D. 1901, the said defendant having been duly served with an order to show cause why he should not be punished for the alleged contempt aforesaid, which order was returnable at said time, was duly tried by the court upon his answer and the evidence of witnesses, on the charges aforesaid in the said rule preferred, and a verdict of guilty was duly rendered by the said court against the said defendant, Ezra T. Davis.

And afterwards, on the same day, our said court, by reason of the verdict aforesaid of the said court, did duly sentence the said Ezra T. Davis to be imprisoned in the county jail of Escambia County, in the State of Florida, for and during the term and period of ten days from the 12th day of November, A. D. 1901, and further to pay a fine or penalty to the United States Government of $100, and that he stand committed until the term of said sentence be complied with or until he be discharged by due course of law.

The said jail being the place duly selected for the imprisonment of persons convicted of offences against the laws of the United States in the courts thereof in said northern district of Florida.

Now, therefore, you, the said marshal, are hereby commanded forthwith to convey to the said jail at Pensacola, in the State of Florida, the body of the said Ezra T. Davis, and deliver him to the keeper thereof.

And you, the said keeper, in the name of the President of the United States of America, are hereby commanded to receive the body of the said Ezra T. Davis, the person aforesaid, into your custody, and him, the said Ezra T. Davis, keep in the said jail of Escambia County, in the State of Florida, at Pensacola, for the full term and period of ten days from the 12th day of November, 1901, and until the said fine of one hundred dollars be paid, or until he be discharged by due course of law.

Herein fail not at your peril; and make due return of what you shall do in the premises and of this writ.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, and the seal of this court at the city of Pensacola, in said district, this 12th day of November, A. D. 1901.

F. W. MARSH, *Clerk.*

This case was submitted on the record and argued by Mr. A. J. Murphy for relator and W. A. Blount, contra.

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 discre-

tion 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 resistance 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."

The court having adjudged the relator in contempt, proceeded to sentence him to imprisonment in the county jail for a period of ten days and to pay a fine of $100.

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

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

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

In Ex parte Pridgeon the court says:

"It may often occur that the sentence imposed may be valid in part and void in part, but the void portion of the judgment or sentence should not necessarily, or generally, vitiate the valid portion. (Rev. Stat., sec. 761.) 'The court, or justice, or judge shall proceed in a summary way to determine the facts of the case (in habeas corpus) by hearing the testimony and arguments, and thereupon to dispose of the party as law and justice require.' There is no law or justice in giving to a prisoner relief under habeas corpus that is equivalent to an acquittal, when, upon writ of error, he could only have secured relief from that portion of the sentence which was void. In the present case the five years' term of imprisonment to which Pridgeon was sentenced can not properly be held void because of the additional imposition of 'hard labor' during his confinement.

"Thus, in re Swan (150 U. S., 553, 637), it is stated that, even if it was not within the power of the court to require payment of costs, and its judgment to that extent exceeded its authority, yet he can not be discharged on habeas corpus until he has performed so much of the judgment or served out so much of the sentence as it was within the power of the court to impose."

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

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

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

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

DON A. PARDEE, *Circuit Judge.*

United States fifth judicial circuit. Proceedings before Don. A. Pardee, circuit judge, in chambers, New Orleans, La. Ex parte Elsa T. Davis, ex parte Simeon Belden. On writs of habeas corpus.

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

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

And the said relators, pending proceedings on above-mentioned writs, have been enlarged upon bonds conditioned upon their appearance and to obey orders issued.

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

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

December 7, 1901.

DON. A. PARDEE, *Circuit Judge.*

UNITED STATES OF AMERICA, *Northern District of Florida.*

I, F. W. Marsh, clerk of the circuit court of the United States for the northern district of Florida, hereby certify that the foregoing is a true and correct copy of an original paper or document filed in the cause therein specified in said court on the day therein set forth, as the same remains of record and on file in said court.

Witness my hand and the seal of said court at the city of Pensacola, in said district, this 3d day of February, A. D. 1905.

[SEAL.] F. W. MARSH, *Clerk.*

Mr. THURSTON. I also offer the opinion of Judge Pardee in the case of O'Neal, and will ask that it may go into the record without being read.

The PRESIDING OFFICER. If there is no objection, it will be printed in the RECORD without being read.

The opinion referred to is as follows:

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

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

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

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

"And while proceedings in contempt may be said to be sui generis, the present judgment is in effect a judgment in a criminal case, over which this court has no jurisdiction on error." (Section 5, act of March 3, 1891, 26 Stat. L., 826, ch. 517, as amended by the act of January 20, 1897, 29 Stat. L., 492, ch. 68; Chetwood's Case, 165 U. S., 443, 462; Tinsley *v.* Anderson, 171 U. S., 101, 105; Cary Manufacturing Company *v.* Acme Flexible Clasp Company, 187 U. S., 427, 428; 190 U. S., 37, 38.)

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

"That the place at which took place on the morning of October 20th, 1902, the affray between A. Greenhut and petitioner, in which is alleged to have occurred the assault by petitioner upon the said A. Greenhut for which the district court has sentenced petitioner as for a contempt, was the office in the store of the said A. Greenhut, and was a part of the building occupied by him as a wholesale grocery store, and that his office was used by him for the purpose of conducting the said grocery business, and was used in connection with his position as trustee only because it was his place of business, and therefore more convenient for him. That the said building was at said time, and is now, No. 104 East Government street, in the city of Pensacola, and distant from the United States court room and the building in which it was and is held not less than four hundred feet, and separated therefrom by an intervening street and an intervening alley, and by more than a block of brick business houses, and was not in any way connected with, or used in connection with, the said court or court-house or any of the functions or duties of the said court or of the judge thereof. That the said district court was not in session in the city of Pensacola on the said 20th day of October, nor had been for months before the said date, and that no session thereof occurred thereafter until November 7th, 1902, and that the judge of said court was not on the date in said State, nor had been therein for months prior thereto, nor did he come therein until the 6th day of November, A. D. 1902."

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

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

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

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

Unquestionably the district court had jurisdiction summarily to try and determine these questions, and having such jurisdiction, said court

was fully authorized to hear and decide and adjudge upon the merits. (In re Savin, 131 U. S., 267, 276, 277.)

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

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

Whatever an appellate court may have power to do in regard to supplementing the record, as held in In re Cuddy and in Ex parte Mayfield, or upon certiorari and habeas corpus to examine the merits of the case, as in In re Sachs & Watts, I am forced to follow, as I did in Ex parte Davis (112 Fed Rep., 139), the Supreme Court in United States *v.* Pridgeon (153 U. S., 48, 62), wherein it is declared:

"Under a writ of habeas corpus the inquiry is addressed, not to errors, but to the question whether the proceedings and the judgment rendered therein are for any reason nullities, and, unless it is affirmatively shown that the judgment or sentence under which the petitioner is confined is void, he is not entitled to his discharge."

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

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

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

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

The writ of habeas corpus is discharged.

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

DON. A. PARDEE, *Circuit Judge.*

NOVEMBER 10, 1903.

(Indorsed: Law No. 80. Ex parte W. C. O'Neal. Habeas corpus. Opinion and order discharging writ. Filed by order of court as of November 10th, 1903. F. W. Marsh, clerk.)

UNITED STATES OF AMERICA, *Northern District of Florida:*

I, F. W. Marsh, clerk of the circuit court of the United States for the northern district of Florida, hereby certify that the foregoing is a true and correct copy of an original paper or document filed in the cause therein specified in said court on the day therein set forth, as the same remains of record and on file in said court.

Witness my hand and the seal of said court at the city of Pensacola, in said district, this 3d day of February, A. D. 1905.

[SEAL.] F. W. MARSH, *Clerk.*

Mr. THURSTON. I offer the complete record under certificate in the case of Florida McGuire *v.* Charles Swayne in the circuit court of Escambia County, Fla., and suggest that it may be printed in the RECORD without being read.

The PRESIDING OFFICER. Is there objection on the part of the managers?

Mr. Manager PALMER. No, sir.

The PRESIDING OFFICER. If there is no objection on the part of Senators it will be printed in the RECORD without being read.

The record referred to is as follows:

Summons in ejectment. The State of Florida, Escambia County, ss. Circuit court.

To the sheriff of said county, greeting:

We command you that you summon Charles Swayne to be and appear before the honorable judge of our circuit court for the county of Escambia at a court to be holden in the court-house in Pensacola on the first Monday, being rule day, and the 2d day of December next, to answer the complaint of Florida McGuire in an action of ejectment. Damages claimed, $1,000.00. This you shall in no wise crait, under penalty of the law; and have you then and there this writ, with your proceedings indorsed thereon.

Witness, A. M. McMillan, clerk of our said court, at the court-house aforesaid, this 9th day of November, A. D. 1901.

A. M. MCMILLAN, *Clerk Circuit Court.*

[OFFICIAL SEAL.] By B. H. BURTON, *D. C.*

(Endorsement:) In circuit court, Escambia County, Fla. Florida McGuire *v.* Charles Swayne. Summons in ejectment. Filed Nov. 11, 1901. A. M. McMillan, clerk circuit court. Simeon Belden, Louis P. Paquet, E. T. Davis, attorneys for plaintiff.

Came to hand this 9th day of November, A. D. 1901, and executed this 9th day of November, A. D. 1901, by delivering a copy hereof to the within-named Charles Swayne, defendant.

GEO. E. SMITH, *Sheriff.*
DAN MURPHY, *Deputy Sheriff.*

Description of the property sued for is as follows: Block No. 91, in the Gabriel Rivers tract, in section 8, township 2 south, range 29 west, in the city of Pensacola, Escambia County, Fla., according to map of said city by Thos. C. Watson, copyrighted in 1884.

Plaintiffs claim of defendant, $——— mesne profits.

In Escambia County circuit court, State of Florida. Florida McGuire *v.* Charles Swayne.

Please enter my appearance for the defendant in the above-stated case.

JNO. C. AVERY, *Attorney for Defendant.*

(Endorsed:) Filed Dec. 2, 1901. A. M. McMillan, clerk circuit court.

In Escambia County circuit court, State of Florida. Florida McGuire *v.* Charles Swayne.

And now comes the said defendant and says: That he never was in possession of the said property, or any part thereof; never had any interest therein, or claimed any title thereto, and prays to be hence dismissed with costs.

JNO. C. AVERY, *Attorney for Defendant.*

Charles Swayne, being duly sworn, says that the allegations of the foregoing disclaimer are true.

CHAS. SWAYNE.

Sworn to and subscribed before me this 2d day of January, A. D. 1902.

[NOTARIAL SEAL.] E. R. BURGOYNE, *Notary Public.*

(Indorsed:) Filed January 6, 1902. A. M. McMillan, clerk circuit court.

STATE OF FLORIDA, *County of Escambia:*

I, A. M. McMillan, clerk circuit court in and for said State and county, do hereby certify that the foregoing pages contain a true and correct copy of the original summons and service thereof, appearance and disclaimer in said case, as remains of record in the public records of said county in my office.

In testimony whereof I have hereunto set my hand and affixed my seal official this 22d day of December, A. D. 1904.

[SEAL.] A. M. MCMILLAN, *Clerk Circuit Court.*

STATE OF FLORIDA, *County of Escambia:*

I, A. M. McMillan, clerk circuit court in and for said State and county, do hereby certify that præcipe in case of Florida McGuire *v.* Chas. Swayne was filed on the 9th day of November, A. D. 1901, as shown by entry on progress docket in said case, but that said paper is not now on file in the public records of said county in my office.

In testimony whereof I have hereunto set my hand and affixed my seal official this 22d day of December, A. D. 1904.

[SEAL.] A. M. MCMILLAN, *Clerk Circuit Court.*

STATE OF FLORIDA, *County of Escambia, ss:*

I, Charles B. Parkhill, judge of the circuit court of the State of Florida in and for the first judicial circuit, and as judge of the circuit court of Escambia County, in said State, do hereby certify that the attestation of A. M. McMillan, clerk of the circuit court in and for the said State and county, to the transcript of record in proceedings to which this certificate is atached, is in due form.

In witness whereof I have hereunto set my hand at the city of Pensacola, in the said State and county, this 9th day of February, A. D. 1905.

CHARLES B. PARKHILL, *Judge Circuit Court First Judicial Circuit and in and for Escambia County, State of Florida.*

Mr. THURSTON. I now offer so much of the record in the Florida McGuire case as contains the declaration in which is set forth a description of the property involved in that suit.

The PRESIDING OFFICER. Is it necessary to read it?

Mr. THURSTON. No.

Mr. Manager PALMER. Allow me to see that, please? [After examining.] That is all right.

Mr. THURSTON. It may go in without being read.

The extract referred to is 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 262⅔ acres, more or less, in the eastern portion of the city of Pensacola, Escambia County, State of Florida, mostly in section 8 south, range 29 west, forming a lot of 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 7° 50″ to the northeast, as shown by the original Spanish grant to Gabriel Rivas, the 10th day of November, 1806, and registered in book 7, folio 16, No. 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, etc.

Mr. THURSTON. I also offer a certified copy of the petition to the United States circuit court for the northern district of Florida, of Florida McGuire and Matilda Caro, plaintiffs in the case that was rebrought after the dismissal of the Florida McGuire case, asking the judge to recuse himself on the trial. It is duly certified.

Mr. Manager PALMER. What is the purpose of that, Mr. President? I do not know that I object to it, but I would just like to know what it is.

Mr. THURSTON. It is to show certain statements contained in it as to what Mr. Belden and Mr. Davis say that Judge Swayne had said on the previous trial in passing upon the question of recusing himself.

Mr. Manager PALMER. I shall not object to that if they will put in evidence all that pertains to that particular matter. If they will put in the petition and the ruling of the judge and

the statement he made on the record and the affidavit of Mr. Hooton—all that pertains to that matter—I shall not object. Otherwise I do object.

Mr. THURSTON. I have here only this part which I offer now. We are not required to put in the whole record.

Mr. Manager PALMER. This is not the whole record, and they can not put in a piece of the record.

Mr. HIGGINS. The managers can offer what they see fit of the record.

The PRESIDING OFFICER. Precisely what is the paper counsel offer?

Mr. THURSTON. It is a petition signed by Belden and Davis in the second Florida McGuire case asking Judge Swayne to recuse himself.

The PRESIDING OFFICER. The case that was brought after the contempt proceedings?

Mr. THURSTON. Yes, Mr. President, a subsequent statement of Belden and Davis which was identified on the examination of one of them. It gives a statement of their understanding of what Judge Swayne had said at the former trial or at the term of the court concerning this matter which is inconsistent with the testimony they have given on the witness stand.

The PRESIDING OFFICER. If it is offered for the purpose of contradicting the witnesses, the Presiding Officer thinks it may be admissible. Otherwise he can not see for what purpose it would be admissible.

Mr. THURSTON. That is the purpose.

Mr. Manager PALMER. I should like to have the particular portion pointed out that the learned counsel contend contradicts the statements of the witness.

Mr. THURSTON. I can do that if it is the desire of the Senate that I should read the petition and make an argument as to what part contradicts their statement.

Mr. Manager PALMER. I do not ask that, but I want to know what contradicts the witness, so that we will know what the purpose is.

Mr. THURSTON. I simply state that in the opinion of counsel we think there are inconsistent statements in it which we may desire to use on argument.

Mr. Manager PALMER. I think we are entitled to have pointed out the inconsistent statement which he claims is in the paper, and if there is an inconsistent statement there, I suppose, according to the opinion of the Presiding Officer, it would be evidence to contradict; but if there is no such statement, I do not think it would be admissible.

Mr. THURSTON. If there are not any inconsistent statements, it can not do the gentleman any harm.

Mr. Manager PALMER. Or you any good.

The PRESIDING OFFICER. The Presiding Officer thinks the paper may be admitted, but if, upon examination, it turns out that there are no statements in the paper inconsistent with the testimony which the witnesses have given here, it can be stricken from the record.

The petition referred to is as follows:

United States circuit court, fifth judicial circuit of Florida. Florida McGuire and Matilda Caro *v.* William Blount et als.

To the Hon. CHARLES SWAYNE,
Judge of the United States Circuit Court, Fifth Judicial Circuit for the Northern District of Florida:

The petition of Mrs. (widow) Florida McGuire and Matilda Caro, plaintiffs in above-entitled and numbered suit, respectfully represents that the honorable judge of this court should recuse himself in this cause for the following grounds and reasons:

That in February, 1901, your petitioner, Mrs. Florida McGuire, filed in this court a suit for the same property at issue in this cause against the Pensacola City Company et als., asserting the same rights of ownership as herein; that pending said suit Mrs. Lydia C. Swayne, wife of the honorable judge of this court, made a contract to buy and did buy a portion of the property at issue in that and this cause from Charles H. Edgar through T. C. Watson & Co., of Pensacola, agents; that your honor on the 12th of November, 1901, stated from the bench in open court that your wife, Mrs. Lydia C. Swayne, with her own money had negotiated or agreed to buy said property, but that when you saw said deed was a quitclaim deed and comprised a portion of the Rivas tract property in litigation before you, you returned said deed to the said vendor.

That it does not appear that the said Mrs. Lydia C. Swayne ever consented to the return of said deed, and the said vendor, Charles H. Edgar, has still the right to sue said lady to accept said deed and title, and the said Mrs. Lydia C. Swayne having a present or potential interest in aforesaid property, and being so nearly and closely related to the honorable judge of this court, said interest or potential interest we respectfully submit requires your honor to recuse yourself herein. That your petitioners desire to take the testimony of witnesses, in order that any ruling of the court either for or against this formal application should be made of record in this cause. Wherefore petitioners pray that they be allowed to file this petition that you recuse yourself in this cause, and call in another Federal judge to try this cause according to law, all of which is respectfully submitted.

SIMEON BELDEN,
E. T. DAVIS,
JAMES WILKINSON,
Attorneys for Petitioner.

Order.

Let this petition be filed in this cause.
MARCH, 17, 1902. CHAS. SWAYNE, *Judge.*

(Indorsed: United States circuit court, fifth judicial circuit of Florida. Florida McGuire and Matilda Caro *v.* William Blount et al. Filed March 17, 1902. F. W. Marsh, clerk. Petition for recusation of Hon. Charles Swayne, judge.)

UNITED STATES OF AMERICA, *Northern District of Florida:*

I, F. W. Marsh, clerk of the circuit court of the United States for the northern district of Florida, hereby certify that the foregoing is a true and correct copy of an original paper of document filed in the cause therein specified in said court, on the day therein set forth, as the same remains of record and on file in said court.

Witness my hand and the seal of said court at the city of Pensacola, in said district, this 1st day of February, A. D. 1905.
[SEAL.] F. W. MARSH, *Clerk.*

Milton Jackson, affirmed and examined.

By Mr. HIGGINS:

Question. Where do you reside?

Answer. Philadelphia.

Q. Pennsylvania?

A. Yes, sir.

Q. What is your occupation?

A. Manufacturer.

Q. Of what?

A. Hardware.

Q. Are you connected or have you any family connection with the respondent, Charles Swayne?

A. I am his brother-in-law.

Q. Did you marry his sister?

A. I married his sister and he married a cousin of mine.

Q. So it is a double connection. What year were you married?

A. In 1867.

Q. Do you know in what year the respondent was married?

A. In the same year.

Q. You are familiar, then, with the residence of his father and mother in what is now called Guyencourt, near Wilmington, Del.?

A. I am.

Q. Will you state who is the present owner of that property?

A. His mother, Anne P. Swayne.

Q. She has a life interest in it, I believe?

A. She has.

Q. State what is her age?

A. She is in her eighty-seventh year, I think.

Q. Are you familiar with the occupation of that property; do you know who has abided there—who has lived there?

A. I am.

Q. I will ask you if your residence in Philadelphia since 1885 has been continuous or been broken?

A. It has been continuous.

Q. You have been there all the time?

A. With the exception of occasional travel.

Q. Yes. Your residence has been Philadelphia?

A. My residence has been Philadelphia.

Q. Will you please state whether or not Charles Swayne has abided at this place of his parents in Guyencourt?

Mr. Manager PERKINS. That we must object to. We do not object to the witness being asked what the respondent has done, how much he has been there, but to ask whether he abides there is a legal question.

Q. (By Mr. HIGGINS.) Will you state the answer to the question as now put by the learned manager in your own way?

Mr. Manager PERKINS. That is a good question.

A. Judge Swayne visited Guyencourt usually in the summer time, since he has been residing in Florida.

Q. Since he has been residing there? What year did that residence in Florida begin?

Mr. Manager PERKINS. I object to that. The witness can not state about that.

Mr. HIGGINS. You object to the answer?

Mr. Manager PERKINS. I object to the answer.

Mr. HIGGINS. My question is what time he moved to Florida—went to Florida to live.

The WITNESS. Twenty years ago.

Mr. HIGGINS. I mean when he first went?

Mr. Manager PERKINS. I do not object to the question, if it is as to when he first went to Florida.

Mr. HIGGINS. I thought my question was very plain—when he went to Florida to live?

A. 1885.

Q. (By Mr. HIGGINS.) Where from?

A. Philadelphia.

Q. That was in 1885?

A. Yes, sir.

Q. Has he at any time since then been—in the language of the learned manager—in Guyencourt, and for how much of the year?

A. He has usually been there in the summer time.
Q. At any other time than the summer time?
A. Yes.
Q. What?
A. In the winter time. He was there upon the occasion of the illness of his father, which resulted in his decease, in 1889. He was there during the winter.
Q. He was there during the winter at the time of his father's illness and decease in 1889. At any other time in the winter?
A. I think he made occasional visits.
Q. To whom?
A. To his mother.
Q. Does Mrs. Anne Swayne at this time reside or live in Guyencourt?
A. She does.
Q. During what time of the year?
A. In the summer, spring, and a portion of the autumn.
Q. Where does she spend the rest of the year?
A. At present she is at my residence. During the latter years she has been unable to go South to spend the winters with her son.
Q. During the latter years?
A. Yes, sir.
Q. You say that during that time she has been abiding with you in your household in Philadelphia?
A. She stays with me in the winter.
Q. During the time she has been staying with you has the house at Guyencourt been open? Has Judge Swayne been there?
A. No; the house was closed.
Q. Except the visit that the judge made during the illness and death of his father, and other visits that he might have made while his mother was there, has he been at that place during the winter since he went to Florida to live?
A. Not that I know of.
Q. Has there been, or not, a close family intimacy between your wife and yourself on the one part and Judge Swayne and his family on the other?
A. There has been.
Q. In which you are aware of the movements of each other?
A. They are intimate.
Q. How is the property at Guyencourt occupied? Is it in the hands of a tenant or not?
A. There is a tenant occupying the greater portion of the land, with a tenement.
Q. Occupying a tenant house? The mansion house belongs to the family?
A. The mansion house is not occupied by the tenant.
Q. But that you say has been continuously closed in the winter since Mrs. Swayne came to live with you?
A. I think there was one exception, in which the Judge's son occupied it one winter.
Q. What is the Judge's son's name?
A. Henry G.
Q. Do you know what winter that was?
A. No; I can not locate it exactly by date.
Q. Is there any other way in which you can fix it?
A. I think it was shortly after he was married and had a spell of yellow fever and was there recuperating.
Q. Did he have that spell of yellow fever in Cuba?
A. In Habana.
Q. After the war?
A. Yes, sir.
Q. Or during the American occupation?
A. Yes.
Q. Do you recall the time when the act of Congress was passed curtailing the district of Judge Swayne?
A. I do.
Q. Did you have any conversation with the Judge at that time about the effect of that legislation upon his residence and where he proposed to live after that?
Mr. Manager PERKINS. I do not object to that question, but of course it should be answered "yes" or "no." The witness should be instructed not to go beyond that.
A. Not at the time.
Q. (By Mr. HIGGINS.) At what time did you have such a conversation with him?
A. I think it was during the subsequent summer.
Q. How do you fix it?
A. I fix it by a paper that he showed me.
Q. What was the paper?
A. It was an invitation to reside in Tallahassee.
Q. From whom?
A. From eminent citizens there. I am not acquainted with them personally.

Q. Did you read the paper?
A. I did. It was handsomely engrossed——
Mr. Manager PERKINS. I object to the contents of the paper. The counsel, I suppose, does not want that.
Mr. HIGGINS. The witness said it was handsomely engrossed. That does not relate to its contents. That relates to its appearance.
Mr. Manager PERKINS. There is no use wasting time on that.
Mr. HIGGINS. I think this is very pertinent.
Mr. Manager PERKINS. What is the question?
Q. (By Mr. HIGGINS.) I ask whether or not at the time you read that paper?
A. I did.
Q. And it was an invitation to the judge to reside at Tallahassee?
Mr. Manager PERKINS. I object to the contents of the paper being stated. In the first place, if they are going to prove the contents of the paper, they should produce the paper. In the second place, how can it bear upon the question of Judge Swayne's residence at Pensacola that somebody at sometime asked him to reside somewhere else. It certainly can not be any evidence of residence.
The PRESIDING OFFICER. The Presiding Officer understands that the object of these preliminary questions is to lay the foundation for a conversation between the witness and Judge Swayne, in which Judge Swayne made some statements as to his intention with respect to his residence.
Mr. HIGGINS. That is it exactly.
Mr. Manager PERKINS. But it is not necessary to give the contents of the paper in order to call his attention to the time of the conversation. What they want is not to call his attention to it, but to give the contents of the paper.
Mr. HIGGINS. I do not ask for the contents of the paper. I only want to know what the paper referred to.
Mr. Manager PERKINS. You have got that.
Mr. HIGGINS. All right. Then I can go on.
The PRESIDING OFFICER. The Presiding Officer thinks the counsel have gone as far in that connection as is proper.
Q. (By Mr. HIGGINS.) What did the Judge state at that time about the subject of his residence?
Mr. Manager PERKINS. To that I object, Mr. President. The statements of Judge Swayne, which we offered to prove, were excluded, of course, for a different reason, but certainly there is no rule of law which allows the statements of the respondent to be put in evidence in his own behalf. That, of course, is fundamental. No man can prove what he has done or what he has not done by his own statements as to what he did or purposed to do. There is no more fundamental rule of evidence than that the respondent's statements can not be proved in his favor. If that were so, all Judge Swayne would have to do would be to state that he resided in Florida, and that would make him a resident of Florida, or be evidence of his residence there.
Mr. HIGGINS. I submit to the Senate that this question is eminently proper as a verbal fact, an act of the judge, ante litem motam, before this matter was mooted, years before, in the announcement to his nearest of kin as to his residence at that time. In order to make clear to the Senate the question upon which it is asked to pass, I will say that the authorities of Leon County, Fla., in which is the city of Tallahassee, gave an invitation to Judge Swayne, written and engrossed, to make his residence and home there, and that this was shown to this witness, and that the Judge gave then reasons why he could not accept that offer, because of where he had elected to live. If that is not fair testimony and within the rule, I do not know what is. It was long before this question was ever raised, not with any view of the possibility of any such proceeding as this. The statement is admissible for a double reason; that he was not going to accept that offer; that the offer was made very shortly after the act of Congress was passed, and therefore the question arose at that time; and in rejecting that invitation he did it because he had elected to reside, as the witness will state, elsewhere in his district and with reference to the requirements of that act.
Now, we have made that statement in answer as a substantive part of the defense, that he announced at that time his intention as to where he expected to live as a proper thing for him to do, and it is an act which I submit it is eminently proper for us to be able to prove.
Mr. Manager PERKINS. In other words, Mr. President, the offer of the counsel is this when we analyze it: The question being whether Judge Swayne as a matter of fact became a resident of the northern district of Florida, they can prove

that by showing by another witness that Judge Swayne said he intended to become a resident. You can prove a fact. You can prove what a man did; what he was bound to do; that he became a resident. How—by showing what he did? No; but by proving that he said to some one else he intended to become a resident.

The PRESIDING OFFICER. The Presiding Officer will submit this question to the Senate.

Mr. Manager OLMSTED. May I be permitted to cite a precedent before it is put to the Senate?

I find that in the trial of Andrew Johnson, page 207 of the proceedings, as reported in the Globe, it was offered for the counsel by the respondent to prove in these words:

> We offer to prove that the President then stated that he had issued an order for the removal of Mr. Stanton and the employment of Mr. Thomas to perform the duties ad interim; that thereupon Mr. Perrin said: "Supposing Mr. Stanton should oppose the order?" The President replied: "There is no danger of that, for General Thomas is already in the office," etc.

Mr. Manager Butler having objected, Mr. Manager Wilson said: "Mr. President, as this objection is outside of any former ruling of the Senate and is perfectly within the rule laid down in Hardy's case"—the celebrated English impeachment case—and he cited this ruling from that case, which may be found in 24 State Trials, page 1096:

> Nothing is so clear as that all declarations which apply to facts, and even apply to the particular case that is charged, though the intent should make a part of that charge, are evidence against a prisoner, and are not evidence for him, because the presumption upon which declarations are evidence is that no man would declare anything against himself unless it were true; but every man, if he was in a difficulty, or in the view to any difficulty, would make declarations for himself.

The Chief Justice submitted the question to the Senate whether it should be admitted, and the vote was—yeas 9 and nays 37. So the question was rejected. There you have precedent both English and American.

Mr. BACON. Mr. President, as the matter is about to be submitted to the Senate, and it will take some time, and the hour fixed for the adjournment of the Senate sitting in the trial of impeachment is about to arrive, I ask that unanimous consent be given that the session of the Senate sitting for this purpose may be prolonged until 6 o'clock, unless otherwise ordered.

The PRESIDING OFFICER. The Senator from Georgia asks unanimous consent that the session of the Senate in the impeachment trial may be prolonged until 6 o'clock, unless otherwise ordered. Is there objection? The Presiding Officer hears no objection, and it is agreed by unanimous consent that the session of the Senate sitting in the impeachment trial shall be prolonged until 6 o'clock, unless some motion for adjournment should be made earlier than that time.

Mr. McLAURIN. Mr. President, I merely rose to ask what the question is, so that I may know how to vote on it.

The PRESIDING OFFICER. The Presiding Officer will state the question. Counsel for the respondent offered to prove, as affecting the question of his residence, statements made by the respondent to the witness in the year 1894 or 1895 as to where it was his intention to reside. That is the question which is submitted to the Senate.

Mr. HIGGINS. I wish further to say that I intend also to put to the witness the question as to where the Judge stated at the time he did reside.

Mr. Manager OLMSTED. That would be equally objectionable.

The PRESIDING OFFICER. And, further, the statements made by Judge Swayne at that time as to where his residence was. Senators in favor of the admission of such testimony will say "aye," opposed "no." [Putting the question.] In the opinion of the Presiding Officer the "ayes" have it. The "ayes" have it. The counsel will ask the question.

Q. (By Mr. HIGGINS.) Will you please state what Judge Swayne said as to his residence when this invitation to reside at Tallahassee was brought to your attention?

A. He said he would not accept it.

Q. Did he give any reason for that? State all he said.

A. I can only in a general way.

Q. To your best recollection, sir?

A. He said he would continue to reside in Pensacola, and discussed or presented to me the merits of some property—residence property.

Q. Did he say anything about his getting a residence there—a house, I mean—a dwelling?

A. He described some property that he thought would be a good investment.

Q. A good investment?

A. As a residence.

Q. Do you know or not his stating at that time that he would not go to Tallahassee because he was residing at Pensacola?

Mr. Manager PERKINS. I must object to that as leading.

Mr. HIGGINS. I was endeavoring to restate what I understood the witness to have already stated.

Mr. Manager PERKINS. It is quite unnecessary. He is a willing witness.

Mr. HIGGINS. I withdraw it. I do not want to do anything that is unfair or get any advantage at all. There is no need of it.

The PRESIDING OFFICER. The Presiding Officer trusts that the Senate will be in order and will not indulge in audible conversation.

Q. (By Mr. HIGGINS.) Mr. Jackson, do you know whether or not Judge Swayne with his family went to Europe in any year?

A. They went.

Q. What year, sir?

A. It may have been 1898.

Q. Do you know how long the judge remained over there?

A. During the summer time.

Q. Do you know how long the remainder of the family stayed there?

A. About a year.

Q. Do you know where the family came to reside after they returned?

Mr. Manager PERKINS. I object to that. It is calling for a conclusion of law. I do not object to the witness stating what they did.

Q. (By Mr. HIGGINS.) Well, where they went to abide, to get under roof?

A. They lived in Wilmington, Del.

Q. For how long?

A. Probably until spring. I do not recollect exactly.

Q. Did you visit Judge Swayne at any time at Pensacola?

A. I did.

Q. What year?

A. 1902, I think.

Q. But not before?

A. Not before.

Q. Had you any personal knowledge of his holding court outside of his district?

A. I had not.

Q. Nothing of your own knowledge?

A. I had not.

Mr. HIGGINS. That is all, I believe.

Cross-examined by Mr. Manager PERKINS:

Q. Just one or two questions. How often were you at Guyencourt between 1894 and 1901?

A. A number of times. I could not answer definitely.

Q. How many have you any recollection of?

Mr. HIGGINS. I did not get the question.

Q. (By Mr. Manager PERKINS.) How often were you at Guyencourt between 1894 and 1901? Were you there every year?

A. A number of times each year.

Q. Where was Judge Swayne's mother during those years?

A. When I visited Guyencourt she was there.

Q. Was she there during those years at any time in the winter?

A. She stayed North one winter and kept the house open. Whether it was in those years or not I am not exactly positive.

Q. You mean that she kept the house open at Guyencourt?

A. At Guyencourt.

Q. Did she at any time between 1894 and 1901 keep the house open at Guyencourt?

A. I can not locate that year.

Q. Any of those years; any of the six years?

A. She was there one winter.

Q. But you can not say what winter?

A. Not with certainty.

Q. Now, when you were there Judge Swayne was there and his family were there, were they not?

A. Not in winter; in summer.

Q. When you were there?

A. In summer.

Q. Were you there in the winter yourself?

A. When Mrs. Swayne was there?

Q. One winter when she was there?

A. Yes.

Q. Where did Judge Swayne's wife and children stay in the winter of 1894, if you know?

A. I think they were in St. Augustine.

Q. And where were they in 1895 and 1896?

A. Probably at St. Augustine.

Q. Were they at St. Augustine in 1897?

A. I think not.

Q. Where were they in 1897?

A. It may have been they went that winter. I can not answer from recollection.

Q. As far as you know, Judge Swayne's family spent their winters at St. Augustine except the one winter they spent in Europe, from 1894 to 1900?

A. A portion of the winter after returning from Europe they stopped in Wilmington.

Q. And the winter after returning from Europe they stopped in Wilmington. Now, when you were there in the summer who was running the house?

A. Mrs. Swayne.

Q. Mrs. Swayne?

A. Mrs. Anne P. Swayne.

Q. Did she pay the expenses of the family?

A. In part.

Q. Did she pay all the expenses of the house?

A. I can not explain. I do not know.

Q. You do not know? Did Judge Swayne pay the bills—I mean the butchers' bills, and those bills—or did his mother?

A. I do not know.

Q. Do you know the fact that Judge Swayne had horses at Guyencourt?

A. He had.

Q. Several horses, did he not?

A. He had three.

Q. Those were at Guyencourt all these years, were they not?

A. While he owned them.

Q. You never knew of his taking those horses South, did you?

A. He did not.

Q. The horses resided at Guyencourt, did they not, whenever he did?

A. They were there continuously.

Q. Did Judge Swayne have any other property there?

A. Not that I know of.

Q. What rooms did he occupy in the house?

A. The second story.

Q. Was there anybody there except Judge Swayne's family and his mother?

A. Only as visitors.

Q. When did his father die?

A. In 1889.

Q. And how old was Mrs. Swayne at that time, the mother?

A. She is in her 87th year now.

Q. Does she spend her winters with you?

A. She does latterly.

Q. When did she first begin to do that?

A. Probably six years since.

Q. That was in 1897 or 1898?

A. Soon after that, I think.

Q. What do you mean by saying that Mrs. Swayne, the mother, paid the expenses in part?

A. She received, as I understood, the rental of the farm and used that.

Q. Did she turn in toward the expenses of the establishment anything except the rental of the land?

A. Not that I know of.

Q. What?

A. Nothing more than I know of.

Q. And all the other expenses were paid by Judge Swayne, as far as you know, were they not?

A. That is my presumption.

Q. Then your presumption and your recollection is that Judge Swayne paid the entire expenses of the Guyencourt establishment, except the rental from the farm was turned in toward those expenses? Is that the fact?

A. I do not know that of my own knowledge. That is simply a presumption.

Q. Was the money received by Mrs. Swayne for rent turned into the expenses of the house or did she use it for her own private expenses?

A. I can only answer presumption.

Q. Well, what is your presumption?

A. The presumption is that they were used for general expenses.

Q. You think they were used for general expenses?

A. I have no doubt of it.

Q. How large a farm is there?

A. About 80 acres.

Q. How much did it rent for?

A. I think it rented for $300.

Q. Now, how early were you ever at Guyencourt?

A. How early?

Q. Yes, how early in the year?

A. I was in the habit of visiting Guyencourt any time that suited our pleasure and convenience—frequently.

Q. What is the earliest time you ever saw Judge Swayne there from 1894 to 1900? How early in the year?

A. In the early summer, perhaps June, May.

Q. Well, you saw him there in May, did you not?

A. I may have.

Q. Did you ever see him earlier than that from 1894 to 1900?

A. I can not say that I did. His time there was the summer.

Q. I am not asking for that. I am asking when you saw him. How late did you see him there?

A. Until August; possibly September.

Q. Now, Mr. Jackson, is it your recollection that you ever saw Judge Swayne there as late as October?

A. It may have been. He may have been there as late as October on some occasion.

Q. Who employed the servants in the establishment when you were there?

A. There were servants employed by Mrs. Swayne and by the judge's wife.

Q. Mrs. Swayne, as I understand, contributed nothing except the rent, the $300 rent.

A. She had her own servants.

Q. She had her own servants besides. Well, who hired the servants who took care of the horses, and cooked the meals, and cleaned out the house?

A. I can only presume in answering.

Q. You would presume Judge Swayne did, would you not?

A. Yes.

Mr. Manager PERKINS. I think that is all.

Reexamined by Mr. HIGGINS:

Q. One question only. Was or was not the furniture in that house, which has been spoken of in the cross-examination, furniture that belonged to it during the lifetime of Mr. Swayne, the father of the Judge, and has been in that family for sixty years?

A. The same furniture.

Q. It is Mrs. Swayne's now?

A. Yes, sir.

Mr. SCOTT. Mr. President, if this question is in order I should like to have it propounded.

The PRESIDING OFFICER. The Senator from West Virginia propounds the following question; which will be read:

The Secretary read as follows:

Q. Where has Judge Swayne's home been since he was appointed judge?

Mr. Manager PERKINS. I dislike very much to object to any question put by a Senator, because our object is to furnish knowledge of the facts to the Senate; yet it seems to me, Mr. President, that as we have often suggested all these questions should be those that call the witness's attention to what the judge has actually done. Where he has been, what he has done, what the facts are, we are anxious, of course, should be presented, but that the witness should give an opinion, which really is the question that the Senate itself must answer, seems to us hardly within the rule. Of course, we do not wish to object to any fact that any Senator may desire to call out. Anything that we may have omitted to ask, we would be glad to have the Senate ask, as to what Judge Swayne did, where he was, what he was doing during these seven years.

The PRESIDING OFFICER. The Presiding Officer will not undertake to decide, if questions are raised about it, what question may be asked by Senators.

Mr. Manager OLMSTED. I do not understand that the honorable manager objects to the question, but simply to its being answered by the witness. That may seem an immaterial point, but it was argued at some length in the Johnson case.

Mr. SCOTT. Mr. President, as I understand it we are seeking light on this question. How shall we determine where the residence of Judge Swayne is unless we hear from witnesses on that point?

Mr. Manager PERKINS. I suggested any facts the witness can give. Of course we would be glad to have him state, but not to have the witness act as judge instead of the Senate.

The PRESIDING OFFICER. The Presiding Officer must remind Senators that debate is not in order. The Presiding Officer will present to the Senate the question whether the witness shall answer the question which has been propounded by the Senator from West Virginia. The Secretary will read the question.

The Secretary read as follows:

Q. Where has Judge Swayne's home been since he was appointed judge?

The PRESIDING OFFICER. Shall the witness answer this question? (Putting the question.) In the opinion of the Chair the noes have it. The noes have it.

Mr. QUARLES. I should like to ask one question.

The PRESIDING OFFICER. The Senator from Wisconsin propounds the following question.

The Secretary read as follows:

Q. What year did Judge Swayne cease to keep his horses at Guyencourt, Del.?

Mr. CULBERSON. May we have the question read again?

The PRESIDING OFFICER. It will be again read.

The Secretary read as follows:

Q. What year did Judge Swayne cease to keep his horses at Guyencourt, Del.?

Mr. HIGGINS (to the witness). Answer the question.

The WITNESS. Some of them are there now.

The PRESIDING OFFICER. Are there any further questions?

Mr. HIGGINS. That is all. Call Robert McCullough.

Robert McCullough sworn and examined.

By Mr. HIGGINS:

Question. Where do you reside, Mr. McCullough?

Answer. Guyencourt, Del.

Q. What is your occupation?

A. Farming.

Q. Are you a tenant farmer or do you live upon your own land?

A. I live upon my own land.

Q. How long have you lived there?

A. Forty-eight years.

Q. Is that your age?

A. That is my age.

Q. All your life, then?

A. All my life.

Q. How near to the Swayne property?

A. Within sight.

Q. Within sight?

A. Less than ten minutes' walk.

Q. Is it within half a mile of it?

A. I would say so.

Q. You, of course, have known that place familiarly all your life then?

A. I have.

Q. Do you know who that property belongs to?

A. Mrs. Anne Swayne.

Q. Is she the widow of Henry Swayne?

A. Yes, sir.

Q. The mother of the Judge?

A. Yes.

Q. Is the farm rented?

A. The farm is rented.

Q. It has been rented all these years since Mr. Swayne died?

A. Yes.

Q. To a tenant?

A. To a tenant.

Q. One tenant or another?

A. Different ones.

Q. Who has occupied the mansion house since that time?

A. Mrs. Swayne.

Q. It is her house?

A. It is her house.

Q. Have you known of Judge Swayne's being there?

A. I have seen him there.

Q. At what time of the year?

A. Summer time.

Q. At any other time than the summer?

A. I believe not.

Q. Tell the Senate whether or not you have seen him there each and every year.

A. Yes; I have.

Q. During the summer time?

A. During the summer time.

Q. Have you seen him there during September or October?

A. I believe not, to the best of my knowledge.

Q. Have you ever known him to be there living in that house after the month of October or before the month of June?

A. I believe not.

Q. Do you know whether or not the house is open or closed during that time of the year?

A. How is that?

Q. Do you know whether the mansion house is closed or is it open and occupied during the time of the year from the beginning of November until June?

A. From the beginning of November to June?

Q. Yes; whether it has been occupied or closed?

A. Yes; Mrs. Swayne occupies it, but in the winter time she has been going to her daughter's.

Q. Has anybody else been there when she was gone?

A. No; the house would be closed.

Q. The house would be closed?

A. It is closed now.

Q. Did you know Judge Swayne when he lived there with his father? Were you old enough to know that?

A. I have seen him come there and go away again.

Q. Do you know at what time he went to Florida to live?

A. I do not remember the date, but I know he went to Florida, or at least it was so said.

Q. And has he, or not, been in the habit since he went to Florida of coming there during the summer time, as you have spoken?

A. Yes.

Q. Do you know in what year his father died?

A. Well, I could not say positively what year—between 1885 and 1890.

Q. Has there been any difference between the lengths of his visits since 1894 and before that time?

A. I should say not.

Q. Do you know whether Judge Swayne ever voted or did any other act of citizenship in Delaware from Guyencourt?

A. I believe not, to the best of my knowledge.

Q. Have you held any official position?

A. I have.

Q. What?

A. I have been in the legislature of Delaware at one time.

Q. May I ask what your politics is?

A. Democrat.

Q. And a member of the Delaware legislature?

A. Yes, sir.

Q. Have you taken an active part in affairs?

A. I have.

Q. And in politics?

A. Yes, sir.

Q. Have you ever known of the Judge to vote there since the left his early residence?

A. I have not.

Mr. HIGGINS. That is all.

Cross-examined by Mr. Manager PERKINS:

Q. Just a question or two. How often were you at the Guyencourt house between 1894 and the fall of 1900?

A. Please repeat that.

Q. How often were you at the Guyencourt residence between July, 1894, and the fall of 1900? Were you there often or seldom?

A. I have passed there quite often. Our post-office is there at Guyencourt.

Q. Do you remember any time in those years when the mother was there except when Judge Swayne was also there?

A. The mother has been there all her life, as near as I can recall—that is——

Q. Do you testify that Mrs. Swayne, the mother, has been there during the winter in the last few years? Is that your recollection?

A. My recollection is that some winters of late she has not been there.

Q. Has she been there during the winters for the last nine years.

A. I should say to the best of my knowledge that she has.

Q. Do you not know the fact that she now lives at Philadelphia with her daughter?

A. She has lived there, but now she——

Q. She has for some years, has she not?

A. Well, she may—yes, in the winter time.

Q. When Judge Swayne was there his wife and children were there at Guyencourt?

A. I think not.

Q. You think they were not there when the judge was there?

A. I may have seen them there once or twice.

Q. In other words, you think that during these six or seven years you only saw the wife and children at Guyencourt once or twice?

A. Only a very few times.

Q. You think the judge spent the summer there alone with his mother? Is that your recollection?

A. His visits were home during the summer time.

Q. Were what?

A. His visits to home.

Q. But you think he came alone to make these visits?

A. I saw him come there alone and get off the train.

Q. Then it is your recollection that during these six or seven years when Judge Swayne was there in the summer, his family was not there with him. Is that your recollection?

A. I have not seen his family there but once or twice, to the best of my knowledge.
Q. Did you not know about his wife and children just as you did about Judge Swayne.
A. Only if I had occasion to see them.
Q. You saw so little of the family during six or seven years that it is your recollection the wife and children were not there during the six or seven years, except once or twice?
A. That is my recollection.
Q. How many horses did Judge Swayne keep there?
A. I could not tell you.
Q. Well, did he keep any?
A. Yes.
Q. Were those horses worked on the farm?
A. The farm was rented to a tenant.
Q. Well, what was done with the horses? What did he keep them there for?
A. He kept them there to drive, I suppose.
Q. What was done with the horses when he was not there?
A. That is more than I can tell.
Q. Who rented this farm?
A. Different tenants.
Mr. Manager PERKINS. That is all.
Mr. HIGGINS. That will do.

Atwood Wilson sworn and examined.

By Mr. HIGGINS:

Question. What is your age, Mr. Wilson?
Answer. Fifty-one.
Q. What is your occupation?
A. Farmer and coal dealer.
Q. Where do you reside?
A. In Guyencourt.
Q. You are a coal dealer and farmer, you say?
A. Yes, sir.
Q. How long have you lived at Guyencourt?
A. All my life.
Q. Do you live right at Guyencourt?
A. The coal yard is at Guyencourt; my home is about half a mile away.
Q. Your coal yard is at the station? Is it a station and post-office?
A. It is a station and post-office.
Q. How long has it had that name?
A. About fifteen years.
Q. And it was after the railroad came and the station was located there?
A. Yes, sir; fifteen years after.
Q. Are you familiar, or not, with the homestead there of Henry Swayne during his life-time?
A. Yes, sir.
Q. Whom does that property belong to since his death?
A. His wife, Mrs. Anne P. Swayne.
Q. His widow?
A. Yes, sir.
Q. Is she the mother of the Judge?
A. Yes, sir.
Q. Will you please state whether you have known Judge Swayne to be at that place, that homestead, and, if so, during what time of the year—at any time from 1894 up to the present time?
A. He was there in the summer time.
Q. In the summer time?
A. Yes, sir.
Q. Any other time than the summer?
A. I have never seen him there at any time, without it was for one day. I have seen him there one day.
Q. And your place of business was at the station?
A. Right near the station.
Q. How far was the Swayne house from the station?
A. About 200 yards.
Q. It is very near the station, also?
A. Yes, sir.
Q. What has been done with the farm since Henry Swayne's death?
A. It has been rented.
Q. It has been rented to tenants?
A. Yes, sir.
Q. Do you know on what terms—whether it is a share rent or a money rent?
A. A money rent, I believe.
Q. Do you know for what amount?
A. No, sir.
Q. Now, do you know whether Mrs. Anne Swayne has resided at that place during the years since her husband's death—has been there living in the house during all the time, or whether she has spent any of the time elsewhere?
A. She is always there from early spring until late fall; but through the cold winter months she is mostly with her daughter in Philadelphia.
Q. How long now has that course of living been pursued by her, so far as you know?
A. I should think about six years.
Q. About six years?
A. Possibly longer; I could not just say.
Q. Before that time, where did she spend her winters?
A. She would spend some of the winters there and some of them, I think, she would go South to the Judge's.
Q. Some she would spend there and some she would go South to the Judge's?
A. Yes.
Q. Have you ever known the judge or his family to spend a winter at Guyencourt since he has been living in Florida?
A. Not to my knowledge; they have not.
Q. And you live right there within a half mile of the station?
A. Yes, sir.
Q. And your place of business was at Guyencourt station and the Swayne house was within 200 yards of it?
A. Yes, sir.
Q. You say you are a farmer. Is it a farm that you own yourself or do you rent it?
A. I own my own farm.
Q. You own your own farm?
A. Yes, sir.
Q. And have lived there all your life?
A. Yes, sir.
Q. Do you know whether Judge Swayne has ever paid taxes or voted there?
A. No, sir.
Q. What do you mean?
A. That he has not.
Q. Or any other acts of citizenship?
A. No, sir.
Mr. Manager PERKINS. We will concede that Judge Swayne has not paid taxes anywhere. It is not necessary to prove it.
Mr. HIGGINS. It is a pertinent question.
Mr. Manager CLAYTON. He had property there, but did not pay taxes. We admit that.
Q. (By Mr. HIGGINS.) Do you know of Judge Swayne and his family going to Europe?
A. Yes, sir; I remember.
Q. When?
A. I can not say positively the year. It was in the summer time they left there, I know—in July.
Q. It was in the summer time when they left?
A. Yes, sir.
Q. Do you know whether or not the judge returned the same year?
A. Yes, sir.
Q. Did you see him after he came back?
A. I think he came and visited his home, if I am not mistaken.
Q. He came there to visit his mother, after he returned?
A. I think so.
Q. Do you know of his going to Florida after he returned from Europe?
A. No, sir; but I know that he went there every fall.
Q. Do you know of the judge's family being in Wilmington in any winter?
A. I knew they were there one winter; yes, sir.
Q. What year was that?
A. I think the winter of 1899 or 1900, if I am not mistaken; possibly later. I can not say.
Q. Do you know in whose name the Swayne property is assessed for taxes?
A. Anne P. Swayne, sir.
Q. What would you say, Mr. Wilson, was about the length of the visits of the judge during the summer to Guyencourt?
A. As near as I could say, about two months.
Q. About two months?
A. Yes, sir.
Mr. HIGGINS (to Mr. Manager PERKINS). Cross-examine.

Cross-examination by Mr. Manager PERKINS:

Q. Mr. Wilson, would you be sure that you have not seen Judge Swayne at Guyencourt as early as May in any year?
A. I do not remember, sir.
Q. You do not remember?
A. No, sir.
Q. Have you ever seen him there as late as September or October?
A. About the 1st of September.

Q. The title of this property is in Mrs. Swayne for life, is it not?
A. Yes, sir.
Q. And after her death, where does it go?
A. My understanding is to the judge's son.
Q. Are there any children of Mrs. Swayne?
A. Yes, sir.
Q. There is one son and one daughter?
A. Yes, sir.
Q. Is that the family?
A. Yes, sir.
Q. And the property, as you understand, goes not to the daughter, but to the judge's son?
A. Yes, sir.
Q. Did you ever sell coal to that house?
A. I did.
Q. Did you ever sell coal to Judge Swayne?
A. No, sir.
Q. Do you sell supplies for farms or horses?
A. No, sir; nothing but coal.
Q. How many horses did Judge Swayne have there?
A. Only one, to my knowledge, of his own.
Q. Only one to your knowledge?
A. One driving horse was all I ever heard was his horse.
Q. Was he assessed on that?
A. I could not say.
Q. Has he a horse there now?
A. Not to my knowledge.
Q. You do not know about that?
A. No, sir; I do not think he has.
Mr. Manager PERKINS. That is all.

Reexamined by Mr. HIGGINS:

Q. There is one question that I neglected to ask. Do you sell coal to that place?
A. Yes, sir.
Q. Who pays for it?
A. Mrs. Swayne.
Q. Mrs. Anne Swayne?
A. Yes, sir.

Martin Turner sworn and examined.

By Mr. HIGGINS:

Question. Mr. Turner, what is your age?
Answer. Fifty-nine years old.
Q. Where do you live?
A. Guyencourt.
Q. Delaware?
A. Yes, sir.
Q. What is your occupation?
A. Well, farmer.
Q. How long have you been a farmer there—how long have you lived at Guyencourt?
A. Since 1898.
Q. Since 1898?
A. Yes, sir.
Q. Where do you live at this time?
A. In the neighborhood of Guyencourt.
Q. Have you ever lived on the Swayne property?
A. Yes, sir.
Q. In what capacity?
A. I rented the farm of Mrs. Swayne.
Q. You rented the farm of Mrs. Anne Swayne, the mother?
A. Yes, sir.
Q. Do you know what year you rented it from her?
A. 1898.
Q. And how long did you so rent it—how many years?
A. I was there for four years.
Q. You were there for four years?
A. Yes, sir.
Q. Have you been farming since you left that place?
A. Well, not exactly myself, but with my son.
Q. On whose place is that?
A. Howard Ely's.
Q. How far is that from the Swayne homestead?
A. It is about half a mile.
Q. Now, during that time did Mrs. Anne Swayne spend any of her time at her place there?
A. Yes, sir.
Q. What time of the year did she spend there?
A. Well, the summer.
Q. In the summer time?
A. Yes, sir.
Q. What did she do after the summer?
A. Well, she went, so far as I know, to Philadelphia to her daughter's.
Q. To her daughter's there?
A. Yes, sir.
Q. That was her habit from the time you went there?
A. Yes.
Q. Did she ever spend any of the winter on the farm while you were there?
A. Yes; some part of the winter. I can not remember exactly.
Q. Some part of the winter?
A. Yes, sir.
Q. What part? Was it the early part, or would she come down there in the midst of the winter?
A. No, sir; in the early part.
Q. You mean she remained later than usual?
A. She remained later than usual.
Mr. MALLORY. Mr. President, we can not hear a word that is said on account of the noise in the Senate, not on account of the witness or of the counsel.
Mr. HIGGINS. It may be that the Secretary can repeat the answers.
The PRESIDING OFFICER. The witness will make himself heard if Senators will be quiet and if order is preserved in the galleries.
Q. (By Mr. HIGGINS.) From whom did you rent the property?
A. Mrs. Swayne.
Q. Was it by a written lease?
A. Yes, sir; I have it in my pocket.
Q. Have you?
A. Yes, sir.
Q. Will you let me look at it?
A. Yes, sir. It is only for a year at a time.
Q. Did you hold over under the same lease?
A. Yes, sir.
Q. Is that [indicating] Mrs. Swayne's signature?
A. Yes, sir.
Q. Is that [indicating] yours?
A. Yes, sir.
The PRESIDING OFFICER. Is there any real question about the ownership of this property?
Mr. Manager PERKINS. None whatever, sir.
Mr. HIGGINS. With that admission, your honor, we will not take this lease from the good man. [To the witness.] Now, please state what time during the year Judge Swayne would be at the home there in Guyencourt?
A. In the summer time.
Q. In the summer time?
A. Yes, sir.
Q. Any other time than summer?
A. Well, not that I know of. He might have been there for a day, or probably something of that kind; but not that I know of.
Q. Did you ever know him as living there?
A. No, sir.
Q. But only as coming there as a summer visitor?
A. That is all.
Q. And his family?
A. Yes, sir.
Q. Were they there during the summer?
A. Part of the time; yes.
Q. And this was the case from the time you went there in 1898?
A. Yes, sir.
Q. You went on on the 25th of March, 1898?
A. Yes, sir.
Q. That is moving time in Delaware. Do you know of Mrs. Swayne one winter keeping open house as late as Christmas?
A. Well, I can not swear, sir, to that.
Q. Do you know what year it was that she remained there rather late?
A. No, sir.
Q. Do you know of the Judge voting in Delaware?
A. No, sir.
Q. In Christiana hundred?
A. I never knew him to be there at election time.
Q. You never knew him to be there at election time?
A. No, sir.
Q. But it was during, as you say, the summer months that you saw him there?
A. Yes, sir.
Q. And only the summer months?
A. That is all, sir.

Cross-examined by Mr. Manager PERKINS:

Q. How much rent do you pay?
A. Three hundred dollars.
Q. When Judge Swayne came there did anybody come with him?

A. Well, that I can not say.
Q. What?
A. I can not say that for certain.
Q. When he went away did anybody go away with him?
A. Yes, sir.
Q. Who went away with him?
A. Mrs. Swayne, his wife.
Q. What did the children do? Did they go away with him?
A. Well, I can not remember that.
Q. You do not know?
A. No, sir.
Q. How many children did he have?
A. Three, as far as I know.
Q. How old are they?
A. That I do not know.
Q. Were those children at his place before Judge Swayne came in the summer?
A. Yes, sir; sometimes they were.
Q. How long before?
A. Well, I do not know that.
Q. Were they there at any time when the mother, Mrs. Anne Swayne, was not there?
A. No, sir.
Q. What?
A. I do not think they were, unless it was the son, Harry. He might have come out and went in the house.
Q. Did they remain after Judge Swayne went away?
A. Yes, sir.
Q. How long?
A. You mean his family?
Q. Yes; his family?
A. Well, I do not know as they did.
Q. Well, what is your recollection? We do not know and we want to find out.
A. Of their going away?
Q. Yes. Did they go away with the Judge when he went away, or did they stay at Guyencourt a while longer?
A. They went away at one time. I know they went away at the same time he did from Guyencourt. They went to the station.
Q. When was that—what year?
A. That I do not know.
Q. What time of the year?
A. Somewhere in the late part of the summer.
Q. Where did they go?
A. I do not know. I did not ask them.
Q. How many horses did the Judge keep there?
A. He did not keep any that I know of; that is, of his own.
Q. He did not keep any on the place?
A. No, sir. There were horses there that belonged to the son, as far as I know.
Q. As far as you know?
A. Yes, sir.
Q. How old was this son in 1898?
A. I judge he is about 30, or somewhere along there.
Q. Is he married?
A. Yes, sir.
Q. Where is his wife—at the house also?
A. Yes, sir; part of the time.
Q. Were they there when the Judge was there or at other times?
A. When the Judge was there.
Q. Only when the Judge was there?
A. Oh, no; they were there after he had gone.
Q. Where did they live?
A. In Wilmington.
Q. They did at that time?
A. Yes, sir.
Q. You went there first in 1898?
A. Yes, sir.
Mr. Manager PERKINS. That is all.

Reexamined by Mr. HIGGINS:

Q. One question, please. Before you went there in 1898, did you live in that neighborhood?
A. Yes, sir.
Q. How near to the Swayne place?
A. I lived on Robert McCullough's place.
Q. The same man who has been here as a witness?
A. Yes, sir.
Q. How long did you live there?
A. I lived there two years.
Q. That would bring you back to 1896?
A. Yes, sir.
Q. Where did you live before that?
A. I lived in another neighborhood, a place called Montchanin.
Q. How far is it from Montchanin to Guyencourt?
A. A couple of miles, I suppose. It is Colonel Dupont's place.
Q. It is 2 miles from Montchanin to Guyencourt?
A. Yes, sir.
Q. Have you lived in that neighborhood all your life?
A. No, sir.
Q. When did you first go into it?
A. Around that neighborhood in 1880.
Q. Since that time you have?
A. Yes, sir.
Q. Have you known the Swayne house since you have been living there?
A. Yes, sir.
Q. And the family?
A. Oh, no.
Q. When did you first come to know the family?
A. I first knew the Judge's father, I could not tell you what year—a year or two after I moved into the neighborhood.
Q. Have you known the Judge ever since his father's time?
A. No, sir; I only knew the Judge when I rented the place.
Q. But you did know the father and the family there?
A. Yes, sir.
Q. During his lifetime?
A. Yes, sir.
Q. Now, then, from that time on have you known of Judge Swayne ever living there during the winter?
A. No, sir.
Q. Only during the summer?
A. Yes, sir.
Mr. HIGGINS. That is all.
Mr. Manager PERKINS. We have no questions.

Charles C. Morris sworn and examined.

By Mr. HIGGINS:

Question. Where is your residence?
Answer. Guyencourt, Del.
Q. What is your occupation?
A. Station agent and postmaster.
Q. How long have you held those positions?
A. For four years the coming June.
Q. When did you first know the family of Judge Swayne and his father?
A. I am not positive about the date, but I think it was 1862.
Q. I will ask you if you were not raised in that family?
A. Partly so; yes, sir.
Q. By the Judge's father?
A. Yes, sir.
Q. Have you or not been intimate with the family in that way during your life?
A. Yes, sir; ever since.
Q. Where did you live prior to your becoming postmaster and station agent?
A. I lived in Chester County, within about one hour's drive from Guyencourt.
Q. Across the line in Chester County, Pa., about one hour's drive from Guyencourt?
A. About one hour to an hour and a quarter; along there.
Q. How long did you live there?
A. Eighteen or nineteen years.
Q. During that time did you or not keep up your intercourse with the Swayne family?
A. Yes, sir.
Q. Where did Mrs. Anne Swayne live after her husband's death?
A. She lived in the old mansion.
Q. Did she live there during the winter?
A. No, sir.
Q. Where did she spend her winters?
A. She did one winter, I think.
Q. Where did she spend her winters?
A. With her daughter in Philadelphia.
Q. Do you know whether or not she also spent winters with her son in Florida?
A. I think she did one winter. I am not positive about that.
Q. Now will you please say what time of the year Judge Swayne and his family would spend at the Swayne mansion?
A. The summer time.
Q. Any other time than the summer?
A. I never saw them there in the winter time—that is, to stay.
Q. Never to stay?
A. No, sir. I never saw them stay over one night.
Q. In the winter time?
A. No, sir.

Q. Was this the course during all your knowledge of this family, as you have given it?
A. Yes, sir.
Q. Were they there any more before you were postmaster than since?
A. No, sir; just the same.
Q. Their habit in that respect in the last four years is the same as it was before?
A. Yes, sir.
Q. Have you had charge of the property in any way?
A. I generally took charge through the winter for Mrs. Anne Swayne.
Q. How long have you been doing that?
A. Ever since I have been there, more or less.
Q. Since the last four years?
A. Yes, sir.
Q. And the farm has been rented out to tenants?
A. Yes, sir.
Q. You are postmaster?
A. Yes, sir.
Q. Will you please state what times of the year mail comes there for Judge Swayne?
A. During the summer.
Q. Any other time?
A. I do not remember of ever having a letter there at any other time.
Q. If any does come there when he is absent, what do you do with it; what are your directions?
A. We remail it to Pensacola, Fla.
Q. By whose directions?
A. By direction of the Judge.
Mr. HIGGINS (to the managers on the part of the House.) Cross-examine.

Cross-examined by Mr. Manager PERKINS:

Q. You became postmaster when?
A. 1901.
Q. 1901?
A. June, 1901.
Q. So the evidence which you have given about letters being received and forwarded begins with the year 1901?
A. Yes, sir.
Q. Prior to that time you were not postmaster and had nothing to do with it?
A. No, sir.
Q. Did Judge Swayne and his family ever stay in Wilmington?
A. That I am not positive to state.
Q. You do not know whether they did or did not?
A. No; I can not say.
Q. Did you ever hear of their being at Wilmington in the winter time?
A. I heard he was there one winter with his son. I do not know how long.
Q. You heard that Judge Swayne spent one winter or part of one winter in Wilmington?
A. I do not know how long; a part.
Q. When he came in the early summer did he come alone or bring his whole family with him?
A. Brought his family.
Q. Were the family there already or did he bring them?
A. Sometimes they were there and sometimes he brought them.
Q. Did they go away with him? Did they leave with him?
A. Mostly; yes, sir.
Q. Do you know where they went?
A. Pensacola, from what I could understand.
Q. Do you testify that when they left there in 1896 and 1897 and 1898 and 1899 they went to Pensacola, Fla.? Is that your evidence?
A. I could not say positively where they went. They left Guyencourt for there.
Q. You do not know anything about it?
A. I checked their trunks, I think, to Washington.
Q. To Washington?
A. Yes, sir.
Q. Then you do not mean to testify that from 1894 to 1900, when Mrs. Swayne and the children left, they went to Pensacola, Fla.?
A. I could not say; no, sir.
Q. Do you know any time during those six years when they went from Guyencourt to Pensacola, Fla.? I do not mean the judge, but I mean his family.
A. I can not remember that.
Mr. Manager PERKINS. That is all.
Mr. HIGGINS. That will do, Mr. Morris.

The PRESIDING OFFICER. The Presiding Officer will inquire how many more witnesses it is probable the counsel for respondent will call?
Mr. HIGGINS. There are two witnesses who are in attendance to-day. They are on the question of residence, and will be short. We should like to examine them to-morrow. There are two officers of the Treasury whom we have in attendance, but we will want to call them after we shall have offered certain documentary evidence.
The PRESIDING OFFICER. What length of time do counsel think they will require for the rest of the witnesses?
Mr. HIGGINS. I do not think it will take a half hour.
Mr. THURSTON. It will take not more than thirty or forty minutes, unless some of our offers of documentary evidence may lead to objection and discussion.
The PRESIDING OFFICER. May the Presiding Officer inquire whether there will be many witnesses in rebuttal?
Mr. Manager PALMER. No, sir. We shall probably not have more than one witness in rebuttal, or perhaps two.
The PRESIDING OFFICER. It is entirely probable that two hours to-morrow will conclude the examination of witnesses?
Mr. HIGGINS. Oh, quite.
Mr. THURSTON. We think so.
Mr. President, I now offer in evidence, and ask to have them go into the RECORD without reading, certificates from the clerks of the various courts of the United States where Judge Swayne has held court, showing the times and dates during all these years when he has been holding court in other districts than his own, and also in his own.
Mr. Manager PALMER. Let us take those and we will bring them in in the morning.
Mr. HIGGINS. There is no objection to that.
Mr. THURSTON. Certainly not.
The PRESIDING OFFICER. Could not the managers and counsel agree upon a statement as to the number of days Judge Swayne held court outside of his district, as well as within the same?
Mr. Manager PALMER. There is in this record a statement of all the times that Judge Swayne held court out of his district—at least all the days he was paid for, and I suppose that covers all the time.
The PRESIDING OFFICER. If it is possible for managers and counsel to agree on that subject, it would shorten the proceedings and the record.
Mr. Manager PALMER. Perhaps we can agree, sir.
Mr. THURSTON. By agreement it is to be stated as a part of the testimony that Judge Swayne was born in the year 1842.
Mr. FAIRBANKS. I move that the Senate sitting as a court of impeachment adjourn, to meet at 1 o'clock to-morrow afternoon.
The motion was agreed to; and (at 5 o'clock and 58 minutes p. m.) the Senate sitting for the trial of the impeachment adjourned until to-morrow, February 23, at 1 o'clock p. m.
The managers on the part of the House and the respondent and his counsel retired from the Chamber.
The PRESIDENT pro tempore resumed the chair.

HOUR OF MEETING TO-MORROW.

Mr. ALLISON. I move that when the Senate adjourn to-day it be to meet at 11 o'clock to-morrow morning.
The motion was agreed to.

LEWIS AND CLARK EXPOSITION.

Mr. FULTON. Mr. President, there is on the table an invitation to the Senate to attend the opening of the Lewis and Clark Exposition. I move that it be taken from the table and referred to the Select Committee on Industrial Expositions.
The motion was agreed to.

COURTS IN ILLINOIS.

Mr. SPOONER. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. 7049) providing for an additional circuit judge in the seventh judicial circuit, and for the appointment of an additional judge for the northern district of Illinois, and for creating an additional district in the State of Illinois, to be known as the eastern district of Illinois, and for the appointment of a judge and other officers of said district, and for changing the boundaries of the districts in Illinois, and for establishing places for holding court in the several districts thus created, to report it favorably, with an amendment in the nature of a substitute; and I ask unanimous consent that it may be considered at this time.
There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported

from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That there shall be in the seventh circuit an additional circuit judge, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall possess the same qualifications and shall have the same powers and jurisdiction and receive the same compensation prescribed by law in respect to circuit judges of the United States.

SEC. 2. That there shall be in and for the northern district of Illinois an additional district judge, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall possess the same qualifications and shall have the same powers and jurisdiction and receive the same compensation prescribed by law in respect to other district judges.

SEC. 3. That the northern district of Illinois hereafter shall consist of the following counties in the State of Illinois, to wit: Lake, McHenry, Boone, Winnebago, Stephenson, Jo Daviess, Carroll, Whiteside, Lee, Ogle, Dekalb, Lasalle, Grundy, Kendall, Kane, Dupage, Will, and Cook, and that all other counties in the northern district of Illinois as the same has heretofore existed be, and the same are hereby, detached from the northern district of Illinois and annexed to the southern and eastern districts of Illinois as hereinafter provided.

SEC. 4. That the northern district of Illinois shall be divided into two divisions, to be known as the eastern and western divisions. The counties of Boone, Winnebago, Stephenson, Jo Daviess, Carroll, Whiteside, Lee, and Ogle shall constitute the western division of said northern district of Illinois, the courts for which shall be held at the city of Freeport.

SEC. 5. That the terms of the circuit and district courts in and for said northern district of Illinois shall be held at the city of Chicago, as now provided by law, and at the city of Freeport, in the western division of said district, on the third Mondays of April and October of each year.

SEC. 6. That all civil suits not of a local nature, and all criminal prosecutions, shall be commenced and tried in the division of the said northern district of Illinois where the defendant or defendants reside or the offense is committed; but if there are two or more defendants in civil suits residing in the different divisions or districts, the action may be brought in either in which either of the defendants may reside. When the defendant is a nonresident of the district, action may be brought in either division of said district wherein the defendant may be found.

That the marshal and clerk of said district shall each, respectively, appoint at least one deputy to reside in said city of Freeport, unless he shall reside there himself, and also maintain an office at that place of holding court.

SEC. 7. That the division heretofore made of the northern district of Illinois into two divisions, known as the northern and southern divisions of the northern district of Illinois, is hereby abolished, provided that this act shall not work a discontinuance of any suit or proceeding in law, equity, admiralty, or bankruptcy, or any civil proceeding now pending in the southern division of the northern district of Illinois, but all of said suits or proceedings so pending are hereby transferred to the southern district of Illinois as by this act constituted, and shall be heard and disposed of in said southern district of Illinois as though originally instituted in said southern district of Illinois; and it shall be the duty of the clerk of the court from which such suit or proceeding is transferred to transmit to the clerk of the court to which the transfer is made the entire files or papers in all of said causes and all documents and deposits in his court pertaining thereto, together with a certified transcript of the record under the seal of the court of all orders, interlocutory decrees, or other entries in any or all of said causes; and he shall also certify under the seal of the court that the papers sent are all which are on file in said court belonging to said causes respectively; for the performance of said duties said clerks shall receive the same fees as are now allowed by law for similar services, to be taxed in the bill of costs and regularly collected with the other costs in said causes respectively; and such transcripts when so certified and received shall thenceforth constitute a part of the record of said causes respectively in the court to which such transfer shall be made: *Provided*, That all motions and causes submitted and all causes and proceedings, in law, equity, admiralty, or bankruptcy, pending in said southern division of the northern district of Illinois as heretofore constituted, in which evidence has been taken in whole or in part before the district judge of the northern district of Illinois, or taken in whole or in part and submitted to and passed upon by said district judge of said northern district of Illinois, shall be retained, proceeded with, and disposed of in said northern district of Illinois as constituted in this act, and for this purpose the venue of any such causes or proceedings may be changed from the southern division of the northern district of Illinois as heretofore existing to the northern district of Illinois as constituted by this act.

SEC. 8. That all officers who have been heretofore appointed for the northern district of Illinois as heretofore constituted who shall be in office at the time of the taking effect of this act and who reside therein as hereby constituted shall continue in office as officers of the district of their residence until the expiration of their respective terms or until their successors are appointed and qualified, and shall perform the same duties and receive the same salary and compensation as heretofore.

SEC. 9. That the southern district of Illinois hereafter shall consist of the following-named counties, to wit: Rock Island, Henry, Bureau, Mercer, Knox, Stark, Putnam, Marshall, Henderson, Warren, Peoria, Woodford, Livingston, McLean, Tazewell, Fulton, McDonough, Hancock, Dewitt, Logan, Mason, Schuyler, Adams, Brown, Cass, Menard, Macon, Sangamon, Christian, Morgan, Montgomery, Pike, Scott, Macoupin, Greene, Calhoun, Jersey, Bond, and Madison, and that all the other counties heretofore contained in said southern district are hereby detached from said southern district and annexed to the eastern district of Illinois, as hereinafter provided.

SEC. 10. That the southern district of Illinois shall be divided into two divisions, to be known as the northern and southern divisions. The counties of Peoria, Bureau, Stark, Henry, Rock Island, Mercer, Henderson, Warren, Knox, McDonough, Fulton, Putnam, Marshall, Woodford, Tazewell, and Livingston shall constitute the northern division of said southern district of Illinois, the courts for which shall be held at the city of Peoria.

That all civil suits not of a local nature, and criminal prosecutions, must be brought in the division of the said southern district of Illinois where the defendant or defendants reside, or the offense is committed; but if there are two or more defendants in civil suits residing in the different divisions or districts, the action may be brought in either in which either of the defendants may reside. When the defendant is a nonresident of the district, action may be brought in either division of said district wherein the defendant may be found.

That the clerks of the circuit and district courts of the southern district of Illinois shall be respectively the clerks of the courts of both divisions of the said district; that each of said clerks or his deputies shall keep an office open at all times at each of the places of holding of said court and shall there keep the records, files, and documents pertaining to the court of that division; and said clerks shall be entitled to the same fees now allowed by law. In addition to his powers to appoint deputies, as now prescribed by law, each of said clerks shall be empowered to appoint, with the approval of the court, a chief deputy for a court of that division in which he himself may not reside, who shall have all the powers of the clerk in his absence.

That the marshal and clerk for said southern district of Illinois shall respectively appoint at least one deputy residing in the said northern division, and also maintain an office at that place of holding court.

That the terms of the circuit and district courts in and for said southern district of Illinois shall be held as now provided by law, and, at the city of Peoria, in the northern division of said district, on the third Mondays of April and October of each year.

SEC. 11. That the marshal and the clerks of the circuit and district courts for the southern district of Illinois in addition to the offices now maintained by them shall, respectively, maintain an office at the city of Peoria.

SEC. 12. That there shall be, and hereby is, created an additional judicial district in the State of Illinois to be known as the eastern district of Illinois, and the same shall consist of the following-named counties in Illinois, to wit: Kankakee, Iroquois, Ford, Vermilion, Champaign, Piatt, Moultrie, Douglas, Edgar, Shelby, Coles, Clark, Cumberland, Effingham, Fayette, Marion, Clay, Jasper, Crawford, Lawrence, Richland, Clinton, St. Clair, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Gallatin, Saline, Williamson, Jackson, Hardin, Pope, Johnson, Union, Alexander, Pulaski, and Massac.

SEC. 13. That the President, by and with the advice and consent of the Senate, shall appoint for said eastern district of Illinois a district judge, a marshal, and a district attorney, except where any such officer is retained as hereinafter provided; and clerks for said circuit and district courts shall be appointed in the same manner as is now provided by law with respect to such officers in the southern district of Illinois.

SEC. 14. That the courts and the judges of said eastern district of Illinois, shall within said district, respectively possess the same jurisdiction and powers, civil, criminal, equitable, or otherwise, and perform the same duties as are now respectively possessed and performed by the circuit and district courts and judges of the United States of the southern district of Illinois.

SEC. 15. That the district judge of said eastern district of Illinois shall receive the same compensation as is now by law provided for the district judge of the southern district of Illinois; and the marshal, district attorney, and clerks of the circuit and district courts shall severally possess the powers and perform the duties in said eastern district lawfully possessed and performed by the like officers in the said southern district of Illinois and shall be respectively entitled to like fees, compensation, and emoluments, and, until otherwise provided by law, the salaries herein prescribed or provided for shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 16. That the terms of the circuit and district courts in and for said eastern district of Illinois shall be held at the city of Danville, commencing on the first Mondays of March and September of each year, and at the city of Cairo, commencing on the first Mondays of April and October of each year, and at the city of East St. Louis, commencing on the first Monday of May and November of each year.

SEC. 17. That all civil causes and proceedings of every name and nature, including proceedings in bankruptcy, now pending in the courts of the northern and southern districts of Illinois as heretofore constituted, whereof the courts of the eastern district of Illinois, as hereby constituted, would have had jurisdiction if the said eastern district of Illinois and the courts thereof had been constituted when said causes or proceedings were instituted, shall be, and are hereby, transferred to, and same shall be proceeded with in, the eastern district of Illinois, and jurisdiction thereof is hereby transferred to and vested in the courts of said eastern district, and the records and proceedings therein and relating to said proceedings and causes shall be certified and transferred thereto; and such records and proceedings when so certified and transferred shall thenceforth constitute a part of the record of said causes, respectively, in the court to which such transfer shall be made, and all such suits and proceedings so transferred shall be heard and disposed of in the regular way at the terms of said courts for the eastern district of Illinois to be held at Danville, East St. Louis, and Cairo, respectively, as herein provided: *Provided*, That all motions and causes submitted and all causes and proceedings in law, equity, admiralty, or bankruptcy, pending at the time of the taking effect of this act in the northern and southern districts of Illinois as heretofore constituted, in which the evidence has been taken in whole or in part before the judges of the said northern and southern district of Illinois as heretofore constituted or taken in whole or in part and submitted to and passed upon by the said judges shall be retained, proceeded with, and disposed of in said northern and southern districts of Illinois, respectively, as constituted by this act.

SEC. 18. That the district judge of the southern district of Illinois in office at the time this act takes effect shall continue to be the district judge for the southern district of Illinois as constituted by this act; that the clerk of the circuit court for the southern district of Illinois in office at the time this act takes effect shall continue to be clerk of the circuit court of the southern district of Illinois as constituted by this act until his successor is appointed and qualified, and the clerk of the district court of the southern district of Illinois in office at the time this act takes effect shall continue to be clerk of the district court of the southern district of Illinois until his successor is duly appointed and qualified, and said clerks of the circuit and district courts of the southern district of Illinois in office at the time this act takes effect shall also be clerks of the circuit and district courts of the eastern district of Illinois, respectively, as constituted by this act until their successors are duly appointed and qualified.

SEC. 19. That all officers not residing in said southern district of Illinois as constituted by this act shall cease to be officers of said southern district when their successors, respectively, for said southern district of Illinois as hereby constituted are duly appointed and qualified. The office of marshal and district attorney in each of said southern and eastern districts of Illinois, deputy marshals and assistant

district attorneys, and all other officers authorized by law and made necessary by the creation of said eastern district of Illinois and the provisions of this act, and all vacancies created in either of said districts shall be filled in the manner now provided by law for the appointment of said officers, respectively, in the southern district of Illinois as the same has heretofore existed. The salaries, pay, fees, and allowances of all officers of the eastern district of Illinois shall be the same as heretofore allowed, respectively, for the same officers in the southern district of Illinois as heretofore constituted.

SEC. 20. That all officers who have heretofore been appointed for the southern district of Illinois, as heretofore constituted, who shall be in office at the time of taking effect of this act and who reside in said southern district as heretofore existing shall continue in their offices, respectively, of the district of their respective residences, as created by this act, until the expiration of their respective terms of appointment, or until their successors are appointed and qualified, and shall perform the same duties and receive the same salaries and compensation as heretofore.

SEC. 21. That special terms of the circuit and district courts may be held in the northern, southern, and eastern districts of Illinois whenever such special terms are deemed necessary by the judges of said courts, respectively, and the time or times of holding such special sessions of said courts shall be fixed by the judges of said courts, respectively, either by a rule of such courts or by special or general order of such courts entered of record in said courts.

SEC. 22. That all prosecutions for crimes or offenses hereafter committed in either of said districts shall be cognizable within the district in which committed.

SEC. 23. That in all prosecutions for crimes or offenses heretofore committed within either the northern or southern districts of Illinois, as hitherto constituted, shall be commenced and proceeded with in each of said districts, respectively, the same as if this act had not been passed.

SEC. 24. That all laws or parts of laws inconsistent herewith are hereby repealed.

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.

GOVERNMENT OF CANAL ZONE.

The PRESIDENT pro tempore. Unanimous consent was given that the Canal Zone bill should be taken up immediately after the adjournment of the court. The yeas and nays have been ordered on the motion of the Senator from Mississippi [Mr. MONEY] to lay on the table the amendment proposed by the Senator from Maryland [Mr. MCCOMAS]. The Secretary will call the roll.

Mr. DOLLIVER. I should like to have the amendment read.

Mr. GORMAN. I wish to say a word to my colleague. I wish to appeal to him to withdraw his amendment on this subject. There will be great controversy over it, and this is only a temporary measure, to last one year. That question can be taken up next year when we take up the whole question with a view to framing some permanent legislation on the subject.

If my colleague will withdraw the amendment, I am authorized by the Senator from Mississippi, who is temporarily absent, to withdraw his motion to lay on the table.

Mr. MCCOMAS. Instead of voting on the motion to lay the amendment on the table, let us vote on the amendment itself.

Mr. GORMAN. I am not authorized to do that.

Mr. MCCOMAS. Let the amendment be voted on without the yeas and nays.

Mr. GORMAN. I am not authorized to do that.

Mr. MCCOMAS. I do not want to delay the Senate at all. There can be a vote by sound.

The PRESIDENT pro tempore. The yeas and nays have been ordered.

Mr. GALLINGER. I demanded the yeas and nays, and if it is in order I withdraw the demand.

Mr. MCCOMAS. I am willing to have a vote of the Senate.

The PRESIDENT pro tempore. The question is, the request for the yeas and nays having been withdrawn——

Mr. MCCOMAS. Let a vote be taken.

The PRESIDENT pro tempore. The motion made by the Senator from Mississippi [Mr. MONEY], who is not here to withdraw it, was to table the amendment offered by the Senator from Maryland.

Mr. GALLINGER. And the vote would be on that motion.

Mr. GORMAN. Yes.

Mr. BATE. Mr. President, let us understand the status of the vote we are expected to give now. What is the situation? What is the status here? Has the demand for the yeas and nays been withdrawn? Has the motion to lay on the table passed away, or what? I should like to know the status of the matter, and the precise motion on which we are called upon to vote.

The PRESIDENT pro tempore. The motion is that made by the Senator from Mississippi [Mr. MONEY] to lay on the table the amendment proposed by the Senator from Maryland [Mr. MCCOMAS].

Mr. MCCOMAS. I ask consent that we vote viva voce upon the amendment itself.

Mr. GALLINGER. We must first vote on the pending motion.

The PRESIDENT pro tempore. That can not be done. The Senator from Mississippi is not here to withdraw the motion he has made, and that is the pending motion.

Mr. GORMAN. I am not authorized to do that.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the amendment offered by the Senator from Maryland. [Putting the question.] By the sound, the "noes" have it.

Mr. GORMAN. I call for a division.

There were on a division—ayes 21, noes 20; no quorum voting.

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

The Secretary called the roll, and the following Senators answered to their names:

Alger	Clay	Gorman	Patterson
Allee	Cockrell	Heyburn	Perkins
Allison	Cullom	Kean	Pettus
Bacon	Dick	Kittredge	Platt, Conn.
Bailey	Dietrich	Latimer	Quarles
Ball	Dillingham	McComas	Spooner
Bard	Dolliver	McLaurin	Stewart
Bate	Fairbanks	Mallory	Stone
Beveridge	Foster, La.	Martin	Taliaferro
Burnham	Frye	Millard	Teller
Burrows	Fulton	Morgan	Warren
Clapp	Gallinger	Nelson	
Clark, Wyo.	Gamble	Overman	

The PRESIDING OFFICER (Mr. KEAN in the chair). Fifty Senators have responded to their names. A quorum is present. The question is on the motion of the Senator from Mississippi [Mr. MONEY] to lay on the table the amendment of the Senator from Maryland [Mr. MCCOMAS].

Mr. CLAPP. The junior Senator from Iowa [Mr. DOLLIVER] has made several pathetic appeals to the Chair to have the amendment read. I think it would be to the advantage of all of us to have it read.

The PRESIDING OFFICER. If there is no objection, the amendment will be again read.

The SECRETARY. On page 6, after line 9, insert:

That vessels of the United States, or vessels belonging to the United States, and no others, shall be employed in the transportation by sea from the United States of all materials, supplies, machinery, and equipment employed on or used for the Panama Railroad, or for the construction and operation of the canal across the Isthmus of Panama, and each contract for such articles shall provide specifically for transportation by vessels of the United States, and vessels of the United States or belonging to the United States and no others shall be employed in the return by sea to the United States of such materials, supplies, machinery, and equipment, unless the President shall find that the rates of freight charged by such vessels are excessive and unreasonable or that vessels of the United States or belonging to the United States are not available for prompt service: *Provided*, That no greater charges be made by such vessels for transportation of such articles for the use of the Panama Railroad or the construction and operation of the canal across the Isthmus of Panama than are made by such vessels for the transportation of like goods for private parties or companies.

The PRESIDING OFFICER. The question is on the motion of the Senator from Mississippi to lay the amendment on the table.

Mr. DIETRICH. Mr. President——

The PRESIDING OFFICER. It is not debatable.

Mr. DIETRICH. I should like to ask whether the amendment has been acted on by the committee.

The PRESIDING OFFICER. The Chair is unable to state.

Mr. GALLINGER. The amendment is part of a bill that was reported from the Merchant Marine Commission, referred by the Senate to the Committee on Commerce, and reported by me from the Committee on Commerce.

Mr. CLAY. Mr. President——

The PRESIDING OFFICER. This discussion is proceeding by unanimous consent. Debate is not in order.

Mr. CLAY. I should like to ask the Senator from New Hampshire a question.

The PRESIDING OFFICER. Debate is not in order.

Mr. CLAY. I simply request unanimous consent to ask a question of the Senator who was in charge of the bill as it came from the Commerce Committee.

The PRESIDING OFFICER. Is there objection to the Senator from Georgia asking a question? The Chair hears none.

Mr. CLAY. I should like to ask the Senator if it is not true that legislation on this line, carefully guarded, was reported, and the bill is now pending here, and would it not be better to take up that bill and pass it rather than insert a part of it in this measure and encumber this legislation, which must necessarily be had, with an amendment of that kind?

Mr. GALLINGER. Of course, that is a question I can not answer; I should be very glad to have this legislation adopted in any way I can get it adopted.

The PRESIDING OFFICER. The question is on the motion

of the Senator from Mississippi [Mr. MONEY] to lay the amendment on the table.

The motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment. [Putting the question.] By the sound it is very hard for the Chair to decide. The Chair is inclined to believe that the "ayes" have it.

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

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and Mr. ALGER voted "yea."

Mr. GORMAN. Mr. President, there has been no answer yet, I think, to the roll call.

Mr. GALLINGER. There was one response.

The PRESIDING OFFICER. Several names have been called, but no answer has been made.

Mr. GORMAN. Therefore I think I am in order.

Mr. ALGER. Mr. President, I answered "yea."

The PRESIDING OFFICER. The Chair did not know the Senator from Michigan had answered.

Mr. BAILEY. The Senator from Maryland took the floor before the response was made by the Senator from Michigan.

Mr. GORMAN. Does the Chair hold that I am in time?

The PRESIDING OFFICER. The Chair did not see the Senator rise, but he will recognize the Senator from Maryland.

Mr. GORMAN. I will not take the floor if there is any question about it, because it would be a bad precedent.

Mr. ALGER. I did not interpose any objection, but I did not want to be counted as not voting when I voted in a clear voice.

The PRESIDING OFFICER. The Chair is informed that the Senator from Michigan had voted at the time, but the Chair did not hear him.

Mr. CLAY. The Chair has recognized the Senator from Maryland?

The PRESIDING OFFICER. The Chair has recognized the Senator from Maryland.

Mr. CLAY. I will ask if it is not true that the Senator from Michigan voted after the Senator from Maryland took the floor?

The PRESIDING OFFICER. He voted after the Senator from Maryland addressed the Chair, but the Chair had not recognized the Senator from Maryland. Does the Senator from Maryland desire to be heard?

Mr. GORMAN. No, Mr. President.

The PRESIDING OFFICER. The Secretary will proceed with the call of the roll. The Chair wants to be entirely fair.

The Secretary resumed the call of the roll.

Mr. DILLINGHAM (when his name was called). I have a general pair with the Senator from South Carolina [Mr. TILLMAN], which I will take the liberty of transferring to my colleague [Mr. PROCTOR], who is absent, and I will vote "yea." This transfer will release the Senator from Florida [Mr. MALLORY].

Mr. FOSTER of Louisiana (when his name was called). I have a general pair with the junior Senator from North Dakota [Mr. MCCUMBER]. He being absent, I will withhold my vote.

Mr. GAMBLE (when his name was called). I have a general pair with the junior Senator from Nevada [Mr. NEWLANDS]. I will transfer that pair to the senior Senator from Rhode Island [Mr. ALDRICH], and vote. I vote "yea."

Mr. LATIMER (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. HOPKINS]. I do not see him in the Chamber, and therefore I withhold my vote.

Mr. MCLAURIN (when his name was called). I have a general pair with the senior Senator from Washington [Mr. FOSTER]. As he has not voted, I will withhold my vote. If he were present, I should vote "nay."

Mr. MORGAN (when his name was called). I am paired with the senior Senator from Indiana [Mr. FAIRBANKS].

Mr. QUARLES (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not here, I will withhold my vote.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is absent, and I will therefore withold my vote.

Mr. TALIAFERRO (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. SCOTT]. As he is not present, I will withhold my vote.

Mr. TELLER (when his name was called). I have no regular pair. The senior Senator from Maine [Mr. HALE] kindly paired with me when I was absent on account of illness. Fearing there will not be a quorum voting, I think I will vote. I vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY]. I do not see him in the Chamber, and therefore withhold my vote.

The roll call was concluded.

Mr. SPOONER. May I inquire of Senators on the other side if they know how the Senator from Tennessee [Mr. CARMACK] would vote if he were present?

Mr. BATE. No; I do not know. He is not here.

Mr. SPOONER. If the Senator from Tennessee would vote "nay" if present I would vote "nay" if necessary to make a quorum.

Mr. CLAY. I should like to ask if the senior Senator from Massachusetts [Mr. LODGE] has voted?

The PRESIDING OFFICER. He has not.

Mr. CLAY. I am paired with that Senator.

Mr. CULLOM. I am paired with the junior Senator from Virginia [Mr. MARTIN], but as we are short of a quorum and as we have an understanding that either of us can vote as we choose whenever we please, I vote "yea."

Mr. BAILEY (after having voted in the negative). I have a somewhat similar pair with the senior Senator from West Virginia [Mr. ELKINS]. While this is a question I would not vote upon in his absence if there were a quorum certainly here, being in doubt about the presence of a quorum I will allow my vote to stand. If I were certain that a quorum is present without it I would withdraw my vote.

Mr. CLAPP (after having voted in the affirmative). Observing the absence of my pair, the Senator from North Carolina [Mr. SIMMONS], I desire to withdraw my vote, unless it can be transferred for the purpose of making a quorum.

Mr. MCCOMAS (after having voted in the affirmative). I have a pair with the senior Senator from Kentucky [Mr. BLACKBURN] and I had intended to withdraw my vote, observing his absence from the Chamber; but as it may destroy a quorum I will transfer my pair to the senior Senator from New York [Mr. PLATT], and let my vote stand to make a quorum.

Mr. MCLAURIN. I desire to state that my colleague [Mr. MONEY] was unavoidably called from the Senate Chamber and he is paired with the senior Senator from Wyoming [Mr. WARREN].

The Secretary recapitulated the vote.

Mr. CLAPP. If it is not too late, I will transfer my pair with the Senator from North Carolina [Mr. SIMMONS] to the Senator from West Virginia [Mr. ELKINS], and for the sake of a quorum, if necessary, I vote "yea."

Mr. BAILEY. Did I understand the Senator from Minnesota to transfer his pair to the Senator from West Virginia [Mr. ELKINS]?

Mr. CLAPP. Yes, sir.

The PRESIDING OFFICER. That is what the Senator from Minnesota did.

Mr. CLAPP. Has the Senator transferred his pair?

Mr. BAILEY. No; I have not. I only let my vote stand upon the supposition that we need all the votes to make a quorum. I raise no question about it. I am perfectly willing——

Mr. CLAPP. It was suggested to me by the Senator from New Hampshire [Mr. GALLINGER] to transfer my pair.

Mr. GALLINGER. I thought the fact that the Senator from Texas [Mr. BAILEY] voted relieved the Senator from West Virginia [Mr. ELKINS]. He is very strongly in favor of this measure, and I thought he ought to have a chance to be paired in its favor.

Mr. BAILEY. I am not willing under that statement to allow my vote to stand——

Mr. CLAPP. The Senator's pair has been transferred.

Mr. BAILEY. Rather than have it transferred—and I am obliged to the Senator from New Hampshire for calling attention to it—I withdraw my vote.

Mr. FRYE. The Senator from Minnesota can transfer his pair to the senior Senator from Maine [Mr. HALE].

Mr. CLAPP. Then I will transfer my pair to the senior Senator from Maine [Mr. HALE] and let my vote stand.

The result was announced—yeas 26, nays 12, as follows:

YEAS—26.

Alger	Clapp	Fulton	Nelson
Allee	Clark, Wyo.	Gallinger	Penrose
Ball	Cullom	Gamble	Perkins
Bard	Dick	Heyburn	Platt, Conn.
Beveridge	Dillingham	Kittredge	Stewart
Burnham	Dolliver	McComas	
Burrows	Frye	Millard	

NAYS—12.

Allison	Cockrell	Kean	Patterson
Bate	Dietrich	Mallory	Stone
Clark, Mont.	Gorman	Overman	Teller

NOT VOTING—52.

Aldrich	Depew	Kearns	Newlands
Ankeny	Dryden	Knox	Pettus
Bacon	Dubois	Latimer	Platt, N. Y.
Bailey	Elkins	Lodge	Proctor
Berry	Fairbanks	Long	Quarles
Blackburn	Foraker	McCreary	Scott
Burton	Foster, La.	McCumber	Simmons
Carmack	Foster, Wash.	McEnery	Smoot
Clarke, Ark.	Gibson	McLaurin	Spooner
Clay	Hale	Martin	Taliaferro
Crane	Hansbrough	Mitchell	Tillman
Culberson	Hawley	Money	Warren
Daniel	Hopkins	Morgan	Wetmore

The PRESIDING OFFICER. No quorum has voted. The Secretary will call the roll.

Mr. OVERMAN. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 31 minutes p. m.) the Senate adjourned until to-morrow, Thursday, February 23, 1905, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 22, 1905.*

The House met at 12 o'clock m.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Our fathers' God and our God, we thank Thee that throughout the length and breadth of the American Republic the hearts of our people will beat to-day with patriotic pride and millions will take the name of Washington reverently upon their lips, and all will praise Thy holy name for what he did and for his great personality. Clear in his conceptions, true to his convictions, wise in his counsels, heroic in battle, magnanimous in peace, we love him for what he did and still more for what he was; and God grant that we may cherish our homes, our country, and with sincere devotion to Thee follow his illustrious example, that liberty and freedom may not perish, but as the waters cover the seas so may they cover the earth and make glad the hearts of the downtrodden and oppressed everywhere. For Thine is the kingdom, and the power, and the glory, forever. Amen.

The Journal of yesterday's proceedings was read and approved.

CONFERENCE REPORT ON ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I desire to call up the conference report on the army appropriation bill.

The SPEAKER. The gentleman from Iowa calls up the conference report on the army appropriation bill.

Mr. HULL. Mr. Speaker, I will ask that the statement only may be read.

The SPEAKER. The gentleman from Iowa asks that the statement may be read in lieu of the report. Is there objection? [After a pause.] The Chair hears none.

The conference report and statement are as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17473) making appropriations for the support of the Army for the fiscal year ending June 30, 1906, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 19, 20, and 27.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 26, 28, 29, 30, and 31, and agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In line 23, page 35 of the bill, strike out the words "eighty-one" and insert in lieu thereof the words "two hundred and thirty-one;" and the Senate agree to the same.

Your committee report disagreements on the following amendments: 1, 10, and 11.

J. A. T. HULL,
ADIN B. CAPRON,
JAMES HAY,
Managers on the part of the House.

REDFIELD PROCTOR,
R. A. ALGER,
F. M. COCKRELL,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

Statement of managers on part of the House.

Amendment No. 2 increases the amount for officers in the line, and the House recedes.

Amendments Nos. 4, 5, 6, 7, and 8 apply to length-of-service pay. The Paymaster-General figured the amounts after the bill passed the House and was reported to the Senate. It was absolutely necessary to increase the amounts, and the House recedes from its disagreement and agrees to the same.

Amendment No. 9 is simply a change in the phraseology.

Amendment No. 12 inserts "military commissions" with courts-martial and courts of inquiry, and the House recedes.

Amendment No. 13 increases travel allowance to enlisted men on discharge, and was amended on the further information given by the Paymaster-General, and the House recedes.

Amendment No. 14 refers to additional pay for length of service for the Philippine Scouts, and the House recedes.

Amendment No. 15 authorized the assignment to duty in the office of the Paymaster-General of such paymasters' clerks now authorized by law as may be necessary. The Paymaster-General submitted a strong argument in favor of same, and the House recedes from its disagreement.

Amendment No. 16 is simply a verbal change, and the House recedes.

Amendments Nos. 17 and 18 refer to horses for the artillery, and the House recedes.

Amendments 21 and 22 relate to the transport service, and the Senate amendments make the bill read exactly as reported from the House Committee, and the House recedes from its disagreement.

Amendments 23 and 24 refer to the hospital at Fort Sam Houston, Tex., and increase the appropriation made by the House by the amount provided for Fort Sam Houston, and the House recedes.

Amendment No. 26 is a verbal change, and the House recedes.

Amendments 28, 29, 30, and 31 are simply verbal changes, and the House recedes.

Amendment No. 3 relates to the pay of officers for length of service, and the Senate recedes.

Amendments 19 and 20 relate to the establishment of military posts, and the Senate recedes.

Amendment No. 27 relates to an appropriation for ordnance and ordnance stores, and the Senate recedes.

Amendment No. 25 relates to an additional appropriation for an engineer establishment at Washington Barracks, and changing the total to correspond with the amount inserted in the Senate. The House recedes and agrees to the same with the amendment changing the total.

The committee reported disagreements on amendments Nos. 1, 10, and 11.

J. A. T. HULL,
ADIN B. CAPRON,
JAMES HAY,
Managers on the part of the House.

Mr. SLAYDEN. Mr. Speaker——

Mr. HULL. Does the gentleman desire any time?

Mr. SLAYDEN. Mr. Speaker, I would like to have about three minutes.

Mr. HULL. I yield three minutes to the gentleman from Texas.

Mr. HEMENWAY. Mr. Speaker, if the gentleman will permit me, I was late in getting here——

The SPEAKER. Does the gentleman yield?

Mr. HULL. I think I have the floor.

Mr. HEMENWAY. I just want to ask if the motion has been made to adopt this conference report?

Mr. HULL. I am going to make that motion. Mr. Speaker, I move that the report be adopted.

The SPEAKER. Does the gentleman from Iowa yield? For what purpose does the gentleman from Indiana rise?

Mr. HEMENWAY. Mr. Speaker, I rise for the purpose at the proper time of opposing this conference report or agreement on one item of the conference report——

Mr. HULL. Mr. Speaker, one minute. I yielded to the gentleman from Texas. Now, if the gentleman from Texas will wait a minute I will yield to the gentleman from Indiana. How much time does the gentleman want?

Mr. HEMENWAY. Well, I think ten minutes' time.

Mr. HULL. I yield ten minutes to the gentleman from Indiana.

Mr. ROBINSON of Indiana. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROBINSON of Indiana. I would make the point of order that the detailed statement does not conform to the rule in that it is not a detailed statement "sufficiently explicit to inform the House what effect the amendments will have upon the measures to which they relate," and I would ask the Chair if this is the time to make that point? That the statement so far as it is made under the rule requiring a detailed statement is not a detailed statement as required by the rule. The objection to it is that it does not state the amount of these increases. It makes no comparison of the House provisions and the Senate provisions. Aside from the verbal alterations which the House consented to, every increase of the appropriations made by the Senate has been yielded by the House conferees.

The SPEAKER. The Chair, on examining the statement, will state that it is a question for the House and not for the Speaker. It seems to be in the usual form.

Mr. HEMENWAY. Mr. Speaker, amendment 15, on page 18 of the bill, has this provision:

And the Secretary of War may hereafter authorize the assignment to duty in the office of the Paymaster-General of all such paymasters' clerks now authorized by law that may be necessary for that purpose.

A number of years ago the Committee on Appropriations took up this question. There were detailed to Washington from the different offices outside of Washington, and from all over the country, hundreds of clerks. After six months of investigation the Committee on Appropriations suggested to this House legislation that would prevent detailing clerks from offices in other parts of the country to positions in Washington. Under what is known as the Dockery system, which was really the Dingley-Dockery system, which was enacted into law a few years ago, the two gentlemen—Mr. Dingley, now deceased, and Governor Dockery, now out of Congress—investigated the different Departments and recommended a new system of accounting, in which they did away with the old double system of accounting in the Department, but required this: Say that a paymaster's account, which is audited in his office, comes to Washington. That account is again audited in the Paymaster-General's Office here, so that there is a double audit.

Now, then, I desire to point out what the effect might be of this amendment.

The paymaster himself appoints his clerk. The clerk is not appointed under the civil-service rule. He is naturally a personal friend of the paymaster, and he is appointed by the paymaster. He makes up the accounts. If that clerk can be transferred to Washington, to the Paymaster-General's Office, what can happen any day in the week? He can go over the same accounts that he made up and sent to the Department here in Washington. That is one of the evils that might result.

Another evil is this: We have given to the Paymaster-General's office every clerk they asked for. They have no occasion to use additional clerks in the city of Washington. Every clerk asked for by the Paymaster-General's office was granted him by the committee in charge of the legislative appropriation bill. Under this provision any one of the ninety-odd clerks of the Paymaster-General can be transferred to the city of Washington at any time they care to make the transfer. There is no use for them here. If they do not need them in various Paymaster-General's offices throughout the country, they ought to discharge them.

Gentlemen can see the danger of this system of allowing the Paymaster-General's office in Chicago or St. Louis, or wherever it happens to be, to bring a clerk into the service and then have him sent here and placed in the Paymaster-General's office at Washington. We have got to guard this question. Why, take the Army of the country to-day, and with every effort of Congress to keep down the expenditures it seems impossible. The other day, in going over the appropriation for quarters and barracks, I find that in the last fifteen years we have expended for quarters and barracks $50,000,000—a thousand dollars a man in an army of 50,000. That money well expended could have quartered every soldier now in the service with a suite of rooms as good as are furnished in a first-class hotel.

And there seems to be no end to this. Last year, if you gentlemen remember, in conference this item was placed on the army bill, and on a point of order I took it off here in the Huose. And now it comes back again.

What is the necessity for transferring these clerks in the Paymaster-General's offices in different parts of the country to the city of Washington? Absolutely none, I say, because we have given to the Paymaster-General's office here every clerk they have asked for and every clerk that is necessary to transact the business of that office. And I say further, gentlemen, it is taking a step backward, getting back to the condition we were in, and a condition that was remedied by the gentleman who now has the honor of presiding over this House, after six months of hard work, bringing about the legislation that finally resulted in preventing the transfer of these clerks to the city of Washington.

I hope the Members of this House will understand how serious this matter is, that we not only propose to go back to that old system, but we propose to put it within he power of these gentlemen to first pass upon the accounts in the Paymaster-General's office in one of the cities of the country, and then be in a position to come here to Washington and give the second audit to the account that they originally passed upon. Therefore, I say that, if necessary, this conference report ought to be defeated and this item sent back to conference to be stricken out. In fact, I do not believe that the gentleman in charge of this bill [Mr. HULL] believes for a minute that this item ought to be on here.

I am sure the gentleman, if he believes it now, has had reason to change his mind, for I know some time back the gentleman believed in and realized what I state of the danger that existed in this matter, and it would put in the hands of these gentlemen a power which has been twice declared they should not have.

Mr. Speaker, I want to state further to the House that this provision would lead to all kinds of favoritism. A Paymaster-General's clerk could be transferred to Washington, another clerk could be appointed and transferred to Washington; and it would lead to favoritism that would result in criticism.

Now, then, this is not a final report on this bill. There are three items left open anyway; so we simply send them back with the instruction of the House that in addition to the three items not agreed to by the House it has determined also that this item will not be agreed to; and it ought not to be agreed to. I sincerely hope that this House will never agree to items of this kind, that can only result in bad administration and in so much favoritism.

Mr. CRUMPACKER. Before the gentleman takes his seat, will he allow me to ask him a question?

Mr. HEMENWAY. Yes.

Mr. CRUMPACKER. Are these assistant paymaster's clerks appointed from civil life by the aid of the Civil Service Bureau?

Mr. HEMENWAY. They are appointed by the Paymaster-General.

Mr. CRUMPACKER. Without a civil-service examination?

Mr. HEMENWAY. That is my understanding.

Mr. CRUMPACKER. I did not know we had any such places open to appointment.

Mr. HEMENWAY. Well, after ten years' service, I am gradually learning a great many things I did not know.

Mr. PAYNE. Is the gentleman asking as to any other openings that there may be?

Mr. CRUMPACKER. I am asking the gentleman for information. I suppose it would have been better if I had asked him privately. [Laughter.]

Mr. OLMSTED. May I ask the gentleman this question: After they are transferred to Washington, are they then covered into life positions under the civil-service regulations?

Mr. HEMENWAY. That, of course, depends upon the action of the future; but what has been done in the past would lead me to say that just that has occurred.

Mr. ROBINSON of Indiana. I would like to have some time yielded to me.

Mr. HULL. I have yielded some time to the gentleman from Texas [Mr. SLAYDEN], but I think, perhaps, I should occupy some time myself just now, because the matter under consideration is the provision discussed by the gentleman from Indiana [Mr. HEMENWAY].

Mr. ROBINSON of Indiana. I wanted to have some time on the point that this is not a detailed statement such as to give the House sufficient information.

Mr. HULL. That is not the question before the House now.

Mr. ROBINSON of Indiana. I demand recognition in my own right, then.

Mr. HULL. The proposition was brought before the Committee on Military Affairs two years ago, and it was reported to the House and went out on a point of order. It was not reported to the House by the Committee on Military Affairs, but was put into the bill in the Senate. Therefore, it is at least not subject to a point of order. The gentleman from Indiana is evidently indignant that a matter that the House has heretofore rejected on a point of order should be again brought before the House. I am sure the gentleman would not have had that feeling of indignation if he had read the sundry civil appropriation bill recently reported to the House, because I notice some items in that bill which have been rejected on a point of order are again submitted to the House for action.

Mr. HEMENWAY. If the gentleman pleases, I do not care

anything about the fact of its rejection upon a point of order, but I do oppose it upon the merit of the proposition; that it is the measure that is for bad administration, and the gentleman knows it.

Mr. HULL. Now, Mr. Speaker, another proposition. The gentleman says they can order a clerk to Washington and then fill his place in the field and establish an endless chain. The gentleman from Indiana, if he had thought a minute, would never have made that statement, because when a clerk is ordered to Washington it does not create a vacancy. There are a few surplus clerks of that class at times. There are ninety authorized by law, and there are times when they are merely supernumerary, and in this way the Department can sometimes get a few clerks of this class in order to carry on their work at Washington. As a general proposition I am absolutely opposed to an interchange of clerks at headquarters or in the field with the Department clerks. In this case, in my judgment, it only affects about four or five men, and I would like to have a letter read at the Clerk's desk——

Mr. HEMENWAY. Will the gentleman be willing to place in this provision that it shall apply to not to exceed five men? If he will I will withdraw my objection to his proposition.

Mr. HULL. I am inclined to think I would do that. I have no particular feeling about it. But we can not amend a conference report. I want to give the House the information that has been received by the committee within a couple of weeks.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

WAR DEPARTMENT,
OFFICE OF THE PAYMASTER-GENERAL,
Washington, February 3, 1905.

DEAR MR. HULL: I find we have sixteen paymasters' clerks now in the office of the Paymaster-General, and I do not see how we could possibly get along without them.

Referring to the amendment concerning these men that appears in the Senate bill, I would say that this legislation was asked because of the question raised by an officer of the Inspector-General's Department as to the propriety of their being so employed. The Judge-Advocate-General has decided that it is not permissible to employ permanently a clerk, except such as are provided for in the executive, legislative, and judicial bill; that so long as the employment is temporary no question can be raised; but the word "temporary" is a very indefinite term. When I took charge of the office I found men (paymasters' clerks) who had been here since date of appointment, and some of them over four years. It has been my endeavor to change them as fast as circumstances would permit, and nearly the entire number have been so changed, but there are two or three of these clerks who, by reason of age or infirmities, could not well be moved. One of these entered the service in 1855, another during the civil war, and others soon thereafter. They are all men of good reputations and known efficiency and have seen *many* years of hard frontier service, but their period of great usefulness is fast drawing to a close.

I think the interests of the Government will be best subserved by allowing the Senate amendment to stand, and hope the House conferees will see the matter in that light. Of course I can keep changing these clerks and conform implicitly to the law, but these transfers would involve much expense, and it seems to me that the proposition does not involve any departure from the custom of this office that has been successfully followed during the past four years. I only desire to legalize this custom, so that no further question may be raised concerning it.

Very truly, yours, W. S. DODGE.

Mr. HULL. Now, Mr. Speaker, the Paymaster-General states that this service being temporary, he can transfer these clerks back and forth. Whether he can or not, I have not inquired; but, in my judgment, the main object of the Department is to save about four men who have been in for a long time and who have passed beyond the period of their active life, who would be of no use in the field, but who are valuable clerks at the desk. That is about my information, and I want the House to understand it fully. I have no personal feeling in the matter and care nothing about it one way or the other. These men, if sent into the field, could not perform their duties, although, as I understand it, they are efficient clerks, so far as office work is concerned. They have been there a long time and I understand they are under the civil service. It seems to be the rule of this Government never to turn out a clerk when he gets old. I think that rule is a bad one, if you want my opinion of it; but it is up to the point either of legislating so that these men can be kept there, or they must practically be pensioned on full pay, for it seems as though they will not turn them out. If it is true, as the Paymaster-General says, that he only utilizes the surplus clerks in this way, then it is a matter of economy to permit him to do it. Otherwise, he states he must have an increase of clerks provided in the legislative, executive, and judicial appropriation bill. So I can see no harm in agreeing to it. It only applies to ninety men in the service altogether. Only a few of them can be surplus clerks. The great majority must be with the paymasters in the field, and I submit the matter on this statement.

Mr. COWHERD. I would like to ask the gentleman a question. I could not catch just what the gentleman said, but if I rightly understood the purport of his remarks it was that there were four or five men here who were too old to perform their duties, who are still on the pay roll, and you want to bring in other men to take their places.

Mr. HULL. No; not at all. I said they were too old to perform duty traveling with the paymaster, but that they are good clerks in the Department and thoroughly familiar with accounts.

Mr. COWHERD. I want to ask the gentleman is it not a fact that this provision is intended simply to permit these men, who are too feeble to perform their duties, still to draw their salaries?

Mr. HULL. My understanding is that that is hardly a fair statement. If the gentleman from Missouri will allow me, I will answer it in this way: They are too feeble to perform duties in the field traveling with paymasters.

Mr. COWHERD. That is their duty, is it not?

Mr. HULL. That is one of their duties.

Mr. COWHERD. They are too feeble to perform the duties for which they are appointed?

Mr. HULL. That is only a part of their duty. They are competent to perform duty in the office in revising the accounts of the paymasters. I think that is the secret of it.

Mr. BURKETT. Will you allow me to ask a question?

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from Nebraska?

Mr. HULL. Certainly.

Mr. BURKETT. If these gentlemen have been in this service so long here in Washington, why are they not eligible for appointment in the civil service by this time, so that they can be appointed on their own merits in the Department here?

Mr. HULL. I think they are. I would not put my opinion against the gentleman from Indiana [Mr. HEMENWAY], but I think they are all under the civil service.

Mr. BURKETT. Then why is it necessary to take care of these men in this way?

Mr. HULL. Because they are appointed for service in the field.

Mr. HEMENWAY. They are appointed by the paymasters.

Mr. HULL. They are appointed by the Paymaster-General, but I think they have been transferred under the civil service. Does the gentleman from Indiana desire to ask a question?

Mr. ROBINSON of Indiana. I desire to have some time.

Mr. HULL. I can not yield time to discuss the statement; the debate has passed that point.

Mr. OLMSTED. I would like to ask the gentleman from Iowa a question. Do I understand that the object of this provision is to call a man in from the field when he gets to be too old to perform these services and pension him off for life by putting him in the Department?

Mr. HULL. I do not understand that this changes his status under the civil service at all. It does change his work. I will be frank with the gentleman. In my judgment if it were not for these four or five old men who have been in the service forty years as paymasters' clerks, being now unable to go into the field and perform duty by traveling with the paymaster to all the different posts in the United States, and to Alaska and the Philippines, this provision would not be asked for.

Mr. OLMSTED. But this bill is not limited to three or four old clerks; it is general.

Mr. HULL. It can not be more general than the ninety, and no one contends that of the ninety any large number can be available for work here.

Mr. OLMSTED. But ninety is a pretty large class.

Mr. ROBINSON of Indiana. Mr. Speaker, I desire to make an objection to the statement filed by the conferees for the reason that it is not a statement sufficiently explicit to inform the House of the effect of the amendment or proposition, as required by the rules of the House.

Mr. HULL. I do not understand, Mr. Speaker, that that question can come up now.

Mr. SLAYDEN rose.

Mr. HULL. How much time does the gentleman from Texas want?

Mr. SLAYDEN. Five minutes.

Mr. HULL. I will yield the gentleman five minutes.

Mr. SLAYDEN. Mr. Speaker, with reference to the particular amendment to the bill that has been under discussion, I can only say that when the proposition came before the Military Committee of the House I opposed it; and I still think it is an unwise piece of legislation. It is special legislation to cover three or five cases at the most. But my purpose in taking the floor was to speak of another amendment which has been made by the Senate. My information is, although I have not read the RECORD to-day, that the amendment increasing the appropriation for the Engineers' School has been increased in the Senate by $150,000. Am I correct?

Mr. HULL. The gentleman is correct.

Mr. SLAYDEN. It is with reference to the method of increasing appropriations in Congress that I am going to ask the House to give me its attention for a few minutes. The act of June 30, 1901, appropriated $500,000 for the establishment of an engineers' school here in Washington. My recollection is that we were assured that half million dollars then asked for would complete and equip the buildings, and were told that when completed it would accommodate between fifteen and thirty students at a time. It appeared reasonable that buildings costing $500,000 would be large enough to accommodate that limited number of students.

The act of March 2, 1903, carries an additional appropriation for the engineers' school of $360,000. Now, to this the War Department has asked that we shall add $150,000 more, and the Senate has consented to give them that sum. That will make $1,010,000 to be put into buildings for an engineers' school, which, with its maximum probable attendance, is not expected to have over fifteen or twenty students. That is more than $33,000 per man for school room.

I do not believe Congress ever would have consented to appropriate that much money to accommodate so few men if it had not been done by the piecemeal method, with which such appropriations are usually increased to an ultimate limit of cost vastly different from the original estimates.

Will the $150,000 complete this building? I have been assured by a gentleman, who unfortunately denied me the privilege of using his name, that it would not, and that in the next Congress we should certainly be called upon to make an additional appropriation to again complete the engineers' school.

The engineers' school is not the only building that is being constructed on the basis of asking for moderate appropriation at the beginning and increasing it from Congress to Congress by assuring us that it is impossible to complete the plans that have been undertaken for the appropriations which have been made. The projectors of this enterprise rely on the easy good nature of Congress, or its stupidity, to give them the money they want and which they have not had the courage to ask for at the outset. This is illustrated by the course followed with reference to the War College. In the army supply act of 1902 we appropriated $400,000 to erect buildings for a War College. We were led to believe that the sum asked for would complete all the buildings required.

Mr. HULL. The gentleman is alluding to the War College?

Mr. SLAYDEN. I am speaking of the War College.

The then Secretary of War, Mr. Root, a very clever man and one to whose keen intelligence almost everything that he undertook to find out was readily made clear, stated that that would be enough to complete the War College, and he stated also, as will be found by an examination of the hearings of that year, that from twenty to thirty students were expected to be accommodated in the War College. Since the original sum was granted we have appropriated, by the act of April 3, 1904, $300,000 more for the completion of the War College. That it will complete it is certainly a matter of very great doubt.

The House might consider in connection with these two expensive plants which are being erected in Washington the fact that only two or three years ago we appropriated five and a half million dollars for the reconstruction of the Military Academy at West Point.

We have also recently appropriated some eight or nine millions for the reconstruction of the Naval Academy at Annapolis. Now, these may not be unwise expenditures, but it does seem that in view of the limited number of students to be trained and the cost of the accommodations furnished young men who are attending other colleges in this country it is extravagant. I believe that under the circumstances it is best to consent to this additional appropriation of $150,000 which has been put into the bill by the Senate, because we are put in such a position that there will be a comparative waste of the $860,000 which have already been expended unless we consent to the addition to the limit of cost. But, sir, I would like to have some guaranty that the million and ten thousand dollars—which will be the sum total then appropriated—will be sufficient to equip and complete the building. And Congress should insist upon being dealt with fairly and frankly. We ought to know when these projects are undertaken what they will finally cost. If our architects and engineers can't tell us we ought to dismiss them and get men with capacity enough to do it.

Mr. ROBINSON of Indiana rose.

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from Indiana?

Mr. HULL. If the gentleman desires to discuss the merits of the proposition, I will yield; but I will not yield for any outside discussion.

Mr. ROBINSON of Indiana. Mr. Speaker, I stated to the gentleman before that the question of the detailed statement is one for the judgment of the House and not for the Chair on a point of order; and he will recall that as the rule, on reflection.

Mr. HULL. There is no use in taking up the time of the House in debate.

Mr. ROBINSON of Indiana. Then I desire to be recognized in my own right.

Mr. HULL. Mr. Speaker, I demand the previous question.

Mr. ROBINSON of Indiana. Mr. Speaker, I ask the gentleman to yield me ten minutes, and I think if he will ask a parliamentary question of the Chair he will find that he is in error upon the subject of the proposition of the detailed statement.

Mr. HULL. Mr. Speaker, there is nothing before the House on that subject. At this late day in the session it seems to me that discussion of this kind is unnecessary. I demand the previous question.

Mr. ROBINSON of Indiana. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROBINSON of Indiana. In case a detailed statement is filed by a conferee, is the question as to whether it is a proper statement or a detailed statement under the rules a proposition for the decision of the Chair or for the decision of the House?

The SPEAKER. The Chair would say that a statement is a matter for the House, and the Chair may go further and say that he is inclined to be of the opinion as to the sufficiency of the statement that it does not come to the Chair either as a point of order or otherwise, but is a matter for the House to decide for itself whether on account of the insufficiency of the statement the House will act or not act, agree or disagree to the report. In other words, it is not a matter of order that the Chair can pass upon.

Mr. ROBINSON of Indiana. Mr. Speaker, in that view I suggest to the chairman of the committee, the gentleman from Iowa [Mr. HULL], that it is a proper question for discussion, at least at this time.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield for a question?

Mr. HULL. Mr. Speaker, I demand the previous question.

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from New York?

Mr. FITZGERALD. Mr. Speaker, I desire to ask the gentleman a question, if he will yield for a question.

Mr. HULL. Mr. Speaker, I will yield for a question on the matters in dispute.

Mr. FITZGERALD. Are there additional clerks needed in the office of the Paymaster-General?

Mr. HULL. The Paymaster-General says it is impossible to transact the business without having these additional clerks.

Mr. HEMENWAY. Mr. Speaker, I want to make this statement, that the Committee on Appropriations gave them every clerk that they asked for on the legislative appropriation bill.

Mr. FITZGERALD. In this session of Congress?

Mr. HEMENWAY. Yes.

The SPEAKER. The gentleman from Iowa demands the previous question on the motion to agree to the report.

Mr. SLAYDEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state the inquiry.

Mr. SLAYDEN. Mr. Speaker, I want to know exactly the manner in which the vote will be taken. Is it upon the question of the gentleman from Indiana [Mr. HEMENWAY] to nonconcur in that specific amendment?

The SPEAKER. The Chair understands that the item to which the gentleman from Indiana objects is included in the conference report, and agreed to by the conferees of both the House and the Senate, so that the only way, if the judgment of the House is that the item or the other item ought not to go in and be adopted, would be to vote down the conference report.

Mr. HEMENWAY. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. HEMENWAY. This is not a final report.

The SPEAKER. The Chair understands it is not. In fact, there are three amendments on which there is a disagreement, so that there is only a partial agreement.

Mr. HEMENWAY. And the conferees would have to go into conference again in any event.

The SPEAKER. Unless the House would recede or the Senate. The question is on ordering the previous question.

The question was taken; and the Chair announced that the ayes seemed to have it.

Mr. ROBINSON of Indiana. Division, Mr. Speaker.

The House divided; and there were—ayes 103, noes 55.

So the previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was rejected.

Mr. HULL. Now, Mr. Speaker, there is one amendment here that never was considered by the House and never considered in the House Committee on Military Affairs. It is the first amendment in the bill, "For continuing cable from Valdez, Prince William Sound, to Seward, at the head of Resurrection Bay, Alaska, $95,000, or so much thereof as may be necessary, this money to be immediately available." Mr. Speaker, I would ask the Clerk to read the amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 5, after line 11, insert:

"For continuing the cable from Valdez, Prince William Sound, to Seward, at the head of Resurrection Bay, Alaska, $95,000, or so much thereof as may be necessary, this money to be immediately available."

Mr. HULL. Mr. Speaker, the conferees on the part of the House did not believe that they should agree to any amendment where the subject-matter had never been before either the committee or the House. This is a proposition to build a cable from Valdez to Seward and appropriate $95,000 for that purpose. It seems that a railroad is being constructed from Seward north some 485 miles. Twenty miles of it has been completed; 100 miles, as I understand, has been practically contracted for. The Secretary of War is urgent that this appropriation be made, because if the road is completed it will relieve the Government of some 500 miles of land telegraph, so that it will not be an expense to the Government for any considerable length of time. When relieved of the land line the Government will soon save this amount. I do not believe that the Government itself needs this cable at this time. I do believe that where private enterprises, asking no aid of the Government, are willing to spend $20,000,000 in the developing of Alaska that $95,000 is a small sum for the Government to contribute in the way of connecting them with the outside world and enabling them to prosecute their work to better advantage. You will remember last year we had before the House a proposition for a wagon road that would have involved us in an expenditure of four or five million dollars. We ordered a survey only, which will cost very nearly as much as this proposed expenditure, and so far as I am individually concerned from what little information I have on the subject, I would regard it as a proper appropriation for Congress to make, but I want the House to pass upon it, and in order to bring it before the House and get their judgment on this matter I move that the House recede from its disagreement and concur in Senate amendment No. 1.

The SPEAKER. The gentleman from Iowa moves that the House recede and concur in Senate amendment No. 1.

Mr. LACEY. Mr. Speaker——

Mr. HULL. How much time does the gentleman want?

Mr. LACEY. About three minutes.

Mr. HULL. I yield five minutes to the gentleman from Iowa [Mr. LACEY].

Mr. LACEY. Mr. Speaker, the Committee on Public Lands at this morning's session had a hearing upon some additions to the Alaska right-of-way act with a view of assisting the building of this railway. There is no appropriation proposed excepting an additional 80 acres of land and some modifications as to the tax laws, and also as to the right of way adjacent to the streams.

There are several propositions for Government aid by guaranty of bonds to Alaska railways. But this particular line has asked no aid whatever except as to terminals and a temporary relief from taxation. A town has been built at the sea terminal, and it would be a very desirable thing to connect that terminal with the Alaska government cable lines.

The proposed bill has been ordered favorably reported. In connection with this hearing photographs of the various works were furnished to the committee. From those photographs it appears that a very good start has been made on the road. There are about 20 or 25 miles of it in operation, and extensive preparations are made to go on and complete the road without any governmental aid whatever. This being the case, it seems to me the proposition made by the gentleman from Iowa [Mr. HULL] to extend telegraphic communication to that point is a very desirable thing.

Mr. HULL. The building of this road being prosecuted, there is no doubt the Government will build the cable within a few years, whether they do it now or not.

Mr. LACEY. It is needed there now.

Mr. FOSS. Mr. Speaker, I desire to say to the House that some of the citizens of Chicago are very much interested in this railroad. They are spending their money for the development of the country there, and propose to put in, as I understand, $20,000,000 in the building of this railroad, known as the "Alaska Central Railway." It has its southern terminus at Resurrection Bay and its proposed northern terminus will be at the head of navigation on the Tanana River, approximately 463 miles. Twenty miles of the road are now in operation, and the construction work is steadily progressing. This railroad will be the great commercial highway of Alaska. It will give access to the interior at all seasons of the year and make possible immediate development of the agricultural, timber, and mining resources of the Territory. A large commerce will be created by the construction and operation of the railway. The opening up of the Territory to settlement and the prosecution of agriculture and stock raising, together with the development of the enormous gold, copper, and coal properties, will attract large investments of capital.

At the same time it is believed that this road will be of great military value in the future. I may say, further, what has already been said, that this railroad is being built without Government subsidy, guaranties, or land grants of any character whatever. I trust that the motion of the gentleman from Iowa [Mr. HULL] will prevail. In this connection I desire to insert a letter of recommendation from the Secretary of War, Mr. Taft, recommending this proposition, as follows:

WAR DEPARTMENT,
Washington, January 26, 1905.

MY DEAR SENATOR: I have received a call from gentlemen of Chicago who are interested in the construction of a railway from Seward to the Tanana River, in Alaska, to be called the Alaska Central Railway—a railway about 463 miles in length. Of this 20 miles of railroad have been constructed and 100 miles are under contract for construction during the coming year. The cable which has been recently completed by the Signal Corps of the Army reaches Valdez, and thence by a land line into the interior strikes the Tanana River, and thence to the Yukon, and thence down the Yukon to St. Michael, and by wireless telegraphy to Cape Nome. Seward, the terminus of this railway, on the Gulf of Alaska, is said to have a very fine harbor. It is off the cable line, but can be reached by a branch cable from Valdez 155 miles in length. When the Alaska Central Railway is completed and the telegraph line necessary to its operation is constructed, as it will be when the railroad is completed, the operation by the Government of its land line, at least as far as the Tanana River, which is quite expensive and rather burdensome, may be given up. The railway is being constructed without Government aid or guaranty.

It seems wise, in the development of so great a Territory as Alaska, incidentally and directly for the Government to aid so important a work. I therefore recommend that there be included in the military appropriation bill an amendment, as follows:

On page 5, after line 13, insert: "For continuing the cable from Valdez, Prince William Sound, to Seward, at the head of Resurrection Bay, Alaska, $95,000, or so much thereof as may be necessary, this money to be immediately available."

Seward is now a town of more than 300 inhabitants, and with the construction of the railroad promises to be an important place in Alaska.

I may add that General Greely, who has constructed the cable and telegraph line into Alaska, and who is very familiar with this Territory, concurs in my recommendation of this appropriation.

Very respectfully,

WM. H. TAFT, *Secretary of War.*

Hon. REDFIELD PROCTOR,
Acting Chairman Committee on Military Affairs,
United States Senate.

Mr. HULL. Mr. Speaker, I ask for a vote.

The SPEAKER. The question is on the motion that the House do recede from its disagreement and concur in Senate amendment No. 1.

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

Mr. HULL. Mr. Speaker, I move that the House further insist on its disagreement to Senate amendments and ask for further conference.

Mr. AMES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. AMES. I desire to insist upon the consideration of the eleventh amendment separately. Have I the right now to demand that?

The SPEAKER. The gentleman from Massachusetts [Mr. AMES] has the right to move that the House recede and concur. The gentleman can ask a separate vote if he desires.

Mr. AMES. That is what I want.

The SPEAKER. Will the gentleman state on what amendment?

Mr. AMES. On the eleventh amendment.

The SPEAKER. Is there a separate vote demanded on any other amendment? If not, the vote will be taken on the balance of the amendments.

Mr. BUTLER of Pennsylvania. Mr. Speaker, what is the amendment?

The SPEAKER. All of the amendments except No. 11. The question is on the disagreement to all of the Senate amendments except No. 11.

The question was on the motion to disagree. The motion was agreed to.

The SPEAKER. The Clerk will report amendment No. 11.

The Clerk read as follows:

Strike out lines 24 and 25, on page 13, and lines 1, 2, and 3, on page 14, and insert:

"That retired officers of the Army above the grade of major shall, when hereafter assigned to active duty in connection with the organized militia in the several States and Territories upon the request of the governor thereof, receive their full retired pay, and also commutation of quarters unless Government quarters are available, and shall receive no further pay or allowances: *Provided, further,* That a lieutenant-colonel so assigned shall receive the full pay and allowances of a major on the active list."

Mr. HULL. I yield to the gentleman from Massachusetts [Mr. AMES] to make his motion.

Mr. AMES. Mr. Speaker, I move that the House recede, and concur in an amendment to this amendment, providing that the provisions of this section shall take effect on January 1, 1906, instead of at the time mentioned in the bill.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the amendment the words:

"*Provided,* That the provisions of this paragraph shall take effect on January 1, 1906."

Mr. HULL. How much time does the gentleman from Massachusetts [Mr. AMES] desire?

Mr. AMES. Five or six minutes.

Mr. HULL. Mr. Speaker, I yield six minutes of time to the gentleman from Massachusetts [Mr. AMES].

Mr. AMES. Mr. Speaker, it was my privilege and honor to serve under Gen. Nelson A. Miles during the war with Spain. It was under him that I was recommended for and received my promotion; but had it not been for him the recommendations of my regimental, brigade, and division commanders would have prevailed and my promotion would have been advanced to the full command of my regiment.

I speak of this with reluctance, in order to show that while I am advocating something in his interest, I not only owe him nothing, but rather feel that he interfered, to my detriment, with what it could naturally be expected he would leave alone.

While I am opposed to the proposition that retired army officers be allowed full pay when detailed upon State militia duty by some Executive, still I should feel uncomfortable did I not enter a protest against what seems to be a gross injustice about to be perpetrated upon one who, acting not only wholly within his rights, but in good faith, under authority of the legislation you and I voted for only last year, accepted the position of inspector-general of the Massachusetts militia.

In passing, I would say that I believe that the detail of this general officer was wholly for the political purposes of a Democratic governor who was unexpectedly elected last fall; and I also believe that if this Democratic governor had had the best interests of the State militia at heart this appointment would have been the last he would have made.

For who does not know that you can not take a superintendent of a cotton mill, who, after a lifetime of work and who through diligence and the faithful performance of duty, has at last reached this position of supreme command, and then relegate him back to the humble position of loom fixer and expect efficiency or economy. And this would be especially true if the type of looms used had been changed several times since he last worked at that trade.

We but honor ourselves by admitting that General Miles was a brave officer; that he served his country as a soldier in every capacity from the lowest to the highest rank with honor and credit to himself and to his profession. At his retirement he was at the head of all the armies of the United States. In that capacity the last part of his military life was given not to the manual of arms or fours right or left, but to the greater and more important problems of administration and tactical control, so necessary to large commands.

In Massachusetts we have but a mere brigade of men, whose average length of service is but two years and for whom the technique of the military profession is not desired, but rather the manual of arms and drill and the rudiments of the military science. Since General Miles had actual, personal control and instruction of men the drill regulations and the manual of arms has been changed more than once.

It is neither fitting, sensible, nor dignified that a commanding general should be called upon to give personal supervision and instruction to a small personnel that changes 50 per cent and more at each of our annual encampments. What these new, relatively undrilled, and inexperienced soldiers need is not one who could with credit and wisdom command the armies of the world's greatest nation, but rather some young major or captain of the Regular Army, who is familiar with the drill regulations and fresh from contact with and control of the instruction of men. Had this Democratic governor not tried to add to his own luster by adding to the luster of his staff, and had he served the best and more practical interests of his State, he would have picked a younger man, who by actual example and contact and infinite patience and attention to detail could have more efficiently instructed the Massachusetts Militia in the first and not the last.

I now desire to call to your attention some of the facts in the case. Governor Douglas, of Massachusetts, was elected for one year only, his term of office expiring on January 1, 1906. With his term of office expires all detail made, such as this of General Miles.

Acting under the law we passed last year, he offered General Miles the position of adjutant-general for one year. The salary that the State pays for this office is $4,000 per year. This salary was declined by General Miles, as he felt that, as he would draw full pay, according to law, this additional recompense was not necessary. It was finally agreed that the position of adjutant-general go to some one else and that General Miles would accept the position of inspector-general, refusing, as I understand, the State salary that goes with that position, some $2,500, in the belief that he would receive full pay, as allowed by law.

Now, he did no wrong in correctly interpreting the law as we made it; he acted in good faith and wholly within his rights; and if we feel that we made a mistake in our legislation of last session, we should not visit it upon his head. I think it does no violence to General Miles's loyalty or love of country to say that he probably would not have accepted the present detail to Massachusetts if he had not been sure of his full pay. You would not have done it yourself, nor would I.

He entered upon the duties of his detail in good faith and wholly within his rights; and the suggestion that he can resign when he finds that the law is to be changed does not meet at all the requirements in the case.

A man in his position could not resign without laying himself at the mercy of his critics; and in all candor I ask if you would do the same under similar conditions?

If we agree to the conferees' report the ensuing legislation will be ex post facto in effect, and, considering the circumstances in this case, hardly worthy the dignity or fairness of Congress.

Whether General Miles is liked or not; whether he is "unfortunate in getting into unenviable positions" or not; whether he put irons on some one or not, has nothing to do with this situation. We should give him as fair a deal as we should expect ourselves under the same circumstances.

So I hope that the House will not accept the report of the committee of conference, in order that I may offer an amendment to the paragraph covering this case, providing that its provisions shall take effect on January 1, 1906, instead of June 30, 1905.

This will do injustice to no one; it will be of no particular expense to the United States, and will leave us secure in our own self-respect. [Loud applause.]

Mr. HULL. Mr. Speaker, I want to call the attention of the House briefly to the effect of the amendment of the gentleman from Massachusetts. The Senate amendment provides that the House provision should only apply to those acting with the National Guard. The proposed amendment to the Senate amendment is to make it take effect on the 1st of January, 1906. That would leave out indefinitely and forever whatever provision is contained in the House provision as to all other details except the National Guard. In other words, there are now 119 applications for details for recruiting service, or detail with the National Guard. There are twenty-seven brigadier-generals and two major-generals in the list. They can be detailed to work with the National Guard until the 1st of January, and detailed and work with the recruiting and any other service indefinitely after that.

Now, the House has passed upon this question twice by an overwhelming vote. It does seem to me that this attempt to put the whole burden of the fight on General Miles is unfair to the House and unfair to General Miles. If General Miles, as I have said to this House two or three times before, had died a year ago, this movement would have been had just the same. There will be no trouble in making an agreement on this, and the House can get its contention. I think I am safe in saying that. And it does seem to me if this is wrong in principle that we ought to abolish it, and abolish it now, and not allow it to continue until 1906, and then allow others to come up and say, "We have only been detailed two or three months, and you ought to allow us to have the chance for another year." I am utterly opposed to the amendment, and I hope that this House

will stand by its own record and vote down the amendment. Let it go back to conference, and let it come back here with the proposition that the House has contended for. I want to say, Mr. Speaker, as one individual in the House, that I would rather this bill should fail than yield to the clamor that has been raised by these retired officers when we are endeavoring to protect the Treasury of the United States. [Loud applause.]

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

Mr. HULL. Certainly.

Mr. SLAYDEN. I would like to ask the chairman of the committee if the effect of the Senate amendment, if adopted, and as proposed to be amended by the gentleman from Massachusetts, would not be to leave open a multitude of other places to which retired officers could be detailed?

Mr. HULL. It would only cut off those detailed to service with the National Guard.

Mr. SLAYDEN. But it would leave open all the other places?

Mr. HULL. It would leave open every other detail.

Mr. THAYER and Mr. GROSVENOR rose.

Mr. HULL. I will yield first to the gentleman from Massachusetts and then to the gentleman from Ohio. I yield five minutes to the gentleman from Massachusetts.

Mr. THAYER. Mr. Speaker, there seems to be a very general and popular impression that this legislation is aimed at General Miles. I am aware that the chairman of the committee has denied this, and I will not now stop to question that denial. But if the legislation is passed in the form that it has been presented heretofore, deny it as much as we will, we can not now or hereafter satisfy the public that this legislation was not intended to affect General Miles, and that is its main purpose. Now, if the amendment of the gentleman from Massachusetts prevails, it will entirely do away with that allegation and belief, because the provision will not take effect until after General Miles has served his term of service with the Massachusetts militia, and he will not be affected thereby, at least during this year's detail, on the requisition of Governor Douglas.

It seems to me that it would be advisable for this House to accept this amendment—as many of us believe that this original provision is intended to affect adversely General Miles, while others believe it is not—in order to set this House right before the country, and that General Miles may be treated fairly and have no just cause for complaint. If we do this, it will prove conclusively that it was not intended purposely and chiefly to affect General Miles. I have little sympathy with legislation which says that a major may be detailed to service in the different States and receive his full pay, while other officers holding higher title than he can not receive any increase for a like service. Why we should make this discrimination in favor of an inferior officer is beyond my comprehension, and people will think, and rightly so, I believe, that there is too much method in this madness. This whole matter was pretty thoroughly discussed, as the chairman has stated, when the subject was before the House originally, and it is not my purpose to go into it now, but simply to call the attention of the House to the fact stated by me a minute ago, that we can now, by adopting this amendment, and we can not ever do it hereafter, show to the country that this legislation was not intended to belittle and insult General Miles, and I hope the amendment will prevail.

Mr. HULL. I now yield five minutes to the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. Mr. Speaker, there never was a more unfair attempt made to influence legislation of Congress in the direction of "graft," pure and simple, than is the attempt to bring forward the name of a distinguished man and cry out persecution against him in attempting to get Congress to do a thing which a moment's consideration suggests to every intelligent man it ought not to do.

Notwithstanding the fact that every Republican Member on this floor from Ohio, and perhaps the Democrats also, voted to stand by the committee of the House, the governor of that State saw fit to send to a Senator of another State a telegram sharply in criticism of the Ohio Members who voted upon a question here that they understood and which he did not seem to understand.

I did not know that General Miles was involved in this scheme of graft when I first undertook to propose an amendment which I should have offered if it had not come from the chairman of the committee.

Now, what is it? Let us look at it calmly and deliberately. By the law of Congress these gentlemen, having served their time out in the Army, are retired, permitted to go and do whatever they see fit to do, and a certain salary is given to them, about three-fourths of their regular salary. They are put upon the retired list upon the theory and idea that they are useless to the public service, but they are still permitted to do whatever they can for their benefit afterwards.

Mr. THAYER. Mr. Speaker——

Mr. GROSVENOR. Now, this law comes in——

The SPEAKER. Does the gentleman yield?

Mr. GROSVENOR. Not until I finish the sentence. Now, this law comes in and says: "The moment you can get some other employment we will reinstate you to a salary out of the public Treasury amounting to your former pay, your former commutations, your former allowances." For what? For why? Is there anybody who can answer that question except by saying that it is in order to put a vast sum of money, running up to millions in the course of years, into the pockets of gentlemen who are already munificently cared for by the Government and who are doing nothing for the Government? Now, I will answer the gentleman.

Mr. THAYER. Did the gentleman from Ohio advocate what is known as the "Dick law" and vote for it when it was before this House?

Mr. GROSVENOR. I do not think I voted for it. I certainly did not advocate it after the Senate had emasculated the best feature there was in it.

That is all I have to say, Mr. Speaker. We ought to stand by the House committee. We directed the committee of the House to take the action that it did take, and because some favorite of somebody is to be affected by it how can we conscientiously say that we will plunder the Treasury of the United States for that purpose? It is an attack never before made upon the Treasury. It is justified by no public reason. It is born of favoritism of the grossest character, and I hope the House will defeat it with an emphasis which will put an end to it.

Mr. HULL. I yield to the gentleman from Virginia [Mr. HAY] three minutes, and then I will try to secure a vote.

Mr. HAY. It is not denied that this legislation is good legislation. It is not stated by anyone that the legislation ought not to be had. On the contrary, everyone who has discussed this proposition has admitted that the legislation ought to be had and that this money ought to be saved to the Treasury. The whole proposition of the opponents of this legislation is that in order to save the feelings of General Miles we must not do something that we ought to do.

Now, for the life of me I can not understand, as I said once before, why the Congress of the United States should pause in doing what it ought to do in order to save the feelings of any individuals. Therefore, I do not understand why there should be any question or any division of sentiment upon this floor on this proposition.

I sincerely hope that the Members of this House will vote down the proposition of the gentleman from Massachusetts [Mr. AMES], will uphold the conferees of the House, and let us end this matter once and for all. [Applause.]

Mr. HULL. Now, Mr. Speaker, I call for a vote.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts [Mr. AMES] that the House recede from its disagreement and concur in amendment No. 11 with an amendment.

The question being taken, the motion was rejected.

Mr. HULL. Mr. Speaker, I move to nonconcur in amendment No. 11 and to insist on the disagreement of the House in all the amendments yet undisposed of and ask for a conference.

The SPEAKER. The gentleman moves that the House further insist on its disagreement to Senate amendment 11, and to all the amendments, and ask for a conference.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. HULL, Mr. CAPRON, and Mr. HAY.

UNITED STATES COURTS AT ALBANY, GA.

The SPEAKER laid before the House the bill (H. R. 5498) to provide for circuit and district courts of the United States at Albany, Ga., with Senate amendments.

The Senate amendments were read.

Mr. GRIGGS. Mr. Speaker, I move to concur in the Senate amendments.

The motion was agreed to.

GRADE CROSSINGS IN WASHINGTON.

The SPEAKER laid before the House, a similar bill being on the House Calendar, 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.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 12 of the "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, requiring the Washington, Alexandria and Mount Vernon Railway Company, in case it made use of the highway bridge across the Potomac River, in said act provided for, to install a standard underground electric system of street-car propulsion on the park highway leading to said bridge, and that no dynamo furnishing power to such portion of its road should be in any manner connected with the ground, is hereby amended so as to permit said company to operate its cars, from the present terminus of its underground electric system at Fourteenth street and Maryland avenue SW. to the north end of said new highway bridge, by a standard overhead trolley system such as is now used by said company from said terminus of its underground electric system, as above, to the north end of the present Long Bridge; the privilege hereby extended to said company, however, to expire at the end of fourteen months from the time said new highway bridge shall be opened for traffic, or such additional time thereafter as the Secretary of War, who is hereby authorized to grant additional extensions of time, may deem that the new fill made for the approach to the new highway bridge has become sufficiently settled to permit of the proper and safe construction and installation of a standard underground electric system; at the expiration of all of which times, however, the requirements of said section 12, above referred to, shall become operative, and the said company shall be compelled to comply therewith as therein provided.

The bill was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

RECENT ELECTION IN HAWAII.

Mr. OLMSTED. Mr. Speaker, I present the following privileged resolution and accompanying report, from the Committee on Elections No. 2, to which was referred the Hawaiian memorial.

The Clerk read as follows:

Resolved, That it is inexpedient for this House at this time to take any action in relation to the election of senators and representatives to the Territorial legislature in Hawaii, or the election of the Delegate to the Fifty-ninth Congress.

Mr. OLMSTED. Mr. Speaker, I wish to say a few words about this resolution. A memorial was sent to Congress and referred to our committee from one of the political parties in Hawaii, asking that this House would declare void the election of a Delegate to the House and of thirty representatives and eight senators in the Territorial legislature. No person appeared in support of that proposition. All that we received was a numerously signed "palapala hoopii" practically to the same effect, and inviting Congress to send a committee to investigate the election laws and their operation over there.

Mr. BUTLER of Pennsylvania. Will the gentleman please explain what that was?

Mr. OLMSTED. It was a "palapala hoopii." [Laughter.] Which, being interpreted, means a petition, I believe.

Mr. CLARK. This resolution simply refuses to take notice of what was about to be a contest?

Mr. OLMSTED. Yes.

Mr. LACEY. I would like to ask the gentleman if this "palapala hoopii" was in the usual form? [Laughter.]

Mr. OLMSTED. Yes; it was in the usual form, at least the only form I have ever seen. We came to the conclusion that there was no reason why the local courts could not dispose of any local contest over seats in the Territorial legislature, and we thought it would be improper for this House in the Fifty-eighth Congress to pass upon a question which will have to be passed upon and determined by the Fifty-ninth Congress in a contest which we are informed has been already commenced to determine who is entitled to a seat as Delegate in that Congress. The question involves the form of ballot used at the election.

Mr. CLARK. I want to ask the gentleman a question. Did anybody get any money out of this business in the way of a contest?

Mr. OLMSTED. This memorial asks further that we come to Hawaii and investigate the matter. Not only does nobody get any expenses out of this, but we have put aside a very tempting offer to take a trip at the Government's expense to Hawaii.

Mr. SULZER. Mr. Speaker, I would like to ask the gentleman from Pennsylvania a question.

Mr. OLMSTED. Very well.

Mr. SULZER. Mr. Speaker, I did not hear the resolution read. Do I understand that the purpose of this resolution is to give to this House, or a committee, the right to investigate the election of a Delegate to the Fifty-ninth Congress?

Mr. OLMSTED. Not at all. The resolution says it is inexpedient for this House to do anything in the premises. It proposes to leave to the Fifty-ninth Congress the determination of the contest, which involves a seat in that House.

Mr. SULZER. That is proper and right, and under the circumstances I have no objection to the resolution being passed.

The resolution was agreed to.

HANNAH S. CRANE.

Mr. GRAFF. Mr. Speaker, I call up conference report on the bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

The Clerk read the conference report and statement, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same.

JOSEPH V. GRAFF,
HENRY M. GOLDFOGLE,
Managers on the part of the House.

WM. M. STEWART,
THOS. S. MARTIN,
MOSES E. CLAPP,
Managers on the part of the Senate.

Statement accompanying conference report on the bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims.

The bill as passed by the House provides for the allowance by the Court of Claims of the value of certain real property in San Francisco, claimed to have been taken by the United States, "together with legal interest thereon." The Senate amendment strikes out the words "together with legal interest thereon." The effect of the conference report is to strike out the words allowing interest, thus precluding the allowance of any interest on the claim.

JOSEPH V. GRAFF,
HENRY M. GOLDFOGLE,
Managers on the part of the House.

The conference report was agreed to.

HOMESTEADS UNDER DESERT, TIMBER, AND STONE LAW.

Mr. LACEY. Mr. Speaker, I call up privileged resolution No. 500, which has the unanimous report in favor of the adoption of the resolution by the Committee on Public Lands.

The Clerk read the resolution, as follows:

Resolved, That the Secretary of the Interior is hereby requested to report to the House of Representatives whether there is any foundation for the preamble and resolutions recently passed by the National Business League, of Chicago, Ill., reciting that under certain preexisting laws, namely, the desert-land law, the timber and stone law, and the commutation clause of the homestead law, certain persons have been and are surreptitiously obtaining possession of large tracts of the public domain which were set apart to promote the irrigation of arid lands, which complaint is embodied in the letter and resolutions hereto attached.

The resolution was agreed to.

RIVER AND HARBOR BILL.

Mr. BURTON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18809, the river and harbor bill; and pending that motion I ask unanimous consent that Members of the House may have leave, within five days after the disposition of this bill, to print remarks relating to the subject-matter of the bill.

Mr. GAINES of Tennessee. Mr. Speaker, I would like to make a suggestion to the gentleman from Ohio. The House is very busy now in the closing days of the session. I would like to have the gentleman extend the time for ten days.

Mr. BURTON. As far as I am personally concerned, I have no objection.

Mr. GAINES of Tennessee. Then, Mr. Speaker, I ask unanimous consent that the time be extended for ten days.

Mr. BARTLETT. I understand the request to be for remarks on this bill?

Mr. BURTON. Of course.

Mr. PAYNE. Ten days after the disposition of the bill will extend it beyond the end of the session. I can not consent to that.

Mr. BURTON. Well, provided the period does not extend beyond the date of adjournment.

Mr. PAYNE. I have no objection to that.

The SPEAKER. The gentleman from Ohio modifies his request that leave may be granted to print on the bill touching the matters germane thereto to the end of the session. Is there objection?

There was no objection.

The motion of Mr. BURTON was then agreed to. Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. WM. ALDEN SMITH in the chair.

Mr. BURTON. Mr. Chairman, the general object of this bill is to provide for the maintenance and prosecution of river and harbor works for the two fiscal years 1906 and 1907. The amount appropriated in cash for the year 1906 is $17,121,000. The amount authorized to be expended for the year 1907 and later years is $17,234,000, making an aggregate total appropriated and authorized somewhat in excess of $34,000,000. This statement of figures should, however, be received with two qualifications. The first is, that there remains an unallotted balance upon a bill passed on the 28th of April last, which balance amounts to $2,189,000. This amount, by section 9 of the pending bill, is made applicable to meet the cash appropriations in this bill, thereby reducing the net amount of appropriations to somewhat less than $15,000,000.

The second qualification is that about $3,000,000 of items in the bill, most of them authorizations, are authorized or appropriated conditionally. There are several classes of these conditions. One class is that in which a certain amount is appropropriated or authorized provided a State or community shall contribute money to be expended by the War Department in furtherance of the same improvement. An illustration of this class is the provision relating to the Delaware River. Five hundred thousand dollars is conditionally authorized provided the State of Pennsylvania, or other agency, shall pay over to the Secretary of War a like sum for the prosecution of the work. Another class of these conditions is that in which it is provided that a work shall be done provided a State or some other agency shall prosecute or finish another work, which would be used in connection with it, or as a supplement to it. A good illustration of that is an appropriation of $110,000 in this bill for the rebuilding of a lock and dam in the Muskingum River provided the State——

Mr. BINGHAM. Mr. Chairman, will the gentleman allow an interruption at this time?

Mr. BURTON. Mr. Chairman, I would prefer to have the gentleman wait until I am through with my general statement.

Mr. BINGHAM. I do not want to interrupt the gentleman in his remarks; I am not taking exception to his remarks; but I would like to ask the gentleman what his precedents are or his authorities are whereby the State shall make contribution to the National Government.

Mr. BURTON. I should prefer that the gentleman would allow me to follow my own line of argument. However, in view of his insistence, I might as well answer right now. Our reason is this: The Delaware River below Philadelphia was one of the six projects for which large appropriations or authorizations were made in the bill of 1902. Those six were the city of Boston, the Delaware River below Philadelphia, the mouth of the Mississippi River, the Detroit River, the city of Cleveland, and the connecting waters between Lake Huron and Lake Superior. In all these cases appropriations were made for the prosecution of work, the amount not being sufficient to finish. The amount provided for the Delaware below Philadelphia was somewhat less than the average for the six. Nevertheless, in the two fiscal years just ended more money has been expended upon this Delaware River by a considerable amount than on all of the other five.

Mr. BINGHAM. Does the gentleman mean from 1899?

Mr. BURTON. I should prefer that the gentleman would allow me to finish in my own way.

Mr. BINGHAM. From 1899?

Mr. BURTON. From 1902. The gentleman states from 1899. That suggests another fact, that a larger amount has been expended on this provision for the Delaware River below Philadelphia, made in the year 1902, than has been expended upon the harbor of New York under provision for a deep channel made in 1899. Of the other five projects three are not at all included in this bill. One is included—the Detroit River, with an authorization for $400,000, because there was an error in the estimate of $2,000,000. Under these circumstances, and the further fact that this channel below the city of Philadelphia has received a larger appropriation already than the channel to the sea of any of the great Atlantic ports—Boston, New York, or Baltimore; larger than Boston, considerably larger than New York, and very much larger than Baltimore—and in view of the further fact that we had already included in this bill the largest amount provided for any harbor, an appropriation of $500,000 and an authorization of $750,000 without condition, we do not think it fair to the rest of the country to include an additional amount unless the State of Pennsylvania or some other agency contributes a similar amount.

I want to say to the gentleman, however, if he objects to this paragraph it may go out of the bill. It is simply so much more—piling more and more on where there has been more appropriated already than for any other place.

Mr. BINGHAM. That is not quite correct in this sense; the question is——

Mr. BURTON. Mr. Chairman, I must decline to yield further.

Mr. BINGHAM. You are operating under the law——

Mr. BURTON. The gentleman asked a question, and I must decline to yield further. I have been seeking to answer him. Five hundred thousand dollars was appropriated in cash——

Mr. ADAMS of Pennsylvania. I am sure the gentleman wants to be fair.

Mr. BURTON. And $750,000 besides——

Mr. ADAMS of Pennsylvania. Will the gentleman state how much the State of Pennsylvania and the city of Philadelphia have already contributed?

Mr. BURTON. It has contributed a considerable amount, just as Baltimore, Boston, and other cities.

Mr. ADAMS of Pennsylvania. Nearly $4,000,000.

Mr. BURTON. Well, I think the gentleman must recognize our desire to have the figures expended by the different cities given by official reports. No such amount as that has ever been shown in any official statement. If the gentleman will have compiled an itemized statement showing this $4,000,000 I should be glad to examine it.

This little digression being finished, I will now return to the Muskingum River. This is made conditional on the expenditure of $200,000 by the State of Ohio for the improvement of the Ohio canal, giving a waterway from the upper portion of the Muskingum to Lake Erie. The lock and dam would be of little importance in itself. It would merely open up some 20 or 30 miles of river, but if this canal is improved, at a cost of $200,000, it would be a connecting link in a waterway joining the Ohio River with Lake Erie, and would be of very considerable importance.

Another class of conditional appropriation is that in which if communities donate the right of way or agree to provide for the maintenance of the improvement after it is completed the money will be expended, otherwise it will not. An instance of that is the city of Milwaukee. In most of the harbors on the Great Lakes the communities themselves take care of the rivers and streams emptying into the lakes. These rivers and streams make up part of the harbors, and upon them there are docks and wharves. Buffalo, Cleveland, Toledo, Lorain, upon Lake Erie, as well as nearly all the ports on the easterly side of Lake Michigan, take care of those creeks and rivers at municipal or private expense. Milwaukee has done so. The city of Milwaukee now asks that an appropriation be made for the improvement of interior streams or channels, inside the city, to afford additional harbor facilities, and the committee recommends that, provided the right of way be furnished, certain swing bridges replaced by bascule bridges, and the city shall give satisfactory assurances that hereafter the improvement will be maintained at its expense, the improvement shall be paid for by the United States.

It should be said, in addition, that the city of Milwaukee, in proportion to its population and importance, has received less than other cities of the same class upon the Great Lakes and elsewhere, and that it has with exceptional liberality offered to contribute about twice as much toward this improvement as is to be paid by the General Government. A similar illustration is furnished by a waterway at Tacoma, in the State of Washington, where the report questioned the advisability of an improvement because the expense of maintenance might be very considerable. The board of engineers reconvened, however, and in response to a request from the committee stated that if the United States could be assured that it would be maintained without cost it was a desirable improvement, and we have inserted a provision in the bill appropriating and authorizing $240,000 for this improvement, provided the city or some harbor company—we do not use the term—maintains that improvement hereafter without expense to the United States. These conditional appropriations amount to about $3,000,000.

The aggregate of appropriations and authorizations is thus reduced by deducting the cash already appropriated by the act of April 28, 1904, to something in excess of $32,000,000. Indeed, a further reduction is probable by reason of failure to

comply with the conditions. This total is less than half the bill of 1902, which exceeded $65,000,000. It is $3,000,000 less than the bill of 1899, which appropriated and authorized $37,000,000; indeed, it is $5,000,000 less after you take out the deductions.

It is forty millions less than the bill of 1896, which appropriated and authorized something over $70,000,000. This does not, however, indicate that the rivers and harbors of the country will be neglected. There was on hand at the beginning of the year $36,000.000. I have on several occasions called the attention of the House to the average annual expenditure for rivers and harbors, and I have also stated that in only one year had the amount expended exceeded $20,000,000. That was in the year 1898, when it amounted to $20,785,000. The last fiscal year, 1904, the amount very nearly reached $24,000,000—namely, $23,924,000. It is probable that this bill will provide for an amount equal or nearly equal to the amounts for the years 1904 and 1905. I have an estimate from the Engineer Department, in which they say that it is probable that the expense for rivers and harbors during the present fiscal year will amount to more than $28,000,000. The year 1904 was a record year in this particular, and it seems already assured that 1905 will be another maximum year in the amount of expenditures.

I have repeatedly spoken to the House upon the comparatively small sums expended for this purpose, when we take into account the magnitude of our country, the number of harbors, the many rivers, and the great opportunity for improvement in facilities for transportation.

I can only repeat what I have said before, that our policy in this regard is not a satisfactory one. Either we should proceed on a very much larger scale or we should select out only a few improvements and prosecute them to completion, or we should devise some plan by which a part of the expense shall be borne by the communities or localities affected. One of these three alternatives must be selected before we can adopt and pursue a policy sufficient to meet the pressing demands of commerce. I have already stated that this bill will provide for the next two years and have called attention to the fact that $36,000,000 was on hand at the beginning of the year. From that amount probably $7,000,000 will remain unexpended at the end of the year.

On the other hand, I should also state that this bill is a pressing necessity. It is true that considerable amounts were on hand at the beginning of the year, but they were largely for what are called "continuing-contract" improvements, to be expended in a few localities in which we had heretofore provided for the completion or rapid prosecution of the work. For these amounts are provided in the sundry civil bill from year to year.

If we should fail to pass a bill at this session not only would some of these great projects be neglected, but the great majority of rivers and harbors under improvement must suffer seriously. The amounts on hand and which will be appropriated by the sundry civil bill will take care of a few projects, but a much larger number would be inadequately provided for and many would receive no provision at all. As a result the commerce of the country would be very much hampered. There are in the bill provisions for some new projects, though for the most part it is made up of items for the maintenance or prosecution of projects already under way.

In order to keep pace with the rapidly increasing demands of transportation it is extremely desirable that some new improvements should be included in every bill, but in this measure we have not been able to make provision for more than a very few.

I think, Mr. Chairman, in view of the shortness of the time and the fact that I desire to give other gentlemen an opportunity to speak, this is all I care to say about the appropriation features of the bill. However, there are some general provisions of legislation, among them the franchise granted to the Cumberland River and Improvement Company to construct locks and dams in the upper portion of the Cumberland, and to charge toll for a period of thirty-five or forty years—that is, forty years after the completion of a lock and dam provided for herein, to be constructed by the Government. The rates of toll are to be revised and approved by the Secretary of War, and the total income from the investment is not to exceed 6 per cent cumulative interest. The committee thought it proper to grant this franchise, which is very carefully hedged about, because it is quite improbable that for many years to come the United States Government will undertake any improvement in that portion of the river.

Also, a franchise is granted to the Nome Improvement Company, of Nome, Alaska.

Mr. GAINES of Tennessee. In reference to the franchise and private privilege given up there for this Cumberland River and Improvement Company to put in locks and dams, I see from the official report here that the charter and legal rights for the existence of that concern have been repealed.

Mr. BURTON. If so, that is a situation in regard to which the grantees must take care of themselves. I am frank to say that the provisions of this franchise are so severe that I very much question whether any company will accept it. At any rate, the rights of the Government are guarded.

Mr. GAINES of Tennessee. Let me ask one question right there. In the Monongahela provision—that is a provision granted a number of years ago to some Pennsylvania navigation company to put in locks and dams—the parties were required to do the work before the Government did anything. As I read this provision, the Government puts in the locks and dams, and then the private party proceeds to put in its locks and dams.

Mr. BURTON. For the very valid reason that this lock and dam would be of no use unless the Government lock and dam, No. 21, below should be constructed. They would not undertake it certainly unless the Government did its part of the work. I do not know that I recall the condition relating to the Monongahela Company.

Mr. GAINES of Tennessee. I have the Supreme Court opinion in the case in which it is held that the Government ought not to do its part until after the navigation company did its part.

Mr. BURTON. There is no possible analogy between the two cases. In this case the Government puts in Lock No. 21 if the navigation company never do anything.

Mr. GAINES of Tennessee. They put in Lock No. 21.

Mr. BURTON. The building of Lock and Dam No. 21 was taken up by the committee as an independent proposition before the franchise was considered. The gentleman is in error about this.

A franchise is granted to the Nome Improvement Company, of Nome, Alaska, to improve the channel of Snake River entering Bering Sea at or near Nome, and to extend such channel seaward not beyond the point where the water is 12 feet deep, by the construction of jetties, etc., with the right to collect tolls.

The committee with some degree of hesitancy introduced this provision into the bill, but the conditions there are so clearly exceptional that it seemed best. In the first place, it is not at all probable that at Nome, a mining town of uncertain permanence, the Government would improve the harbor at any considerable expense. In the next place, there is a great loss of life and property every year in making landings. Citizens from that locality came here and desired that a provision be made authorizing them to make improvements to render landings possible, and authorizing them to charge tolls.

One thing which had a great deal of influence with the committee was the fact that two Members of the Senate visited the locality one or two years since, and both of them very strongly recommended this provision. One of them introduced a bill in the Senate which was passed and came to the House. The House committee took this bill and remodeled it very carefully, added a number of conditions, and have inserted it into this bill.

Mr. HILL of Connecticut. This is not an exclusive privilege.

Mr. BURTON. It is not exclusive, though it may amount to that. If this company were to improve the entrance to a high degree of efficiency, it is probable they would avail themselves of the best channel they could find; but the present means of landing would still be available without the payment of tolls.

The committee invite any well-found criticism upon this provision, but of course do not want it to be captious. On full consideration it seemed best to insert the provision in order to give added opportunity of landing there, making Nome more available to the outside world, and looking to a saving of the loss of life and property which has occurred from year to year.

The emergency fund of $300,000, as in prior bills, is included in this bill. There is also the same provision, as in the emergency act of last April, that in case the amount appropriated or authorized to complete any particular work is insufficient for completion, the Secretary of War may, in his discretion, proceed with the prosecution of the work. Sometimes by reason of increased price of material or insufficient estimate the appropriation made is insufficient. At the same time it is desirable that the work should not be abandoned because of that fact. In the main I will state that the estimates furnished by the Department are very ample, the general tendency being to make them too large rather than too small.

In section 4 of the bill the committee recommends an amendment to the act of June 29, 1888, which created the office of supervisor for the harbor of New York, his duty being to patrol the harbor, to prevent injurious deposits and keep the channels clear for navigation. It has developed that certain tows,

sometimes thousands of feet in length, are so handled as to interfere very seriously with the movement not only of ocean steamships but of sailing vessels and all other classes of vessels. It has been brought to the attention of the committee that in other great harbors of the world, like Liverpool and London, very severe restrictions exist upon this traffic of towing, and a provision has been inserted authorizing the supervisor, with the approval of the Secretary of War, to make regulations controlling the length and handling of these tows in that part of the harbor below a line drawn from the southern extremity of Governors Island to the southern extremity of Liberty Island. It was requested that the regulation apply to the whole harbor, the Hudson and East rivers, as well as the bay, but it did not seem to the committee to be best to go so far.

Mr. FITZGERALD. Will the gentleman allow a question?

Mr. BURTON. Yes.

Mr. FITZGERALD. I have examined this provision, and I find that in addition to authorizing the regulation of the length of tows and the length of the towlines, it also permits the making of regulations designating what waters or what parts of the waters of the harbor these tows shall occupy. It also provides that the violation of these regulations, which are given the force of law, shall be a misdemeanor. It also gives this supervisor and his deputies summary power to arrest a violator when the offense is committed in their presence. Now, I had a conference with the gentleman about this matter, and since then the towing interests in the harbor of New York have communicated with me. What I desire to ascertain is, were these interests ever heard before the gentleman's committee?

Mr. BURTON. No; they were not, and in fact no one else was heard, as far as oral hearings were concerned, or any written statements either. The matter came to us on a recommendation from the War Department.

In reply to the gentleman's suggestion, I will first say, in answer to what he has said in regard to penalties, th[illegible] I do not see how the law could be enforced without those powers. If the supervisor or one of his deputies should be out in the harbor and should see the captain of a tug, or any other person, violating the law, and were to go away and leave him to proceed on his voyage, it would be difficult or impossible to identify him afterwards. Answering the gentleman in the inverse order, I will say in regard to the first portion of his inquiry that this authority to designate channels was a suggestion of my own, after conference with Colonel Marshall, the engineer of New York Harbor.

The bill as first recommended made these regulations positively binding in every part of the harbor. My suggestion was that there might be some shallow side channels through which these tows could go without these regulations applying to them. It was for their benefit rather than the other way, and I think the gentleman, on reflection, will see that.

Mr. FITZGERALD. I call the gentleman's attention to this fact, that these regulations made by the supervisor, after being approved by the Secretary of War, are to have the force of law. Now, it is quite possible that some one coming there might inadvertently or unintentionally violate them, not having any notice of them.

Mr. BURTON. I do not see how it is possible to avoid——

Mr. FITZGERALD. Under the provisions of this paragraph of the bill it would be the duty of the supervisor or his deputy at once to arrest the master or person violating the regulations.

Mr. BURTON. The gentleman will realize that such a hardship inheres in all legislation—the possibility that some one may err ignorantly. I do not see how he can make an exception in this case.

Mr. FITZGERALD. I think a more satisfactory section might have been framed if the interests involved had had an opportunity to have a hearing before the gentleman's committee.

Mr. BURTON. Section 5 provides an amendment to section 13 of the river and harbor act of March 3, 1899, and gives to the Secretary of War the right to make regulations with reference to the dumping of dredgings, earth, garbage, and other refuse in navigable waters or waters adjacent thereto. It appears that this regulation is very much needed. Persons having scows filled with refuse go out at night and deposit the refuse in the harbor, and it is almost impossible to detect them. There have been half a dozen instances in Boston Harbor alone. It has been found impossible to secure convictions. It seems very desirable to give the Department the power to make additional regulations.

A long list is appended to the report of the bills, resolutions, and so forth, considered by the committee, from which provisions were inserted in the bill in so far as the committee thought them worthy or practicable at this time. It is probable that in this list there will be found a very much larger number of those upon which no action has been taken than of those for which appropriations have been made; but in view of the great disparity between the estimates, to which I have repeatedly called attention—three or four hundred million dollars and an appropriation of $30,000,000—I do not see how the committee could come to any other conclusion.

I want to say to the gentlemen from Philadelphia, whose feelings seem to be aroused very much because they did not receive more, that nothing would have pleased the committee better than to have given them all they asked.

But we have gone to the very verge, gone beyond what we are doing for the rest of the country in appropriating and authorizing $1,250,000. If we go still further and authorize another $500,000, we think it only fair to others to whom a positive and absolute denial has been made on their projects, that Philadelphia should pay part of the expense. When this first suggestion was made by me it was received most kindly. The governor of the great State of Pennsylvania was reported to have said that he should recommend participation in the expense. Others spoke favorably of it, and I supposed it would be accepted most cheerfully instead of being counted as an attempt at compulsion. So far from an attempt to gain anything from them, it was only placing more and more on the bill for their benefit until we had reached and gone far beyond the limit, and we were unwilling to go any further. To have gone further would have been a wrong to the rest of the country. [Applause.]

If any gentleman from Philadelphia or all the gentlemen from Philadelphia desire, when the item is reached, to discuss the subject, I shall be pleased to discuss it with them. I would not have gone so far now if the interruption had not been made in the middle of my remarks.

Mr. BINGHAM. The gentleman has been very courteous in giving hearings to several of us, Senators as well as Representatives from Pennsylvania. I simply want to make this inquiry: Is the gentleman intending to establish the precedent that in these projects determined upon by Congress the State or the city or some other outside power must make contributions to the confirmation of that project, or is this simply a "flyaway" for this year? I understand the rule that, of course, the gentleman can bring in anything he pleases in his bill and that no point of order runs.

If the gentleman is going to establish such a precedent, why does he not do it with reference to everything existing, with reference to everything that Congress has ordered, instead of picking out or selecting Pennsylvania, or Delaware, or New Jersey? Is it the gentleman's purpose to establish the line of procedure in the future in his bill that the State or the city or the town shall contribute to these projects, or is it simply a temporary expedient because there is a deficit, or likely to be a defiicit, in the Treasury?

Mr. BURTON. In answer to the gentleman's question I will say that if he asks whether we have adopted a general principle in this bill I would say no. As I said a few minutes ago, one of three things must be done—either there must be a much larger appropriation by Congress, or an omission of most of the projects which are pressed upon us, or a participation betweeen the National Government and the communities.

Mr. BINGHAM. The gentleman puts in a specific provision——

Mr. BURTON. If the gentleman will kindly be seated, I will answer his question. I think the gentleman must recognize the incongruity between a question three minutes long and an answer thirty seconds long. There are exceptional cases——

Mr. BINGHAM. Oh, exceptional means everything.

Mr. BURTON (continuing). In some of these instances we have provided for participation. When we provide that an amount being appropriated, conditioned upon a certain amount being paid elsewhere, it was natural and just that we should select the very project which stood above all others in receiving generous treatment in the past.

Mr. BINGHAM. It has received generous treatment; I recognize that.

Mr. BURTON. Not only generous treatment, but treatment far in excess of any others.

Mr. BINGHAM. If the gentleman will be kind enough to put that explicitly, there will be no objection on my part.

Mr. BURTON. I thought I had put it explicitly. There were six large projects provided for in 1902, and upon this one there has been expended more than upon all the other five.

Mr. BINGHAM. It is a bigger river. [Laughter.]

Mr. BURTON. Larger than the mouth of the Mississippi?

Now, I will yield to the gentleman from Pennsylvania [Mr. McCREARY].

Mr. McCREARY of Pennsylvania. The gentleman from Ohio spoke about the amount that has been spent in the improvement of this channel. I have the figures here.

Mr. BURTON. Very well, I hope the gentleman will present them.

Mr. McCREARY of Pennsylvania. From 1890 until 1902 there were expended the following amounts:

State appropriation for purchase of islands, 1890, $208,652.82.
City appropriation for purchase of islands, 1890, $200,000.
City appropriation for improvement of Schuylkill River, 1894, $40,000.
City appropriation for improvement of Delaware River, 1895, $185,000.
City appropriation for improvement of Schuylkill River, 1895, $50,000.
City appropriation for improvement of Delaware River, 1896, $500,000.
City appropriation for improvement of Schuylkill River, 1896, $40,000.
City appropriation for extending water front, 1896, $1,500,000.
City trusts appropriation for extending water front, 1896, $650,000.
City appropriation for improvement Schuylkill River, 1898, $90,000.
City appropriation for improvement Schuylkill and Delaware rivers, 1901, $250,000.
City appropriation for improvement Schuylkill River, 1902, $400,000.
Total, $4,113,652.82.

That is not paralleled by any city or any State in the Union.

Mr. BURTON. It is easy at a glance to dispose of more than half of the amounts in that statement. Will the gentleman answer this question? Suppose an appropriation was proposed here to extend the water front of Philadelphia. Does the gentleman believe this Congress would consider it for a moment?

Mr. McCREARY of Pennsylvania. No; but that is not the line of the Delaware River, and this shows that we have been doing our share, so far as the question of maritime conditions is concerned.

Mr. BURTON. The gentleman is through with his question?

Mr. McCREARY of Pennsylvania. Yes.

Mr. BURTON. What the gentleman should count as provided by Philadelphia is what has been done for navigation by way of dredging channels, etc., but the extending of the water front gives Philadelphia dockage and facilities of that kind and should not apply. Yet I am perfectly willing to concede that the city of Philadelphia has been very generous. It has not done quite as much for navigation as some other cities—not as much as my own city of Cleveland, for instance, or as much as New York, probably, or as Baltimore; but it has done well, I am frank to say. I was very much pleased because some years ago when I suggested to them that they ought to take charge of the improvement of the Schuylkill, the gentlemen who came here accepted that suggestion, and since that time the city of Philadelphia has taken charge of it.

Mr. McCREARY of Pennsylvania. I would remind the gentleman from Ohio that on the strength of the promise the Government was going to do the fair thing by the river the city of Philadelphia did expend this money in order to get herself in position for the channel. Of course, if we have a 35 or 40 foot channel in the city and we have only 22 or 23 feet in the river below, any chanel of 35 or even more feet would be of no service to us, because a chain is no stronger than its weakest point.

Mr. BURTON. Mr. Chairman, with the utmost consideration for the gentleman, I have heard that class of argument for many, many years, each community asserting its own rights and making its own claims. It is not a question of whether we would like to do it or not, but how are you going to do it on seventeen or twenty millions a year? What shall we do? Shall we turn aside from all other ports on the Atlantic coast and act for Philadelphia alone?

There is another question in this connection which is worthy of consideration. It is too hard a one for me to answer flippantly, or in response to the desires of communities. Suppose you have a channel from one port, such as New York, to the sea, where you can secure 40 feet for $4,000,000, and suppose you have a channel in a river, as from Philadelphia to the sea, 60 miles, where in order to secure 30 or 35 feet it will cost you $13,000,000. What are you to do in that case? Is it the function of this Congress to say that we will go the country over and annihilate the natural differences between ports? If one million will put one port in a good condition, and it takes twenty millions to put another in an equally good condition, and they are of equal size, are we to appropriate the twenty million in one case just as we appropriate the one in the other?

That question is a peculiarly important one when we are limited, as we are in our river and harbor appropriations. I can not answer that question, whether it is our duty to make all the ports of this country alike, whatever their natural situation may be. It certainly has great force with us when we are not expending more than about twenty millions a year. The sensible course to pursue in such a case, and the just one, is to take up first the line of least resistance, develop that, and then take up the more difficult ones later; but we have not done that. What have we done? We have been appropriating more for Philadelphia than for New York. More money has been expended on the channel below Philadelphia since 1902 than on the channel below New York since 1899, in five years. To make the charge that we have not dealt fairly, generously, even more generously by that port than by any other, is to make an assertion that can not be made here without being contradicted by the facts of the case.

Mr. ADAMS of Pennsylvania. Mr. Chairman, may I ask the gentleman a question?

Mr. BURTON. Certainly.

Mr. ADAMS of Pennsylvania. The difference between the port of New York and the port of Philadelphia at present is this: New York has a channel of 30 feet, and Philadelphia has only about 22½ feet at low tide. Now, then, the Government undertakes the supervision of the waterways of this country exclusively.

Mr. BURTON. Mr. Chairman, I did not yield to the gentleman for a speech. I decline to yield further.

Mr. ADAMS of Pennsylvania. Is not that the necessity of the port of Philadelphia at this time—conditions are not equal?

Mr. BURTON. I sufficiently answered the gentleman's query by what I have already stated. I will state that when there is one port of 20 feet and another of 30 feet and it costs five or six times as much to improve the port having a 20-foot depth, it is a question of whether we should go ahead with it and raise it to the same standard as the other. Of course, we are glad to do and will do whatever we can for the port of Philadelphia within the limits of reasonable demands.

I will now yield to the gentleman from West Virginia [Mr. GAINES] for a question.

Mr. GAINES of West Virginia. Mr. Chairman, I tried to get the attention of the gentleman from Ohio a moment ago when he was on section 13, which is the provision about obstruction of navigation. My reason for calling attention to this is that, as United States district attorney, I had considerable experience in the matter of preparation of indictments under the old law, and I find that this provision has continued the same difficulty that there was in drawing a bill of indictment under the old section.

Mr. BURTON. I would rather, if the gentleman pleases, not take up this question and take up the time of the House. I will say to the gentleman I feel with the nearness of the close of the session that we ought not to take up the form of indictment, and I would say to him, in the first instance, that this whole section will be changed, that an amendment or substitute will be offered, and after the close of the morning hour I will be glad to receive any suggestions from the gentleman, which I have no doubt will be valuable.

Mr. GAINES of West Virginia. It is simply a practical suggestion growing out of experience in this matter. An indictment can not be written under the present provision.

Mr. BURTON. Mr. Chairman, it has been the custom of this House to sit on George Washington's birthday. Some object to this because they think the day should be observed as a holiday and that we should do honor to the man who was in days of conflict first in war, in days of tranquillity first in peace, and then, now, and always first in the hearts of his countrymen. [Applause.] He left certainly an example of unselfishness and of patriotism which was the delight and the wonder of his time.

I mention his name to-day because he was the first of our great public men to recognize the benefits which would come from the development of water navigation on the sea and on the rivers. He was, as I believe, the first president of the Chesapeake and Ohio Canal, and I do not believe if we sit at all we can better utilize his natal day than by considering a river and harbor bill. [Applause.] He saw dimly, though with hope and undying devotion, the development of this great country of ours, and I trust that in deepening our harbors and in providing for our rivers we are but continuing the great work which he foresaw. [Great applause.]

The CHAIRMAN. The Chair will state to the gentleman from Ohio that he has occupied fifty minutes.

Mr. BURTON. That is much more than I intended to occupy. I yield twenty minutes to the gentleman from North Carolina [Mr. SMALL].

Mr. SMALL. Mr. Chairman, I had desired, except for the shortening of the time of general debate——

The CHAIRMAN. The Chair thinks it is due to the gentle-

man from Ohio to state that, under the rule, he has only an hour at his disposal.

Mr. BURTON. I believe, Mr. Chairman, it was agreed in the committee that I should have the disposition of the time upon both sides. There are no sides on this matter, really.

The CHAIRMAN. If there be no objection, the gentleman from Ohio will control the time of general debate, and the Chair recognizes the gentleman from North Carolina for twenty minutes.

Mr. SMALL. Mr. Chairman, transportation is a necessary factor in the industrial development and the commercial growth of a people. This proposition has for all time been recognized. The construction of highways has marked the progress of those countries which have reached the highest state of development and contributed most to the world's history. There can be no growth unless an opportunity is afforded for interchange of products. The promotion of domestic trade requires that avenues of communication shall be opened between the various sections of the same country. If a people seek to extend their trade with other nations or beyond the seas, a similar condition is imposed. Great highways, trunk lines of railroads, and fleets of ships must be provided in order to effect such frequent interchange of products as will promote prosperity.

It is equally true that cheap movement tends to greater development and the elements which enter into the cost demand consideration. The highway must be so constructed that larger loads may be carried thereon at all seasons with the least expenditure of energy. Railroads must be so constructed that a single engine may pull the greatest number of cars at a maximum of speed. Grades must be lowered, curves must be straightened, the track must be ballasted, heavy rail must be provided, and larger cars substituted. Upon the water it has also come to be recognized that the larger the vessel, consistent with safe navigation, the less the cost of movement. The constant tendency among those who control traffic upon the land and the sea is to cheapen the cost of movement of given products to the lowest cost per ton per mile. Whatever, therefore, tends to cheapen traffic in the same ratio tends to promote commerce and industrial activity.

Although a wonderful advance has been made during the last century in improving the means of transportation and the cost of same, it still remains an indisputable fact that movement by water is still the most economical method and wherever possible ought to be adopted.

The fathers recognized this economic fact in the early history of our own country. This statement is exemplified in the action of nearly all of the original seaboard States in opening up interior waterways. Various projects which at that time were considered ambitious and stupendous were entered into by the various States, which loaned their credit to the construction of canals and the improvement of rivers.

About 1830 attention was directed to the construction of railroads, and with the improvement of locomotive engines, rolling stock, and tracks capital was diverted to their extension. With an expanding territory, extending from ocean to ocean, an increasing population, and marvelous resources, this condition continued, and in the meantime the work of internal improvements on our waterways largely ceased. For a large part of this period the right and duty of the General Government to appropriate for waterways was questioned, while interstate commerce was expanding, which also accounted for the little progress in this direction.

However, conditions have changed and the attention of the country is again being sharply directed toward the improvement and development of our interior waterways. The pendulum has swung back again. The volume of our domestic trade has increased to such proportions as to excite the wonder of the world. In spite of the network of railroads which span our territory and intersect every State in the Union, with an equipment and capacity which place us in the front rank, they have yet been unable to accommodate satisfactorily the demands upon them. It is frequently true, particularly in the congested centers of population and industry, that the railroads have not sufficient equipment to move promptly the products which are offered them. There is scarcely a section which at intervals in recent years has not been seriously handicapped by this condition.

Water transport operates as an equalizer between the carrier and the shipper. Congress and the country have for years been discussing the inequalities of and the alleged excessive rates exacted by the railroads. It has been alleged that the principle of equality of rates among the shippers has been violated and that secret rebates have given the great industrial combinations an unfair advantage. Sections and communities have claimed that they suffer under discriminting tariff rates and that an unfair opportunity was extended to their rivals. Many producers believe, justly or unjustly, that rates are frequently too high. Without attempting to minimize the benefits of railroads or to disparage the part which they have played in our industrial development, it is proper to say that they are essentially and necessarily monopolies. While considered as highways, they control the traffic which passes over them.

It is universally admitted that wisdom requires that they should be regulated wisely and justly; yet radical differences arise in the application of this principle. How far shall such regulation go, and to what extent shall the Government step in and limit this necessary monopoly of traffic? They must be regulated, and yet sufficient freedom must be left to the managers of the railroads to enable them to develop and meet the demands of trade. They must be regulated, and yet we must avoid governmental ownership. This is a great problem, to the solution of which must be brought wisdom and not ignorance, justice and not prejudice, patriotism and not demagogism. On the other hand, our rivers and waterways, both natural and artificial, will always be free. Any individual or corporation may engage in traffic upon them. It is exceedingly rare that the public have deemed it necessary to invoke the strong arm of the law to regulate water traffic. Instead of appealing to the law they assert their unquestioned right to construct and operate vessels or lines of steamers, and thus within themselves undertake to limit extortion and prevent monopoly. Thrice blessed is the community or section which enjoys water transport. The Empire State of New York, with its great metropolis, has given recognition to this proposition since the days of Clinton and the original construction of the Erie Canal which connected the Great Lakes with the Hudson River and thence with New York City and the ocean.

This canal has always operated as a reliable governor for the engine of industry and traffic. So general does this sentiment prevail that the State of New York recently, by a great majority, voted for the issue of bonds to the amount of $101,000,000 to be expended in the relocation and reconstruction of the Erie Canal, to the end that its depth should be increased from 7 feet to a minimum of 12 feet for the purpose of accommodating vessels and barges of greater tonnage and capacity and of increasing the traffic thereon. This is an object lesson which should serve to impress the country. The several States of the Union may establish railroad commissions, the United States may increase the powers of the Interstate Commerce Commission and make more drastic the laws prohibiting rebates and discriminations, but it will still remain indisputably true that the most effective deterrent of rebates and the most judicious and satisfactory regulation of traffic rates will have been accomplished when the country shall determine to improve its interior waterways and to extend them to the centers of industrial activity. [Applause.]

The status of legislation by the Congress for the improvement of rivers and harbors is not yet satisfactory either as to the amount of the appropriations or an appropriate policy. The United States has always assumed jurisdiction over our navigable waters in so far as the same affected navigation. At a later period the constitutional right of Congress to assume jurisdiction in the improvement and construction of navigable waterways has come generally to be recognized. It is safe to assert that this will in the future be the settled policy. Upon this basis the General Government should assume its duty and recognize it by permanently incorporating the work in a bureau of one of the Executive Departments of the Government. The work should be systematized, a settled line of improvement entered upon, and pursued with persistence and fidelity. At present the work is performed under the general supervision of the Chief of Engineers and other officers of the Engineer Corps detailed from the Army. These engineer officers make preliminary examinations, surveys, and reports, which are submitted to Congress. The Chief of Engineers has no authority to formulate a general policy of improvement and simply makes reports upon such works and make such improvements under the authority of and appropriations made by the Congress. The performance of these duties by the Engineer Corps of the Army is at least of doubtful utility.

The main argument I have heard adduced in its favor is that it provides engineering work for the Corps in time of peace, and thus tends to keep them in training and preparation in the event of war. In my judgment this work should be performed by some bureau or division under one of the Departments, preferably, perhaps, the Department of Commerce and Labor, and

vested under general laws with such powers as would result in the formulation of a settled policy. At present there is no theory or policy in river and harbor improvements except such as are formulated by the Congress in the enactment of intermittent river and harbor acts. As the initiation of all legislation is from the committees of the two Houses, it thus follows that such policy as we have is dependent upon the personnel of the committees of the House and the Senate. These committees have not uniformly been composed of men who have brought to the discharge of their duties intelligence, equipment, and consistency. Too often bills have been formulated with a view to placating sections and Members of the Congress, and thereby securing the necessary votes for their passage; and this condition has so often been apparent as to prejudice the people of the country and forfeit their confidence. For this reason alone such measures came to be designated as "pork bills." While this derisive term was only in part deserved at any time, it will nevertheless be difficult for such legislation to beget entire confidence until a different policy shall be adopted and such work placed upon a stable basis.

Instead of occasional appropriations they should be annual, enacted with as much regularity as appropriation bills for the support of any of the other Departments of the Government. Nevertheless it is a pleasure to record a distinct advance by Congress in such legislation during the past decade. As all bills affecting the revenue must originate in the House, credit for such improvement is due to the House, or, to express it more truly, to the House Committee on Rivers and Harbors. The personnel of this committee was, perhaps, never more conspicuous for learning, equipment, and impartiality in the discharge of its duties than at the present time, and under the leadership of its distinguished chairman this committee has been effective in obtaining not only the confidence of the House but of the country in recent legislation. It is now incumbent upon commercial interests and publicists in every section to create a public sentiment which shall demand a more generous recognition and a definite policy in the improvement of our waterways, and when this is done the Congress will respond.

In the Contemporary Review of December last appears a most interesting article entitled "The lesson of the German waterways," which describes so intelligently the activity of the German Empire in constructing waterways and the resultant benefits, and contrasts that country with that of Great Britain to the disadvantage of the English people, that I shall refer somewhat freely to a few of its pertinent comments. All the world knows of the commercial growth of Germany during the past thirty years and the causes thereof must prove an interesting study.

The article admits that Germany is the most active industrial rival of Great Britain. It points out that the manufacturing districts in Germany are in central and southern Germany, an average distance of about 200 miles from the sea, while the manufacturing sections of Great Britain are only from 10 to 30 miles inland from the sea, illustrating the natural advantages possessed by the British Isles in constructing capacious waterways from its industrial centers. "Evidently," said the writer, "the German industrial army has to fight far away from its base, and its lines of communication are exceedingly long." Industrial Germany was hampered also in other ways by reason of its severe climate, the fact that its coal supply was of poor quality and far inland, that its people had been trained to agriculture, and not manufacturing and trade, and possessed little accumulated wealth. The writer states that prior to 1830 England had the most complete system of waterways in Europe, but after that date the building of railroads progressed and the construction of canals ceased and were permitted to be neglected. While from 1871 to 1900 England did nothing for inland navigation, Manchester being really a sea canal, Germany during this period built 1,091 kilometers, or 677 miles, of inland canals, and projected other great canals of a total length of 3,657 kilometers, or 2,270 miles. Germany has also improved her rivers, having expended on the Rhine alone more than $5,000,000 in the last twenty years, so that "the Rhine has become perhaps the most perfect waterway in the world for the promotion of industry."

The article discusses the advantage of water transport over transport by land and refers to the cheapness of construction of barges, the cost of movement, and the fact that more traffic can pass over a canal than over any railway. He states, what has been demonstrated so often, that canals and rivers are most suitable for transporting bulky products not easily perishable and which need not be delivered in the shortest time. As illustrating the cheapened cost of transport over these improved waterways of Germany, taking as a basis boats of 1,000 tons capacity, it is stated that the cost per ton per kilometer is 0.23 of a pfennig, which in our money would be 0.05 of a cent, or one-half of a mill. The man of commerce who pays the freight will readily appreciate the cheapness of this movement. It must be remembered that in the construction of these interior waterways Germany is creating active competitors of its state railways, which policy should impress those railroad managers who hold that canals are inimical to their interest. It is certain that the German people have learned that inland waterways affording cheap movement of bulky products make possible industrial activity, and thereby a larger volume of products which require expedition in movement and, therefore, must be carried by rail. It is stated emphatically that Germany's industrial success is due to the wise development of her inland waterways, and that Great Britain must pursue a similar policy, otherwise her rival will continue to outstrip her industrially and ultimately will endanger her commercial supremacy beyond the seas.

I quote, in conclusion, this paragraph:

> It is therefore clear that transport by water is, and must always remain, owing to its free nature, so very much cheaper than land transport, be it by road or by rail, that railways can not possibly compete with properly organized, properly managed, properly planned, and properly equipped waterways. Hence it is economically wasteful not to extend and develop the natural and artificial waterways which a country possesses, and it is absolutely suicidal and criminal to let them fall into neglect and decay.

We have numerous illustrations in the United States of the economy in the movement of bulky products by water. The great canal of St. Marys Falls, through which passes a greater tonnage than through the Suez Canal, and which exceeds the total foreign trade of New York, has contributed in great part to the development of the great Northwest. The last statement I have at hand for that canal is for 1903, which shows that the cost of carrying per ton per mile was 0.92 of a mill and that the average distance freight was carried was 835 miles.

Maj. Thomas W. Symons, of the Engineer Corps of the United States Army, made a report in 1897 on a proposed enlarged canal from the Great Lakes to the navigable waters of the Hudson River, and in 1900, as a member of the commission on canals of New York State, submitted a calculation as to the value of canals and the cost of transport thereon.

I have referred to the present Erie Canal and its value in the development of the commerce of the Empire State and its metropolis and in the maintenance of equitable tariff rates upon the railroads. The present Erie Canal is 7 feet deep and accommodates boats 97 feet long, 17½ feet wide, and 6 feet draft, with a capacity of 240 tons; and upon this basis he estimated that the cost of carrying freight per ton per mile was 1.9 mills. It is proposed to enlarge this canal so that it shall have a minimum depth of 12 feet and will accommodate barges 150 feet long, 25 feet wide, and 10 feet draft and with a capacity of 1,000 tons. Calculating on a fleet of four boats, he estimated that the cost of carrying freight per ton per mile on the enlarged canal would be 0.52 of a mill. You will note the saving effected by the increased depth—nearly 400 per cent.

I find in the statistics of railways of the United States for 1903, prepared by the Interstate Commerce Commission, a summary of the average revenue received by the railroads of the United States, from which it appears that the average for that year per ton per mile was 7.5 mills. Thus it will be seen that in our own country the cost of transport by rail is from seven to fourteen times greater than transport by water.

In submitting the above contrast I would not be understood as being antagonistic to railroads or underestimating their value. This difference in cost of movement must always exist. The two systems are necessarily distinct and there is ample use for both. There is no necessity for antagonism and none should exist. Germany has constructed interior waterways in competition with her state railways and the result has been to increase railroad traffic, and above all to promote in large degree the prosperity of her people. The construction of waterways tends to increase population and to multiply industries, which create products which by reason of being perishable or for other reasons require expedition in movement and must be carried by rail, so that ultimately the result is to bring the greater volume of traffic to the railroads. While there formerly existed among railroad managers antagonism to the development of our interior waterways, they have in recent years come to recognize the wisdom of this proposition, and I do not understand that the great trunk lines any longer fear competition, but they will welcome their extension.

I should like, if time permitted, to refer in some detail to a number of waterways projected in different sections of the country, but I can only refer to a few of the more prominent

in bare outline. Since the completion of the Chicago drainage canal in 1900, which connects Lake Michigan at Chicago with the Illinois River at Lockport, a distance of 34 miles, the people of the Mississippi Valley have contemplated an extension of this waterway down the Illinois River and thence down the great Mississippi to the Gulf.

There are other projects in the interior of only less importance, to which I can not now take the time to refer. Coming to the Atlantic seaboard, there has long been contemplated a chain of waterways from Boston to Jacksonville, Fla. For nearly a century the Commonwealth of Massachusetts has agitated the construction of a canal across the peninsula of Cape Cod, connecting Barnstable Bay with Buzzards Bay, a distance of only about 7 miles, thus avoiding the dangers of Cape Cod and affording safe communication from Boston by way of Long Island Sound to the city of New York. There is a protected way from New York City to the Raritan Bay and thence to the river of the same name, and it has been proposed to connect Raritan River with the Delaware River, either by the enlargement of the present canal or the selection of a new route. The Delaware and Chesapeake Canal already provides physical connection between the Delaware River and the head of Chesapeake Bay, and the recent report of a survey by the Engineer Corps was in favor of the existing route and recommended its purchase by the United States and subsequent enlargement. Chesapeake Bay and its tributaries, with the progressive city of Baltimore at one end and Norfolk, Portsmouth, Newport News, and other thrifty industrial centers on Hampton Roads, furnish an illustration of the value of water transport. From Elizabeth River, however, there is at present no continuous protected route to the South. Coastwise trade with Wilmington, N. C., Georgetown, Charleston, Brunswick, Savannah, and Jacksonville must go by the outside or ocean route and take chances with Cape Hatteras and Diamond Shoals.

It is proposed to extend this protected route from Norfolk by a waterway through the tidewater section and sounds of eastern North Carolina, with an outlet to the ocean at Beaufort Inlet. While coastwise navigation south of Beaufort Inlet is substantially without hazard, yet nature has largely provided a protected way from Beaufort Inlet to Wilmington, on the Cape Fear, and thence to Winyah Bay, and thence via Charleston and Savannah to Jacksonville, Fla., for which only slight excavation and the deepening of the existing channels would be required. From Jacksonville a canal has been projected across the peninsula of Florida, which would provide safe water connection with the Gulf. With this chain of waterways completed it would be entirely practicable for a fleet of barges to go from Chicago to the Gulf and thence across the Florida waterway and northwardly through the links of waterways referred to the city of New York, thence up the Hudson and thence through the enlarged Erie Canal to the Great Lakes and thence back to Chicago. Who can estimate the economic benefits and the industrial and commercial development which would accrue from the construction of these waterways, and in which benefits the whole country would share?

I desire now to refer more in detail to the proposed waterway from Norfolk, Va., to Beaufort Inlet, North Carolina. There are at present two private canals connecting Albermarle Sound, North Carolina, with the Elizabeth River, Virginia, and thence to Chesapeake Bay. These are the Dismal Swamp Canal and the Albermarle and Chesapeake Canal, each of which have an average depth of about 9 feet. While their tolls are not unreasonable as compared with other private canals, still in the aggregate they amount to a considerable sum annually and the entire burden has to be borne by the commerce of eastern North Carolina. I wish to refer to the importance of this inland waterway in two aspects, first, the local benefits to North Carolina, and, second, the general benefits to the entire coastwise trade.

LOCAL BENEFITS.

There are on the North Carolina coast only two navigable outlets to the ocean, one at the mouth of the Cape Fear and the other at Beaufort Inlet. Neither of these are accessible to the shipping from the rivers and sounds of that part of the State comprising about two-thirds of its width. Beginning with the Neuse River and coming northwardly to the Virginia line, there are a number of bold navigable streams which empty into the larger sounds known as the "Pamlico" and "Albermarle," and other smaller sounds; that is to say, Pamlico River, Roanoke River, Chowan River, Perquimans River, and Pasquotank River, and other smaller streams. There are a number of large and thrifty towns located upon these navigable streams, the most prominent of which are New Bern, Washington, Plymouth, Edenton, Hertford, and Elizabeth City. The manufacturing interests of this section are large and rapidly growing; the lands are fertile, the farmers are intelligent, the population is increasing, and the surplus of agricultural products for shipment are considerable.

This entire section is landlocked from the ocean. The nearest navigable outlet to the south is at Beaufort, with which there is no water connection because of the limited depth. The only outlet for the water transport from all this section is northwardly, through one of the two private canals which I have mentioned. If we take the eighteen counties immediately tributary to the rivers and sounds of this section, we find that by the census of 1900 the value of their farming products amounted to $14,021,130, and the annual value of their manufactured products was $8,378,044. There is not a section so large and tributary to such an extent of navigable waters in our country without a free outlet for water transport. Certainly, this circumscribed situation of so large a section of tidewater North Carolina must appeal to Congress for adequate relief.

GENERAL IMPORTANCE TO COASTWISE TRADE.

An inspection of the map will disclose that this protected waterway will avoid the most dangerous section on the Atlantic seaboard—that on the North Carolina coast, particularly Cape Hatteras and Diamond Shoal and Cape Lookout. It is unnecessary that I should dwell upon the dangers of Cape Hatteras. Not only does the mainland of the cape represent the most eastern coast extension, but extending from this into the ocean are the dreaded inner and outer Diamond Shoals. The poet and the orator have in all times depicted the horrors of this veritable "Graveyard of the Atlantic." Words are inadequate to express the grandeur and danger of the storms which prevail there. The velocity of the wind, the tempestuous size of the great billows, the action of the ocean currents, all beckon the hapless ship and its crew to a nameless grave.

The General Superintendent of the Life-Saving Service has furnished me a detailed statement of the disasters on that coast from July 1, 1890, to June 30, 1901, from which I find the following summary:

Number of disasters	80
Vessels totally lost	41
Number of lives lost	42
Property involved	$5,562,405
Property lost	$2,294,900

I have a similar statement for the period from July 1, 1901, to December 31, 1904, as follows:

Number of disasters	31
Number of vessels totally lost	13
Number of lives lost	11
Property involved	$1,560,750
Property lost	$699,375

The coastwise trade between the South Atlantic and North Atlantic States ought naturally to be quite large. The difference in climate and in farm and manufactured products and the material needs of each section should necessarily require a large interchange of products. Equally true is it that a large portion of these products are of a bulky character and such as would naturally seek water transport. Yet in the face of these conditions the fact is that this coastwise trade is confined to large steamships which ply between the principal ports and a large class of sailing vessels, each of which gives Hatteras a wide berth.

I have not been able to obtain accurate data as to the tonnage and value of this coastwise trade, but enough information has been secured to show that the aggregate is quite small as compared with the quantity to be carried. Again, it is true that between all sections where the water transport is large the bulky products are transported by barges and other like freight-carrying vessels and come from the numerous smaller ports. The number of small vessels and steamers which round Cape Hatteras are exceedingly few, and barge transportation is absolutely prohibited by the risks involved. Therefore, those who are most familiar with the condition and demands of our coastwise trade are confident of the great benefits to accrue from the construction of this waterway. Not only does it apply to existing commerce, but most largely to the prospective volume to be developed by reason of the opening of this protected waterway. It does appear that no one can assume the contrary position without an admission of ignorance or prejudice. I shall hope at some other time to submit reliable data in substantiation of this position.

In the last general river and harbor act of June 13, 1902, there was a provision authorizing the Secretary of War to detail a board of engineers for the purpose of making an examination

and survey of this waterway from Norfolk, Va., to Beaufort Inlet, North Carolina, of not less than 16 feet in depth, to select the most advantageous route, and estimate the cost of same. There were detailed Col. Peter C. Hains, Col. Charles J. Allen, and Maj. James B. Quinn, of the Corps of Engineers. Colonel Hains was subsequently relieved on account of other duties, and Capt. E. E. Winslow was substituted.

This board made a careful examination and also as complete a survey as the limited appropriation permitted. They made a report to the Chief of Engineers, dated August 31, 1903, which, with the accompanying papers, has been printed as House Document No. 563, Fifty-eighth Congress, second session, and appears in the Annual Report of the Chief of Engineers for 1904, in Appendix L. This board selected a route and reported that no engineering difficulties were involved; that the cost thereof would be $10,000,000, and that the commercial benefits to accrue would justify the expenditure. The route selected begins at a point on the southern branch of Elizabeth River, above Deep Creek; thence to Cooper Creek, on Pasquotank River; thence down Pasquotank River and across Albemarle Sound to the mouth of Alligator River; thence up Alligator River to the bend, where it diverges sharply to the west; thence across Hyde County to Rose Bay; thence down Pamlico River and across Pamlico Sound and up Neuse River to a point opposite Adams Creek; thence up Adams Creek to the head thereof, and thence to the head of Core Creek, and thence down Core Creek and Newport River to Beaufort Inlet; the total length thereof being 194 miles.

This report contains as exhibits data furnished by the commercial organizations of the several ports between Baltimore and Jacksonville, Fla.

These reports show that the annual saving to the coastwise trade on the Chesapeake Bay and tributaries between Baltimore and Norfolk would amount to $2,250,000, that the annual saving to the coastwise trade between Wilmington, N. C., and Jacksonville, Fla., would be $2,500,000, and that the commerce to be affected annually would amount to 4,500,000 tons, of the value of $225,000,000. The data furnished from the ports in the tide-water section of eastern North Carolina showed that the annual saving to the commerce of that section would be $750,000 and that the commerce to be affected would be 1,500,000 tons. All of these reports show an annual saving to coastwise trade between Baltimore and Jacksonville of $5,500,000. The Board of Engineers did not accept the above estimate as literally correct, but in their report they estimate that the volume of traffic to be affected annually would be 1,100,000 tons and that the annual saving to this coastwise trade would be at least $600,000.

It is a pleasure to express public commendation of the engineering skill and the painstaking care exercised by this board, composed of Colonel Allen, Colonel Quinn, and Captain Winslow.

The above report was referred by the Chief of Engineers to the Board of Engineers for Rivers and Harbors, which was created for the first time in the river and harbor act of 1902, and who have authority to supervise all reports from district engineers or boards of engineers who make the actual examinations and surveys. This board, sitting in the city of Washington and perhaps with no personal knowledge of the local conditions, incubated on this report from August 31, 1903, to February 9, 1904, at which time they submitted their conclusions.

While this latter board did not question the commercial benefits to accrue, they were of opinion that the estimate of the board below in dollars and cents was too large. However, they estimated that the annual saving to the local commerce of North Carolina would be at least $200,000. They did not attempt to estimate the annual saving to the coastwise trade generally. The board were of the opinion that a waterway not less than 16 feet in depth was unnecessary for commerce, but concluded that a waterway of from 10 to 12 feet would be sufficient and they recommended that another complete survey be had of this waterway for the purpose of selecting a route and estimating the cost of one of the lesser depths. It is now proposed to incorporate in the pending river and harbor bill a provision authorizing a new survey of this waterway of the depth of 10, 12, and 14 feet, respectively, and I have confidence that the committee and the Congress will be so impressed with its importance as to approve this legislation. [Applause.]

Mr. Chairman, the distinguished chairman of the Committee on Rivers and Harbors [Mr. BURTON] in presenting and explaining this bill adverted to the fact that this was the anniversary of the birth of the great "father of our country," and that, while we would all prefer to suspend deliberations, yet the exigencies of legislation demanded that the House should be in session. He further suggested that this House could not do greater honor to his name than by the consideration of river and harbor improvements, since Washington himself, among his multifarious public duties, was an urgent and consistent advocate of the improvement of our waterways. To this sentiment, as so eloquently expressed by the distinguished gentleman, I myself cordially respond. I may, however, in this connection remind the House of an historic fact which gives peculiar appropriateness to the consideration of this particular waterway. Among the papers left by Washington is at least one in which he strongly advocated the construction of a waterway connecting Chesapeake Bay with the inland sounds of North Carolina, and even suggested a route, which was substantially followed in the construction of the present Dismal Swamp Canal. Certainly a project which had the approval of the immortal Washington, which has been advocated so insistently during the subsequent decades, and which to-day is of such transcendent importance in the development of our commerce and as a factor of military defense, should receive the approval of Congress. [Applause.]

Mr. BOWERS. Mr. Chairman, the bill now under consideration is, in my judgment, the most important measure that has been or will be reported to the House during this session of Congress.

Upon the internal development of this country on a large, grand, and sufficient scale depends in a great measure, if not entirely, its commercial welfare, prosperity, and supremacy. That development can not be wrought out except by the improvement of its rivers and harbors, because the problem of transportation lies at the very threshold of commerce, and no commerce can be successfully or profitably pursued without the fullest, freest, and cheapest methods of transportation.

It is useless for me to consume time in discussing the proposition that improved and cheaper transportation has in a larger measure than any other factor brought about our present prosperity; and in this age, where competition is sharp, and where men and localities jostle each other rudely in the commendable race for commercial supremacy and honors, the smallest differential in the cost, either of transporting products to market, or of bringing in to a given territory those things needed for the consumption of its citizens, for the utilization or manufacture of its products, the development of its resources, and other like purposes, is sufficient not only to drive that territory out of the market as a seller, but also to prohibit it from patronizing the best and most profitable marts of trade.

In the remarks which I shall make on the pending measure I in no wise seek to derogate from the importance of other legislation which has been, and will be considered at this and succeeding Congresses, but the point upon which I do lay stress, and which I desire here to accentuate so far as in me lies, is that I regard the question of transportation as the one lying closest to the life of commerce, and therefore of the most vital importance to the prosperity and welfare of the American people.

As stated in the outset, I regard the measure now before the House, and such similar measures as have been and will be reported, as the foundation stone upon which is to be erected a superstructure of well-ordered, cheap, and sufficient lines of transportation, to move to and fro the vast products of the American soil, and the vast output of American muscle, skill, and industry.

If I needed, Mr. Chairman, any illustration or instance to convince me of the consequence and importance of the view that I here present, I would find it in the recent history of the State of Mississippi, and more especially in the recent history of the Sixth district of that State, which I have the honor to represent on this floor. It is my purpose to especially deal with that section in order that the Members of the House may be somewhat advised as to its greatness and importance—the great strides that it has made in the recent past and the needs which its resources, industries, and people now feel, and for which they now make, through me, their appeal to this body for their fair share of Federal care and protection and of governmental aid.

Nature has been exceedingly kind to Mississippi. It has provided her with a soil productive in the extreme, adapted to all the varied crops that are produced in any semitropical climate. It has watered her lands with flowing streams, which not only supply a sufficiency of water for the purposes of irrigation and fertilization, but which, when properly improved and cared for, as the people of that State now ask, and in my humble judgment have a right to expect shall be done, will furnish highways of commerce of the greatest importance in the further development and upbuilding of that splendid Commonwealth, while on her southern boundary lies the Gulf of Mexico, the great Mediterranean of the Western Hemisphere, into which her rivers

flow and through which her commerce reaches all the ports of the world.

Within her borders live a sturdy, industrious, honest, enlightened, high-minded people. They are, in a great part, the descendants of the best stock that settled the thirteen original States, whose parents, in days gone by, fired by the dominant characteristic American spirit, moved westward to wrest from the wilderness and conquer to civilization new territory, that it might contribute to the sum of American greatness. There, will be found the representatives of the best type of American citizenship from every portion of the United States. They came in the early days from the Carolinas, from Virginia, Georgia, Tennessee, and Kentucky, and in latter days, with the development of the industries to which I shall hereafter allude, from the sturdy stock of the North and Middle West, and from the mills and factories and the busy hum of the manufacturing towns of New England.

For many years, and indeed until the very recent past, Mississippi was wont to rely in a large measure upon the natural fertility of her soil and her agricultural resources. A great portion of the State, including my district, was, until a few years ago, practically unknown and undeveloped, and it is by recounting the recent history of that section that I hope to impress upon the committee the importance of the improvement of rivers and harbors, as well as to call their attention to the peculiar and deserving needs of my section.

This district, Mr. Chairman, comprises thirteen counties, compactly located in the southeastern portion of the State. It is what was, at one time, considered a poor, if not indeed the poorest, section of the State. Railroads it had none, except perhaps the Louisville and Nashville Railroad, which skirts its southern border, along the shores of the Mississippi Sound, a connecting link in a great line of railroad from the North and East to the Southern commercial metropolis New Orleans. We relied for transportation entirely upon the primitive ox and mule team, together with such scanty assistance as was derived from the limited use of the then unimproved and uncared for streams.

About twenty years ago a railroad was projected from southwest to northeast through this section, and the attention of investors and capital was for the first time turned to the magnificent possibilities and natural resources thereof. Those who had been engaged in the manufacture of lumber in the North and West began to learn of the countless acres of virgin pine, and slowly, yet with ever-increasing numbers, the steps of the investor, the prospector, and the land looker were turned in that direction. Mills and towns sprang up as if by magic along the line of this road, of which it had been predicted that sufficient tonnage would not be afforded to pay even a small portion of operating expenses, until, having felt the impetus which comes from the development incident to railroad building, its people began to demand other roads and the extension of their transportation facilities. Success breeds success, and other lines were built until seven different railroads pierce this territory, besides numberless logging roads, which in the development and growth of the lumber industry have become carrying factors of great importance, not only to the particular industries which they were intended to serve, but to the public at large. Such has been the advance that the best lands, which, after the building of the first railroad—and I am able to mark the time and price with great certainty, because it was at this time that it was my good fortune to make my home among these people—could be bought for $1.25 per acre, now command from $25 to $30 per acre, and can scarcely be bought at any price.

Indeed it may be said that any large body of well-timbered lands in the territory which I have described now commands practically whatever price the owner may see fit to put upon it.

Along these railroads substantial and prosperous towns have sprung up, and older places, which for years had struggled against the competition of other markets situated on railroad lines, were given an impetus and life which caused them to multiply almost beyond description, both in population and business. Agriculture, which in the old days had been the main support of the people, who in most instances were distant, not only from each other, but from any trading point, received a new momentum, produced by the vastly decreased cost at which they were able to market their produce and by the proportionately decreased cost at which everything they needed was brought in to them. More than this, lands which theretofore could not be profitably worked because of the great cost of transporting the fertilizer necessary to make them productive were brought into use, the reduction in the item of transportation alone being sufficient to enable the farmers to make the outlay necessary to enrich the soil.

The great first and primary wealth—that is, the wealth first available, i. e., the timber, because these vast forests must be cleared in order to put the soil in tillable condition—was increased in value and made available by reason of the ability to transport the manufactured lumber by rail, whereas before the mills had been located they were few and far between and only along the streams, which then afforded the only means of transporting the finished lumber as well as of carrying the logs to the mills.

These mills, like the other industries of that section, multiplied in such ratio that I fear to state it lest I stagger credulity, but suffice it to say that under the stimulus which I have described this section, then confessedly the poorest, takes rank now with the most important, prosperous, and wealthy in the State, if not in the entire South. Nor are the manufactures confined to the utilization of the forests alone. Cotton mills, mills for the extraction and reduction of all character of cotton-seed products, from the crude oil to the refined, with all the consequent by-products, fertilizer plants of the greatest magnitude, establishments for the extraction and refining of turpentine and kindred products, as well as for the preserving and canning of all the fruits of the soil, are in full operation.

Nor is this all. The sea as well as the land contributed to our commerce and wealth, and the fisheries of that section, especially the oyster fisheries, are of the greatest importance and profit. Owing to the warm temperature of the Gulf of Mexico and Mississippi Sound the oyster is propagated with more ease and rapidity than in the colder waters of the Atlantic and the East, and the Mississippi coast contains the largest factories and establishments for the preservation and canning of the oyster that are to be found in the United States.

The town of Biloxi, in my district, with a population of something like 8,000 people, packs in one year more oysters than any other city in America, and furnishes a large part of the product which is sold by the older and longer established houses in the East, whose supply has of late years run low.

All these conditions, Mr. Chairman and gentlemen, have been brought about by increased transportation facilities and by cheapened methods of carriage. The vast timber belts that lay in the interior were entirely undeveloped, a large portion of the agricultural lands and agricultural products were unavailable, until the construction of the railroads to which I have alluded, and even the products of the sea were packed and marketed with more or less inconvenience, difficulty, and loss, until the attention of the Government was called to the improvement of the waterways, some work done thereon, and some relief thereby afforded.

As one who has practically grown up with the development of that section, who has seen the progress of these lines as they were built, who is entirely familiar with the soil, products, and industries of every township in the district, I state deliberately and with emphasis that the increased and cheapened methods of transportation which have come to us within the last twenty years have, in a degree infinitely greater than any other one factor—perhaps, indeed, greater than all others combined—contributed to the present satisfactory and prosperous condition of affairs.

But while it is true, Mr. Chairman, that this people has prospered and advanced with wonderful and gigantic strides, much yet remains to be done before they will attain that measure of facility in their operations, and prosperity in their condition, which their natural advantages, their industry and patriotism entitle them to demand.

While it is true that the lines of railroad to which I refer traverse the district and have opened up vast acres of forest and field which were hitherto unable to contribute to the sum of the world's wealth, it is also true that there is much more to be developed and that its development depends mainly, if not entirely, upon the improvement of our waterways.

In order to impress upon the Members the conditions now obtaining in that section it is necessary for me to enter into a somewhat extended description thereof. As stated in the outset these thirteen counties lie compactly in the southeastern portion of the State. On the southern border lies the Mississippi Sound and Gulf of Mexico, on the west is Pearl River, which runs partly through the district and about midway between the eastern and western boundaries of the State up to the center and north center thereof. From the Pearl numerous smaller streams make out toward the east, and constitute in a great measure the only facilities for logging and for bringing the unmanufactured timber and trees to the mills. On the east are the Pascagoula and Dog rivers, from which branch the Leaf and Chickasayha, the former penetrating into the north center of the district, and the latter almost to the east center of the State.

Two great natural harbors, Ship Island and Horn Island, lie within the sheltered waters of the Mississippi Sound and are protected from the gales of the Gulf by a chain of islands which separate the sound from the Gulf. These are the waterways and harbors upon which the future life and growth of this section depend, and I crave your indulgence while I make you familiar with them and their needs.

PEARL RIVER.

Pearl River is one of the most important streams in Mississippi. The capital, Jackson, is located on its banks, and was so located before the days of railroads, because of the possibilities of water transportation. It has always been navigable for flatboats and rafts, and in the early history of Mississippi much business of that character was done on this stream. From Monticello, in Lawrence County, to its mouth it has always been navigable for steam vessels; that is, except latterly in stages of extremely low water. It has usually been navigable from Jackson to Edinburg, and the first steamboat that I ever saw was in my early boyhood on Pearl River between those two points. It is true that there is a reach of the river from Jackson south to Rockport, which has recently been held by the courts to be non-navigable, but it has always been available for flats, and steamboats have at times navigated the whole river from Jackson to its mouth. On its banks are prosperous towns, as well as a number of flourishing trading points. I regret that I am unable to furnish complete statistics as to the commerce done on this river, but some partial figures which I have been able to collect will be illustrative of its great importance.

The town of Columbia, in Marion County, in the year 1902 shipped—

3,000 tons cotton seed, valued at $15 per ton	$45,000
4,000 bales cotton, weighing 1,000 tons, at $50 per bale	200,000
5,000,000 staves, at $40 per M	200,000
800 tons fertilizer, at $18 per ton	304,000
38,000,000 feet timber, at $8 per M	304,000
3,000 barrels rosin, at $32 per barrel	9,000
1,000 barrels spirits of turpentine, at $18 per barrel	18,000
Total value	790,400

In 1903 the outbound cotton was increased from 4,000 to 15,000 bales and the other products in proportion, though I have no accurate figures except as to cotton. The value of that varied from fifty to seventy-five dollars per bale. At the former figure its total value would have been $750,000 and at the latter $1,125,000. The crop was actually marketed at about an average price, and it can be safely said, therefore, that the cotton alone handled and shipped from this town yielded about $1,000,000.

During the year 1903 this place handled 30,910,874 pounds of inbound package freight by rail, and shipped out by the same method, 71,934,355 pounds. These last figures are exclusive of the freight which moved by water, as to which no accurate data are obtainable.

The Poitevent and Favre Lumber Company, of Pearlington, whose mills are located on this river, received, entirely by water, during the year 1902, 92,325 tons of freight, valued at $373,190, and shipped out 46,300 tons of freight, of the value of $362,000. In other words, the in and out shipments of this firm alone, all of which moved entirely by water, aggregated $735,190. This is only one house in a prosperous town of six or seven hundred people. I regret that I have been unable to obtain figures from the other dealers at that place.

The H. Weston Lumber Company, of Logtown, on Pearl River, only 3 miles distant from Pearlington, received 110,000 tons of freight, of the value of $253,000, and shipped out 78,000 tons, of the value of $385,000, making their total movement in and out, entirely via this river, 188,000 tons, of the aggregate value of $638,000.

These are but instances which indicate the character and extent of commerce done on this stream, and are cited merely as illustrations and indications of its importance.

The town of Monticello, one of the oldest and best interior towns in the State, whose business approximates that of Columbia, had, until the past few months, no means of transportation except this river, and, while I have been unable to obtain specific figures, its business has been considerable and important. I have said nothing of the importance of the commerce on this river north of Monticello and thence to the old head of navigation at Edinburg.

In the haste of preparing this statement I am unable to get accurate figures such as have been furnished from Columbia, but I desire to impress upon the committee and the Members the fact that the banks of this river are dotted with small settlements and trading posts of great importance to the communities which they serve, and which transact business of magnitude and profit.

Now, let us for a moment examine the condition of this stream, so important to the commerce of that section.

Ten thousand dollars per annum, a ridiculously inadequate sum, has for a number of years past been appropriated for its maintenance, and yet those who know the river best do not hesitate to say that its condition as to navigation is worse to-day than it was twenty-five or thirty years ago. Obstructions in the shape of snags, overhanging boughs and limbs, which have been cut and have fallen into the river, have formed a nucleus for bars; the channel has become obstructed by these bars, and by reason of the current being divided and diverted instead of being confined within a limited area, as should be, shallows have formed in many places, which materially impede and sometimes render navigation impossible. There is a bar at its mouth which always prevents vessels of any considerable draft passing out into the Sound or Gulf, which could be removed at a trifling cost.

Those familiar with the situation estimate that it would not require more than $25,000 to do the work. Surely the importance of this growing section and of the business on the banks of this stream demand that this small sum at least should be appropriated for its relief, and that a sufficient and permanent plan of improvement be entered upon. We have asked that a new, full, and complete survey looking to a complete and comprehensive plan of improvement and maintenance be made at once. Surely the showing made entitles us at least to an examination and report.

WOLF AND JORDAN RIVER BARS.

Moving eastward from Pearl River there are two small streams which flow into the Bay of St. Louis, and which, while apparently insignificent, are, and will always continue to be, by reason of the fact that the country which they serve is cut off from the south by practically impassable marshes, the only means of transportation for the commerce and the people situated along their banks. These are Jordan and Wolf rivers, which flow into the Bay of St. Louis opposite the town which bears that name.

These streams are small and the business done on their banks is, perhaps, when compared to the other commerce, somewhat insignificant, but during the year 1902 over $1,000,000 in in and out bound shipments moved up and down these rivers. I have no figures since that date, but their business, like that of the whole district, has moved apace. Their need is small, and is confined to an application for the dredging of the bars at their mouths, which are very near to each other and can properly be treated as one project.

The water over these bars is exceedingly shallow; at times when the wind is adverse the depth does not exceed 18 inches; at other times, when wind and tide are favorable, it is sufficient for the passing of the small vessels that are employed in this trade. It is estimated that the sum of $20,000, or $10,000 for each bar, because they are not long and the width needed is not great, would give sufficient water under all conditions for fair-sized vessels, such as could be profitably employed in the trade, and thus largely cheapen and facilitate the growing business.

There is no danger that the work will not be practically if not entirely permanent; the bottom is mud, not sand, and would fill very slowly, if at all.

BILOXI HARBOR.

I desire next to call attention to the city and harbor of Biloxi.

This place is situated on a neck of land, or peninsula, which extends from west to east. On its south is the Mississippi Sound, while on the east is the Back Bay of Biloxi, which makes in to the north and west, thereby forming the peninsula and affording a splendidly sheltered location and natural harbor. There is an abundance of water in the bay, and the only difficulty is in the approaches from the sound to the city and thence through the pass into the bay. Some work has been done by the Government which has given a depth of 9 feet from the sound in front to the city proper, which faces it.

The demands of the commerce at this place require that this channel should be deepened, as can be done at comparatively trifling expense, to 13 feet and that the pass leading eastward in front of the city and around into the Back Bay, which has been hitherto wholly neglected and for which no appropriation has ever been made and in which there is now only about 7 feet of water, should be excavated to a similar depth.

The importance of this place and its commerce can not be overstated. It is one of the most important and rapidly increasing towns in the State. Its business is large and flourishing. It is substantially built, and the needs of the Govern-

ment's own business at this place are so great that $125,000 was appropriated a few years ago for the construction of a Government building. Large amounts of capital are invested in its numerous and varied enterprises. It packs more oysters and shellfish than any other town in the country, and the fleet engaged in this industry is large and important. The very nature of this business, while it does not call for a great depth of water, requires that the channels shall always be open and easy of access, because it is apparent that the perishable nature of this product will not admit of delay in transportation from the banks, whence it is taken to the factory. Any delay will of necessity result in the destruction of the whole cargo and catch.

While I am unable to estimate, even approximately, what the cost of doing this work would be, I have no hesitation in saying it would be indeed trifling as compared with the magnitude of the interests which would be affected by it.

The following commercial statistics of that place for the year, hastily gathered and incomplete, will demonstrate the importance of this thriving town and its great industries.

The value of the oyster business, finished product, in Biloxi has been for the past five years more than $1,000,000 per year. There are more than 700 schooners and 25 power boats engaged in taking oysters and shrimp for the canneries and raw shops at Biloxi. According to statistics compiled by the Biloxi Commercial Club, for the year 1902, the value of raw products brought to Biloxi by water alone was: Oysters, fish, and shrimp, $520,340.28; lumber, brick, and building materials, $32,250. Value of general merchandise brought by water, $325,104.15. Exports by water for same year in merchandise, turpentine, rosin, oysters, fish, shrimp, ice, etc., $1,564,279.56. In 1903 the raw material and general merchandise received by water at this port amounted to $1,079,629.77. The year ending December 31, 1904, shows an increase in value of shipments received by water of 20 per cent over the previous year. The value of the building material, manufactured and rough, shipped by rail and water from this port or used locally, has averaged more than $1,000,000 for the past four years, and the value of the annual shipments of crushed and whole oyster shells by water alone exceeds $20,000.

LOWER PASCAGOULA RIVER.

In enumerating the streams which are of great importance to the commerce of southern Mississippi I laid stress upon the Pascagoula River, which, with its tributaries, the Leaf, Dog, and Chickasayha, water the eastern part of my district. The sheltered waters of a stream always afford excellent harbors and facilities for loading and discharging cargoes. The Pascagoula River, by reason of its peculiar adaptability to the lumbering interests, has long been the seat and center of a great industry of that character. For more than fifty years large mills have dotted its banks, and their cut has been shipped to practically all the countries of the world. Near the mouth of this stream considerable towns, Moss Point and Pascagoula (which latter includes Scranton), have grown up, and their commerce is of the utmost importance.

The needs of this particular locality have been so apparent that they have already been recognized by the Engineer Corps and by Congress, and substantial appropriations have in the past been made, the results of which have exceeded the utmost predictions either of the engineers or the people. The story of the improvement of this port is so well and accurately told by Mr. F. H. Lewis, president of the Pascagoula Commercial Club, that, with his permission, I have adopted his language as the best possible statement of the case and history of the Pascagoula River.

IMPROVEMENT OF THE PASCAGOULA RIVER.

A survey of this river from "a point in the Mississippi Sound where the depth of the water exceeds 17 feet, thence to the mouth of and up said river to the intersection of Dog River, and thence up Dog River 3 miles, with a view of obtaining a channel 17 feet at low tide along the line of survey," was authorized and provided for by the rivers and harbors act of June 3, 1896.

Prior to this time, although the commerce of the port of Pascagoula had attained considerable proportions, mainly timber and lumber export, but little had been done either by Congress or the people looking to the improvement of this river or its harbor. A depth of 8½ to 9½ feet had been obtained by occasional local appropriations, and only light-draft vessels could load at the mills, and three-fourths of the lumber and timber had to be lightered and towed to Horn Island Harbor, 8 miles from the mouth of the river, where vessels drawing 19 and 20 feet and under could load, or to Ship Island, 30 miles away, where vessels chartered to Pascagoula, drawing over 20 feet, were forced to receive their cargoes.

By the conditions then existing not only was all foreign export greatly burdened by the cost of lighterage and towage, but a great portion of domestic export and Gulf cargoes, using comparatively light-draft vessels, were seriously handicapped and burdened in the same way.

The commercial statistics of the year 1898 showed 92,823,206 superficial feet, foreign export, all of which was burdened with from $1 to $1.25 per thousand lighterage and towage, and 32,000,000 superficial feet, domestic and coastwise stuff, three-fourths of which was so burdened.

In his report of January 19, 1897, to the Secretary of War, Maj. W. T. Rossell, in charge of this district, recommended the improvement of the river by the deepening of a 12-foot channel from the 12-foot contour in the Mississippi Sound up said river to the junction of the Pascagoula and Dog rivers, and thence up Dog River a distance of about three miles, suggesting that if this work proved reasonably permanent that the 17-foot project be adopted, all of which is shown by said report. This report having been concurred in by the Secretary of War, appropriation to the full amount of the recommendations, to wit, $317,600 (which included a small sum for the improvement of Horn Island Harbor) was obtained, and the work commenced under this 12-foot project on or about September 28, 1899, and was completed on February 28, 1902, covering a period of twenty-nine months; but the work was so laid out and executed as to be of almost immediate relief to the commerce of the port, as shown by the table hereto attached and marked "Exhibit A," now referred to, and to be hereafter referred to, to show the annual increase in the commerce of the port of Pascagoula, as the work of improvement continued. A report of Capt. Spencer Cosby made to the Secretary of War, June 30, 1902, showing more than reasonable permanency of the work done under the 12-foot project then completed, and which report recommended continued improvement to the depth of a 17-foot channel, being concurred in by the Secretary of War, the river and harbor act approved June 13, 1902, adopted the 17-foot project, to cost $1,050,222 exclusive of the Horn Island improvements, and authorized the expenditure of $150,000 for the new work.

The contractor for the work on the new project commenced operation in the latter part of the year 1903, and in the early summer of 1904 a channel from the 15-foot contour in the Mississippi Sound, practically 100 feet wide over the entire route of improvement to the sawmills along the river, was obtained. While this is not the projected width of the channel, it is sufficiently wide for navigation of 15-foot vessels by daylight, and has therefore been of the greatest benefit and relief to the commerce of the port. To fully appreciate and understand the extent of such relief reference is asked to the attached table marked "Exhibit B," which shows where the various vessels utilizing Horn Island Pass only during three successive years received all or part of their cargoes. For instance, the year ending June 30, 1902, on a shipment through Horn Island Pass of 71,082,000 superficial feet, 38,845,000 feet was loaded out in the harbor (at a cost of $1 per thousand for towage) and 32,237,000 feet in the river direct from the mill to the vessel (no lighterage). For the year 1903, on a 58,529,000 superficial feet export through the pass, 29,220,000 feet—just about half of the shipment—was loaded in the harbor, and 29,309,000 feet in the river direct from the mill. For the year 1904, when the 15-foot channel was being dredged and finally completed (mark the change in figures and note the saving in lighterage) on a 66,297,000 shipment through the pass that year, 20,403,000 feet only were loaded in the harbor, and because of the improvement of the river 46,894,000—more than double the quantity loaded in the harbor—was loaded direct from the mills into the vessels, many of which drawing in excess of 15 feet completed their cargoes out in the harbor.

Special attention is called to the fact that every 1,000 feet received in the river means $1 saved to the manufacturer, which means a profit to a certain extent to every man who touched the log, back to the laborer who felled it in the forest and the owner of the land. The result of the improvement of the Pascagoula River is the best and most convincing argument to be adduced in support of a rapid completion of the 17-foot project now under way. The Government wants results for the expenditure of its funds, and in the rapid increase of the commerce of the port of Pascagoula it has them. Consideration is again called to the statistical table hereto attached and heretofore referred to, marked "A," and especial attention called to the regular annual increase in the commerce of the port since 1898, when the volume of commerce showed $1,701,765 to the year 1904, when the volume had reached $3,828,792. The advocates of the 17-foot channel urged before the Congressional committee, by way of agreement to the first appropriation, that the commerce of the port would double the first year after the completion of such a channel.

Their hopes have more than been realized, and even before the channel has been dredged to 15 feet the commerce of the port had reached $3,405,450, as shown by the Exhibit A, above referred to, which is just double the commerce of 1898, to wit, $1,701,765. While the work thus far completed has proved of the greatest value and has afforded the most substantial relief, the relief to which the great volume of commerce of the port is entitled has not yet been given, and any delay in the completion of the 17-foot project will continue to be a hardship to the commerce of the port, and in addition the work now performed may seriously suffer from remaining in an incompleted state for any length of time, not that the partially completed channel shows any indications or tendency to fill, but because, on account of the narrowness of the present channel, vessels of deep draught are very apt to strike the sides of the cut and cause trouble and damage to the work which would not be brought about by natural causes.

The omission of a substantial appropriation for the continuation of this work in the present bill would very probably mean a delay of the work for more than two years. This would be a heavy and unjust burden on the commerce of the port and probably serious damage to the work already accomplished, with consequent loss to the Government.

In his report to the Secretary of War Capt. (now Major) W. E. Craighill, the officer in immediate charge of this work, recommended an expenditure for the year ending June 20, 1905, $400,000. The Secretary of War in referring this report advised the appropriation of $225,000 for the same period. (See Annual Report, Appendix 4, pp. 317 and 1259.) The failure of a river and harbor bill the last session of Congress has necessarily delayed further work, to the great hardship on the commerce of the port, and an omission in the present bill of a substantial sum, as recommended by the Secretary of War, would be of great injury, not only to the commercial interests of this section of the State, but possibly to the work in its partially completed state. It is desired to further call attention to the fact that the improvement of the Pascagoula River is not a matter of local interest, but effects a vast territory of the State of Mississippi and the property of a great population of progressive and patriotic people. The Pascagoula and Escatawpa rivers, with their numerous outlets, make tributary to the Pascagoula River over 8,000,000 acres of the yellow-pine belt of Mississippi. This territory is capable of furnishing the mills of Pascagoula with logs for the next fifty years, and many of the mills now have very large holdings of pine lands not yet touched.

It is now an established fact that this land, after the removal of the timber, is very fertile and productive and is eagerly sought for agri-

cultural purposes. Much attention has already been given to the use of the land for agricultural purposes, and abundant crops are now being grown throughout the pine belt of Mississippi. Hence the certainty of a continued prosperous, producing, and resourceful country, even should the time ever come when its wealth of timber should be exhausted. By way of merit, attention is called to the table marked "C," hereto attached, showing the position from a manufacturing standpoint occupied by Jackson County, in which the port of Pascagoula is located. These figures are compiled from the census of 1900 and are authoritative. Attention is also invited to the commercial statistics of 1904 hereto attached and marked "Exhibit D."

A map showing the location of the channel now being improved, the locations of the mills, where vessels drawing under 15 feet now load complete cargoes and where vessels drawing 15 to 20 feet take on a great amount of their cargoes, and the location of Horn Island Harbor, where the latter vessels complete cargo, which costs $1 per thousand extra for towage and lighterage, with explanatory notes, is hereto attached and marked "E" for consideration and reference.

In view of the facts herein referred to and the data and argument heretofore submitted to the River and Harbor Committee, we respectfully urge a substantial appropriation for the continuation of the work on the 17-foot project heretofore adopted by Congress.

Respectfully submitted.

PASCAGOULA COMMERCIAL CLUB,
By F. H. LEWIS, *President*.

Notwithstanding the fact that the local engineer estimated that $400,000 could be profitably expended upon this already approved project, to which Congress, by the rivers and harbors act of June 13, 1902, is committed, (which sum was by the Rivers and Harbors Board reduced to $225,000), the pending measure carries only $50,000 for this most important and much-needed improvement.

The case has not been overstated by Mr. Lewis and the need is urgent. This appropriation should, and I trust will, be increased to $225,000, the minimum which has ever been estimated by any of the engineers as the amount so imperatively required by the situation, and the demands and importance of the commerce of that port.

The figures and growth of business by the tables marked Exhibits A, B, C, and D, which I will append to these remarks and to which I call the attention of the committee, demonstrate beyond controversy the imperative necessity for doing the work now. From them it will be seen that the work already done has proven permanent and that the resultant benefits and increase of commerce have been so great as to require the full and speedy completion of the whole plan of improvement adopted by Congress in the rivers and harbors act of 1902.

HORN ISLAND PASS.

I congratulate the committee, as well as the people of this section, on the fact that the bill as reported carries the appropriation recommended by the engineers for the improvement of Horn Island Pass, and I trust that it will be hereafter followed by other appropriations until the plan recommended and approved by the district engineer, Maj. W. E. Craighill, which comprehends the deepening of this pass to 23 feet and the dredging of an anchorage basin of similar depth and sufficient area within the sheltered waters of the harbor, is completed. The requirements of this port demand both the additional depth and the basin, and the additional work should be done at the earliest possible moment.

I can not leave this subject without calling attention to the fact that the saving which will result to the shipping of Pascagoula by this appropriation of $40,480, based upon the business of the year 1902, will be the sum of $56,003.71; based on the business of 1903, $57,417; and on the business of 1904, $64,167.

I advert to this in order to demonstrate the immediate and important results that will follow the full execution of all the Gulf coast projects.

GULFPORT HARBOR AND CHANNEL.

I desire now to present the claims of Ship Island Harbor and the port of Gulfport.

This harbor has been famous for almost a century as the most commodious and safest natural harbor on the Gulf coast. It sheltered Packenham's fleet when, in 1815, he moved to the battle of New Orleans. No vessel has ever been lost while in its waters, and mariners have ever regarded it with favor and esteem.

Prior to the time that the Government undertook the improvement of Horn Island Pass a great part of the cargoes that left Pascagoula River were accumulated here and loaded upon the heavier-draft vessels. Even now a considerable part of that river's business and tonnage is loaded in the anchorage basin at Gulfport, which, as I will show, has, by reason of the superiority of its sheltered location, entirely superseded the roadstead at Ship Island, at which place the ships formerly anchored and took cargoes. It is the natural and most convenient point for the whole of the Mississippi seacoast, with the exception of the extreme eastern portion thereof, which, as I have heretofore indicated, is served by Horn Island. All of the vast lumber exports from Pearl River, ever since the inception of that business, have been lightered to Ship Island, to be there loaded in the seagoing vessels. While the roadstead at Ship Island is perfectly sheltered and furnishes a safe anchorage for the vessels, the fact that cargoes were of necessity all loaded from the water, or from lighters which lay alongside the ships, thus rendering it impossible to work if the weather was stormy or the seas disturbed, induced those interested in this commerce to agitate the question of bringing deep water nearer to the shore by means of a channel to project inward from the roadstead at the island. This movement received new force upon the construction of the Gulf and Ship Island Railroad, which reaches the water at Gulfport, a point opposite Ship Island.

This road penetrates into the interior of the State, connecting with three trunk lines of railroad, i. e., the Louisville and Nashville, the Queen and Crescent, and the Illinois Central, thus making the port available to all of the immense territory served by these great lines and their connections. This road was completed in the year 1900, and Gulfport is its southern terminus. It is perhaps, its mileage considered, the largest lumber-carrying road in the South, if not in the country, and I think the statistics of the lumber trade establish the fact that a greater tonnage of lumber and wood goods per mile are transported over its lines than any other road in the United States. Up to the time of its construction the only lumber from the State that went coastwise or foreign was that manufactured on the streams by which access was had to the sea; and when this line was first constructed the product of the interior mills, which at once sprung up, was shipped by its above-named connections entirely to the interior market. It was, however, only a short while until this vast and rapidly increasing industry began to demand an opportunity to engage in the export and coastwise trade, with the result that a survey was ordered and a report made by the engineers that the cost of a channel 18 feet in depth from Ship Island to the main shore would be about $800,000.

This was at the beginning of the development which resulted from the opening of the territory in the interior counties, and it was hard to impress those who were not perfectly familiar with the situation with the growth that was sure to follow deep water. No recommendation, therefore, was made by the engineers, who contented themselves with reporting simply the result of their survey and estimating the cost.

To those who were on the ground, who were familiar with the conditions, and who knew what the demands of the commerce would be, the need was so urgent that they determined to seek from the Government an opportunity to do the work largely at their own expense, and for a nominal appropriation to be made contingent upon the success of the enterprise.

Prior to 1901 the water near the shore and, indeed, extending out about 7 miles, was exceedingly shallow. The depth at the point which is now the anchorage basin was only about 8 feet and it deepened gradually until it reached the anchorage or roadstead at Ship Island. In 1901 a contract was authorized and entered into by which the contractor undertook to dredge the channel 19 feet deep and 300 feet wide from Ship Island to the main shore, together with an anchorage basin approximately half a mile long by a quarter of a mile in width. The contract price was $150,000 for the work and $10,000 per year for maintenance for five years, the contractor being required to enter into the maintenance contract as a part of the scheme. Nothing was to be paid until completion, and it will be seen that the contract was a losing one and the contractor so knew and understood when he took it.

During the progress of the work it was found that the shipping of the port demanded a depth of over 19 feet, and in order to supply that need a channel has been completed from Ship Island to Gulfport 300 feet in width and 24 feet in depth. This depth in uniform—that is to say, there is 24 feet of water in the channel at all points from Gulfport to Ship Island. I speak of my own knowledge on this subject, because during the month of October, 1904, in company with Senator MONEY, and on a tug provided for that purpose, I traversed this channel from end to end, causing soundings to be taken at very short distances.

In June, 1904, to quote the Engineer's Report, Appendix R, page 1835, the depth in the channel varied from 18 to 28 feet, while about three-quarters of the area of the anchorage basin had been dredged to the specified depth. Since that time the whole channel has been dredged to 24 feet, and the work is now progressing upon the anchorage basin. This work has cost

up to the present date $1,805,900.29. It will therefore be seen that a channel 24 feet deep with a large anchorage basin has been provided at this place without the cost, up to this time, to the Government of one cent, and that the ultimate cost of completion and maintenance for five years will be the sum of $200,000.

The effect of this improvement has been little less than marvelous. The opening of the export market to this large territory, which with its factories and mills had theretofore been confined to the interior trade, at once operated not only to stimulate and advance prices and trade, but to increase greatly the number of mills and enhance the value of lands and stumpage.

The roadstead at Ship Island was practically abandoned as a loading place, and the cargoes which had been theretofore taken on board at that point were delivered and loaded in the sheltered anchorage basin at Gulfport, which is so protected that work can proceed at all times regardless of weather, without the slightest inconvenience or delay. All danger of loss of cargo was removed and ship masters and owners readily chartered for this port on account of its safety and convenience. A large town sprang up as if by magic at the terminus of this road, and such has been its growth that it is to-day one of the most important ports on the Gulf of Mexico, and from it is now exported to foreign markets more lumber than from any other port in the United States, save perhaps the combined export of all the points on Puget Sound. There are some ports from which the combined movement of lumber and timber is greater than from Gulfport, but the latter is advancing so rapidly and the supply tributary to this port is so vast, that it is only a question of a very short time until it surpasses every other port in the South in the movement of all character of lumber, timber, and wood goods.

I desire for a few moments to go into details. A deputy collector's office was located at Gulfport, on March 6, 1903, and one year later it was made the port of entry of the entire district of Pearl River, which comprises the whole of the Mississippi seacoast.

The first steamship to enter Gulfport Harbor was the Norwegian *Hirundo*, on November 15, 1902. The second was the *Aureola*, in December of the same year.

For the year 1902 there were two steamships.

For the year 1903 there were forty-six steamships.

For the year 1904 there were ninety-seven steamships.

The Railway and Engineering Review, of Chicago, October 29, 1904, contains the following news comment:

During the fiscal year ended June 30, 1904, lumber exports from Gulfport, Miss., exceeded, for the first time, those from any other Gulf or Atlantic port. Hitherto Pensacola has held the best record for lumber exports, but last year Gulfport made a record of 193,000,000 feet, as against 174,000,000 feet for Pensacola. This places Gulfport at the head of the southern ports and second in the United States only to Puget Sound.

The above marked increase from year to year in the business done at Gulfport is due to the fact that it is one of the most accessible and cheapest ports on the Gulf of Mexico, and is advantageously located geographically, being half way between New Orleans and Mobile. Large amounts of lumber and naval stores from the Pascagoula on the east to Pearl River on the west are accumulated at this port. The Gulf and Ship Island Railroad, running north to Jackson, Miss., connecting with three great trunk lines of railroad, the Louisville and Nashville, the Queen and Crescent, and the Illinois Central, all combine to bring business to this port and take it into the interior, the distance from Gulfport to Jackson, Miss., or any point beyond being 25 miles nearer than from New Orleans.

A part of the story of the rise of this place can be gathered from an inspection of its post-office receipts from 1900 to 1904, inclusive:

For the year ending June 30—	
1900	$2,563.92
1901	3,450.63
1902	4,599.80
1903	8,119.64
1904	13,655.53
For quarter June 30, 1904, to September 30, 1904	4,051.00
Estimated receipts from June 30, 1904, to June 30, 1905	18,000.00

Up to the opening of this port the district of Pearl River was a losing one; that is, the expenses of maintaining the district exceeded the receipts from all its ports. For the year ending June 30, 1903, it cost $1.06 to collect a dollar. For the year ending June 30, 1904, the cost was only 70 cents for each dollar, and the first six months of the present fiscal year make a still better showing.

The following table of shipments for the three years last past and of the vessels in which the shipments were made gives an accurate idea of the great and sudden growth resulting from the improvements described:

Comparative statement of shipments from Gulfport by water for the years 1902, 1903, and 1904.

Year.	Number of vessels.	Number feet (B. M.) lumber.	Number barrels of rosin.	Number gallons of turpentine.	Estimated value.
1902	31	19,035,252			$338,000
1903	111	105,849,522			1,665,000
1904	269	245,213,829	92,726	255,480	3,662,213

Class of vessels.

Year.	Steamships.	Ships.	Barks.	Schooners.	Total.	Tonnage.
1902	2	2	3	22	29	18,443
1903	46	8	23	34	111	119,879
1904	97	13	78	81	269	390,394

Port opened January, 1902.

It will be seen that the increase from 1902 to 1903 was over 600 per cent, and that the business of 1904 was nearly three times more than that of 1903, and a little more than twelve times as great as that of 1902.

I will append to these remarks tables showing in detail the business done for each of these years, and I call attention to the great and steady increase, as well as to the increase in the size, of the vessels employed.

I append also statements taken from the Export Record, the leading lumber journal of the Gulf States, showing the shipment of wood goods from all the Gulf ports for 1903 to 1904, inclusive, and I invite attention not only to the showing made by Gulfport but to a comparison between that and other ports. I have no hesitation in asserting that no place in the South, if, indeed, in America, can show a more marvelous growth and increase in so short a time as has elapsed since the improvements were first undertaken.

Before I leave this point I must not omit to state that the figures given are confined to the movement by water of lumber and the other products of the forest. No account whatever is taken of the great business done by rail, nor of anything except lumber and kindred articles. It goes without saying that the addition of the business by rail and of other commodities by rail and water will vastly increase the total given.

This place stands alone in at least one respect. This improvement has been wrought out by private capital, and up to this time without one cent of governmental aid. True, when the anchorage basin is entirely completed the contractor will receive $150,000, or considerably less than 10 per cent of the amount expended by him; and he will also receive $10,000 per year for five years for maintenance, which was imposed as a condition upon the appropriation. But even when this is done, he and those associated with him will be out of pocket to the extent of about $1,750,000, and in addition thereto the whole experiment has been prosecuted without the slightest risk to the Government, as the appropriation was made contingent upon its success. Private enterprise and private capital, at private risk, have not only developed the port but have relieved the Government of the necessity for experiment, and have demonstrated the feasibility, permanency, and wisdom of the work. Surely this situation should appeal in the strongest terms to the favorable consideration of Congress. People who have so taxed themselves, and so liberally expended their means in order to develop their section, ought to be rewarded by the Government taking up their work where they have been compelled to leave off. The contract provides for only 18 feet. The dredging done has all been to the depth of 24 feet, and when the anchorage basin, the only part of the work unfinished, is finally completed the Government will have obtained one of the finest and best-sheltered harbors anywhere on its coasts, at the trifling cost of $150,000.

Having done all this for ourselves, we now ask Congress to do something for us. We seek a survey of this harbor, of the channel to Ship Island, and of Ship Island bar or pass, looking toward increasing the depth to 30 feet. Our situation entitles us to it. It is no reply to say that by the expenditure of our own money we have dredged a channel and harbor sufficient for our needs. It is not sufficient. The cheapest rates of freight can be obtained only in large vessels, and our shippers are compelled constantly to refuse advantageous charters which would enable them to ship at rates lower than those now prevailing because of the fact that we have not the depth sufficient to accommodate the vessels. Nor is it any answer to say that other places similarly situated have only 24 feet of water or thereabouts. The facilities at these other points were provided by the Government, at the Government's expense. For us practically nothing has been done. Everything that we have has

been procured by our own industry and by the expenditure of our own money. Give to us a sum anywhere approximating that which has been expended upon the harbors that are said to be on the same basis as ours and we will be more than content, but we do protest against any comparison until we have been put upon the same footing that they are by the expenditure by the Government of some sufficient sum for our relief.

For the present our application is confined to a survey. Surely we are entitled to that. Who will be heard to say that the vast outlay which we have made and the energy which we have displayed in producing the present condition of affairs does not entitle us to an examination and inspection by the Government engineers and to a report to be based thereon and on our situation and needs, as to whether we are entitled to, and should have, a greater depth of water and additional improvements.

There is one point that I desire to make which applies to all the territory in my district and to all of the waterways for which we seek improvement. Up to this time the exports have been largely lumber and other forest products. I have heard in some quarters a doubt expressed as to the permanency and continuity of this business. I desire to relieve and allay all such. The timber supply of Mississippi is well known. It has been carefully examined and surveyed and the stumpage accurately estimated. The best opinion obtainable is that at the present rate of cutting, plus the normal increase in the number of mills—that is, the increase in the number of manufacturing plants that is to be reasonably expected from the development of the country—the timber supply can not be exhausted in forty years. Surely this time is enough to justify the development of the country upon a sufficient scale. But that is not all. The lands on which these forests grow are fertile and peculiarly adapted to agriculture, and are now being rapidly reduced to cultivation and profitably tilled.

This is no opinion that I hazard. It is a statement of a fact within my knowledge. I have been somewhat connected with the railroads and other lines of transportation in that territory and I know, as a matter of fact, that the tonnage arising from the lands as they are reduced to cultivation is greater in value and more remunerative that the timber which originally constituted their primary value. There are no better cotton lands in the State of Mississippi than portions of this district, and cotton and other agricultural products await only the opportunity to get an outlet to the sea and the nations of the earth through these Gulf ports.

IMPORTANCE TO STATE AND NATION.

Up to this point in my presentation of the necessity for the improvement of these waterways, I have dealt with the matter only as it affects the particular section which I have the honor to represent. It is my desire now to present it briefly in a broader and greater light, namely, its importance to the development of the entire State, as well as to the other States of the Union.

Mississippi has about 100 miles of seacoast, including the two great ports to which I have called attention. While the business at these ports is now important, it furnishes no respectable idea of what the increase would be were they developed and improved to meet the necessities of commerce and the demands of business. The railroads which run down to our coast reach, either directly or through connections, all parts of the State, as well as into the North and West, and the shortest line from the grain fields to the Gulf is via Gulfport.

With increased facilities and increased depth of water, thus enabling the shippers to charter the largest and most commodious vessels, because only in them can the lowest and most advantageous rates be obtained, the commerce of the State, except that which lies directly tributary to the Mississippi River, as well as a considerable portion of the business of other States, will shortly move through these ports out to the world.

I am a firm believer, Mr. Chairman, in the necessity and efficacy of competition as a prime—indeed a necessary—factor in the attainment of the cheapest and most efficient service. My face is firmly set against every consolidation or combination which looks in any way toward the destruction, amalgamation, or swallowing up of any line or factor in the problem of transportation, the greatest, in my judgment, which now faces the industries and commerce of America.

Even though I be mistaken in my prediction that these ports are necessary, absolutely and imperatively necessary, to the welfare, development, and upbuilding of the agriculture, commerce, and manufactures of the State—and I have not the slightest fear that I am mistaken—there can be no mistake in the statement that they are needed as competitors to other ports through which the commerce might move. But this is not all. No agency has been so potent or effective in the past in regulating and reducing rates on railroads as water competition. Wherever water has competed with rail lines, cheap rates and great commercial prosperity have unfailingly followed, and, if for no other reason, it is apparent that these waterways should be improved for the results that must accrue in the permanent reduction of freight rates by all routes.

One more thought in this direction. All rail lines seek the sea, as commerce seeks the shortest and cheapest route, and wherever cheap, easy, convenient, and commodious ports are made available for the use of the commercial public, then to those ports old lines of transportation extend and build, and new lines reach out to them, until they have become the point of convergence of numerous arteries of commerce which penetrate all of the country which is tributary thereto and whose products can or ought to be transported through these gateways. From these ports, when developed, there will run into the interior new lines of carriers, until the whole country becomes one vast web and network of convenient lines which will, profitably to themselves as well as to the people, serve the commerce of all the country round.

In the outset I stated that the slightest embargo in the shape of increased freight rates operated practically to put out of business the section against which the discrimination exists.

The opening of the Isthmian Canal, that American dream of half a century or more, now on the eve of fulfillment, accentuates and increases the necessity for the improvement of these harbors and waterways. It is the aim and should be the aim of the Government to give to each particular section the full benefit of the advantages which by location or otherwise it enjoys. These Gulf ports, by reason of their nearness to the canal, demand, and the interest of the territory that lies just beyond them and of its great and ever-increasing commerce demand, that they should receive prompt and sufficient attention that the commerce of this section may move to the sea and thence to all the world by the shortest, cheapest, and quickest route.

This canal opens up to the trade of America, and especially to the trade of the country tributary to the Gulf ports, possibilities which it never before possessed. The nations of the Orient consume vast quantities of the products of the Southern States. Their ability to take and consume has hitherto been limited, largely because of the great cost of transportation incident to the long route of the vessels. The route being shortened by the opening of the canal and the cost thereby decreased, the ability of the purchasing nation to take and distribute the products of the seller is largely increased, as well as the profits which would come to the American producer and manufacturer.

The bill now under consideration does much for the cause of commerce and internal prosperity. In my humble judgment, and I say it without criticism or reflection upon any branch of the Government or upon the committee that framed it, it does not do enough. It is, however, a great, wise, and beneficial step in the right direction. I can not escape the impression—the abiding belief—that it would have been much more liberal and sufficient were it not that it seems the purpose of the present Administration and of the Republican party to permit internal improvement to wait and languish until great armies and navies are munificently provided for. This disposition I deplore, for I regard it as unwise and calculated to retard growth at home without any resultant or compensating advantages.

The people of my section, Mr. Chairman, yield to none of their fellow-citizens of this great Republic in their love for, and loyalty to it. None are prouder than they of American prestige, American civilization, American valor, and American character. They have ever stood for the most liberal appropriations for every proper governmental object. During the days when they were commercially weak, their lands of little value, their country undeveloped, and when taxation of every character fell as a heavy burden on them, they stood for the most progressive policy both in State and national affairs, and their representatives, both in the State and national legislatures, were the advocates of a liberal and sufficient expenditure of public money for all public needs.

For eight years I represented a portion of this district in the legislature of Mississippi and, as a part of their history, I point with pride to the fact that they never countenanced a Representative whose back was turned, or whose hand was closed, to any demand for a worthy or proper Governmental purpose.

They are proud of the record of American arms and would not for a moment countenance a policy which would impair the efficiency of any needed American army. They are proud of her record upon the ocean and believe in a navy sufficient to maintain American dignity, American citizenship, and Amer-

ican rights on the farthest seas, but while this is true, they believe that the paramount and imperative need now addressing itself to this great governing body is the development of the arts of peace, the increase and upbuilding of this country as the greatest commercial country of the globe. I repeat, they favor a proper appropriation for the Army and a proper appropriation for the Navy, but they protest, and in their name I now protest, against a policy which diverts the money needed for more peaceful, important, and beneficial purposes, and necessary to the fullest growth, prosperity, and happiness of our people at home.

EXHIBIT A.

Statistical table showing the increase in commerce of the port of Pascagoula since 1898, or prior to the first appropriation for the river, to the present date, January 1, 1905.

Year.	Number of vessels.	Tonnage.	Exports of lumber.	Exports of timber.	Miscellaneous products, manufacturing, wood, ties, rosin, turpentine, charcoal, wool, fish, oysters, etc.	Annual total.
			Sup. feet.	*Sup. feet.*		
1898	221	138,814	135,942,772	1,386,522	$315,243	$1,701,765
1899	253	124,342	148,044,150	1,551,798	499,514	2,051,312
1900	253	124,342	141,564,559	1,644,178	625,000	2,269,178
1901	245	141,375	161,584,586	2,015,000	614,000	2,629,000
1902	291	181,066	169,150,911	2,291,375	884,750	3,176,125
1903	266	195,961	170,762,200	2,506,700	898,750	3,405,450
1904	295	223,351	181,608,886	2,831,792	997,000	3,828,792

N. B.—Attention is called to the fact that the first project—that is, the 12-foot project—was completed February 28, 1902, and a depth of 15 feet on the 17-foot project was obtained in the early summer of 1904; that the rapid increase in the commerce of the port of Pascogoula began with the commencement of the improvement of the river and grew as the work progressed, the above table showing that the commerce of the port of Pascagoula has more than doubled, having increased from the time of the order of survey to the present time $2,127,027, and the project has not yet been completed.

EXHIBIT B.

Statistics showing the amount of lumber loaded in Horn Island Harbor and the amount loaded in the Pascagoula River during three years ending June 30, 1902, June 30, 1903, and June 30, 1904, together with tonnage, not including the amount loaded in Pascagoula River and exported via Ship Island Harbor and channel, in vessels of too great a draft to use Horn Island Channel.

	Tonnage.	Loaded in harbor, exported via channel.	Loaded in river, exported via channel.	Total loaded in harbor and river and exported via channel.	Total value of cargoes exported via Horn Island Channel.
Lumber and timber for year ending—		*Sup. feet.*	*Sup. feet.*	*Sup. feet.*	
June 30, 1902	87,894	38,845,000	32,237,000	71,082,000	$873,675
June 30, 1903	63,158	29,220,000	29,309,000	58,529,000	771,099
June 30, 1904	66,630	20,403,000	46,894,000	66,297,000	1,052,000
Total for 3 years ending June 30, 1904	217,682	88,468,000	108,440,000	195,908,000	2,696,774

The greatest draft utilizing the pass during this period was 20 feet and smallest 7 feet.

The general decrease of portions of cargoes loaded in Horn Island Harbor and the increase of cargoes and portions of cargoes loaded in the river is explained by the gradual deepening of the river during this time, so as to enable a great number of vessels to take on their cargo or a portion thereof in the river direct from mills. It must be borne in mind, however, that the improvement of Horn Island Pass is as important to a vessel loaded partly in the river and completing her cargo out in the harbor as it is to a vessel loading entirely in the harbor—all vessels loading in river and harbor using the pass alike.

A corresponding improvement of Horn Island Pass would show an increased loading of Pascagoula cargoes there and a decrease in cargoes now forced to load in a foreign port on account of the depth of water in Horn Island Pass.

EXHIBIT C.

Abstract and comparative statement of manufactures in Jackson County, in which is located the port of Pascagoula and through which runs the Pascagoula River, for which Horn Island is the natural and most convenient harbor, as shown by Census Bulletin No. 119, United States.

[Census of 1900. See p. 8, Table 5.]

	Total for the State or 76 counties.	Total for Jackson County only.	Standing with reference to other counties in the State.	Per cent of total in the State.
Number of establishments	4,772	78		16.3
Capital invested	$35,807,419	$2,363,413	1	6.6
Land	$8,671,109	$835,412	2	9.6
Machinery, tools, and implements	$13,077,469	$519,210	6	4.0
Cash and sundries	$9,560,685	$878,896	1	9.1
Average number of wage-earners	26,418	1,329	4	5.0
Wages paid labor	$7,471,886	$424,513	5	5.6
Laborers over 16 years of age	23,643	1,308	3	5.5
Wages of same	$7,035,534	$422,117	4	6.0
Value of products	$40,431,386	$1,937,702	6	4.7

EXHIBIT D.

Commercial statistics for the port of Pascagoula, Miss., for the calendar year ending December 31, 1904.

	Number.	Tonnage.
Vessels cleared to foreign ports, per records of custom-house	153	66,630
Vessels cleared to domestic ports, per records of custom-house	17	6,721
Vessels cleared through other ports with cargoes from port of Pascagoula	125	150,000
Total	295	223,351

	Superficial feet.	Value.
EXPORTS—FOREIGN.		
Lumber manufactured at and cleared from port of Pascagoula, per custom-house reports	64,147,000	$1,120,072
Timber and lumber manufactured at port of Pascagoula, shipped from river via Ship Island, cleared through other ports	85,461,886	1,278,720
Total	149,608,886	2,398,792
EXPORTS—DOMESTIC.		
Lumber manufactured at and cleared from port of Pascagoula, coastwise, per custom-house reports	3,000,000	45,000
Lumber manufactured at Pascagoula and shipped local coastwise, not listed in custom-house	17,000,000	208,000
Lumber manufactured at Pascagoula and shipped by rail	12,000,000	180,000
Total	32,000,000	433,000
Grand total	181,608,886	2,831,792

MISCELLANEOUS.	
Creosoted lumber, piles, ties, etc. (5,000,000 superficial feet)	$200,000
Hard woods, by rail and water (1,000,000 superficial feet)	75,000
Rosin	150,000
Spirits turpentine	400,000
Charcoal	80,000
Fish	18,000
Oysters	39,000
Wool	10,000
Canned goods (in cases)	25,000
Total value, miscellaneous	997,000
Grand total, foreign and domestic exports and miscellaneous	3,828,792
Number of seamen paid off and discharged at port of Pascagoula last fiscal year	504
Number of seamen, including officers, shipped at port of Pascagoula last fiscal year	727
Total seamen, including officers, discharged and shipped	1,231
Total seamen's wages involved	$57,300

Shipments of lumber from Gulfport, Miss., for the year 1902 (January 1 to December 31).

Name of vessel.	Class.	Destination.	Date sailed.	Cargo.	Draft.
				Feet B. M.	*Feet.*
Various	Barges	Ship Island	Various	96,375	
F. R. Hewson	Schooner	Santiago	January 9	300,000	15
H. L. Gregg	do	do	January 27	376,000	17.5
Trojan	Ship	Montevideo	February 24	571,000	15.5
E. A. Bayliss	Schooner	Jucaro	January 7	287,000	14.5
Pendleton Sisters	do	Camden, Me	March 7	608,000	17.5
Various	Barges	Ship Island	Various	1,045,525	
Carrie Strong	Schooner	Cienfuegos	March 6	408,500	15.5
F. R. Hewson	do	Santiago	March 16	275,000	15
Sallie P'On	do	Rondout, N. Y	March 19	408,000	16
John Maxwell	do	New York	March 22	414 000	14.5

Shipments of lumber from Gulfport, Miss., for the year 1902 (January 1 to December 31)—Continued.

Name of vessel.	Class.	Destination.	Date sailed.	Cargo.	Draft.
				Feet B. M.	*Feet.*
Viator	do	Camden, Me	April 11	550,000	18
J. H. Crandon	Brig	Jucaro	April 30	356,898	18
Iolanthe	Schooner	do	April 5	367,600	17.5
Yarkand	Barge	do	April 21	777,700	18
Edw. Stewart	Schooner	New Vitus	April 17	333,000	15.5
Various	Barges	Ship Island	Various	1,164,000	
Tofa	Schooner	Noank, Conn	April 27	521,000	18
Staubo	Bark	St. Jagua	do	230,160	15
Various	Barges	Ship Island	Various	600,000	
Scotia	Schooner	Camden, Me	May 27	354,000	15
Iolanthe	do	Santiago	June 8	387,300	17.5
E. J. Pendleton	do	Bridgeport	June 16	482,400	17
F. C. Pendleton	do	Norwich	June 19	333,000	15.5
Various	Barges	Ship Island	Various	899,794	
Do	do	do	do	550,000	
Do	do	do	do	376,000	
Jas. B. Jordan	Schooner	New York	July 8	480,000	18
Tillie Baker	Bark	do	August 2	465,000	20
Herald	Schooner	Trinidad	September 17	63,000	16
Dora	Ship	South Africa	November 3	605,000	18.5
C. M. Davenport	Schooner	New York	November 12	737,000	19.5
Helena	do	do	do	491,000	16.5
Matanzas	Bark	Rail from Baltimore			
Hirundo	Steamship	Buenos Ayres	November 23	800,000	15.6
Aureola	do	Zaamdam	December 3	1,500,000	22
Harry T. Hayward	Schooner	Rail from Baltimore			
Fred W. Day	do	Fall River	December 23	522,000	16.6
G. A. Bartlett	do	Progreso	December 26	300,000	13.6
Total				19,035,252	

Shipments of lumber from Gulfport, Miss., for the year 1903.

Name.	Class.	Net registered tonnage.	Destination.	Date sailed.	Cargo.	Draft.
					Feet B. M.	*Feet.*
Anna M. Stammer	Schooner	419	Colon, Cuba	Jan. 3	300,000	13.6
Marina Madre	Ship	1,554	South America	Jan. 15	1,200,000	20.2
Hersilia	Steamship	1,295	Rotterdam	Jan. 16	1,600,000	20.6
Susie B. Dantzler	Schooner	173	Progreso, Mexico	Jan. 28	240,000	13
Creedmoor	Ship	1,399	South Africa	Feb. 20	1,100,000	19
Magellan	Bark	1,148	do	Feb. 4	800,000	19.5
Gamma	Steamship	1,336	Rotterdam	Feb. 12	1,500,000	20.5
Exmoor	Steamship	2,297	Amsterdam	Mar. 1	2,100,000	20.8
Juno	do	1,567	Buenos Ayres	Mar. 3	2,000,000	20.6
Lejok	Schooner	297	Porto Rico	Mar. 8	295,000	13
Prosperare	do	378	Trinidad, W. I.	Mar. 13	355,000	14
Amstel	Steamship	1,508	Rotterdam	Mar. 19	1,880,000	19.5
Henley	do	1,469	Cardiff	Mar. 14	1,600,000	19
Syanara	Schooner	299	Habana	Mar. 17	285,000	13.6
Helen E. Kenney	do	294	Matanzas	Mar. 26	280,000	16
Annie Lord	do	246	Porto Rico	Mar. 18	250,000	14
Doris M. Pickup	do	272	Habana	Mar. 17	270,000	15
Zeta	do	335	Martinique	Mar. 25	300,800	15
F. W. Pickels	do	386	Cienfuegos	Mar. 31	350,000	15.6
B. Frank Nealley	do	266	Cuba	do	185,000	11
Salamanca	Bark	1,197	Buenos Ayres	Apr. 25	770,000	19
Red Gauntlet	do	1,053	do	Apr. 19	557,000	18
John R. Stanhope	do	391	Savanilla	Apr. 2	200,000	13.5
Alabama	do	312	Habana	Apr. 9	300,000	16
Ceres	Steamship	1,300	Rotterdam	Apr. 2	1,600,000	19
Esther	do	1,686	Pensacola	do	700,000	14.5
Ontaneda	do	2,230		Apr. 18	1,800,900	21
Lowlands	do	1,165	Pensacola	Apr. 14	150,000	12
Cora	Ship	1,332	Montevideo	Apr. 8	800,000	20.5
La Porte	Steamship	1,592		May 24	1,880,000	20
Frida Horn	do	1,531	Lubeck	May 16	1,798,000	18
Hercules	do	2,742	Rotterdam	May 13	1,750,000	20
Grande	Bark	987		May 20	750,000	19
Lazzaro	do	1,200		May 30	750,000	19
Normandie	Steamship	620	Cuba	May 7	555,000	17
Helen E. Kenney	Schooner	294	Matanzas	May 21	350,000	15
Julia	Bark	743	New York	May 23	501,000	19
Bylgia	Steamship	1,293	Rotterdam	May 27	1,600,000	20
Alpha	do	1,314	do	June 6	1,500,000	19
Persia	Bark	578	Habana	June 7	378,000	16
Arthur M. Gibson	Schooner	296	Cuba	June 9	276,475	16
Diana	Steamship	2,298	London	June 13	2,472,304	22
Emma L. Cottingham	Schooner	475	Habana	June 18	351,000	16
Harry W. Lewis	do	297	do	June 20	240,000	15
Eolo	Steamship	2,369	Rotterdam	June 30	2,350,186	22
Gertrude A. Bartlet	Schooner	292	Progreso	July 6	381,000	14
Palma	do	249	Cayenne	July 16	219,000	14.6
Induna	Steamship	2,874	New Orleans	July 24	1,113,000	20
Westmoor	do	2,315	Rotterdam	Aug. 2	2,727,000	22.7
Charles Dickens	Bark	1,329	Rio Janeiro	Aug. 5	1,200,000	20
Persia	do	578	Habana	Aug. 7	359,000	17
Helen E Kenney	Schooner	294	Matanzas	Aug. 3	259,000	13
Pinewood	Steamship	3,055	Pensacola	Aug. 14	1,100,000	22
Inez Elisa	Bark	1,495	Genoa	Aug. 15	981,000	22.1
Emma L. Cottingham	Schooner	475	Habana	Aug. 20	349,000	14
Vittoria	Steamship	1,751	Rio Janeiro	do	1,508,000	21
Wearside	do	2,299	Rotterdam	Aug. 17	2,944,000	22.7
Ceres	do	2,316	do	Aug. 28	2,522,680	22.6
Laurelwood	do	1,595	do	do	1,610,000	19.6
Cayo Largo	do	2,223	Mobile	Aug. 30	1,545,000	18
Alice Lord	Schooner	291	Porto Rico	Sept. 6	328,000	13.6
Guiana	Bark	1,207	Buenos Ayres	Sept. 12	759,000	21
Beatrice	Steamship	2,139	Rotterdam	do	2,439,000	22.6
Kurland	do	1,235	Buenos Ayres	do	1,050,000	20
W. I. Radcliffe	do	1,231	Bristol	Sept. 17	1,126,000	20
Pendleton Sisters	Schooner	704	New York	do	600,000	17
Skulk	Steamship	1,746	Rio Janeiro	Sept. 21	1,680,000	22.6

Shipments of lumber from Gulfport, Miss., for the year 1903—Continued.

Name.	Class.	Net registered tonnage.	Destination.	Date sailed.	Cargo.	Draft.
					Feet B. M.	*Feet.*
Lobelia	do	1,913	Buenos Ayres	Sept. 24	1,885,000	22.4
Helen E. Kenney	Schooner	294	Habana	Sept. 28	296,000	15
Sirocco	do	298	do	Sept. 29	280,000	13
Antioch	Bark	809	South Africa	Sept. 27	545,000	19.6
Arthur M. Gibson	Schooner	296	Habana	Oct. 2	291,000	13.6
Edda	Steamship	698	Jamaica	Oct. 7	350,000	13
Persia	Bark	578	Habana	Oct. 12	373,000	16
Linerla	Schooner	73	Mexico	Oct. 13	62,000	8
Chas. G. Rice	Bark	679	Porto Rico	Oct. 15	442,977	17.6
Magnolia	Schooner	106	Progreso	Oct. 17	126,000	
Harvest Queen	Ship	1,894	Buenos Ayres	Oct. 20	1,322,000	21.8
Romsdal	Steamship	1,177	do	Oct. 23	542,000	20
Knutsford	do	2,572	do	Oct. 26	2,483,000	20.6
Prosperare	Schooner	378	Port of Spain	do	357,000	13
Hornet	Bark	407	Mantanzas	Oct. 29	310,000	15.8
Maria	do	902	Rio Janeiro	Oct. 31	471,000	17
John Bright	Steamship	1,782	Rotterdam	Nov. 3	1,718,000	20.9
Eriphia	do	1,295	do	Nov. 7	1,693,000	20
Cento	do	1,431	do	Nov. 10	558,000	
Griffin	Schooner	305	Matanzas	Nov. 13	290,000	16
Elisabeth	Steamship	1,287	Buenos Ayres	Nov. 16	1,640,000	20
Sirocco	Schooner	298	Matanzas	Nov. 20	270,000	13
Diana	Steamship	2,299	Hamburg	Nov. 21	2,577,000	23
Orion	do	1,016	Ghent	Nov. 26	559,000	15
Peerless	Barkentine	278	St. George	Nov. 30	241,000	
Vanloo	Ship	1,497	Montevideo	Dec. 1	1,086,000	
Hersilia	Steamship	1,295	Rotterdam	Dec. 2	1,695,000	20.6
E. J. Spicer	Ship	1,268	Rio Janeiro	do	989,000	
Persia	Barkentine	578	Cardenas	Dec. 5	355,000	16
Alcaea	Brig	363	San Juan	do	310,000	14
Edda	Steamship	698	Tampico	Dec. 8	727,000	16
Moris M. Pickup	Schooner	373	Matanzas	Dec. 12	341,000	14
Marte	Steamship	2,399	Hamburg	Dec. 15	2,509,000	23.7
Arona	Schooner	532	Cienfuegos	Dec. 16	468,000	14
Ceres	Steamship	2,316	Hamburg	Dec. 17	2,328,000	22.6
Linerla	Schooner	73	Vera Cruz	do	68,000	8
Elvira	Ship	1,488	Rio Janeiro	do	1,051,000	20
Andrea	Bark	1,114	Rosario	Dec. 18	976,000	19
Wladimir Sawin	Steamship	1,295	Buenos Ayres	Dec. 19	1,259,000	19
Stamboul	Ship	1,148	Delagoa Bay	Dec. 21	913,000	20
Kolga	Steamship	950	Rotterdam	Dec. 24	1,203,000	20
Bartholdi	Schooner	299	Habana	Dec. 29	250,000	14
Saerimner	Bark	1,204	Montevideo	Dec. 21	734,000	19
Total		119,878			105,849,422	

Lumber shipments from Gulfport, Miss., for month of November, 1904.

Name.	Class.	Net registered tonnage.	Destination.	Date cleared.	Cargo.	Draft.
					Feet B. M.	*Feet.*
Gamma	German steamship	1,336	Amsterdam	Nov. 5	1,085,000	21
Atlas	British steamship	1,994	Lubeck and Rotterdam	do	2,206,000	22
Horsa	do	1,901	Hamburg	Nov. 7	1,085,000	22
Starke	American schooner	199	Colon	Nov. 11	234,000	13
Advance	British schooner	295	Curaçao	do	296,000	14
Forest Holme	British steamship	1,544	Buenos Ayres	Nov. 14	900,000	21.6
Kambira	British ship	1,885	Rio Janeiro	do	1,321,000	24
Olive	American schooner	127	Puerto Padre	Nov. 15	145,000	12
Persia	British barkentine	579	Habana	Nov. 17	385,000	16
Aberfeldy	British steamship	1,446	Buenos Ayres	Nov. 19	1,368,000	21.5
John Bright	do	1,782	Rotterdam	do	1,665,000	21
Gratia	Norwegian steamship	1,475	Rosario	Nov. 23	1,274,000	21
Attractor	British schooner	110	Lucia	Nov. 24	90,000	10
Kelvindale	British steamship	2,000	Buenos Ayres	Nov. 25	1,425,000	21
Nordlyset	Norwegian bark	1,463	La Plata	do	1,272,000	20
Drumpark	Italian bark	1,469	Buenos Ayres	do	1,108,000	20.3
Bergloit	Norwegian bark	866	Rosario	Nov. 29	599,000	20
Arranmoor	British steamship	1,721	Rotterdam	Nov. 30	2,243,000	23
Total		22,192			18,701,000	

Lumber shipments from Gulfport, Miss., for month of December, 1904.

Rosa	Italian bark	1,039	Buenos Ayres	Dec. 1	758,000	20
Annie	American schooner	512	Cienfuegos	Dec. 3	511,000	16.3
Unique	Norwegian steamship	1,298	Buenos Ayres	do	1,324,000	18.7
Elma	British schooner	299	Castries	do	275,000	16
Carnegie	Norwegian bark	983	Rosario	Dec. 5	724,000	19
Vila y Hermano	American schooner	293	Colon	Dec. 6	252,000	14.6
Felix De Abasola	Spanish steamship	2,167	Aberdeen	Dec. 10	2,202,000	21
F. W. Pickels	British schooner	386	Matanzas	do	361,000	15.6
Akaroa	Norwegian bark	1,268	Buenos Ayres	do	906,000	20.4
Fred W. Ayres	American schooner	314	Sagua La Grande	Dec. 13	313,000	15
Lillie	British schooner	311	Cardenas	Dec. 15	271,000	16
Arthur M. Gibson	do	296	Port of Spain	Dec. 16	284,000	15.6
Lord of Avon	do	325	Habana	Dec. 19	298,000	15.6
Everest	British steamship	1,332	London and Havre	do	1,553,000	19
Helen E. Kenney	British schooner	294	Cardenas	Dec. 20	297,000	16
Tercera	Danish bark	1,024	Montevideo	Dec. 21	751,000	20.6
Earl of Zetland	Russian ship	1,395	Buenos Ayres	do	999,000	21
Marie F. Cummins	American schooner	489	Cienfuegos	Dec. 22	427,000	16
Vanduara	Italian ship	1,362	Montevideo	Dec. 23	995,000	22.3
Doris	American schooner	310	Matanzas	do	317,000	14
Dilbhur	Italian bark	1,281	Buenos Ayres	Dec. 27	913,000	21.6
Duncrag	Norwegian bark	877	do	Dec. 28	653,000	18
Hiso	Norwegian steamship	972	do	Dec. 30	1,061,000	18
Hjordis	Norwegian bark	965	do	Dec. 31	692,000	18
Total		19,792			17,137,000	

Shipments of naval stores.

Name.	Class.	Net registered tonnage.	Destination.	Date.	Rosin.	Turpentine.
					Barrels.	*Gallons.*
Themisto	Dutch steamship	2,327	Hamburg	July 21	22,131	100,000
Cayo Bonito	British steamship	2,213	do	Aug. 15	12,730	155,000
Lacroma	Austrian steamship	2,225	Trieste	Aug. 19	8,783	
Lassell	American steamship	1,225	New York	Aug. 27	14,557	
Anna	Austrian steamship	1,317	Trieste	Oct. 29	8,854	
Kosmos	Norwegian bark	1,227	Buenos Ayres	Oct. 21		480
Forest Holme	British steamship	1,544	do	Nov. 12	5,476	
Lacroma	Austrian steamship	2,225	Trieste	Nov. 29	12,424	
Lodovica	do	2,273	do	Dec. 30	8,771	
Total		16,576			92,726	255,480

Imports into Gulfport, Miss.

Name.	Class.	Net registered tonnage.	Arrived from—	Date.	Products.	Quantity.
						Tons.
Giovan Maria d'Ali	Italian steamship	1,811	Huelva	Aug. 11	Iron pyrites	3,300
Robinia	British steamship	1,308	do	Dec. 14	do	2,800
Dorothy	American steamship	1,625	Carteret	Dec. 24	Acid phosphate	3,000

Recapitulation of lumber shipments for year 1904.

Shipments month of—	*Feet B. M.*
January, 1904	21,744,000
February, 1904	22,230,000
March, 1904	25,132,000
April, 1904	18,188,000
May, 1904	17,656,000
June, 1904	23,742,079
July, 1904	22,491,000
August, 1904	23,911,000
September, 1904	20,435,750
October, 1904	13,843,000
November, 1904	18,701,000
December, 1904	17,137,000
Shipments for—	
1904	245,213,829
1903	105,849,252
1902	19,035,252

Port opened up for business January, 1902.

Lumber shipments from Gulfport, Miss., for month of January, 1905.

Name.	Class.	Net registered tonnage.	Destination.	Date cleared.	Cargo.	Draft.
					Feet B. M.	*Feet.*
Florida	Italian bark	1,149	Bahia Blanca	Jan. 3	852,000	21.1
Sirdar	British schooner	498	Sekondi	do	413,000	14.6
Fillipo Denegri	Italian bark	838	Santa Fe	do	579,000	18
Clara A. Phinney	American schooner	389	Cardenas	Jan. 5	348,000	15
Patriarch	Norwegian ship	1,221	Buenos Ayres	Jan. 7	906,000	21.3
Henny	Italian bark	868	Montevideo	Jan. 10	619,000	18
Dorothy Belle	American schooner	447	Habana	do	419,000	13
Evadne	British schooner	361	Cardenas	Jan. 16	328,000	15
Pehr Ugland	Norwegian bark	1,230	Buenos Ayres	Jan. 19	940,000	18
Canada	British ship	2,237	Rio Janeiro	Jan. 20	1,584,000	22
Leif	Norwegian ship	1,165	Bahia Blanca	Jan. 23	888,000	20
Annie Elmer	Austrian bark	1,353	Buenos Ayres	do	1,058,000	20.6
Janeta	British steamship	2,179	Rotterdam	do	2,187,000	22.4
Londesborough	do	1,969	Buenos Ayres	Jan. 24	1,997,000	22
Persia	British barkentine	579	Matanzas	Jan. 25	381,000	16
Seiglinde	German steamship	967	Hamburg	do	881,000	17
Alpha	Dutch steamship	1,314	Rotterdam	Jan. 26	1,407,000	18
Svend II	Danish steamship	1,316	Buenos Ayres	Jan. 28	1,437,000	18
Ootmarsum	Dutch steamship	1,466	Montevideo	Jan. 31	1,458,000	18
Gertrude A. Bartlett	American schooner	290	Progreso	do	390,000	14
Melrose	do	637	Santiago	do	401,000	14
Total		22,473			19,473,000	

The Export Record's annual statement of shipments of wood goods out of the Gulf for the year ending December 31, 1903.

Port.	Year.	Lumber.	Sawn timber.	Hewn timber.	Cross-ties.	Pickets.
		Sup. feet.	*Sup. feet.*	*Cubic feet.*	*Sup. feet.*	
Pensacola, Fla	1903	154,139,981	178,223,044	421,046	1,313,875	299,883
	1902	78,128,751	60,603,024	170,960	6,974,413	35,225
	1901	93,072,311	77,093,000	217,972	1,350,000	8,000
Mobile, Ala	1903	113,611,095	112,739,564	1,025,816	1,421,625	240,632
	1902	50,970,211	59,779,143	479,683	5,678,372	158,705
	1901	73,135,504	86,886,893	712,636	3,784,200	316,817
Pascagoula, Miss	1903	67,000,060	12,506,338	414,661		7,294
	1902	63,785,003	5,029,334	97,832	448,930	
	1901	54,000,000	4,328,470	164,057	2,126,400	
Ship Island, Miss	1903	40,021,000	7,191,000	153,242		
	1902	34,585,759	10,608,652	120,567		
	1903	85,399,977	12,196,000			
Gulfport, Miss	1903	16,252,497	9,512,748	57,510	3,952,930	
Sabine Pass, Tex	1902	8,492,016	234,769		1,498,092	
	1901	13,048,011	120,000	22,250	4,725,040	22,500
Brunswick, Ga	1903	154,477,946	29,725,324		132,658,247	
	1902	56,828,824	2,168,000		31,589,505	

The Gulf Coast Record's annual statement of shipments of wood goods out of the Gulf for the year ending December 31, 1904.

Port.	Year.	Lumber.	Sawn timber.	Hewn timber.	Cross-ties.	Pickets.
		Sup. feet.	*Sup. feet.*	*Cubic feet.*	*Sup. feet.*	
Pensacola, Fla	1904	171,203,667	126,294,130	993,569	507,000	70,452
	1903	154,139,981	178,223,044	421,046	1,313,875	299,883
	1902	78,128,751	60,603,024	170,960	6,974,413	35,225
	1901	93,072,311	77,093,000	217,972	1,350,000	8,000
Mobile, Ala	1904	138,822,471	100,399,277	851,829	1,845,600	59,164
	1903	113,611,095	112,739,564	1,025,816	1,421,625	240,632
	1902	50,970,211	59,779,143	479,683	5,678,372	158,705
	1901	73,135,504	86,886,893	712,636	3,784,200	316,817
Pascagoula, Miss	1904	44,308,900	11,947,000	341,301	----------	----------
	1903	67,000,060	12,506,338	414,661	----------	7,294
	1902	63,785,003	5,029,334	97,832	448,930	----------
	1901	54,000,000	4,328,470	164,057	2,126,400	----------
Ship Island, Miss	1904	4,554,000	2,294,000	----------	----------	----------
	1903	40,021,000	7,191,000	153,242	----------	----------
	1902	34,585,759	10,608,652	120,567	----------	----------
Gulfport, Miss	1904	195,302,000	38,986,000	242,697	----------	----------
	1903	85,399,977	12,136,000	----------	----------	----------
Sabine Pass, Tex	1904	13,080,516	11,857,894	27,782	3,304,014	----------
	1903	16,252,497	9,512,748	57,510	3,952,930	----------
	1902	8,492,016	234,769	----------	1,498,092	----------
	1901	13,048,011	120,000	22,250	4,725,040	22,500
Brunswick, Ga	1904	131,820,837	11,256,000	----------	124,636,774	----------
	1903	154,477,946	20,725,324	----------	132,658,247	----------
	1902	56,828,824	2,168,000	----------	31,589,505	----------

GULF AND SHIP ISLAND RAILROAD COMPANY,
Gulfport, Miss., February 3, 1905.

Hon. E. J. BOWERS,
No. 1333 Rhode Island avenue, Washington, D. C.

DEAR SIR: In compliance with your request of the 30th, I beg to advise that the business in and out of Gulfport, via rail, for the year ended December 31, 1904, was as follows:

RECEIVED AT GULFPORT.

	Quantity.	Rate.	Value.
	Pounds.		
Lumber (Gulf and Ship Island).	557,840,000	$23 per M	$2,851,182.20
Cotton (Gulf and Ship Island).	4,876,000	10 cents per pound	487,600.00
Others (Gulf and Ship Island).	125,936,000	25 cents per pound	6,196,800.00
Others (Louisville and Nashville).	53,866,000	5 cents per pound	2,693,300.00
Total	740,518,000		12,228,882.20

FORWARDED FROM GULFPORT.

	Quantity.	Rate.	Value.
	Pounds.		
Lumber (Gulf and Ship Island).	3,098,000	$20 per M	$13,768.80
Pyrites (Gulf and Ship Island).	11,402,000	2 cents per pound	22,804.00
Others (Gulf and Ship Island).	106,546,000	5 cents per pound	5,327,300.00
Others (Louisville and Nashville).	15,520,000	do	776,000.00
Total	136,566,000		6,139,872.80

RECAPITULATION.

Total received	740,518,000		$12,228,882.20
Total forwarded	136,566,000		6,139,872.80
Total	877,084,000		18,368,755.00

These values, of course, are estimated, but I believe are about as close as approximate figures can be made, and I trust they are in such shape as to serve your purpose.

Yours, very truly, ELISHA GEE, *Auditor.*

Mr. BURTON. I yield to the gentleman from Ohio [Mr. GOEBEL].

Mr. GOEBEL. Mr. Chairman, this House but a few days ago, in obedience to a public demand, conferred upon the Interstate Commerce Commission power to declare a railroad rate unreasonable and discriminatory and to fix a reasonable rate and otherwise regulate railroads in the transportation of freight. Serious questions arose in the consideration and discussion of that bill, among them whether the power to so regulate could be delegated to a board or commission, and whether, upon the whole, the Congress should legislate upon that question. My purpose is not to discuss either question, for they have been determined by this House, whether wisely or unwisely, I assume wisely and in the interest and for the public good. In effect we said to the railroads that when you transport the freight belonging to our people you shall charge a reasonable rate, and you shall not discriminate between shippers or against localities, and to that extent we propose to control you. Now, railroads being quasi public corporations, deriving their power from the sovereignty, I assume that all powers not expressly granted them are reserved in the people and that one of the powers so reserved is the right to regulate rates.

My purpose, however, in calling the attention of the Congress at this time to the propositions so involved, and which are only applicable to public corporations created by the sovereignty, is to emphasize the fact that an equal if not a greater duty devolves upon the Congress to so manage and regulate its own property, whereby that property may come into competition with railroads, and thereby minimize the evil, if not altogether prevent unreasonable and unfair discriminations as to rates. It is said that the commerce between the States is 70 per cent of the amount of the total foreign and domestic trade of the United States. It would seem that our very existence depended upon that trade. The cost of transportation, therefore, necessarily is an important factor in our commerce, and may at times become oppressive. This you have sought to prevent by conferring certain powers upon the Interstate Commerce Commission. Let me point out to you another way of meeting such possibilities.

Improve your rivers and harbors; open up the great waterways for the commerce of the world; let them come in direct competition with railroads, for competition is the life of trade. Competition means cheaper rates; cheaper rates stimulate trade and open a larger field of activity. These waterways belong to the people. They are in your keeping, and form a part of the equipment of our nation. In my judgment it offers, in a measure, at least, a proper solution of the rate problem. I would not destroy the railroads, for they have been, and always will be, an important factor in the development of our country; but I would not foster them as a monopoly upon our people. Let them strive in competition for this trade and rates will adjust themselves, accomplished, too, by natural means of trade, without affecting the usefulness of railroads.

To show you now the difference between railroad rates when compared with the water traffic, I want to call your attention to a few comparisons of the cost of freight movements by rail and by water. I take them from an address delivered by Capt. W. H. Hall, of the United States Engineer Corps, delivered at the tenth annual meeting of the Ohio Valley Improvement Association, and this is what he says:

By Poor's Manual of Railway Freight Traffic for 1901 the average cost of moving freight over all railroads of the United States was 7.46 mills per ton mile.

As you know, the Illinois Central Railroad from Chicago to New Orleans is a line almost across the United States, has easy alignment and easy grades down the Mississippi River almost as easy as it is possible to obtain. In fact, it is one of the cheapest roads in the country for moving freight over. It is well managed and is in good financial condition. With all these advantages its average charge for freight per ton mile in 1901 was over 6 mills.

Now, contrast these figures with transportation by water. On the short movement of 155 miles on the lower Seine—below Paris—the average rate was only 3.3 mills per ton mile on miscellaneous freight. This is less than half the average rate for the long railroad hauls in this country, and only a little more than half the rate on one of the roads which has the easiest and cheapest movement, the Illinois Central, cited above. Remember the Seine, the Meuse, and nearly all the European rivers are small in comparison with this great Ohio. Compare all the above rates with the rate of moving freight down this great river, which, when it is improved with locks and dams, will be greater than the greatest rivers of Europe.

A board of army engineer officers stated some years ago, after careful inquiry, that the rate for transporting coal down the upper Ohio to Cincinnati is less than one-third of a mill per ton mile, and I have heard that for the same traffic on the lower Ohio and Mississippi from Louisville, 1,400 miles to New Orleans, that rate is less than one-tenth of a mill per ton mile. I suppose these rates only include the cost of the downstream movement.

In a paper read last month before the International Engineering Congress at St. Louis, Major Sibert, United States Army, district engineer officer at Pittsburg, gives the cost of barge traffic on the Monongahela and Ohio as found by him after "a thorough examination," as follows:

"Cost per ton per mile on Monongahela, 1.8 mills."

On Ohio River, Pittsburg to Louisville, 0.76 mill.

On Ohio and Mississippi rivers, Pittsburg to New Orleans, 0.675 mill.

The first two rates include the cost of returning barges to starting point. The last rate does not include returning barges, but includes their value in the cost of transportation. I account for the difference between Major Sibert's figures and the Engineer Board's figures, referred to above, by the supposition that the board did not include the cost of returning the barges, or the cost of the barges, as did Major Sibert.

The above rates for floating the coal down in great fleets of barges is cheaper than any transportation by rail, by steamer or sailing vessel on the ocean, or by any other known method of transportation in the world. The great misfortune is that we only have this method of transportation, as you all too well know, for about four to five months of the year. With the river improved with locks 600 feet between gates and 110 feet wide it will be good for about ten to eleven months of the year. In the paper referred to above Major Sibert estimates that with a 9-foot stage the present cost of transportation will be reduced to 0.4 mill, or will be only a little more than two-thirds to one-half the present actual cost. Moreover, when it is so improved its capacity as a carrier of freight and passengers will be almost as limitless as the ocean. From my front porch I have a clear view of a 4 or 5 mile stretch of this river, and at one time I have seen on that stretch as many as 7 fleets moving easily down stream without interfering or without having to side track for the up-stream traffic. Had cargoes of those 7 fleets been transferred to railway cars do you know how many trains of 40 tons to the car and 30 cars to the train it would have required to have carried them? Just about 110 trains or 3,500 cars. Such a sight as the above many of you have seen; it is not unusual, and the reduction of fleet capacity to railroad cars and trains is commonplace, but I repeat it because I wish to emphasize by it two facts: First, the great commercial capacity of the river, when it shall be open the year around, and the further fact that it will be almost impracticable to carry the great tonnage which this valley is capable of producing by railway trains.

Now, let us further compare the average rates cited above of 7.46 mills per ton mile for the entire railroad traffic of the United States, 6 mills per ton mile for the Illinois Central Railroad, and 3.3 mills per ton mile for the river Seine, in France, with the cost of transporting freight down the Ohio by fleets, and let us draw some conclusions from them.

From the statistics of the Ohio River traffic it appears that of the 16,000,000 tons moved in 1903, that about one-half was by towboats and barges and the other half by packets and small steamers. I am not informed as to the average length of movement, but it is probably not less than 500 miles for barges, and 200 miles for packet traffic. If so, estimate the cost of moving the 8,000,000 tons carried in 1903 by barges at Major Sibert's rate, 0.76 mill per ton mile, and we find the total cost of the barge traffic to be about $3,000,000. Likewise, estimate the cost of the traffic at the rate on the Seine (not knowing a rate for conditions nearer alike to the Ohio packet traffic), 3.3 mills per ton mile, for 8,000,000 tons an average movement of 200 miles, and we find a cost for its movement of $5,280,000; or a total cost for the Ohio River traffic in 1903 of $8,250,000. I have used the rate on the Seine for the reason that I have no rate on local river traffic with conditions near alike to those on the Ohio.

It is interesting to note that to have made the same movement by rail at 6 mills per ton mile would have cost $33,600,000; or, at 4 mills per ton mile, a very low railroad rate, $22,400,000.

Just think of it. Had you not had this river in 1903, to have moved the freight it carried would have cost this Ohio Valley some $25,000,000 more than was actually paid, or what would have been worse, the movement might have been impossible.

This computation is only approximate, but it is near enough to the correct figures to show you the great fact which I wish to emphasize—viz, that to transfer this river traffic to railroads would so immensely increase its cost that much of it would be stopped. If this be so, as the traffic on the river in its present condition is obliged to reach its limit before many more years, I believe the improvement of the river is absolutely necessary for the future commercial development of the valley to that extent to which its natural resources warrant. Or, in other words, should we continue in future to depend on the railroads as we have in the past the exports of this valley will reach their limit at not a far distant day. With an improved river it is not believed that the commerce will ever reach the capacity of the river.

Therefore, as the prices of many of the products of the world are controlled by their price in this valley and the cost of transporting them therefrom, the improvement of this river should be a subject of importance to all the principal markets of the world.

In order to make a rational guess of the future tonnage of the improved Ohio, let us refer to the increase in traffic on the Great Lakes since the improvement of the Soo with locks.

In 1861 the tonnage through the Soo was 88,000.

In 1871 it was 585,000 (through the little State lock).

In 1881 it was 1,567,000 (through the first Government lock).

In 1891 it was 8,888,000 (through the first Government lock).

In 1901 it was 28,403,000 through two Government locks, or a rate of increase of 2,000,000 tons a year.

In 1903 it was 36,419,000 through two Government locks, or a rate of increase of 4,000,000 tons a year. And yet it goes on increasing. By actual statistics it only cost the United States in 1903 2.65 mills per ton to pass that freight through those locks. The estimated value of the freight was $350,000,000. Before these locks were built such a tonnage was not even dreamed of by the most optimistic. It is this improvement more than any other one thing that has made possible the wonderful growth of the cities of Duluth, Cleveland, Buffalo, and Pittsburg.

With such an example before us, who can estimate the growth of the tonnage on the Ohio? I believe the resources of the Ohio Valley greater than those of all the country bordering on the Great Lakes. When the Ohio is improved and we have even a cheaper method of moving the products of its great valley than even by lake vessels and an open river for the year, who can estimate all the tonnage of the Ohio? I can hardly believe that fifty to sixty million tons is too high an estimate for it. Let us be very conservative and suppose it is only forty millions. At 0.4 of a mill per ton mile the cost of moving it an average distance of 500 miles will be $8,000,000. To move the same traffic by river in its present condition at 0.76 mills per ton mile would nearly double the cost. That is applying Major Sibert's figures of actual cost of the barge traffic under present conditions, and estimated cost with an improved river to a 40,000,000-ton traffic and we find that the saving on that one class of traffic will be nearly $8,000,000, or 12 to 15 per cent the cost of the entire improvement. By improving the river with locks and dams and making the season for packets good for the year I believe that the saving on packet freight will be even greater than the above. It therefore appears, besides being essential to the future full development of this valley, that the improvement of this river is wise and proper purely from a business point of view.

Since we know that in its present condition the traffic of the river is often moved at great danger and entirely stopped for many months of the year, and that with an improved river 1,000 to 3,000 feet wide and navigable the year round its capacity will be as limitless as this the greatest valley of the world. I believe that the figures I have used are conservative. The capacity will be almost as great as the capacity of the ocean itself, and the river will be as free as the great Atlantic, which we know has been one of the greatest factors in the making and in the maintaining of all our great cities along its shores from Boston to Jacksonville. With an unimproved river I think it doubtful if a tonnage of 40,000,000 per year would ever be reached—and that is the most serious part of the problem. If present conditions are not improved your traffic will be throttled and growth stopped or greatly crippled.

As is shown above in the reference to the Manchester traffic, an outlet to the sea by water is essential to-day for every manufacturing community seeking to be an important factor in international trade.

I believe that within ten years of the time the river is improved as far as Cincinnati the traffic will be nearer to 60,000,000 tons than to 40,000,000. As on the Great Lakes, it is impossible to forecast how great a traffic may follow such an improvement. It is also impossible to tell to what great extent it may benefit mankind; but I believe that the building of the locks and dams as proposed in the Ohio and making it navigable for ten to twelve months in the year will not only add great wealth to all the States of the Ohio Valley from Pennsylvania to Alabama, but will be greatly beneficial to all the States along the Mississippi, all the States bordering on the Gulf and on the Atlantic, and, so soon as the isthmian canal is completed, all the States on the Pacific. And that is not all, it will greatly benefit those poor people in Porto Rico, Cuba, Hawaii, and the Philippines for whom our country has chosen to stand godfather. It will be beneficial to all the South Atlantic islands and countries, all the Pacific islands and countries, and to all of eastern Asia, and I believe to Europe and Africa as well. This great work which this association is helping should, therefore, not be treated as a local affair, but, as the isthmian canal, it should be a work in which all the nation is interested and participated in, not only by the Ohio Valley States, but also by the Mississippi Valley States, the Atlantic States, the Gulf States, the Pacific States, and our foreign possessions. It is unquestionably of national importance, and I hope will soon be so treated by Congress.

It will be observed that these comparisons have been made with reference to the Ohio River traffic. In my judgment they apply with equal force to all river traffic, and it gives us information of the great future of our waterways, and of the possibilities, by affording the relief that is so eagerly sought by our people.

Mr. Chairman, there is another reason why the Congress should pursue a more liberal policy as to our waterways, and that is in the interest of commercial progress. Our home demand has been equal to our home supply, and hence we have not given the question of foreign trade very serious consideration. But the time is not far distant when we must find a foreign market for our products.

The opening of the isthmian canal will open the door for foreign competition, and this our people must meet. To do this, you must afford to them additional facilities for transportation, and that, too, at cheaper rates. The question of water traffic is an important one to our people, and I am inclined to believe that the Congress has not fully considered the great possibilities by developments and of the future of our waterways. Representing as I do in part a great commercial city bordering upon the Ohio River, in which our people are so largely interested, permit me to say a few words of that great river.

Measured in length more than 1,000 miles, and with its tributaries reaching into the regions of coal and iron ore, stretching south to the cotton belt, makes for steamboat traffic more than 4,000 miles. It laid the foundation of the great western empire. Upon it border six great States of the Union, and forms a part of the great Ohio Valley basin. That basin, it is said, has a drainage area estimated at 210,000 square miles; greater than France, Germany, Spain, Italy, and England, and within it is contained the center of population as well as manufacturing industries. What a nucleus to do the commerce of the country! But, great as its resources are, they await further developments, and with an abiding faith and hope our people are looking to the Congress for relief. It is a matter of vital importance, nay, national in its character, that when accomplished must assure commercial prosperity for every community. The Government ought to have a decided policy as to our waterways, and appropriations ought to be made in accordance with that policy. I know in that regard I voice the sentiment and judgment of my colleague, the distinguished chairman of the Committee on Rivers and Harbors. It is not my purpose to criticise the Congress or the appropriations that have been made for other purposes; it is, nevertheless, a fact that you have been appropriating millions upon millions of dollars annually for the Army and Navy, and at time of peace, to maintain an excellent police

force on dress parade, while in ninety-eight years the total appropriations for rivers and harbors was little in excess of $389,000,000, and during a period of sixty-seven years you have expended for Ohio River improvements a little over $20,000,000.

Time will not permit me to dwell longer upon that subject. Let us hope that the Congress will in the future take a broader and more liberal view of all river and harbor improvements, that a settled policy be maintained, and that the appropriations be liberal and just in order to carry out that policy, and in this I know public sentiment will sustain the Congress, even though it would increase our indebtedness.

Mr. BURTON. I yield five minutes to the gentleman from Tennessee [Mr. GAINES].

Mr. GAINES of Tennessee. Mr. Chairman, I very much regret that we have not more time in which to discuss this important measure, and particularly the project of improving the Cumberland River, to which I now ask the careful attention of the committee.

For the purpose of locking and damming the Cumberland River the Department divided it into two sections—the lower Cumberland, below Nashville, and the upper Cumberland, above Nashville. In the lower Cumberland, after careful survey, it is proposed to erect seven locks, A to G, covering a space of 191 miles—that is, from Nashville to the Ohio River. Last November, Lock A was put in operation. It is located at Harpers Shoal, about 40 miles below Nashville.

The upper Cumberland has one lock, No. 1, in operation. Burnside, Ky., is the head of navigation. Between Nashville and Burnside it is proposed to erect 22 locks, locks 21 and 22 being in Kentucky, and are 296 and 320 miles, respectively, above Nashville.

Lock 1, 2½ miles below Nashville, as stated, is in operation, while locks 2, 3, 4, 5, 6, and 7 (9 miles, 26 miles, 44 miles, 72 miles, 89 miles, and 106 miles, respectively, above Nashville) are so near completion as to be ready for the dams and gates to be erected. The estimated cost of completing them—the dams and gates—is about $750,000. Without a single exception the engineers in charge from time to time on this work, or the work on this river, have recommended the improvement of the "lower Cumberland," so as to give access to and from the Ohio. Yet not one cent does this bill carry to improve any portion, upper or lower, of the Cumberland River in the State of Tennessee, but does carry an amount sufficient, including existing appropriations, to complete Lock No. 21, in Kentucky, 296 miles above Nashville, and 487 miles from the Ohio River, and 28 miles below Burnside.

This lock will benefit only the few people who live within the narrow limits of 28 miles, but will not build up the commerce of the river, except to facilitate unloading coal in the lap of the Cincinnati Southern Railroad that runs by Burnside.

This road now has, or did have in 1902, Colonel Kingman said, three boats hauling coal to it at Burnside.

This lock will pool the Cumberland for the benefit of this road for the purposes stated and aid in a narrow, limited way people living along in this vicinity. Thus public funds are, in effect, diverted to building up the river for the private benefit of one neighborhood. The purpose of improving our rivers and harbors is to avoid and regulate railroad monopoly; but here it feeds it, to the detriment of the general public. Against such a policy I protest.

I protest against burying the public funds in isolated locks and dams, and insist that that is what the building of this Lock 21 does. Not only is the lower Cumberland entirely ignored, against the recommendation of the engineers in charge, but no dams and gates are provided for the six locks—2. 3. 4, 5, 6, 7—in the upper Cumberland, and they must stand there, the silent victims of the policy pursued in providing in this bill for only Lock 21.

Not only that, but Tennessee is charged up with this appropriation while the work is done far beyond her borders, in the State of Kentucky.

Tennessee has always borne her burdens in war and peace, and can bear this, an injustice, I think, but not, sirs, without a protest. Why, sirs, should not both States be charged by the committee with this appropriation, rather than do Tennessee the injustice that you have wrought?

I would protest against this treatment for my State even if this bill carried every dollar that the engineer requested to complete the lower Cumberland and to erect the dams and gates for the six locks in the upper Cumberland.

But, Mr. Chairman, that is a small matter compared to the action of the committee in repudiating the recommendation of the engineer, basing, as the committee does, its action upon a recommendation of Colonel Adams, which the committee has misconstrued, and which, at all events, Colonel Adams, Colonel Sears, and Colonel Newcomer have since repudiated.

Colonel Adams never said that Lock 21 was the most important of any single lock "in the river." He did say that it was the most important of any "single" lock "in the upper Cumberland," but he abandoned this recommendation and excused himself in his next report by saying he had only had charge of the Cumberland "three months" when he made that statement, and when he had thoroughly investigated the enterprise, in vigorous language, he urged the improvement of the lower Cumberland—that is, from Nashville to the Ohio first, and then the upper Cumberland. I will insert, in extending my remarks, what Colonel Adams and others said on the subject:

In 1899 Colonel Adams said:

By act of June 3, 1896, $20,000 were made specifically applicable to Locks 21 and 22, and the sites for these locks and abutments of dams have been acquired by the Uuited States. There is no single lock, and perhaps it may be said no two or three locks, in this system the completion and operation of which would do as much for the commerce of the upper Cumberland as the completion and operation of Lock No. 21. This lock may be likened to Lock A of the lower river system, in that it would afford a 3-foot stage at Burnside, Ky., the same as Lock A will give to Nashville. The balance of the appropriation available, $17,038.89, will be applied in getting out stone for construction of Lock No. 21.

This he said in 1899, when he had been in charge of the Cumberland only three months.

In 1900, in his next report (p. 2893), he said:

The annual report for last year, 1899, was prepared when I had only three months' charge of the Cumberland River improvement; necessarily, therefore, with limited knowledge of the most important features of the enterprise.

Naturally, too, at first glance, seeing that there were four locks completed and four more approaching completion, partly above and partly below Nashville, but all absolutely valueless as to aids to navigation until made operative by the construction of their accessories, i. e., their gates, dams, approaches, etc., it seemed of paramount importance that these costly structures should be made operative at the earliest possible date, in order that a return on the large outlay already incurred might soon be realized; consequently, my first annual report asked for appropriations in accordance with these views.

Further consideration of the subject, however, goes to show that these early impressions were only partially correct, for it is exceedingly doubtful that a return at all commensurate with the cost would result from merely rendering these eight locks operative, inasmuch as such a course would only produce a lake-like reach of navigable water, extending from 41 miles below to 125 miles above Nashville, that would be lacking a navigable outlet during about seven months of the year.

I am decidedly of the opinion that it would be injudicious to undertake to render the locks on this isolated reach of river operative until an outlet can be provided into the Ohio River, on the one hand, or, on the other hand possibly, until the time is nearly arrived when the extension of the improvement to the coal fields at the headwaters of the Cumberland River can be pushed vigorously to completion.

The estimated cost of providing an outlet into the Ohio River, i. e., the completion of the scheme of improvement below Nashville, is $1,714,500, and with the funds available and the lock sites secured, the work might be accomplished in about two years; whereas the extension of the improvement to the coal fields, i. e., the completion of the scheme of improvement above Nashville, is estimated to cost $6,805,000, and with the funds available and the lock sites secured would require about eight years for its accomplishment.

There is little doubt, too, that the immediate benefits to be derived would be greater by affording an all-year navigation down into the Ohio River (from Nashville and from Carthage, 120 miles above Nashville) than by affording an all-year navigation up the river so as to reach the coal fields there.

The upper river improvement will therefore cost four times as much and take four times as long for its completion as the lower river improvement, and might be expected to greatly cheapen the cost of coal and transportation to and from the farms near the banks of the upper river; whereas the lower river improvement, though costing only one-fourth as much in money and time, may be expected to greatly cheapen the cost of transportation to and from the farms along its banks, too, and to greatly reduce the cost of innumerable commodities that would then seek this means of going to and from the Ohio Valley. Indeed, it appears too obvious to require further elucidation that earlier and larger returns may be expected from the lower river improvement than from the upper river improvement. Therefore it seems well warrantable that early provision be made for the construction of six more locks and accessories below Nashville, and that the seven locks (one now built) constituting the lower river system of improvement, as well as the seven other locks now built and constituting the lower portion of the upper river system of improvement, be made operative together at the earliest admissible date.

It seems impossible to urge the course that has just been indicated with too much vehemence, being apparently the only way of securing a return for the expenditures already incurred and that may hereafter be incurred within a reasonable time and for a reasonable additional outlay.

If large boats could be assured an all-year stage of water between Nashville and the Ohio Valley, it is probably not saying too much that a reduction of 40 to 50 per cent in most freight charges to and from Nashville, Clarksville, and perhaps other points, would inevitably follow, and I do not hesitate, therefore, to ask for the entire sum that will be required to carry the lower river scheme of improvement and the lower portion of the upper river scheme of improvement to completion at an early day, and the accompanying money statements have been prepared accordingly.

The Chief of Engineers, in speaking of this report (Report 1900, p. 211) urged the improvement of the lower Cumberland, as follows:

The officer now in local charge (Colonel Adams) presents a strong argument in his report, given in the proper appendix, to which attention is invited, wherein the necessity for completion of the lower river improvement so as to afford an outlet into the Ohio River is urgently set forth. It is desirable that this improvement shall be accomplished at the earliest possible date and thereby afford an all-year navigation be-

tween the city of Nashville and the Ohio River, as well as an outlet to the reach of improved river above Nashville, so that the improvements already made there would become available to commerce.

In his report—1902—Colonel Adams, at page 1702, shows that he had utterly abandoned the plan, if he ever entertained it, to erect Lock 21 as against the balance of the whole river or against the upper Cumberland immediately above Nashville (Locks 1 to 7) or as against the lower Cumberland, for he says:

There is a balance of $16,875 applicable to Locks 21 and 22, which is recommended to be made available below Nashville, except what may be needed for contingencies.

Here he recommended taking the money unused at Locks 21 and 22, upper Cumberland, and improving the lower Cumberland.

On page 1704 of this same report—1902—Colonel Adams says:

My recommendation, therefore, is that the section below Nashville be pushed to completion before anything else; that the section between Nashville and Carthage (upper Cumberland) be completed next; but I am obliged to regard the section above Carthage as unworthy of improvement except through a fostering care of the Government by maintenance of open-channel works.

Colonel Adams had already said, page 1704, that he had made a "study" of the subject, and had determined that the lower Cumberland was "twice as worthy of improvement as the section between Nashville and Carthage," and that the latter was "ten times as worthy of improvement as the section above Carthage." Here are his words:

In compliance with section 7, river and harbor act of 1899, the determination of worthiness involved too much elaboration for incorporation in this report; therefore, the study of the subject was submitted to the Chief of Engineers in a separate report. The conclusions reached, however, were as follows:

That section of river below Nashville on which two locks are built is twice as worthy of improvement as the section between Nashville and Carthage on which six locks are built, and in the section between Nashville and Carthage is ten times as worthy of improvement as the section above Carthage on which no work has been done.

However, it is claimed as far as learned, that the outlay for canalization above Carthage is warrantable except mainly for the purpose of reaching coal fields alleged to be there. These fields should be vast to warrant an expenditure of $6,000,000 in transportation facilities. It is respectfully submitted, therefore, as a fair business proposition that at least the extent, depth, and quality of the coal said to be there should be accurately determined by borings and openings before incurring the expenditure.

My recommendation, therefore, is that the section below Nashville be pushed to completion before everything else; that the section between Nashville and Carthage be completed next; but I am obliged to regard the section above Carthage as unworthy of improvement except through a fostering care of the Government by maintenance of existing open-channel works.

In conclusion, permit me to allude to a table of the appropriations to be included in this bill as decided upon by the committee January 26, 1905.

The committee charges up all the appropriations for locks and work made in the great Tennessee River at points in Georgia and Alabama; they charge it up to Tennessee, thus stripping Tennessee of that appropriation that should justly come to her to build up the Cumberland River.

When I speak to the intelligent and learned chairman of the committee I am warned, as I am by other members of the committee, that so much has been done for the Tennessee River that nothing can be done for the Cumberland River up in Tennessee. Now, Mr. Chairman, I desire to show you facts just as I have stated them from the official list of appropriations, the list of items of appropriations issued by the committee.

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

Mr. GAINES of Tennessee. I wish the Chairman would give me five minutes more.

Mr. BURTON. I can not, for the time is all promised.

Mr. GAINES of Tennessee. I want to put this table in. I want to put in just one shining spot in the history of this great bill.

Mr. BURTON. I will yield the gentleman two minutes. We do not want to miss any of the shining spots. [Laughter.]

Mr. GAINES of Tennessee. I thank the gentleman. I am going to read from this tabulation issued by the Rivers and Harbors Committee, January 26 last, under the head, "Tennessee," as follows:

Obion and Forked Deer rivers, $3,000.
Cumberland River below Nashville, $10,000.
Cumberland River above Nashville, including construction of Lock and Dam No. 21, $84,000.

Expenditures authorized continuing contract. Lock No. 21 is not in Tennessee, but in Kentucky. Why should the committee not say: "Lock and dam No. 21, Kentucky?" This lock is in Kentucky.

Tennessee River above Chattanooga, $50,000.

That is all right.

Tennessee River, Chattanooga to Riverton, $250,000.

With an expenditure authorized of $200,000.

That is work being done in or near Riverton, Ala., not being done in Tennessee; yet Tennessee is charged with it—$415,000.

Tennessee River, lock at Scots Point, $10,000.

Expenditure authorized, $40,000.

Private parties are building this work at Scots Point.

Tennessee River below Riverton, $30,000.

Charged to Tennessee.

French Broad and Little Pigeon rivers, $2,000; Clinch and Hiwassee rivers, Tennessee and Virginia, $6,000.

Making a total of $410,000 "cash" appropriated and $440,000 authorized.

That is all charged up to Tennessee and to none of the States in which the Tennessee River runs. Now, out of the $800,000 charged up against Tennessee there is only about $81,000 that is to be expended in the State of Tennessee.

Mr. BAKER. Mr. Chairman, I move that the gentleman be allowed to put another shining spot in the RECORD. [Laughter.]

Mr. BURTON. Mr. Chairman, I now yield five minutes to the gentleman from Massachusetts [Mr. LAWRENCE].

Mr. LAWRENCE. Mr. Chairman, the pending river and harbor bill authorizes an expenditure during the fiscal year ending June 30, 1906, of $17,121,875.41. There is, however, an unexpended balance of $2,188,942 of the amount appropriated by the so-called emergency river and harbor appropriation bill of 1904, which should be deducted, as provision was made that such unexpended balance is to be applied to the cost of the improvements authorized in this bill. The net amount therefore appropriated for expenditure during the next fiscal year is $14,932,933.41. The bill further authorizes an expenditure under the continuing-contract system of $17,234,657.63, making the total amount which may be expended under the provisions of this bill $32,167,591.04. Three years have gone by since the passage of a general river and harbor appropriation bill and the pressure for appropriations has been very strong. Your committee, however, has fully realized the necessity for the strictest economy in public expenditure and has earnestly endeavored to authorize only such expenditure as was demanded by public interests.

We have heard much during the present session of the necessity for economy. Those especially intrusted with the preparation of the great appropriation bills have been cautioned to scrutinize their items with the greatest care. I most heartily commend such caution as wise and timely. Extravagance is never warranted, and certainly the condition of our revenues absolutely forbids it now. But I most respectfully urge that economy be applied all along the line. When economy has been urged in the past, the river and harbor bill has been a shining mark. Let the other appropriation bills go through, but either sidetrack or talk to death the river and harbor bill! Such a reduction of our total expenditures might lead the people to believe that the demand for economy had been heeded. Appropriations for the improvement of our waterways are imperatively demanded in the interest of our growing commerce, and they are needed now. To withhold them altogether in order that expenditure in other directions may not be reduced is anything but a wise application of the principle of economy. Reasonable and wise expenditure for river and harbor improvement is an investment from which the people receive large returns. It is an expenditure in behalf of home development, for the building up of our agricultural, industrial, and commercial interests.

Economy should be exercised broadly. If, however, we are to economize in spots it seems to me that the public interests will not seriously suffer by a most rigorous application of the principle of economy to the matter of war expenditure in time of peace. If such expenditures are now so great as to compel us to cripple our home development, then indeed it is time for some one to call a halt. During the past ten years the average annual appropriation bill for the Navy has been in excess of fifty millions, while the average annual appropriation for the Army during the same period has been considerably more than that sum. In 1886 the expenditures for our Navy amounted to a little less than $14,000,000. Last session we passed a bill appropriating seven times as much. I realize that future appropriations will have to be larger. We must provide for the maintenance of our ships, dry docks, naval stations, and all necessary equipment. I believe in a navy large enough to guard American interests and maintain the rights and dignity of the nation. I am, of course, glad to vote all that is necessary for the support of American sailors, for our present ships, and for carrying out contracts already made. We have, however, been moving very rapidly in the building of our Navy during the past few years and I think we should slacken our pace. To complete all the ships authorized up to the present time will re-

quire the expenditure of over $86,000,000. So many battle ships and cruisers are now authorized or under construction that it did not seem to me to be wise to authorize the construction of any additional ones at this session of Congress.

The bill which the House is now considering has been very carefully drawn. It is three years since the passage of a general river and harbor bill, and this one carries less than one-half the amount authorized by the bill of 1902. To its provisions we invite the closest scrutiny. No effort will be made to crowd the bill through hastily. There have been times when the river and harbor bill has been brought into this House under an ironclad rule and forced to a vote without opportunity for either debate or amendment. That has not been done, I am glad to say, since the distinguished gentleman from Ohio [Mr. BURTON] has been chairman of the committee. In fact, such a policy would not meet with the approval of a single member of the committee. We desire the fullest discussion. There has been no political or sectional line in our committee room. The aim has been to consider each project according to its merits. But the task of the committee has been a most difficult one. No one not a member of the committee can realize how urgent the demand is for improvements of this nature, which comes from all portions of the country. During all of the last session exhaustive hearings were held, and many weeks have been spent in executive session in framing the bill now under consideration. It is not claimed that all deserving projects are included. Many will be disappointed because the projects in which they were especially interested have been omitted or because the amount appropriated is not as large as hoped for. Personally, I am very much disappointed at the omission of a project in my own State which I know to have great merit—a harbor of refuge at Vineyard Haven. More wrecks have occurred in the vicinity of Vineyard Haven and Cape Cod than in any equal area in the world.

There have been more than 1,000 wrecks there during the past twenty-five years. A board of engineers was appointed to consider the matter and a most thorough investigation was made. As a result the board reported unanimously in favor of the construction of a harbor of refuge at Vineyard Haven. The Committee on Rivers and Harbors realized very clearly the necessity for its construction, but came to the conclusion that the cost was so great—$1,200,000—that it could not be authorized in the present bill. I am satisfied the committee took this action with regret. With reference to this, as to all other projects, it has done the best it could under existing conditions. The difficult nature of its task will be appreciated when it is realized that there are approved projects, recommended by the Chief of Engineers, calling for an expenditure of over $600,000,000. Unless a bill is reported very much beyond the scope of the present one, it is evident that work upon very meritorious projects must be deferred.

It is a decided error to say that Congress has ever been generous in the matter of river and harbor improvements. About $450,000,000 has been expended since the formation of the Government, the average appropriations for the last twenty years averaging only a little over $14,000,000. During the past ten years the average has been somewhat larger, amounting to about $18,000,000 a year. Surely this is a very small expenditure when the great extent of our coast line and waterways is considered. The people demand that economy be observed in all public expenditure and Congress should heed the demand, but they do not wish it unwisely exercised to the detriment of their country's development. Apparently unanimous approval has been given to the construction of the Panama Canal at an estimated expense of $200,000,000. The expense is likely to be much larger, but the people approve it because they believe it to be necessary for our growth and development.

It is interesting to note upon what broad and generous lines certain States and municipalities have proceeded in expenditures of this nature. New York State easily leads. It built the Erie Canal at a cost to its citizens of over $56,000,000, and has recently voted to expend over $100,000,000 for its enlargement. No better investment could have been made, and the benefit was not at all limited to the State of New York, for the influence of the Erie Canal as a regulator of freight rates has been felt over the entire country. Chicago has expended nearly $40,000,000 on a drainage and ship canal. In my own State the legislature makes large appropriations which are expended under the direction of the State board. More than $4,000,000 has been expended by the State on Boston Harbor alone.

In view of the great number of projects and the large appropriations required it is unfortunate that Congress can not provide more liberally for these improvements. There will have to be, in my judgment, more and more participation by State and municipality. This is especially true where the expenditure is almost entirely for a certain locality and is not national in scope, and there are many such projects earnestly pressed upon our attention. Even where the project is national in scope and the benefit to be conferred a national one, it may be wise in many cases for the State to aid in pushing the improvement to prompt completion rather than to be content with insufficient appropriations made from time to time by the National Government. The principle is applied in several instances in the present bill. Great care will have to be taken to see that the commercial development of no section of our country is restricted because it is unable to raise by taxation amounts needed for such improvements. It is, however, a condition and not a theory which confronts us. Approved projects now call for more than $600,000,000, and there is an increasing demand for surveys of new projects. If these improvements are to be made within a reasonable time the principle of participation will have to be more generally applied in future bills.

The aim of the United States Government should be to place our harbors and waterways in a condition to compete with other countries in the race for commercial supremacy. It needs little argument to show that such appropriations are directly in the interest of the people. General prosperity must continue to be due, in large measure, to the growth of our foreign commerce. Our exports to-day are not confined to agricultural products. We are becoming large exporters of manufactured goods. As we are to-day the greatest manufacturing country in the world it is of supreme importance that we should add to the volume of our exports. The need of wider markets is very evident. It is a mistaken economy which would check the growth of our commerce, and if we are to compete successfully in the markets of the world our products must be put into those markets at the lowest possible price. Therefore the problem of the cost of transportation becomes of vital importance. We aid the producer, we increase the value of that which he produces when by a reduction in the cost of transportation he is able to reach more distant markets. During the past thirty years there has been a remarkable decrease in the rates for carrying freight from this country to Europe. They are less than one-quarter of the rate which existed in 1895. This has been brought about by the great increase in the size of ocean-going steamers. In 1875 such steamers drew from 18 to 20 feet of water, while to-day they draw 32 feet and more. The need, then, for deeper channels in our great harbors is imperative. Such harbors must have channels sufficient to accomodate modern steamships. In my opinion all the great harbors of the country should be supplied at the earliest practicable moment with channels of a depth of 35 feet. A large amount of the money now being expended for harbor improvements is for the purpose of securing deeper channels.

Large expenditure is required to secure these deep channels, but the expenditure must be made if the cost of transportation is to be reduced to such a point as will enable us to compete with rival countries. In 1880 it cost from 8 to 10 cents to carry a bushel of grain to Liverpool. To-day the rate is from 2 to 3 cents per bushel, and all rates on incoming and outgoing freight have been reduced in that proportion—a reduction of about 400 per cent in twenty-five years, due directly to the increased size of steamships. Our harbors must have the deep channels required by the ships of to-day. A much larger sum could be profitably expended than is provided in this bill. Sound business judgment dictates the rapid completion of many of the improvements now being made, for which we have been able only to appropriate an amount for continuing the work. Your committee, however, feels that the bill carries as large an appropriation as is justified under existing conditions, and confidently urges its passage in the public interest. [Applause.]

Mr. BURTON. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. MORRELL].

Mr. MORRELL. Mr. Chairman, the distinguished chairman of the Committee on Rivers and Harbors, the gentleman from Ohio [Mr. BURTON], has referred to this being Washington's Birthday, and continuing for a moment in that line I would like to call the attention of the House to the fact that a little more than one hundred and twenty-eight years ago an event occurred which gave birth to principles in government for which men had sighed, dreamed, and struggled without the ability to give them tangible form and substance; an event the effect of which in the years and ages yet to come shall, perhaps, be as far-reaching in molding governments as that momentous event which occurred nineteen hundred years ago has been in molding the everyday lives and actions of man toward man. Where did this event take place? Not in one of the great capitals of Europe or amid oriental splendor, but in the simple old town of Philadelphia, on the banks of the Delaware, in the new country of America. Here sprang into being this great modern

truth, this second divine enlightenment, prophesied by past ages, believed by wise men to be possible, and feared and trembled at by kings and emperors, not, perhaps, as much then as to-day.

Just as she was the birthplace and cradle of this new doctrine in government, so Pennsylvania has remained the keystone of the arch which has preserved these principles in fair weather and in foul.

The energies of her people have developed her vast resources until she is, perhaps, the wealthiest State in the Union, supplying not only her sister States but the whole civilized world with the manufactured product of her hidden wealth.

When differences of opinion arose between the North and South there were recruited during that terrible struggle within her borders as many as 350,000 men.

The deciding battle of the war, the great battle of Gettysburg, was fought on her soil. The Republican party, which arose as a result of that war, has received always from the State of Pennsylvania the greatest support of any of the States. She has been foremost in giving majorities until, at the last election, she came with a majority of over half a million for Theodore Roosevelt for President. [Applause.]

Now, Mr. Chairman, with all due respect to the able and distinguished chairman and members of the Rivers and Harbors Committee—and may I suggest it in the kindliest possible spirit—we have here to-day for discussion in the House a bill in which there is provided for the Delaware River certain appropriations. One of the provisos of this paragraph contains what, to my mind, is something which I do not consider that the members of this distinguished committee have carefully realized what the result will be.

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

Mr. MORRELL. Mr. Chairman, I request five minutes more time.

Mr. ADAMS of Pennsylvania. I would ask that my colleague be given five minutes more.

Mr. BURTON. I regret, Mr. Chairman——

Mr. MORRELL. Will the gentleman from Ohio give me three minutes more?

Mr. BURTON. I yield three minutes more to the gentleman.

Mr. MORRELL. We have here, Mr. Chairman, a bill reported in a Republican Congress by a Republican chairman of committee, framed in such language as to virtually hold up the great State of Pennsylvania to force her to pay a portion of what is recognized as an obligation assumed by and belonging to the Federal Government.

May I ask, Has the Federal Government gone into the bargain-counter business? Are we going to inaugurate a policy in effect that we must come here to Congress, no matter how just our demands, with a sop of some sort or other to fortify our demands?

Or, it may be, are we in the future to bid against each other for Federal patronage?

The next thing will be that if we want a public building we shall have to come prepared to dig the cellar or to build the foundation, or if we want a light-house we will have to supply the oil.

The fact, Mr. Chairman, that the committee is willing to allow sufficient in a continuing contract to complete this work, if the State of Pennsylvania pays a portion, is evidence that they recognize its necessity.

When that part of the bill is reached where the appropriation for the Delaware River is mentioned I feel sure that, recognizing the justice of this criticism, the broad-minded gentlemen who compose this committee will themselves offer an amendment striking out that portion of the proviso obliging the State of Pennsylvania to contribute to this work.

Such an amendment would not ask for the immediate appropriation of any larger sum than the amount mentioned in the bill, and would not in the eyes of the world lessen the dignity of the Federal Government by forcing a State to assume a portion of the Federal Government's obligations.

Nor would it, on the other hand, humiliate the State of Pennsylvania, which has so nobly and so grandly stood back of all which has contributed to make our country what it is to-day, by compelling it to pay the sum mentioned in the proviso on the anniversary of the birthday of the man who fought for the principles which had their birthplace and have ever been tenderly nurtured in that State. [Applause.]

Mr. BURTON. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. BURGESS].

Mr. BURGESS. Mr. Chairman, I would like if I could to impress upon the minds of my colleagues in this Congress and, through them upon the country, some thoughts with reference to river and harbor appropriations. It is, Mr. Chairman, peculiarly true of this great committee that its work is entirely nonpartisan. This class of appropriations ought not and do not partake of any bitternesses of sections or of parties or of any clash politically whatever. [Applause.] It is purely a great business question, and it is becoming a greater business question day by day. The rapid development of our country, the tremendous growth of our export and our import trade, the increased size for commercial reasons of the vessels which ply in our foreign trade are forcing this Congress to contemplate at an early date largely increased appropriations for all the great ports through which goes the commerce to other countries from these United States. Certainly it is true that with the undertaking down to the south of us to construct the Panama Canal upon a 35-foot basis it must follow inevitably that if we are to compete for the great trade that we intend to struggle for by that route we must at an early date deepen to at least 35 feet all the harbors of the country through which foreign exports are handled. It is also true that the rivers which contribute from the centers of production to the carrying of all this great commerce to those ports must be looked after as well, and that we are up against this kind of a proposition. The demand is greater than the exigencies of the Treasury will presently permit, and whatever our opinion may be, as a question of abstract justice, ultimately the policy of contribution must often be used, not as one to be forced by the Congress upon a people of this or that locality, not one which shall say to them, Unless you contribute you shall receive nothing proportionately of the money to be expended in the discharge of governmental duty, but upon the theory that there not being an adequate supply of revenues to meet all the needs completely those who can and will contribute themselves to the hastening of the consummation of their local project certainly can justly expect some contribution from the Government itself.

Now, I say that as an abstract proposition it is true that the Government undertakes this work. It is its duty as rapidly as it can to discharge it as completely and fairly toward all sections regardless utterly of whether they contribute one cent or not. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas [Mr. BURGESS] has expired.

Mr. BURTON. Mr. Chairman, I yield two minutes more to the gentleman from Texas [Mr. BURGESS].

Mr. BURGESS. Mr. Chairman, in the two minutes of kindly granted extension I wish to speak briefly, applying my idea to a matter in which I feel considerable interest, namely, this Delaware project. I do not understand, as a member of this committee, that it is the purpose of the chairman of it or of the committee to attempt to force from the State of Pennsylvania, the city of Philadelphia, or any other agency a contribution to the consummation of that great improvement. None at all. That is not the purpose of the provision in this bill. It simply says, "We have given you as much, if not more, than we think proportionately you ought to receive. But we are willing, if you are willing to tax yourselves, that the Government shall meet you half way in an effort to complete this great project." That is all there is to it. And the chairman has said to the Pennsylvania delegation, "If you do not want this in the bill, as evidence that there is no purpose of the committee to attempt to force it upon you, if you object to it, it can go out of the bill." What fairer proposition could you ask than that? Then the proposition is up to the Pennsylvania delegation to take it or not, as they may elect. [Applause.]

Mr. GROSVENOR. Mr. Chairman, it is not my intention at this time to discuss the items in this bill. I have a great interest in the development and the improvement of our rivers and harbors. I served for eight years on the committee, and have uniformly supported these appropriations of money. Mr. Chairman, these appropriations are subsidies given to the commerce of the United States. Every dollar expended for the deepening of a harbor upon our ocean front is so much subsidy given to the ships that use those harbors. Unfortunately 95 per cent of the money expended along the ocean channels is now used for the sole benefit of the foreign ships that carry our commerce from the American shores to the foreign markets.

From 1888 to 1904, inclusive, Congress has appropriated the huge sum of $261,082,852 for deepening and improving the navigable waterways of the United States. Some of this money has been expended on the Great Lakes and the western and southern rivers, but most of it has been devoted to channels connecting with or adjacent to the sea, and by far the greater part has gone to the ports of the Atlantic Ocean. Now there are in the entire merchant marine of the United States only six steamships of upward of 10,000 tons gross register engaged in Atlantic trade, and all of these six ships run out of New York Harbor. Not one of these six is to be reckoned among the levi-

athans of the class of the *Celtic*, *Cedric*, and *Baltic*, or the *Deutschland* and the *Kaiser Wilhelm der Grosse*. We have dredged and blasted and deepened our harbors at enormous expense, not to make way for American keels, which have not required it, but to enable European steamship companies to build larger, and therefore cheaper, ships, and thereby to earn richer dividends from the carrying trade of the American people.

WHERE SUCH SUBSIDIES AS THESE?

Talk about subsidies! Where in all the world's history can you find such subsidies as these which Congress from 1888 to 1904 has heaped in millions into the treasuries of foreign steamship lines through these eager and lavish river and harbor appropriations? Of course this has not been the ostensible purpose of these huge expenditures, but that it has been in large part their actual effect can easily be demonstrated.

These generous river and harbor appropriations for the deepening of the ports into and out of which pass our commerce with Europe have always been advocated with the plea that the larger the ships the more cheaply, ton for ton, they can afford to carry their cargoes. We have been assured, truthfully enough, that a steamer of 15,000 tons, requiring 30 feet of water to float her, needs engines only a little more powerful than a shorter and smaller ship of nine or ten thousand tons; that the larger vessel needs only a few more firemen, an extra sailor or two, perhaps another engineer, but no more deck officers, and that, burning little if any more coal, she will convey, at a trivial increase of total expense, thousands of tons of additional merchandise.

Well, we have believed all this. It seemed good, sound sense and honest business. We have put up our American dollars by the millions out of the National Treasury. We have deepened our waterways by taxation of all the people, and the British and French and German and Italian steamship companies have proceeded to build bigger and bigger ships to sail in these waterways, bringing hither their foreign goods and receiving here such things as we may happen to sell to foreign countries.

Unquestionably these great new ships, with their increased bulk and modern improvements, are capable of being, and have been, operated at a cost, ton per ton, very much below the smaller, less capacious, and less efficient vessels of the years before. To that extent the European steamship companies, many of them liberally subsidized or aided in other ways by foreign governments, have been benefited by the lavish subsidies of our river and harbor appropriations. But have our own ingenuous expectations been fully realized? Have these river and harbor subsidies for the benefit of commerce always paid the expected dividends to the United States?

A SUCCESS AT HOME.

The fundamental argument for these river and harbor appropriations has been that every dollar expended on the deepening of ports and the straightening of channels would eventually come back to the United States in the form of a steady reduction of freight charges on water-borne merchandise and the consequent promotion of general trade. There is no denying that this expectation has been realized—within our own borders, so far as concerns trade absolutely controlled by our own people. Though all over the world, in all trades, freight rates in general have tended downward, there is no parallel in commercial history anywhere to the expansion of the commerce of the Great Lakes, wrought by reduced freight charges and improved facilities. Here is a trade from which foreign competition is and always has been utterly excluded. Every pound of freight moved from Duluth to Buffalo or from any other American port on the chain of lakes to another American port must go in an American ship.

The Merchant Marine Commission, in its recent tour of the lake region, was told at Milwaukee that the average freight rate on wheat to New York by lake and canal, which was 26.55 cents a bushel in 1861 and 29.61 cents in 1866, had gone down by 1899 to 5.65 cents, and "in Chicago at the present time they are haggling over a rate of 1 cent flat to Buffalo." In 1861 a 500-ton cargo was a large one on the Lakes; now steel steamers come down from Lake Superior with 12,000 tons of iron ore.

The steady deepening of the lake channels and harbors by Government subsidy has enabled the lake builders—Americans all—to produce the mighty steam freighters of to-day, and the competition of these freighters, through their American owners, all intent on promoting American trade, has brought down these freight rates in this amazing way and has given Sault Ste. Marie a tonnage of 28,000,000, as compared with the 12,000,000 of the Suez Canal. Here in our own country, in this trade controlled by American ships, the generous river and harbor subsidies have unquestionably returned an ample dividend.

THE FOREIGN-SHIP MONOPOLY.

But how is it in our ocean ports? There not American ships, but foreign ships, prevail, and not American, but foreign, maritime interests are dominant. There in these ocean ports the bulk of the river and harbor subsidies has been expended, and there rightfully ought to be found the bulk of the benefit to American commerce.

Ninety-five per cent and more of our exports from and imports into the ports of the Atlantic coast in the European trade are now and long have been conveyed in foreign vessels. The American vessels in this trade are too few to serve as an appreciable factor in competition. Grain is one of the chief commodities in our export traffic to Europe; cotton is another. Turning to the freight circulars it is found that the cost of shipping a bushel of grain from New York to Liverpool in these foreign vessels—scarcely a bushel of grain ever goes now in an American ship—was 4 cents in December, 1904, as compared with 2 cents in December, 1901.

Now, take the other important commodity of cotton. The cost of shipping a hundred pounds of cotton from New York to Liverpool in January, 1905, was 20 cents, as compared with 12 cents in December, 1902. Meanwhile the price received by American planters or farmers who grew this cotton has declined from 13⅛ cents a pound to 6½ cents. But, though this cotton brings so much less money to the Americans who grow it, the foreign shipowners, who monopolize our carrying trade, make our southern planters or farmers pay $2,834,434.42 more for transporting the cotton to the European market.

FOREIGN SHIPS THE BENEFICIARIES.

Yet this grain and this cotton are exported in ships a great deal larger and more economical in operation than the steamers of even a few years ago. It unquestionably costs far less money than it once did to carry a bushel of grain or a bale of cotton across the Atlantic, and one reason—the chief reason, indeed—why it costs less is that the United States Congress out of the National Treasury has expended $261,000,000 in seventeen years in subsidies for river and harbor improvements. The liberality of the American Government, by deepening and widening and straightening the channels, has enabled the foreign steamship companies within a few years to build larger, and therefore more economical, ships—and the foreign steamship companies have done this, and because of the monopoly of the traffic have maintained or even increased their freight charges and coolly pocketed the difference.

In other words, these river and harbor subsidies to the seaports of the Atlantic coast have very largely gone to the enrichment of foreign shipping corporations and the upbuilding of the sea power of Europe.

This would not be possible if there were American ships. Let there be no halt in our river and harbor improvements. The principle of these improvements is sound, just, and necessary. Under normal conditions these subsidies to ocean commerce would prove as wise and profitable as the similar expenditures upon the waterways of the Great Lakes, where the incessant competition of American ships with American ships has wrought a wonderful reduction of freight rates through a healthy and beneficent process of maritime development.

DO SOMETHING FOR AMERICAN SHIPS.

But while Congress expends millions of money annually upon well-considered plans to deepen and improve the harbors of the seaboard, let Congress also do something to provide American ships to sail in these deepened channels which bear now the flags of almost every nation save our own. An expenditure upon our merchant marine of a mere fraction of the annual cost of our river and harbor appropriations would speedily give us a fleet capable of breaking the long monopoly of European shipowners.

Would these American ships reduce the cost of transporting our wheat and corn and cotton? They would have to reduce it "to get into the game." European steamship companies and European mercantile houses here and abroad now control almost all of the mighty commerce passing between Europe and America. In order to break into this, to get a foothold in it, it is manifest that new American ships and new American companies must offer to do the business not only at the foreign rates, but at rates even lower, and they must afford not merely equal but superior facilities, to win a share of this great commerce from their foreign rivals long established in the trade. American shipowners, left to their own resources, unaided by their Government, could never break the iron grip of this foreign monopoly of our ocean carrying. For not only is the first cost of American ships greater, because of the present greater cost of materials and, far more important, of labor, but the cost of maintaining American ships is greater also, because of the higher wages of American crews. But with national encouragement by subsidy or subvention, offsetting the lower foreign wages and a little more, and, where

necessary, offsetting the foreign subsidies, American ships can underbid their foreign competitors for carrying American grain and cotton, to the advantage of American farmers and the sure expansion of American commerce.

REPEATING THE LAKE TRIUMPHS.

What American enterprise and ingenuity have done upon the Great Lakes can be done, with equal opportunities, upon the ocean. In smartness, dispatch, the quick and cheap handling of cargo, the American steamship business on the Lakes is a generation ahead of the foreign steamship business on the ocean. If our Atlantic steamship companies were once controlled by Americans instead of foreigners, a transformation of this commerce would be wrought within a dozen years eclipsing even the marvelous achievements of the shipowners, builders, and merchants of Duluth, Milwaukee, Detroit, Chicago, Cleveland, and Buffalo.

MERCHANT MARINE AND NAVY.

But I want to point out another fact, which is this: We passed a bill here the other day expending a hundred million of dollars more for the building and increase of our Navy. We are spending now somewhere in the neighborhood of eighty-five to ninety million dollars a year on the average. We are building a navy without the indispensable condition of men with which to man the Navy. We have had a very interesting view of a great naval war between two powerful nations, and I want to lay down a proposition first and support it by reference to the condition of those two countries. My first proposition is that no nation was ever respectable on the sea in war that was not a leader of maritime development on the sea in time of peace. We have looked with wonder at the disparity of results that have grown out of the conflict between Japan and Russia. And analyzing the condition of these two nations you find a startling proof of the truth of my fundamental proposition. Why is it that Japan has practically destroyed one-half of the Russian navy and stands to-day mistress of the sea, so far as those two combatants are concerned?

I think I can tell you, Mr. Chairman. I can give you the idea out of which can be gathered all the facts. The Russian Empire has a population of 129,000,000; the Japanese, 44,000,000, less than one-third. The Russian Empire has 8,630,000 square miles of territory; the Japanese has 147,000, about the size of one of our large States. And yet the mighty Russian Empire, with 129,000,000 of people, has a smaller merchant tonnage—a very much smaller tonnage—than little Japan, with a population less than one-third of Russia's. Moreover, a large part of Russia's merchant tonnage is composed of coastwise vessels on the Baltic, the Black Sea, and the Caspian, never reaching the great oceans and never sharing in the navigation of the world at large.

Russia cares nothing for her mercantile marine. To protect and encourage this indispensable reserve of her fighting navy has never occurred to the Government of the Czar. A considerable amount of money is, it is true, expended in subsidy to the Russian so-called "volunteer fleet," which is practically owned by the Government and whose fast and well-manned vessels have given a good account of themselves in the present conflict. But Russia has done nothing for the rest of her merchant marine. She has had no thought of encouraging and developing her merchant shipping in general. She has neglected her merchant ships, and, neglecting her merchant ships, she has sacrificed her seafaring population.

JAPAN'S SPLENDID EXAMPLE.

It is very different with energetic and progressive Japan. Immediately after the Chinese war of a decade ago, crowned by the victory of the Yalu, which had vividly shown Japanese statesmen the surpassing value of sea power, the island kingdom turned resolutely and systematically to the encouragement of its mercantile marine. It did this, as all the rest of the maritime world has done, by invoking the potent agency of subsidy. The Japanese Government, appreciating the importance of native shipyards, first gave bounties of from six to twelve dollars a ton for every seagoing ship constructed in Japan by Japanese workmen. Then, to aid and encourage these Japanese vessels after they had been launched, the Government provided a subsidy of a certain amount for every hundred miles sailed, and later entered into contracts with the regular lines to pay them fixed and generous subventions. Not only the foreign-going, but the coastwise tonnage of Japan is subsidized, and not only the merchant tonnage itself, but even the fishing boats and schooners Japan is said to have a million fishermen. From these fishermen, hardy, resolute fellows, inured to the sea, the crews of Japanese merchantmen and even men-of-war have been quickly and effectively recruited.

Under this liberal and far-seeing policy of national encouragement Japan's merchant shipping has increased from 151,000 tons in 1890 to 830,000 tons in 1904. It is a fact calculated to make Americans smart with humiliation that Japan, at the outbreak of the present war, had more steel and iron steamships engaged in foreign commerce than even the powerful United States.

It has been an earnest policy of the Japanese Government to render itself absolutely independent of the outside world in constructing and maintaining its merchant shipping. At first European officers were employed to command Japanese ships as instructors for native officers, but gradually these foreigners have been discarded. At first Japan bought steamships from abroad and even built her men-of-war in Great Britain and in America. But now a 16,000-ton battle ship is being built at Osapa, a 10,000-ton cruiser at another port, and ten merchant steamships are being constructed at Nagasaki—one of 7,000 tons for the American trade—while Japan is splendidly waging a victorious war. Her statesmen, having developed shipyards of their own, will not look hereafter for ships of war or merchantmen to either America or Europe.

THE "SEA HABIT" INDISPENSABLE.

But, above all, Japan, in thus lavishly encouraging her mercantile marine, has kept ever in mind the necessity of fostering the "sea habit" among her people. The outbreak of the war with Russia found Japan ready not only with battle ships, cruisers, and torpedo boats, but with a large force of trained officers and seamen. Behind the battle line was an adequate reserve of merchant vessels, so that from the very first Japan has been enabled to supply her troops—first in Korea, and now in Manchuria—with everything they needed. This indispensable transport service never could have been performed if Japan, like Russia, had had to depend upon the services of foreign mercenaries.

Modern war is merciless. It wears out many more men than it kills. As the wounded and exhausted officers and men of the first battle line dropped out of the fleet, Japan has been able to supply their places with other men from the mercantile marine and the fisheries, who were not seasick, who did not mistake fishing smacks for torpedo boats, who did not get nervous and flurried and fire into each other in fog and darkness.

Here is a significant contrast between a nation which has neglected the "sea habit" and a nation which has fostered it. Beyond any other one cause, Japan owes her triumphs in this war to the fact that behind the line of battle she has had a great and efficient mercantile marine and an indispensable reserve of thousands of trained and efficient seamen.

How is it with us? Are we of America following in the path of Japan or in the path of Russia? Where is our trained seafaring reserve? We have none. We have been as blind and reckless as the Government of the Czar. Like Russia, we have forgotten the need of a mercantile marine. We have let our ocean shipping slip away. We, too, have sacrificed our seafaring population. We are building warships which we can not officer; warships which we can not man. We lose 20 per cent of our enlisted seamen by desertion every year because the "sea habit" is disappearing from our people.

Russia marches a regiment of troops aboard a ship and calls these soldiers seamen. We march aboard a ship a crowd of immature boys from the farmhouses and prairies, who have never seen the sea until they don the navy uniform, and who know nothing of its hardships, nothing of its perils, nothing of the discipline of the sea service, nothing of the monotony of naval life in time of peace. What wonder that these landsmen desert in droves, homesick and discouraged before they have been long enough at sea to get inured and acclimated.

We are trying to create and maintain a navy, just as France did a century ago, without the one solid foundation of a strong and prosperous mercantile marine. History records how that artificial navy of France went to pieces under the hammering of the fleets of England, which had behind them a vast merchant shipping as an inexhaustible reserve. Japan is following the English example. We of the United States are walking in the path that led France to disaster and is now leading Russia to the same doom.

And I close where I began. There is no nation on the earth that dare make its final resort to arms on the sea which has not a well-trained and well-organized mercantile marine as a reserve of ships and men for its fighting navy.

The effort which the United States is now making to create a mercantile marine on the initiative of the President through the inquiry and report of the Merchant Marine Commission is attracting keen attention all over the civilized world. It is welcomed by our genuine friends and dreaded by our political and commercial competitors. The London Times of Thursday,

February 16, 1905, contains two impressive articles on this American undertaking—articles written in a frank and intelligent spirit—showing clearly that the significance of our efforts is comprehended by our British kinsmen.

These articles are as follows, first the elaborate letter of the Times correspondent, then the Thunderer's own editorial:

AMERICAN SHIP SUBSIDIES AND GREAT BRITAIN.

[From a correspondent in the London Times, February 16, 1905.]

In the discussion in the British press of the recent report of the United States Merchant Marine Commission it has seemed to be generally assumed that the recommendations of the report involve something new and revolutionary in American politics, for which President Roosevelt is held to blame. He is assumed to have sprung upon the country, with characteristic suddenness, a proposal for a new line of action, for the consideration of which it is quite unprepared. If this were true, it would not perhaps be necessary to take the report very seriously. As a matter of fact, that document sets forth—except perhaps in minor details of dollars and cents—nothing that is novel. It contains no inspired revelation of new politics; and it will be easier to arrive at an accurate estimate of its importance as a contribution to practical politics if we have some understanding of the history of the subject, at least in its broader outlines.

The Commission itself was the outcome of a recommendation made to Congress by Mr. Roosevelt in December, 1903, a recommendation which, he was careful to say at the time, was made in response to the "desires of a majority of our people." A year earlier, in his first message after his accession to the Presidency, he had declared that the condition of the United States merchant marine was "discreditable to us as a nation," and called for "immediate remedial action by Congress." A full decade before that, however, President Harrison had told Congress that the situation—namely, that only some 12 per cent of American imports were at that time carried in American bottoms—was "both intolerable and disgraceful;" and he explicitly placed himself on record in favor of the policy of subsidy payments. But we must go back still another twenty years to find the first recommendations on and discussions of the subject.

It must be remembered that before the civil war the United States possessed a large and powerful merchant marine. In 1861 the tonnage of American registered vessels amounted to over five and a half millions (5,539,831 tons), being practically equal to that of all other nations except Great Britain combined, and not much behind that of Great Britain herself. It appeared at that time inevitable that in a few years the Stars and Stripes would be the first commercial flag of the world. Then came the civil war. The immense value of the merchant marine to the northern side in that struggle is shown by the fact that, whereas at the outbreak of hostilities the entire United States Navy comprised only 100 vessels, of an aggregate tonnage of about 150,000, the Government was able to draw from its merchant service no fewer that 600 vessels, representing over a million tons, with 70,000 men. But, while the merchant marine was thus able to render inestimable service to the Government in its hour of trial, it was itself practically extinguished by the war. Partly by reason of the disturbance to trade, partly as a result of the depredations of southern cruisers, by the close of hostilities in 1864 the American flag had almost disappeared from the commerce of the high seas. The revolution in shipbuilding, by which metal began to supersede wood, made it the more difficult to recover the position that had been lost, and since then the proportion of the world's commerce, exclusive of the coasting trade of the United States itself, borne in American ships has grown continuously less. But it must not be supposed that the American people has ever for one minute forgotten the pride of its old place upon the seas, or that it has ever abandoned the determination to make itself at some time the greatest of maritime nations.

As far back as 1870, as soon as the problems immediately arising out of the civil war had been in a measure disposed of, a committee on the causes of the reduction of American tonnage submitted to Congress a report, which President Grant accompanied with a brief but vigorous message. In the course of that message he said:

"It is a national humiliation that we are now compelled to pay from twenty to thirty million dollars annually (exclusive of passage money, which we should share with the vessels of other nations) to foreigners for doing the work which should be done by American vessels, American built, American owned, and American manned. This is a direct drain upon the resources of the country of so much money—equal to casting it into the sea so far as this country is concerned."

That was thirty-five years ago. In the following year we find him again returning to the subject, and again three years later, with the difference that by then the amount which the United States paid to foreign vessels "for the transportation to a market of our surplus products" had increased from the "twenty to thirty million dollars" of 1870 to a round eighty millions.

In spite of his personal efforts, however, it was not found possible during President Grant's tenure of office to frame a bill which both Houses of Congress would agree to pass; so President Arthur took the matter up immediately on his accession. In his first message, and again in his second message, he pressed it upon the attention of Congress as being "of the utmost importance to our national welfare." Had Mr. Arthur been succeeded by another Republican President it is humanly certain that a more or less comprehensive system of subsidies would have been adopted between the years 1884 and 1888. It was only the accident of Mr. Blaine's defeat on grounds that had nothing to do with this question which saved British shipowners nearly twenty years ago from the competition of heavily assisted lines, running certainly to South American ports, and probably to China and Japan; and when, after Mr. Cleveland's first term, the swing of the pendulum brought President Harrison into power, he attacked the subject with energy. "There is nothing more justly humiliating to the national pride," he said in his first message, "and nothing more hurtful to our national prosperity than the inferiority of our merchant marine compared with that of other nations whose general resources, wealth, and seacoast lines do not suggest any reason for their superiority on the sea. It was not always so, and our people are agreed, I think, that it shall not continue to be so."

It is not necessary here to go into the reasons why no legislation was achieved in President Harrison's time, or why under President McKinley the Hanna bill failed of passage. But whatever arguments have at any time been advanced in favor of ship subsidies, or any other method of building up the country's merchant marine, they have only gained in cogency with the passage of time. While in every other direction the United States has grown immensely—in population, in wealth, and in power—her merchant marine alone has steadily declined. The present Commission explains the fact by saying that maritime commerce is the "one unprotected industry" of the nation. Certain it is that, while in 1870 President Grant regarded it as a "national humiliation" that the country should pay to foreigners some twenty to thirty million dollars annually for carrying the trade which the United States ought to carry for herself, the amount now paid for the same service is no less than one hundred and fifty millions a year. At that time the total exports and imports of the country combined amounted to some $800,000,000. That sum had been multiplied threefold, and now exceeds $2,400,000,000 dollars annually. There were in 1870 a million and a half tons (1,516,000 tons) of American shipping engaged in carrying this trade; there are now less than 900,000 tons. The actual proportion of the foreign trade of the United States which in 1870 was carried in American bottoms was something more than 35 per cent. In 1890 President Harrison bewailed the fact that it had sunk to a meager 12 per cent. To-day it barely reaches 9 per cent. It is not conceivable that, merely as a mater of dollars and cents, so keen a commercial nation as the people of the United States should not rebel strenuously against such conditions. But more powerful than the mere financial consideration is the sense of what President Grant called the "national humiliation"—a humiliation felt a thousand times more keenly now than ever it could have been thirty years ago, by reason of the newly awakened imperial instinct of the people, the consciousness of their might and position as a world power. At no time in American history have there been lacking prophets who foretold a time when the United States would be the greatest among the nations, but only in the present decade have the people begun to believe that that time has arrived. Some day, they have always hoped, the commercial supremacy of the seas would come to them. To-day they believe it to be theirs of right.

It is a mistake, and a dangerous mistake, to think of the matter as a mere question of protection or encouragement to American shipbuilders. The amount of capital and labor which, at the best, would be employed in shipbuilding must be a comparatively trivial consideration beside the saving in freights which are at present paid to foreign countries, and which, if the United States did the carrying of her foreign trade herself, would be spent at home; and beyond the value of the freights themselves are still larger considerations. President Arthur, in the course of a message, to which reference has already been made, said: "With no United States steamers on the principal ocean lines or in any foreign ports our facilities for extending our commerce are greatly restricted, while the nations which build and sail the ships and carry the passengers and mails obtain thereby conspicuous advantages in increasing their trade." Much more recently President Roosevelt has said the same thing in a characteristically American way: "Ships work for their own countries just as railroads work for their terminal points." "The way to get the trade of any country," said Mr. Blaine, "is to send our own ships there to fetch it."

It has long been a commonplace of American political phraseology that Central and South America are the "natural markets" for the manufacturers of the United States, and that China and Japan are the "natural outlets" for the surplus products of the Pacific coast States. But when a representative of the government of a South American republic is accredited to Washington, he generally sails first to Liverpool, thence crossing to New York in one of the Atlantic liners. The New York or Boston exporter to South America has to send his goods by the same devious route. As for the Pacific coast, the people of California and Oregon are continually asking how they are to do the trade to which they are entitled with China and Japan, when there is hardly an American flag to be seen in Chinese or Japanese waters; and with the question of freights and trade routes is inseparably bound up the question of financial exchange.

Rightly or wrongly, the belief in America to-day is that Great Britain holds her commercial position now, not by virtue of her present ability or manufacturing energy, but only by reason of her position, won for her by a generation that is gone, as the carrier and broker of the world. It is, they believe, on her accumulated capital in money and ships that she is living to-day; by the leverage which those ships give her in securing foreign trade, and by the toll which she levies in freights and exchange on the business of other nations. Rightly or wrongly, the American has no question of his ability to wrest England's trade from her if once he be given but equal weapons in the fight—established lines of merchant ships flying his own flag and banking facilities at the necessary trade centers of the world; and when the steamship lines are established the American banks will be quick to follow.

The present Commission, after holding sittings for the taking of evidence in some twenty cities scattered over the country from the Atlantic to the Pacific coast and from the Great Lakes to the Gulf of Mexico, report that "public sentiment, as the Commission has sounded it, throughout the United States is practically unanimous, not merely in desiring, but in demanding, an American ocean fleet, built, owned, officered, and, so far as may be, manned by our own people." The difficulties in the way of attaining this end are, the report points out, threefold—namely, (1) the greater cost of construction of ships in American than in European shipyards, a difference which is estimated to amount to from 30 to 50 per cent; (2) the greater cost of maintenance of a vessel under the American flag by reason of the higher scale of wages paid; and (3) the fact that the majority of other governments already pay mail subsidies or bounties to ships plying on the most desirable routes.

To meet these difficulties the Commission make recommendations at considerable length, the substance of which they have embodied in a bill (which forms part of the report) "to promote the national defense, to create a force of naval volunteers, to establish American mail lines to foreign markets, to promote commerce, and to provide revenue from tonnage." To this bill there are four main provisions:

(*a*) It is proposed to create a volunteer naval reserve "of the best officers and men of our merchant ships." The members of the reserve will receive a retainer or annual pay, to the amount of $15 for a boy, and rising from that figure to $100 for the master or chief engineer of a vessel of not less than 5,000 tons gross register. To qualify for the retainer in any year the members must have spent not less than six months of the twelve in "foreign trade or deep-sea fisheries." An enrollment of 20,000 is provided for; but, the Commission explain, if all the available men in the present American service were to volunteer, they would not amount to more than one-half that number.

(*b*) It is proposed to pay an "annual subvention of $5 per gross registered ton for every vessel, steam or sail, engaged for twelve months in the foreign trade or deep-sea fisheries, $4 for nine months, and $2.50 for six, provided that the vessel carries a certain proportion of naval volunteers and is held at the disposal of the Government in war" and complies with certain other requirements. No vessel shall receive this

subvention for a longer period than ten years. The Commission discuss the amount of these subventions in detail, explaining that they are not intended to be sufficient to enable a ship to rely entirely on them. "A ship would have to pay from three to four dollars to earn one," which is to say that, to be profit earning, a vessel will still have to make from two-thirds to three-quarters of her revenue from legitimate business. The subventions will, it is believed "effectually bridge the difference in cost of construction and maintenance" between an American and a British ship, thereby enabling the American to compete for general trade on equal terms with the vessels of other countries.

(c) In addition to the subventions already paid for the carriage of mails on certain routes, it is proposed to pay subventions at an increased rate to procure the establishment of regular lines of steamships on ten specified new routes, of which six are from various ports in the United States to Mexico and Central South American ports, one to South Africa, one to Cuba, and two across the Pacific Ocean to China, Japan, and the Philippines. The amounts of the proposed subventions vary from $50,000 (£10,000) a year for a weekly service from a port on the Gulf of Mexico to Mexico, to $600,000 (£120,000) for a fortnightly service, involving the use of seven or eight vessels, to China and Japan. Comparisons are made to show that these amounts are not excessive beside similar subventions paid by Great Britain, Japan, and other countries; and it is explained that this assistance is not intended to aid in the establishment of lines of "ocean greyhounds," but of "useful, hard-working cargo boats" of from 12 to 14 knots.

(d) An increased scale of tonnage taxes is provided "on all vessels, American or foreign, now entering our ports by sea in the foreign trade." This provision is ostensibly a revenue measure only. The Commission explain that the British light dues (to which the tonnage tax responds) produced last year the sum of £548,196, while the British light-house establishment cost only £499,404, leaving a surplus of nearly £50,000. On the other hand, the American tonnage tax produced only $885,841 (£177,168), while the expenditure on lighting was $4,538,105 (£907,621), showing a serious deficit. As part of this cost is incurred in the lighting of the Great Lakes, however, and similar expenses, the Commission do not suggest that the tax should be increased so as to produce the whole $4,538,105. It would be fair, they think, to look to it to produce $3,000,000; and this, it is believed, will be attained by a tax of 8 cents (4d.) per gross ton on vessels entering from North, Central, or South American ports, from the West Indies and the Caribbean Sea, and of 16 cents (8d.) per gross ton on vessels entering from other foreign ports. This, it will be noticed, applies nominally to American and foreign ships alike; but American ships form so small a proportion of the vessels entering United States ports from foreign ports (last year American ships only paid some £14,200 of the £177,168 raised from this tax) that it is evident that by far the larger part of the additional £420,000 which the increased tax is framed to raise will be paid by foreign, and chiefly by British, ships, especially as it is provided that an American ship can, by carrying a certain number of members of the naval reserve, etc., obtain remission of the tax as to 80 per cent of the amount she would have to pay.

This, then, is the situation. Whether the bill as drafted by the Commission will become a law in its entirety it is, of course, impossible to conjecture, but that some legislation on the lines laid down in this report will be accomplished admits of no doubt. The difficulties which cumbered the paths of his predecessors have been swept out of President Roosevelt's way. They—President Grant, President Arthur, Mr. Blaine, President Harrison, even President McKinley—were forced to appeal to people who were too busy doing work which lay close to their hands to be able to give time to dreams of a world-wide commerce. To-day the minds of the American people are prepared and receptive. They, too, have been learning to think imperially. They have tasted something of the sweets of conquest of distant markets. They have emphatically told the President that he can count on their support in carrying out his policy of expansion; while, most important of all, not only is he, if he lives, assured of four full years yet of office, but the Republican party is in undisputed control of both branches of the legislature.

Nor is further delay possible, unless the country be willing to see the total extinction of its ocean-going marine. How near to extinction it already is could not well be stated more forcibly than in one sentence of the Commission's report:

"Last year, for the first time in our history, no square-rigged vessel for the deep-sea trade was launched on either the Atlantic or Pacific coast line, and only one steamer for the foreign trade remained under construction in any American shipyard. Our shipyards have not received an order for a steamship exclusively for foreign commerce since June, 1901."

The importance which Englishmen will attach to these facts will vary with the individual's political opinions, with his knowledge of the American character, and with the extent of his confidence in the powers and energy of Great Britain. But as to the facts themselves there should be no misunderstanding. Great Britain is shortly to be called upon to face an effort to wrest from her her commercial supremacy at sea beyond all measure more determined and more formidable than any effort which has been made within the memory, at least, of the present generation.

[Editorial in the London Times February 16, 1905.]

The very interesting article which we print elsewhere on American ship subsidies is full of significance for the people of this country. It is a fresh and striking illustration of those vast and far-reaching changes which every thinking man must recognize as now taking place in the commercial relations of the world, even though opinions may be sharply divided as to the right method of dealing with them. Everyone knows that the mercantile marine of the United States was practically destroyed during the war of secession, and that, notwithstanding the vast increase in the population, prosperity, and industry of the country, it has never since recovered its old position on the ocean. In fact, so far from recovering that position, the native mercantile marine of the United States has for many years past been steadily losing ground. Before the war the tonnage of American registered vessels amounted to over five and a half million tons. It was then not far behind the contemporary tonnage belonging to Great Britain and practically equal to that of all other nations. Indeed, it was far greater than that possessed even now by any nation except Great Britain, having been more than twice as great as that of Germany, which was given in a return on which we commented not long ago as a little over 2,200,000 tons. The United States tonnage is now less than 900,000 tons. Yet the maritime commerce of the United States amounts, according to the same return, to very nearly five hundred millions annually, and is only less by about £114,000,000 than the total foreign commerce of Germany by sea and land. Even in 1870 the tonnage of the United States was more than a million and a half, and this sufficed to carry 35 per cent of the foreign trade of the country. Twenty years later President Harrison bewailed the fact that this percentage had sunk to 12 per cent, and now it barely reaches 9 per cent. It is evident that if this decline is not checked the mercantile marine flag of the United States must sooner or later again disappear from the seas as completely as it did after the war of secession.

But the Americans are the last people in the world to regard this prospect with apathy and complacency. They are wealthy, prosperous, and energetic, they do not allow fiscal prejudices to override national interests, and they have lately been inspired with a fuller and more active appreciation of the position of the United States as a world power. Many successive Presidents have, as we show elsewhere, done their best to arouse the nation to a sense of the parlous state of its mercantile marine. But they appealed for the most part to deaf or unwilling ears. The people of the United States "were too busy doing work which lay close to their hands to be able to give time to dreams of a world-wide commerce." Their internal trade was so vast and fraught with such inexhaustible possibilities of development that, until the Cuban war came to reveal to them, as in a vision, the larger destinies of their country, they were little disposed to listen to the appeals successively made to them by men like President Grant, President Arthur, Mr. Blaine, President Harrison, and President McKinley. They were doing very well at home, and they were content for foreign shipping to take its toll of their trade across the seas. Now, however, President Roosevelt makes the appeal with far more favorable auspices. His own personality counts for much, but its accordance with time and circumstance counts even for more. The Americans are learning to think imperially, and the primordial basis of sea power—an indigenous and flourishing mercantile marine—now appeals alike to their interests and to their imagination. The Commission appointed by President Roosevelt have taken evidence at selected centers of commerce, industry, and population throughout the United States, and they report that "public sentiment * * * is practically unanimous not merely in desiring, but in demanding, an American ocean fleet built, owned, officered, and so far as may be manned by our own people." What the people of the United States unanimously demand they are pretty certain to get in the long run. They are not the people to desire the end and haggle over the means. They know where the hitch lies, and they know, or at least they think they know, how to get over it. Foreign shipping, mainly British, commands the market for American freights, because ships can be built more cheaply—some 30 to 50 per cent more cheaply—in European than in American shipyards; because higher wages are demanded and obtained by American than by European seamen; and, thirdly, because most European governments pay mail subsidies or bounties to ships plying on the most desirable routes. It is all a question of money, therefore—or at least so the American people regard it, for they are convinced that the position of this country on the seas is largely due to historical causes, and not to an aptitude for the sea and its uses which they have any reason to despair of rivaling—and, as public money is not scarce in America when the people are satisfied with its application, it seems more than probable that the United States will before long become a very formidable competitor for a share proportionate to its abounding energy and its inexhaustible resources in the maritime commerce of the world.

Our correspondent gives a full summary of the measures recommended by the Commission for the attainment of this end. It is proposed, first, to create a volunteer naval reserve consisting of 20,000 men in all, who are to receive retainers, varying according to rank, age, and employment, of from fifteen to one hundred dollars annually; secondly, to pay an annual subsidy, subject to certain prescribed conditions, of $5 per gross registered ton for every vessel, steam or sail, engaged in the foreign trade or deep-sea fisheries, with proportionate subsidies for shorter periods; thirdly, to pay subventions at increased rates to procure the establishment of regular lines of steamships on ten specified new routes, including routes to Cuba, Mexico, and Central South America, to South Africa, and across the Pacific; and, fourthly, to impose an increased scale of tonnage taxes on all vessels, American as well as foreign, which enter American ports in the foreign trade—a precedent for which is alleged to be found in the British light dues. By virtue of these measures the Commission are of opinion that American shipping will be able to compete on favorable terms with the foreign shipping, principally British, now engaged in carrying the bulk of the over-sea commerce of the United States. That they will make the competition much more severe than it is at present can not be disputed for a moment. But it still remains to be seen whether the subsidies and other subventions proposed, enormous as they are in the aggregate, will suffice to induce American shipbuilders and American shipowners to undertake so large an expansion of their business as would defy competition altogether. If the initial cost of a ship built in this country is from 30 to 50 per cent less than the cost of a similar ship built in the United States, and if the working expenses of the British ship are, so far as they depend on the rate of wages, also less than the corresponding working expenses of the American ship, it is evident that the subsidy must be a very heavy one which will enable the American ship to compete on anything like equal terms with the British ship. Be this as it may, however, it is not less certain that the prospect is by no means a pleasant one for the British shipowner. The Americans are not the people to do things by halves, and if, having once resolved on a policy of subventions, they find that the subventions proposed are insufficient, they will not hesitate to increase the dose until the required effect is produced. It will be urged, perhaps, that the dose will need to be so strong as to kill the patient in the end. Time will show. In the meanwhile the patient's rival will assuredly have no easy time of it.

It remains to be seen whether this great people, now so proud and so self-satisfied, will continue to sleep while alert nations are occupying the vantage ground of great possibilities.

Mr. SULZER. Mr. Chairman, I ask the gentleman from Ohio [Mr. BURTON] to yield me five minutes. I would like to answer the gentleman from Ohio [Mr. GROSVENOR].

Mr. BURTON. Mr. Chairman, how much time is there remaining?

The CHAIRMAN. There are seventeen minutes remaining.

Mr. SULZER. I ask the gentleman from Ohio [Mr. BURTON] to yield me five minutes.

Mr. BURTON. I will yield five minutes to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Chairman, the remarks of the distinguished gentleman from Ohio [Mr. GROSVENOR] interested me—in fact, everything the gentleman says interests me—especially that part of his speech in which he referred to the American merchant marine. I desire, however, to call the attention of the House to the fact that the gentleman is the chairman of the Committee on the Merchant Marine, and we look to him for legislation on this subject.

Just before the Congress adjourned at its last session it appointed a joint committee to investigate the cause of the decline of our merchant marine and to recommend to this session of Congress legislation to restore our former glory in over-sea carrying trade. I voted for the resolution to appoint that committee, and when I did so I indulged the hope that the bright day was not far distant when something more than empty words and hollow promises would be done for the shipping interests of the United States. But I am, forsooth, doomed to deep and bitter disappointment. Nothing has been done, and, take my word for it, nothing will be done—I was going to say that nothing was ever intended to be done; but let us proceed and see what the gentleman from Ohio and this committee did and have done. It would be ludicrous if it were not so tragical and humiliating.

The gentleman from Ohio [Mr. GROSVENOR] was a prominent member of that committee, and, knowing him as I do, I looked for results. At last I thought that now something is going to be done in a businesslike way for our merchant marine. That committee met and organized, and held sessions during last summer and fall in all the large cities of the country. The committee called many witnesses and took a great deal of testimony, which testimony was filed at the beginning of this session with the Committee on Merchant Marine and Fisheries. The gentleman from Ohio asked for an extension of time to make the report. It was granted until the first part of January. An extension of time, I say, was granted, and the gentleman made a very long and voluminous report, but you can not make head nor tail out of it. A Philadelphia lawyer can not tell what it means. The most luminous mind in the country can not comprehend what it recommends. And the bill that was reported with it is a trust bill—a subsidy bill—to rob the many for the benefit of the few. The whole thing is a farce, and nothing is to be done for our merchant marine. The time for final adjournment is at hand, and legislation for our merchant marine—to place the American flag again where it was before the civil war, on every sea and in every port—seems to be suspended, like Mohammed's coffin, somewhere between heaven and earth.

Now, sir, I think it is pretty well understood that I am a friend of the great shipping interests of the United States, and have done all in my power ever since I have been a Member of this House to aid in a practical way the immediate restoration of our merchant marine. I have introduced several bills in different Congresses, and have a bill now pending before the committee of which the gentleman from Ohio is chairman, that, if enacted in law, would solve the problem and give our own people our over-sea carrying trade. This bill of mine is in line with the promises of the Republican party's platform in favor of discriminating duties. The gentleman's bill is for subsidies. I am opposed to subsidies. I am opposed to robbing the many for the benefit of the few. I stand now, and have always stood, on this question just where President McKinley stood when he said:

> We must encourage our merchant marine. We must have more ships. They must be manned by and owned by Americans. The policy of discriminating duties in favor of our shipping which prevailed in the early years of our history should be again promptly adopted by Congress and vigorously supported until our prestige and supremacy on the seas are fully attained.

The gentleman from Ohio knows, or ought to know, that a subsidy bill can not pass this House. I know a bill along the lines of discriminating duties can. It is our old and true policy, and the only feasible remedy.

Mr. Chairman, it is a fact, and we all know it, that the United States in 1810, with 7,000,000 inhabitants, owned more registered tonnage for over-sea trade than the United States of 1904, with a population of 80,000,000. This tonnage in 1810 was 981,000; it is now 873,000, and, worse still, it showed an actual decrease of 6,000 tons from the year before. In 1810 American ships and American sailors carried 91.5 per cent of their country's ocean trade, and, moreover, a great share of that of Europe.

In 1861, though we had already lost our Atlantic steam lines and our shipbuilding was falling off, we still carried 65.2 per cent of our own trade and some of the trade of other nations; but American ships last year conveyed only 8.8 per cent of our imports and exports. Our registered tonnage in 1861 stood at 2,496,000. It stands now at 873,000. Two-thirds of our once great and powerful deep-sea fleet has vanished; and not one new keel for a deep-sea ship is being laid on either our Atlantic or Pacific coast line, and meanwhile an ever-increasing fleet of foreign vessels throngs our ports and monopolizes the carrying of more than nine-tenths of our import and export commerce.

The United States pays to these foreign vessels for conveying our freights and passengers upward of $200,000,000 a year. Much of this vast sum of money goes to steamers which are regularly enrolled on the "merchant cruiser" list of European governments, which are manned by naval reserve officers and sailors, and are available for service against us in case of war.

The British Empire has 14,800,000 tons of merchant shipping; Germany, 2,960,000 tons; France, 1,480,000 tons; Norway, 1,660,000 tons; Italy, 1,180,000 tons. By far the larger part of all these fleets is engaged in ocean carrying, but the United States of America, which produces far more merchandise and now sends more abroad than any other nation, has a fleet registered for deep-sea commerce of only 873,000 tons.

Mr. Chairman, that is the situation at present. Let me ask the gentleman from Ohio, who talks so glibly in favor of the American merchant marine, what has he done for the American merchant marine? He is charged with the responsibility. He is the chairman of the committee. He has a united and solid majority behind him. What has he done for this vast interest? This Congress has been in session ever since last December.

Mr. GROSVENOR. Will the gentleman allow me to answer him?

Mr. SULZER. Not just now. I have only a few minutes, and I did not interrupt the gentleman's speech. [Laughter.] What has become of the gentleman's bill for the American merchant marine? He has a large majority on his side of the House; he is a member of the Committee on Rules and could have brought in a rule and the bill could have been considered long ago. The whole subject could have been debated, the bill amended and made into a good bill to really aid and help the American merchant marine.

Then we could have passed it, as we have so many other good bills, and finally sent it over to the Senate of the United States, that august tomb of all popular legislation. [Laughter and applause.]

Now, sir, I submit that if the gentleman from Ohio had done this much he would at least have done his duty; would at least have done something for his country; would at least have shown his good will for the American merchant marine; would at least, to some small degree, have shown his desire to keep the promises of his party on this great and important question. But instead of doing this—doing, I say, what he ought to have done—he gets up here at the eleventh hour of the session and talks about the tribulations of Russia and her defeats on land and sea being due to the fact that Japan has a great merchant marine to aid her navy, transport her troops, and carry her commerce, and Russia has not. That may all be true, and if it is, it is an arraignment of the gentleman and his party for their indolence and failure to do what ought to have been done long ago for our merchant marine. Do something, I say to the gentleman from Ohio, for our shipping interests, and do it quickly and stop talking. [Laughter and applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURTON. I yield one minute to the gentleman from Ohio.

Mr. GROSVENOR. I want to say, in reply to the gentleman, that the entire Republican membership of the committee, with the exception of one gentleman, did report a very valuable and comprehensive bill for the support of the American merchant marine; and the fact that the gentleman from New York was probably engaged in trying a number of cases in the city of New York may be responsible for the fact that he does not know what was done.

Mr. SULZER. Where is your bill now?

Mr. GROSVENOR. And I will say further that every Democrat on the committee refused to sign the report, and brought in a minority report in reference to the bill.

Mr. SULZER. Your bill favored subsidies, and no Democrat wants a subsidy; that is why the Democratic party is opposed to your bill.

Mr. BURTON. How much time have I remaining?

The CHAIRMAN. The gentleman has eight minutes.

Mr. BURTON. I yield to the gentleman from Mississippi [Mr. HUMPHREYS].

Mr. HUMPHREYS of Mississippi. Mr. Chairman, the ques-

tion of transportation, if not of the first, is certainly of very great importance to the people of this country. This House, after very lengthy discussion, has passed a rate bill, which we all hope will bring much good to our shippers if by any unforeseen, improbable, and wholly unexpected chance it should ever become the law of the land. I hope that the Interstate Commerce Commission, the Court of Commerce, and all the cumbersome machinery we have provided will work to the consummation which we all so devoutly wish.

It is my opinion, however, Mr. Chairman, that the greatest conservators of freight rates in this country, in the future even more than in the past, will be the navigable waterways of the country. When the farmers of the great Northwest can ship their wheat from Duluth through the Great Lakes and the Erie Canal to the ocean for 2 cents per bushel, the railroads will have to meet that rate whether it seem reasonable to the court of commerce or not.

When the millers of St. Paul and Minneapolis can load their flour on a barge and ship it without transfer to New Orleans, where the largest ocean steamers afloat are ready to receive it and bear it to all the markets of the world, the railroads will have to meet these rates. When the Pittsburg district is in continuous communication with the Gulf of Mexico by a year-round channel never less than 9 feet deep, the railroad which wishes to compete for the tremendous traffic of these coal fields will find a rate regulator with plenary power and hampered by none of the delays which wait on judicial construction and which must and surely will handicap the Interstate Commerce Commission. If the great waterways of this country which can carry our products to the sea are improved and properly maintained, and if our harbors are deepened so that the largest of the modern freighters can ride with safety in them, we will have taken the longest stride which, in my opinion, it will ever be possible for us to take, in the equitable adjustment of transportation rates.

We do not own the railroads, and with the lights now before me I hope we never shall; but we do own the waterways, and I hope we will so improve them, I hope we shall so develop their capacities for successful competition with the railroads, that it will not be necessary for us to undertake the doubtful and dangerous experiment of Government ownership.

One thing is certain, and we can all agree on that: if we are to meet the products of foreign fields, of foreign forges, and of foreign mines in the open markets of the world and sell our products in fair competition with them, we must not, we can not, go into the fight hampered and handicapped by unjust, unreasonable, or extortionate transportation charges.

This is a busy country. It is the busiest country in the world. Every man in this country who wants to work can work, and every man who engages in honest work, who by his muscle or his brain is adding to the sum of the nation's wealth, whether that labor be performed in the luxuriantly appointed office of a national bank, or whether in the workshop he eat his bread in the sweat of his face, he is interested, and vitally interested, in the question of transportation charges.

We are producing more than any other people, and we must sell our surplus to those countries which lie beyond our borders. But we are not the only people who are seeking the markets of the world. We have no monopoly abroad. We must come from behind the shelter of our protection walls and meet all comers in fair and open competition whenever we leave home with our products. We can not do this unless we can secure equal transportation and terminal and harbor facilities with the other countries. If England or France or Germany or any other country has transportation facilities and harbor facilities which enable their shippers to get their products to the sea promptly and at fair rates and then to ship them in the deepest bottoms and at the lowest ocean rates, then we are unequal to them in these matters, although we have ten harbors to their one, unless we, too, can secure equally low rates and equally prompt deliveries to equally capable harbors. The demands of commerce require deep-draft ships, and the ingenuity of man and the genius of this time are going to supply them. The ship that can transport beyond the seas only 2,500 tons has given way to the ship that can carry 10,000 tons, and this is for the good and sufficient reason that whereas the 2,500-ton ship carried wheat from this country to Europe for 8 and 10 cents per bushel, the 10,000-ton ship carries it to-day for less than 2 cents per bushel.

Twenty-five years ago the ships which fixed the ocean rates carried 2,500 tons and had a draft of 22½ feet. In 1890 these had given way to ships of 5,000 tons and 26 feet draft, and these to-day are giving way to the modern ship of 10,000 tons and upward and 30 to 32 feet draft.

The price of our products at home is in a large measure fixed by the price we can sell our surplus for abroad. We will demand of the home market what we are offered in the foreign market, less the cost of transportation to that foreign market. There has been a reduction in the ocean rates on grain, due to the increased carrying capacity of the modern freighters over that of the vessels of thirty years ago, amounting to 12 cents per bushel. Whether we export one-half of our wheat or 10 per cent of it, the price we get for that which we do export—in other words, the price which we can get for our surplus, materially affects, if indeed it does not fix, the price for the whole crop.

We export 372,000,000 bushels of grain annually, and the saving in freight charges on it amounts to $46,500,000. We export 7,000,000 bales of cotton yearly, and there is a saving of $1.50 per bale, or $10,500,000.

We export about 300,000 head of cattle yearly, and the reduction on this item is $5,000,000 yearly.

This is the fruition of the very wise policy adopted many years ago of deepening our harbors so that our shippers could utilize the facilities offered by the modern deep-draft vessels; but we are not through yet. Happily for us, nature has done much to relieve us of any great burden of expense in these improvements. When we note what it has cost and is still costing the other countries of the world to deepen and maintain their harbors our river and harbor budget seems a mere bagatelle.

Glasgow is situated on the Clyde, which had a channel depth of 15 inches. They have spent $70,000,000 to dredge that river and give it ample depth, and Glasgow to-day is one of the most important harbors of Great Britain.

Since 1888, when the improvement of the harbor at Hamburg was undertaken, there has been expended there approximately $75,000,000. The result is to-day Hamburg is the second port in all Europe.

During the past thirty years there has been expended in the improvements on the harbor of Marseille $24,000,000; at Rotterdam, $9,000,000; at Hamburg, $40,000,000; at Havre, $35,500,000; at Liverpool more than $200,000,000, and at Newcastle, $27,000,000.

The United States Government has expended on all the rivers and harbors of the country since the Government was founded only $400,000,000 in round numbers.

It is not possible under the necessary and very proper limitations of this debate to take more than a cursory view of the situation. It is certainly not for me to attempt the broad sweep of the whole field of river and harbor improvements. Coming, as I do, from the great valley of the Mississippi and representing in a measure on this committee the interests centered in that great waterway, I wish to direct the attention of this House to some very interesting industrial facts connected with that valley.

It has an area of 1,235,334 square miles and a population of 33,395,247 souls. In other words, it equals in territorial extent the combined areas of Austria, Germany, Holland, France, Italy, Portugal, Spain, Norway, and Great Britain.

It is the busiest valley in the world. The value of the manufactures and of the products of agriculture, not including the products fed to stock, alone amounts to $5,000,000,000 annually. This does not include the Missouri River Valley, but simply the Mississippi proper and the Ohio. In other words, we produce annually in these two items alone, not counting the products of the mines, an amount equal in value to five-sevenths of the total aggregate assessed value of all the personal property of all the States of this Union combined.

The men in this great valley who are tilling the soil, who are at work at the forge, are producing annually in products which add to the sum of human wealth and human happiness an amount equal in value to the wealth of the entire Dominion of Canada or of the Kingdoms of Belgium or Holland; twice as great as the wealth of Switzerland, of Sweden, of Portugal, or of Denmark, or of Greece and Norway combined, and twenty times the combined value of all the real and personal property in the Philippine Islands. If we pass a naval appropriation bill every year for fifty years as large as the one we have just passed—and it carries $100,000,000—and every ship built during that period should retain its original value, we could buy and pay cash for the whole outfit with one year's products of the fields and factories of this valley.

We could pay all the expenditures of the War and Navy Departments from 1861 to 1865, both years included, and still have enough left to pay the expenses of the Spanish war, wipe out the national debt, and reimburse the Federal Treasury for every dollar we have ever spent on all the rivers and all the harbors of this country since the Government was founded.

What is to be done with all these products, Mr. Chairman?

How are we to exchange the things which we produce here in such abundance with the nations of the earth which produce other things necessary for our comfort and conducive to our happiness? Will this Government permit the people of this great valley, whose brain and muscle and energy have turned the current of the world's great balance in our direction, to be handicapped by a lack of transportation facilities which will enable them to reach the seaboard and reach it on terms of equality with all the nations with whom they must compete? If not, we must undertake, and undertake in earnest, and undertake without delay, the improvement of the waterways of the Mississippi and the Ohio valleys. The railroads can not carry the products of these two valleys to the seaboard at any rates, reasonable or unreasonable. They are less able to carry them to-day than they were yesterday, and they will be less able to handle them to-morrow than they are to-day. You think—and very likely you are correct—that the railroads are extorting unjust and unreasonable prices for their transportation services, but I tell you that unless we improve the waterways of this country so that the heavier and bulkier and cheaper commodities can be floated to the seaboard, we are by our own inaction extorting money from the shippers by denying them the facilities that would give them cheaper rates.

There is not a railroad company that will undertake to transport the flour from the great mills at St. Paul and Minneapolis to the Atlantic seaboard in less than thirty days. The railroads have made progress along many lines. They have improved by invention, by skill, by energy, wherever improvement was possible. They have increased the capacity of their cars from thirty to eighty and even to one hundred thousand pounds. They have paid fabulous sums for new types of locomotives which can pull their cars more rapidly over their tracks, but the result of it all is, that whereas twenty years ago they could pull all their freight cars 32 miles a day, now the best they can do is to pull them 20 miles. Blockade and congestion of cars is the daily cry. Every Member here hears it. We can't get cars to haul our cotton; you can't get cars to haul your wheat; you can't get cars to haul your coal. The productive energy of the people has overtaken and run away with the carrying capacity of the roads, and we are turning again to the rivers as we turned to the railroads twenty-five years ago.

If you want coal at Louisville and want it immediately, you order it sent by river, because you can't afford to wait for the railroad. If we had a year-round channel in the Ohio River, equal in width and depth to the channel in the Mississippi from Cairo to the Gulf—and God speed the day when we will have it—we could ship coal from Pittsburg to New Orleans for 10 cents a ton and deliver it in less time than it now requires to get it in car lots from Pittsburg to Louisville.

Let me direct your attention for a moment to the character of the commerce which floats on these great rivers. The latest figures which I have been able to get from the Census Office show the annual commerce actually floated on these two rivers to be more than 29,000,000 tons. The following table shows the different commodities which go to make up this magnificent total:

Tonnage of the Mississippi and Ohio rivers and their tributaries, stated in tons.

Wheat	848,442
Corn	786,888
Other grain	95,588
Mill products	90,895
Cotton	896,292
Tobacco	27,959
Fruits and vegetables	59,610
Hay	91,579
Coal	8,539,229
Iron ore	574,790
Other ore	450
Stone and gravel	178,631
Clay and sand	142,423

In addition to this, 2,834,248 passengers are carried by the steamers plying these two great rivers every year.

I want to add right here, however, that the extent of a river's value to the shippers is not measured by the tonnage actually floated on its waters. The most important function which a river performs is as a conservator of freight rates. The improvement of the Great Lakes, which has resulted in lowering rates from the great Northwest to the Atlantic Ocean, has forced the railroads to compete with and so meet these lower rates. The Mississippi and Ohio rivers have afforded water rates to the Gulf, and have similarly affected railroad rates. I am going to print as an appendix to my remarks some tables of railroad rates to points where there is river competition and to points equidistant where there is no river competition, and these will furnish whatever proof is needed, if the proposition be denied that river competition does lower railroad rates.

So whether the tonnage is, in fact, carried on the rivers or not, if they have the capacity to carry it, and in virtue of that capacity the railroads meet the river rates and actually carry the freight, the river has nevertheless performed its function to the people.

Some gentlemen here are inclined to hold up their hands in wild astonishment at the fearful cost of the improvements of the Mississippi River. Everything is great or small by comparison. Whether the policy of the Federal Government in its dealings with these rivers is extravagant or whether it is parsimonious can be determined best by comparisons. I have stated, very briefly and very incompletely, the industrial conditions of these two valleys. There are 15,000 miles of navigable waters, including all the tributaries of the Mississippi. Since the foundation of the Government we have spent on them all, the Missouri and its tributaries included, in round numbers, $100,000,000, an amount equal to what we have just voted as the appropriation for one year for our naval establishment.

The State of New York has spent $56,000,000 on the Erie Canal and has recently voted $101,000,000 to deepen that canal to 12 feet.

Since 1848 Austria has spent upon her rivers a little more than $100,000,000, and she has about 800 miles of navigable rivers capable of accommodating boats of 6½ feet draft. Most of this amount was spent upon the Danube. Compared with the Mississippi the traffic on the Danube is inconsiderable. The traffic of the Danube Steamship Company in 1901, which is practically the traffic of the Danube River, amounted to 1,470,407 tons. The following extract from the Consular Reports may throw some light on the situation in Austria:

It has become evident, in the face of the ever-increasing traffic, that the railways are not in a position to grant those cheap rates which economic interests demand, more especially for the carriage of bulky merchandise of small value. Consequently, by the law of June 11, 1901, £7,000,000 is to be devoted betwen 1904 and 1912 to the construction of a network of canals.

From 1875 to 1900 Belgium expended on her waterways a little more than $80,000,000, and in the report prepared by the ministry of Finance and Works this statement is made:

It may be justly claimed that in providing the country with a system of navigable waterways and cheap transport, in multiplying the points of contact between road, rail, and water, in rendering the seaports easier of access, and in stimulating the erection of numerous commercial and manufacturing establishments, this work of improvement has been one of the principal factors of the commercial prosperity of the country.

In the seven years immediately following the Franco-Prussian war and in spite of the tremendous fine of $1,000,000,000 put upon her by the Iron Chancellor, France spent $50,000,000 on the improvement of her waterways and ports. From 1879 to 1900 she appropriated $90,000,000 to enlarge her waterways so that they could accommodate barges of 300 tons burden. The Government's plans for the future are an expenditure in the next fifteen years of $100,000,000 more on improvements and on new projects. The total tonnage of the waterways of France in 1898, which is the latest information I have been able to secure, was 32,000,000 tons. The following extract from the Consular Reports as to the effect on railroad rates shows the same opinion to prevail in France as in other countries.

Where, as in France, the waterways are enabled to compete with the railways they not only provide cheap transport themselves, but also tend to lower the railway rates. The canal barges, by loading and unloading directly from seagoing ships, effect a large economy in the cost of manipulation involved in the case of a railway, and the barges also offer a cheaper means of storage than the railway warehouses.

The length of all the inland waterways of the German Empire is a little less than 9,000 miles. I am unable to give the total expenditures of the German Empire on its rivers, but the Kaiser Wilhelm, the Dortmund Ems, and the Elbe Trave canals have been constructed and opened for traffic since 1894, at a total cost of a little more than $60,000,000. I quote again from the Consular Report:

The Prussian government have always been of the opinfon that an extensive and growing canal system is not opposed to the interests of the State railway systems, but that, on the contrary, the two complete one another and should work well together in the interests of the public. The assistance of the waterways was necessary to the railways in order to be able to deal with the rapidly increasing traffic.

The Netherlands have spent since 1862 $58,000,000 on the rivers and $26,000,000 on the State canals.

The Manchester Ship Canal, 35 miles long and 26 feet deep, has been constructed at a cost of $75,000,000, and the tonnage is about two million a year.

This Government has embarked upon the Panama Canal en-

terprise, and no man is willing to hazard an opinion as to the probable cost of that great undertaking. Everybody favors it, and yet its importance to the commerce of this country, its benefits to the people of the United States, are as nothing compared to the commerce and compared to the blessings which would flow to all the people if the Mississippi River were improved, as it should be improved, from its mouth to St. Paul, and if the Ohio were canalized to a depth of 9 feet from Cairo to Pittsburg. The most enthusiastic advocate of the Isthmian Canal will not in his wildest imaginings venture the opinion that its tonnage will ever amount to one-half the tonnage of the rivers of the Mississippi and Ohio valleys.

Oh, the Panama Canal is a military necessity, we are told. No doubt it is. Everything else seems to be running to the same necessity. I want the canal constructed, and I want a good Navy, too, but I believe there are cargoes which our ships should carry which will bring more happiness to more homes in this good land than cargoes of armor plate and 12-inch guns. It is a confession of incapacity on the part of this House to acknowledge inability to adopt a fiscal policy that will yield sufficient income to meet the proper demands of wise, reasonable, and generous administration in times of perfect peace and most abundant prosperity. If we can not make both ends meet now when can we ever hope to do so? After six years of unparalleled prosperity, with every spellbinder in the land busy painting roseate tinted pictures of fat banks and fatter bins, we are required to cut our rivers and harbors appropriations in half and have no public buildings bill at all.

This is not statesmanship. If your fiscal policy has broken down, if it no longer yields sufficient revenue to properly conduct the people's business it is sinful to refuse to change it, it is fetich worship. We are the richest people in the world. The wealth of the United States is greater than that of Germany and the United Kingdom combined. It is equal to the wealth of Russia and Italy and France and Austria combined.

We buy more, we sell more, we produce more than any other people of the earth, and yet we can not spend one-half, one-fifth the money which is needed for internal improvements, for fear somebody may have to do without a rapid-fire gun or a khaki uniform.

Providence has been so lavish with us in the dispensation of its blessings that we have been prospering and drifting happily into safe havens in spite of ourselves. It has gotten to be an adage that Providence always looks after a drunken man and the United States, but if we are to sit all the day idle while the other nations of the earth are making ready, in a few years we will have to remove from the Dome of this Capitol the figure which adorns it and put in its place the more appropriate figure of the foolish maiden and her empty lamp. [Applause.]

Railroads' and steamers' freight class rates, showing differential in favor of water route as follows.

	First class, per 100 pounds.	Second class, per 100 pounds.	Third class, per 100 pounds.	Fourth class, per 100 pounds.	Fifth class, per 100 pounds.	Sixth class, per 100 pounds.
From Pittsburg, Pa., to Cincinnati, Ohio.						
Railroads	41	35	26	18	15	12
Steamers	30	25	20	12½	11	9
Differential per 100 pounds in favor of water route	11	10	6	5½	4	3
From Cincinnati, Ohio, to Memphis, Tenn.						
Railroads	75	60	55	40	35	30
Steamers	55	45	40	30	25	20
Differential per 100 pounds in favor of water route	20	15	15	10	10	10
From Cincinnati, Ohio, to Vicksburg, Miss.						
Railroads	98	83	73	54	44	39
Steamers	70	50	40	35	30	25
Differential per 100 pounds in favor of water route	28	33	33	19	14	14

NOTE.—Passenger rates on all western rivers average approximately 2 cents per mile, including meals and berth. Railroad passenger rates average 3 cents per mile and include only transportation. A rate of 2 cents per mile is granted by railroads to the purchasers of 1,000-mile tickets, which are governed by certain rules, regulations, and conditions.

A comparison of all-rail with all-water rates, in cents, per 100 pounds.

Class.	St. Louis to—	
	Cairo, Ill., by water (151 miles).	Williamsville, Mo., by rail (145 miles).
1	$0.34	$0.65
2	.29	.58
3	.24	.49
4	.19	.39
5	.14½	.25
6	.14	----------
7	.12	----------
8	.09½	----------
9	.08½	----------
10	.07½	----------
A	----------	.22
B	----------	.18½
C	----------	.14
D	----------	.14
E	----------	.10

These rates are governed by two different classifications, but the Illinois to Cairo is the lower basis and makes the difference more pronounced than shown by the figures.

Class.	St. Louis to—	
	St. Paul, Minn., by water (582 miles).	Oklahoma City, Okla., by rail (543 miles).
1	$0.63	$1.30
2	.52½	1.09
3	.42	.97
4	.26	.84
5	.21	.67
A	.26	.65
B	.21	.53
C	.18	.40
D	.15	.37
E	.13½	.29

In this instance rates forced by water competition are less than half of the other.

Class.	St. Louis to—	
	Hannibal, Mo., by water (120 miles).	Centralia, Mo., by rail (124 miles).
1	$0.28	$0.47
2	.22	.33
3	.17	.25
4	.12	.21
5	.09	.16
A	.11	.18
B	.10	.15
C	.09	.13
D	.07½	.11
E	.06½	.09

This comparison shows the effect on short hauls.

Class.	East St. Louis to—	
	Peoria, Ill. (159 miles).	Green Valley, Ill. (139 miles).
1	$0.25	$0.4418
2	.20	.3478
3	.16	.2716
4	.12	.2180
5	.11	.1744
6	.10	.1410
7	.09½	.1288
8	.09	.1034
9	.08½	.0822
10	.07	.0722

Green Valley is intermediate to Peoria on the Chicago and Alton Railway.

Class.	St. Louis to—	
	New Orleans, La., by water (706 miles).	Lauderdale, Miss., by rail (493 miles).
1	$0.90	$1.33
2	.75	1.11
3	.65	.95
4	.30	.50
5	.40	.62
6	.35	.54
A	.25	.41
B	.25	.44
C	.25	.33
D	.20	.25

Lauderdale is intermediate to New Orleans on the Mobile and Ohio Railway.

Railroad rates on high-class freight to canal points, in cents per hundred pounds on Erie Canal.

From New York to—	Miles.	First class.	Second class.	Third class.	Fourth class.	Fifth class.	Sixth class.
Albany	143	25	18	14	13	12	10
Utica	238	32	27	22	17	14	12
Rome	252	33	28	23	17	14	12
Syracuse	291	35	30	25	18	15	13
Rochester	371	35	30	25	18	15	13
Buffalo	440	39	33	28	19	16	13

To noncanal points, in cents per hundred pounds.

From New York to—	Miles.	First class.	Second class.	Third class.	Fourth class.	Fifth class.	Sixth class.
Philadelphia	90	22	18	15	12	10.5	9.5
Reading	148	30	25	21	15	13	11
Wilkesbarre	176	35	30	23	17	15	12
Harrisburg	195	33	28	22	17	15	12
Altoona	327	45	39	30	21	18	15
Pittsburg	445	45	39	30	21	18	15

The CHAIRMAN. The time for general debate has expired.

Mr. BURTON. I ask that the Clerk proceed with the reading of the bill.

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

Improving harbor at Echo Bay, New York: The Secretary of War is hereby authorized to cause an examination to be made of Long rock, near the entrance to Echo Bay, and if the interests of commerce demand, he may, in his discretion, cause the removal of such rock, and any amount heretofore appropriated for Echo Bay improvement, and now unexepnded, may be used for such removal.

Mr. SCUDDER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The amendment was read, as follows:

On page 8, line 23, add:
"Improving Mattituck Harbor; continuing improvement, $30,000."

Mr. SCUDDER. Mr. Chairman, the plan for the improvement of Mattituck Harbor recommended by the United States Engineers contemplated the building of two harbor jetties at the entrance of Long Island Sound and the dredging of the channel to 100 feet wide and 6 feet deep at low tide. (See Appendix D, Report Board of Engineers, 1891.)

Two appropriations have been made for the work aggregating $15,000, which has been expended on one of the jetties not yet fully completed. A further appropriation was recommended in the report of the Chief of Engineers to the Secretary of War, and by him submitted to the Fifty-seventh Congress, but no appropriation was made in the last river and harbor bill. The present situation so far as this enterprise is concerned is as follows:

The jetty already constructed has been of immense advantage in helping to maintain the inlet in a fixed position. The action of the tide has of itself considerably deepened the channel, so that it has been possible for smaller vessels to make use of the inlet at high tide. The connection between this place and New Haven, Conn., has been maintained by steamer as far as conditions would permit during the past season, which has been very valuable as opening a new market. Numerous vessels have been able to make use of the inlet under stress of weather or for other purposes, and the bay has been open to some extent for oyster culture, thereby establishing an extensive and valuable industry. One vessel in trying to make the harbor in a storm in September, 1904, grounded at the inlet and was abandoned by her crew. Taken all together, the work done, even in its incompleted state, has been of great benefit, and shows conclusively the necessity for this improvement, but it is certain that unless the work contemplated is continued and the protection afforded by the two jetties is secured the action of the northeast storms must inevitably destroy the usefulness of the work already done and render the existing jetty a menace and obstruction to navigation rather than a benefit.

At the time a channel was cut through the beach at the expense of the citizens of Mattituck, with the consent of the engineers, the channel was made 50 feet east of the jetty. In the absence of the proposed jetty on the east side this channel, the drift and movement of sand under the action of easterly storms, has continued to make up the beach on the east side and to force the current to gradually eat into the sand bank toward the jetty, until at the present time it flows with great force directly against the inshore end of the existing jetty. Unless the two jetties as originally intended can be completed and the existing one built to the bank as proposed, it seems absolutely certain that the current must cut its way around the inshore end of the jetty and break out at the west side, in which case this jetty will lie in the center of the entrance to the harbor, which will render all navigaion extremely dangerous if not impossible.

An appropriation for building the two jetties and to complete the first one is absolutely necessary. This work, if completed according to the original plans, will benefit one of the most productive portions of Long Island, and will benefit the villages of Peconic, Cutchogue, New Suffolk, Mattituck, Laurel, and Jamesport, all of which are within 5 miles of this bay.

The population of this district is about 3,500. The commercial statistics of the district for one year are as follows:

Freight received by rail and water.

	Quantity.	Value.
Fertilizers and fertilizing materials ..... tons..	4,225	$126,750
Coal ..... do...	3,900	23,400
General merchandise ..... do...	2,787	206,279
Grain, flour, and feed ..... do...	1,800	52,650
Provisions not otherwise specified ..... do...	1,455	170,952
Lumber ..... feet..	1,863,860	74,400
Other building materials ..... tons..	458	8,580
Farm implements and machinery ..... do...	830	85,250
Household goods, furniture, miscellaneous ..... do...	6,655	459,195

Shipments by rail and water during same period.

Potatoes, etc ..... bushels..	657,000	$394,200
Green vegetables ..... barrels..	57,000	99,750
Grain, hay, etc ..... tons..	786	46,760
Garden seeds ..... do...	178	141,554
Vegetables in salt and brine ..... casks..	20,600	59,000
Canned goods	12,500	25,000
Butter and dressed meat ..... tons..	350	52,500
Eggs ..... cases..	2,591	15,546
Miscellaneous	11,700	763,750

All regular through lines of transportation, either by rail or water, from Long Island to New York City, which furnishes the market, are at present entirely owned by a single corporation. The effect of this condition is to maintain high tariffs and to retard the growth and development of the community. Notwithstanding the fact that Long Island Sound extends the entire length of the island and furnishes a natural highway for commerce, it is unavailable to this section of Long Island, because there is no harbor where vessels can load and unload. This improvement completed would furnish the needed harbor at what seems the best point.

Aside from the benefits accruing to this immediate locality as a direct result of this improvement, consideration is invited to the following reasons why the improvement should be completed—reasons that are not local to Mattituck, but have an important bearing upon this work.

It will afford a place of refuge for vessels passing through Long Island Sound. Between Port Jefferson and Orient Point, a distance of 53 miles in a straight line, there is no point where a harbor can be established at as little cost. The improvements contemplated, while not of sufficient magnitude to admit larger vessels, are of a character to afford a refuge in this harbor for those smaller vessels which are most in danger in stress of weather, and will prove to all such vessels a great advantage. There are many such engaged in the coastwise traffic of the Sound.

This improvement will afford a means of communication between the east and north shore of Long Island. A steamboat line, which, upon the completion of the improvement will at once be established, will furnish a connection between Port Jefferson and other points. On the north shore and the east end of the island, and will effect a great saving in distance and establish valuable commercial relations between all these points.

For example, passengers and merchandise from Port Jefferson to Mattituck by rail travel a distance of 98 miles; by water the distance would be 30 miles. Port Jefferson to Riverhead by rail 81 miles; water, via Mattituck Bay, 39 miles. Port Jefferson to Greenport, rail 102 miles; water, via Mattituck Bay, 42 miles. And a great saving of distance and consequent expense can be made by this connection between all points upon the north shore branches of the Long Island Railroad and all points to the east end, a matter which can be readily understood by reference to any map of the island. The value of this connection, while necessarily a matter of conjecture, has been deemed of such importance that two routes have been surveyed with a view to building a railroad, which would probably have been built before but for the hilly and rocky country over which it must necessarily pass.

This improvement will benefit and promote commerce between Long Island and Connecticut. The cities and towns of the

Connecticut shore draw their supplies of farm produce largely from eastern Long Island, and thousands of bushels of potatoes, turnips, and other farm produce are carried by vessel yearly from New Suffolk and Jamesport, on Peconic Bay, to the Connecticut towns, the largest market being found in the city of New Haven. The value of the proposed improvements to such commerce can readily be seen when it is considered that New Haven is from New Suffolk 75 miles, from Jamesport 83 miles, while from Mattituck the distance is but 26 miles, and the source of supply from the farms would be nearer a dock on Mattituck Bay than those of either Jamesport or New Suffolk. Packet service has frequently been maintained between this place and Connecticut ports, but has always been difficult and uncertain, owing to the character of the inlet. The improvement of the channel, however, would open the way to regular and important commercial relations between the points indicated.

This improvement will promote the oyster industry. According to the opinion of an expert who has made an examination, 250 to 500 acres of very superior oyster bottom, capable of producing 150,000 bushels yearly, valued at $250,000, lie in this bay undeveloped. Oysters from this bay have always been of very superior quality and sell at the highest price in market, but by reason of the small amount of salt water which reaches its headwaters under present conditions their cultivation has never been practicable. The improvements in question, however, would prove an adequate remedy and result in the establishment of a new and valuable industry.

Mattituck Harbor or Bay has a shore front of nearly 7 miles, so situated as to offer superior advantages for development. Its improvement will go a long way toward bringing these shores to the attention of people in search of opportunity. There can be no doubt that every industry centering about this harbor is bound to be strengthened by its improvement.

The headwaters of this bay reach the very center of Mattituck village, which is of itself the center of one of the most productive sections of Long Island; its outlet is directly into Long Island Sound. By reason of this position it is reached from the farms as handily as the railway station, while to reach any shipping port on Peconic Bay an extra cartage of at least 2 or 3 miles is necessary. At the same time the outlet into the Sound obviates the necessity of doubling the eastern extremity of the island, a serious drawback to all water traffic at present.

Mr. BURTON. Reserving a point of order on that, there is no recommendation for any appropriation. I would like to ask the gentleman from New York if there was any appropriation for 1902?

Mr. SCUDDER. Before 1902; but for 1902 there was not.

Mr. BURTON. The last appropriation was in 1899.

Mr. SCUDDER. Yes; that is the case.

Mr. BURTON. Mr. Chairman, I see no propriety in inserting this item. In the first place, for three or four years there has been no recommendation for it by the Chief of Engineers, and this is clearly subject to a point of order, but I am willing to waive the point of order. Not only has it no standing that gives it ground for special attention, but the amount named is absolutely exorbitant. Here follow six harbors, every one of which is more important than Mattituck, according to the tonnage statistics, for which the total appropriation is $62,500.

I will state to the gentleman from New York what I would be willing to do in this connection. It is quite a surprise to me to have it brought up. There has been no appropriation for six years and no recommendation for three years, and naturally I would say that it had no merit whatever; but on hearing from the gentleman I telegraphed to the engineer in New York to inquire why it was omitted. If he should reply that it has merit I should be willing to have it grouped with a list of others, and if the gentleman will withdraw his amendment I will ask unanimous consent to pass the following paragraph—that is, the one for improvement of the harbors at Port Jefferson, Huntington, etc.—and if the reply is favorable let it be grouped with them.

Mr. SCUDDER. Mr. Chairman, I will accept the gentleman's suggestion. I will say that in the report of the engineer for 1902 and 1903 this improvement, in the language of my amendment, is recommended.

Mr. BURTON. That is the report of the local engineer and not the Chief Engineer.

Mr. SCUDDER. I think it is the Chief Engineer. The gentleman will find it in "Appendix H."

Mr. BURTON. That is not the Chief Engineer; that is the local engineer.

Mr. SCUDDER. Well, Mr. Chairman, I gladly accept the suggestion of the chairman of the committee, and will await the reply, for I am quite confident it will be favorable. I withdraw my amendment.

Mr. BURTON. Then, Mr. Chairman, I ask unanimous consent to pass over lines 24 and 25 on page 8, and lines 1 and 2 on page 9, without prejudice.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to pass lines 24 and 25 on page 8, and two lines on page 9. Is there objection?

There was no objection.

Mr. MADDOX. Mr. Chairman, I want to ask the gentleman from Ohio, the chairman of the committee, a question. Does the gentleman say that where an appropriation is made in this bill and there is no recommendation by the engineers that it is subject to a point of order?

Mr. BURTON. That question I would not absolutely answer by "yes" or "no." It depends upon whether it is a pending improvement, whether work is being done and has been done, and what recommendations have been made in the past. There are cases in this bill for which no provision was made in the bill immediately prior to this, nor for which is there any recommendation, but the item was included on account of information conveyed to us.

Mr. MADDOX. There has been nothing done on this project suggested by the gentleman from New York, has there?

Mr. BURTON. Not for several years. In these cases we have not been in the habit of putting in any items of appropriation except on report either from the Chief Engineer, which was obtained if we could—and by that I mean a letter transmitted to us and not a formal report—or on information from the local engineer.

The Clerk read as follows:

Improving harbor at Saugerties, N. Y.: Continuing improvement and for maintenance, $5,000, and the Chief of Engineers may, upon application, permit the extension of the channel from the point at which the present project terminates up to a point 600 feet below the dam in Esopus Creek: *Provided*, That such extension shall be without expense to the United States, and the plan of improvement shall be first submitted to and approved by him.

Mr. SMITH of New York. Mr. Chairman, I ask that the item in reference to improving harbor at Saugerties, N. Y., be passed over without prejudice.

Mr. BURTON. I understand the change applies only to the proviso.

Mr. SMITH of New York. Yes.

Mr. BURTON. Then I ask that the proviso in this paragraph be passed without prejudice.

The CHAIRMAN. Without objection, the request of the gentleman from Ohio will be granted.

There was no objection.

Mr. MADDOX. Mr. Chairman, I would like to ask the gentleman from Ohio a question. I would like to ask him if he doesn't think that in line 10, page 9, the word "Esopus" should be changed to "Salt River?" [Laughter.]

Mr. BURTON. Perhaps, under the circumstances, a motion to that effect would have parliamentary status. [Laughter.]

The Clerk read as follows:

Improving Browns Creek, New York: Continuing improvement and for maintenance, $3,000.

Mr. SCUDDER. Mr. Chairman, I offer an amendment, which I shall send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Page 12, line 2, strike out "three thousand" and substitute "twenty-eight thousand."

Mr. BURTON. Mr. Chairman, I think that amendment ought to be voted down without debate. Three thousand dollars is high for that project on the scale of expenditure we have adopted for this bill.

Mr. SCUDDER. Mr. Chairman, for information as to the Browns Creek improvement reference is made to pages 133 and 134 and 874 and 875 (Appendix F 10) of the Annual Report of the Chief of Engineers for 1903 for a statistical summary of the present condition and needs of this improvement, which was begun under an appropriation made in 1890, and has been continued and maintained under subsequent appropriations made in 1892, 1894, 1896, and 1899. The total of all these appropriations amounts to $28,000, while the original estimate for the completion of the work as planned by the engineers was $46,000. The last appropriation was for maintenance of the work already accomplished. While the Chief of Engineers estimates the amount that can be profitably expended upon this improvement during the fiscal year ending June 30, 1905, at $10,000 (p. 134), Colonel Stickney places the amount that can be so expended for works of improvement at $18,000, and for maintenance $10,000, making a total of $28,000. (P. 874, Appendix F 10.)

At the time of the inception of this improvement the need which demanded it was for a readily accessible harbor of daily refuge for the fleet of small sailing craft engaged in the oyster industry of the Great South Bay, the home of the Blue Point

oyster. This industry is centered in this locality; and the incomplete improvement already accomplished has been of incalculable benefit to the baymen engaged in it. Every prediction urged upon the River and Harbor Committee, which reported in favor of the first appropriation for this improvement, has been in a measure realized. The establishments for culling, opening, and shipping oysters have located about its mouth and upon its banks. Two yards for shipbuilding and overhauling, with railways for hauling vessels out for repairs, have been established on its banks. Under authority of an act passed by the New York State legislature in 1903, the town of Islip, in which these villages are situated, has raised by bond issue and expended for public landing places $30,000. The landings for Sayville and Bayport so acquired are located upon this creek, and highways necessary to make them accessible have been opened and improved. At least 200 sailing vessels, of from 1 to 80 tons burden and from 2 to 7 feet draft, have regularly made harbor in this creek; and to this number must now be added 12 steamers and 15 sloops with auxiliary engines, engaged in oyester dredging, while to many other vessels belonging in and frequenting the Great South Bay this public harbor has been of occasional benefit.

The business of oyster cultivation has greatly increased in respect both to the amount of capital invested and the number of men employed in it, while the intelligence with which the business has been systematized has greatly increased its importance to the growth and prosperity of these villages. The Oystermen's National Bank, of Sayville, was established in 1899, especially to meet the requirements of this business for banking facilities. In all this development the improvement of Browns Creek has been a most important factor, as the maintenance and completion of the improvement will be in the future development of this neighborhood.

The present condition of the improvement, however, is such as to demand the earliest possible attention. The uncompleted jetties at the mouth of the creek have been so damaged by the ice that no considerable section of them is any longer intact, and they stand above low water for only about half their original length. The westerly jetty is regarded as the more important one, as the prevailing winds are from the southwest and the shore makes out on the westerly side of the point or projection into the bay. In the present condition of this westerly jetty the sand and mud have washed through and over it and settled in the mouth of the channel to an extent which has rendered the harbor practically inaccessible at low tide except for the smallest boats, while the displaced stones from the jetties, which have been carried over into the channel, and the foundations, which are not visible above the surface of the water, have become a menace to the unwary and to those not familiar with the location of these hidden obstructions. The mouth of this channel has been dredged twice by private subscriptions raised among the boatmen, but the advantage so obtained was only temporary, owing to the deterioration of the jetties, as above explained.

The present needs of this improvement are, consequently:

First, the rebuilding and extension of the jetties, especially the westerly one. It is believed, and the belief is based upon careful observation from year to year, that in order to permanently secure the advantages already obtained from this improvement the westerly jetty should be rebuilt for a distance of 500 feet from the shore upon a broader foundation and to a height of 3 or 4 feet above high-water level (instead of 1 foot, as it was originally constructed). Such strengthening and raising of this jetty are necessary to make it withstand the action of the ice floes, which always run on a high tide when the bay "breaks up" after a severe winter, while the additional height proposed would protect the channel against filling with the swash of extraordinary tides accompanied by southwesterly winds.

Second, the dredging of the channel between the jetties to its original depth and the removal of the stones which have toppled into it from the jetties, and which now obstruct it; and

Third, the extension of the improvement by dredging the channel further inland, as originally proposed. Owing to improved methods of dredging in recent years this extension can be accomplished more economically than heretofore. It will also tend to the maintenance of the channel below by insuring a greater flow of water, and it is rendered necessary by the location of the Sayville public landing, which is further up the creek than the improvement had heretofore extended.

For these purposes I urge this committee to adopt this amendment in order that the great advantages derived from the expenditure already made may not be lost, and that the commerce which has thrived under the former beneficent provisions of Congress in this behalf may be still further developed by the completion of the improvement as originally projected.

I insert the best obtainable statistics of the commerce by rail from the immediate neighborhood of this waterway. Those given for the Sayville station include West Sayville and are upon unquestionable authority. Those for Oakdale, though less complete, are believed to be entirely reliable; while those for Bayport are carefully estimated from the only authentic data at our command.

Freight shipped and received during the year 1903.

SAYVILLE STATION.

Oysters shipped in the shell—50,000 barrels (6,200 tons), valued at	$225,000
Opened oysters shipped—50,000 gallons (in 10,000 packages), valued at	50,000
Lumber received—2,050 tons, valued at	61,500
Coal received—6,000 tons, valued at	36,000
Brick received—1,000 tons, valued at	6,750
General merchandise received—1,500 tons, valued at	350,000
Total value	729,250

The value of the commerce to and from Browns Creek for the same period added to this total would make a grand total of over $1,000,000, without taking the railroad traffic at the Bayport and Oakdale stations into the calculation.

The gross revenues of the railroad from the freight shipped and received at this station in 1903 is carefully computed at $48,000.

OAKDALE STATION.

Oysters shipped during the year 1903—2,782½ tons (22,250 barrels) valued at	$100,125
Coal received during the same period, esimated at 1,200 tons, valued at	7,200

Freight received in the month of December, 1903, 343¾ tons.

Freight shipped in the same month, 504¾ tons (principally oysters in the shell).

BAYPORT STATION.

Oysters and clams shipped in the shell in the year 1903 (carefully estimated)—20,000 barrels (2,500 tons), valued at	$90,000
Coal received during the same period—1,500 tons, valued at	9,000
General merchandise received during same period—300 tons, valued at	70,000
Total value of these items	169,000

These figures fairly indicate the advantages which will accrue to these villages from the establishment of such lines of transportation as the improvement of Fire Island Inlet, a survey for which is authorized in this bill, would make possible; and also give an insight into the extent of the commerce which is primarily dependent upon the smaller craft for which the Browns Creek improvement affords a harbor.

Mr. BURTON. Mr. Chairman, there is but a bagatelle of tonnage there by way of commerce compared with most of these streams—20,000 tons. Three thousand dollars was the last appropriation, and the committee considered that with a great deal of care.

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

The question was taken; and the amendment was rejected.

The Clerk read as follows:

Improving Delaware River, Pennsylvania, New Jersey, and Delaware: Continuing improvement, $500,000: *Provided*, That a contract or contracts may be entered into by the Secretary of War for such materials and work as may be necessary to prosecute said improvement, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate $750,000, exclusive of the amounts herein and heretofore appropriated: *Provided further*, That in case the State of Pennsylvania, or other agency, shall pay over a sum of not less than $500,000, to be expended by the Chief of Engineers under the direction of the Secretary of War, for the further prosecution of said work, the Secretary of War may enter into a contract or contracts for such materials and work as may be necessary to complete said work, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate a further sum of $500,000, exclusive of the amounts herein and heretofore appropriated and authorized, and of the sum to be paid by the State of Pennsylvania, or other agency.

Mr. BURTON. Mr. Chairman, I make the formal amendment that we strike out that part of the paragraph beginning with the words "*Provided further.*"

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

The Clerk read as follows:

Strike out all of the paragraph beginning with the words "*Provided further*," on line 20, page 14.

Mr. BURTON. Mr. Chairman, I am informed that there is an intention to add to this item in the Senate, and I think we should discuss it now if there is any such intention, so that the will of the House may be thoroughly understood when we go into conference. I want to say further to the gentleman from Pennsylvania that if they do not desire that item, beginning with the words "*Provided further*," I am not only willing, but I desire that is should be stricken out.

Mr. BROWN of Pennsylvania. Mr. Chairman, I do not believe that the people of Pennsylvania will be satisfied to appropriate $500,000 for a public improvement of this kind in consideration of the fact that it has been the custom of the Govern-

ment ever since it undertook river and harbor improvements to do so at its own expense. I can not see why the State of Pennsylvania should be called upon to contribute for as important a highway as the Delaware River. The great ship yards of this country are located on the Delaware River. I do not care if there have been millions of dollars expended for the improvement of the Delaware River, there have been similar amounts expended for New York Harbor, for Boston Harbor, and for the Mississippi River. Now, why should Pennsylvania to-day be called upon to pay money for an improvement that is for the general good of the nation, such as the Delaware River?

Mr. BURTON. Mr. Chairman, I would state to my friend from Pennsylvania that I have already been over the ground on which he has spoken; that this was not put in as a demand, but after we had appropriated all and more than all we thought we should appropriate, because of the earnest desire of the people of Philadelphia to finish the improvement. No improvement was pressed upon us quite so strongly. This was inserted after consultation with some gentlemen from Philadelphia, who, as I understood, favored it. It is now claimed, however, that the intention of the committee was to impose some burden on Philadelphia. Such is not the case at all, and I want a distinct understanding about it. We should, I think, strike it out if it is not desired in the State of Pennsylvania or in the city of Philadelphia. I want further to say that if no amendment is offered here increasing the amount of this appropriation, which is already exceptional and large, I shall take it for granted that it is a direction from the House to hold out for this paragraph in the form in which it is at any stage of the bill.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I think that the anxiety of the people of Philadelphia is not so much for an increase of her commerce, toward which all the amendments that are in this bill are merely looking, but the trouble with Philadelphia is that under present conditions she is at a disadvantage with her rival ports in the northern part of our country. I can state the situation in a very few words when I tell you that the port of Boston has at mean low tide 28 feet at the present day; that the port of New York has 30 feet; that the port of Baltimore has 30 feet, and the unfortunate condition of the port of Philadelphia is that she has but 22½ feet at the present time.

The result is that the commerce particularly of Philadelphia is being injured, owing to the fact that naval construction is increasing the size of the ships, because we all know from an economical standpoint that the greater the size of the railroad car or the greater the size of the ship the cheaper it is to carry products. Philadelphia naturally is urgent, my colleagues, because, as I say, New York, Boston, and Baltimore are seeking appropriations here looking to the future to deepen their channels in order to meet these new conditions which are coming in naval construction, but we are in an entirely different position to-day. We are not pressing legislation upon this House looking to the dangers of the future. We have but 28½ feet in our channel at the low-water mark to-day, and ships engaged in foreign trade are being taken off and our commerce is being injured in that way. Is it any wonder then that that great port, which represents the iron industries of Pennsylvania, that furnishes 45 per cent of the iron production, when its oil is the greatest export of any State in the Union, and when its finished-steel products represent 5 per cent more than the entire rest of the country, is it any wonder that not only the city of Philadelphia, but the entire State of Pennsylvania, asks this Congress to authorize a proper provision for not its future development but its present salvation?

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

Mr. ADAMS of Pennsylvania. Mr. Chairman, I ask for five minutes more.

Mr. SULZER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the time of the gentleman from Pennsylvania be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAMS of Pennsylvania. The revenues received from the custom-house of Philadelphia are so large that they warrant this expenditure, and when I tell you, relying on the constitutional provision that the United States Government has control of the waterways and that local equality does not exist and we are entirely dependent upon the good faith of the Government, that the capital that has been invested in grain elevators, great railroad terminals, that have been constructed in Philadelphia and millions of capital that have been invested in private commercial houses and other such expenditures, I think that we come before you with a perfectly fair, just, and upright plea that shows our present necessity, not looking to the future, and for that reason we are so urgent for this appropriation for the Delaware River. The gentleman from Ohio [Mr. BURTON] I informed yesterday I would not offer any amendment to this bill, and I did not believe that any of my colleagues would offer one. We are in the position of beggars; that is, when you can not get what you think you ought to have you have to take what you can get, and I trust this House, in this retort back on the part of the chairman, will not strike out this provision.

Mr. SULZER. Mr. Chairman, will the gentleman from Pennsylvania yield?

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

Mr. ADAMS of Pennsylvania. In reply to my colleague from Pennsylvania [Mr. BROWN] I will say this is not imposed on the State of Pennsylvania. It is optional with the State of Pennsylvania to accept it or not; therefore I would rather this provision would remain in, for it may be that so great is the pressure upon our present necessities that the State will come to it even in spite of the imposition, as hard as we think it is, and I trust my colleagues, on the statements which I have presented to them of that State, which is so prominent in history and in commercial development, which is the seaport to a great area, not only of the State of Pennsylvania, but is the southern port of New Jersey and the State of Delaware for exporting their products, that this amendment offered by the chairman will not prevail. I am sure that you will see the justice of my plea. We are asking no advantage over our sister ports of New York, Boston, and Baltimore. We are simply asking that our harbor be put on a par with our friendly rivals in trade and commerce and, in the words of our President, that Philadelphia has a "square deal."

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I think that everybody who knows anything about Pennsylvania will be prepared to admit that her deserts are many. It is not what she ought to have; it is what she can get. We are after dollars to-day, but, in my judgment, this committee would not increase an appropration for the port of Philadelphia or for the improvement of the Delaware River over and beyond the amount which this great committee has seen fit to appropriate or to recommend for the purpose. And I should very greatly regret, Mr. Chairman, if the chairman of this committee should move to amend this bill by striking out this provision. I am not authorized to say that the State of Pennsylvania will accept it. I do not know what the legislature of that State will do. I further know that this provision does not commit the Government of the United States to this appropriation unless the State of Pennsylvania or some agency sees fit to appropriate a sum equal in amount. I would like to have the provision left in the bill, so that the State might, if it sees proper, make this contribution. Therefore I will ask the chairman of the committee to withdraw his amendment.

Mr. BURTON. Mr. Chairman, of course it was placed in the bill by the committee, but in view of the fact that the statement was made that it was imposing a burden when we had intended to confer a benefit; in view of the fact that it was to help Philadelphia, when it is urged it was wrong, and on account of the less desire the Philadelphia Members have for it to stay in, it seems to me it should go out. I will withdraw the amendment, however.

Mr. BUTLER of Pennsylvania. This condition does impose, perhaps, a burden upon the State of Pennsylvania, but I would suggest to my friend that the burden need not be accepted. It is a condition offered the State. The State may accept it or it may not accept it. I renew my request and my obligation to the gentleman from Ohio [Mr. BURTON] for his concession, to allow the item to remain in the bill, so that the State may have the opportunity of either accepting or declining the condition contained therein.

The CHAIRMAN. The gentleman from Alabama [Mr. BANKHEAD] is recognized.

Mr. BANKHEAD. Mr. Chairman, I desire to say a word to the House on this question. Perhaps there is no item in this bill that received at the hands of the committee more consideration than this one. We realized fully the importance of this improvement. We realized that the great port of Philadelphia is entitled to and should receive due consideration at the hands of the committee. We provided in this bill unconditionally that the Delaware River should have $1,250,000 for the prosecution of that work. And it came to the committee that so anxious were the people of Philadelphia to have this work prosecuted more rapidly than the committee felt it could possibly

do, the State of Pennsylvania would be willing to appropriate from her treasury $500,000 if, in addition to the $1,250,000, the Government would add $500,000. The provision is that if the State will contribute $500,000 the Government will add an additional $500,000, making a sum sufficient to complete the present project on the Delaware River. There is no disposition on the part of the committee whatever to impose a burden upon the State of Pennsylvania. We were informed, or at least we thought we got that information, that this provision would be accepted gladly by the Pennsylvania delegation, and therefore we put it in the bill. Now, if you gentlemen do not want it you need not take it. You have every dollar in this bill that you are entitled to without any condition or without any string tied to it, namely, $1,250,000. There are but one or two items in this whole bill that carry an amount equal to this, that for the great Mississippi River, that flows through numerous States, and the Ohio River, that also flows through a number of States. Now, you have this question. What are you going to do with it? If you do not want this additional $500,000, there is no compulsion in it. You can ask this House to strike it out, and the chairman of the committee has told you that he is perfectly willing to have it go out. It does not make any difference with the committee whether it stays in or whether it goes out. It is just simply a question as to whether the friends of the Delaware River prefer to have it stay in and take the chances of the great State of Pennsylvania making this additional appropriation and securing the improvement of this river just that much earlier. That is the whole purpose of it. You said you wanted the improvement completed. The committee did not feel that they could complete that project any more in this bill. We felt that you had all we could possibly give, and we gave that cheerfully. Now, if you are not satisfied, if you do not want it, we will take it back. [Applause on the Democratic side.]

Mr. BAKER. Mr. Chairman, I am staggered at the modesty of the Pennsylvania delegation.

Mr. ADAMS of Pennsylvania. That is more than we are with the delegation from New York.

Mr. BAKER. Mr. Chairman, I repeat I am staggered at the modesty of the Pennsylvania delegation.

Mr. ADAMS of Pennsylvania. Mr. Chairman, I repeat that we are not staggered at the modesty of the New York delegation.

Mr. BAKER. Mr. Chairman, I repeat that I am staggered at the modesty of the delegation from Pennsylvania.

Mr. ADAMS of Pennsylvania. And I answer that we are somewhat staggered at the individual modesty of the gentleman from Brooklyn.

Mr. BAKER. Ah! Now we understand it. Why did you throw that slur over the remaining Members of the New York delegation?

Mr. Chairman, I am staggered at the delegation from Pennsylvania for this reason: A State which for years has levied tribute upon the people of this country—that has ever levied tribute in the form of tariff taxation amounting to hundreds of millions of dollars a year—when its delegation comes into this House and says, "Mr. Chairman of the Committee on Rivers and Harbors, all we ask is $1,250,000 of public money;" then, I say, such modesty is staggering. [Laughter.] Of course I do not mean that the people of Pennsylvania—its 7,000,000 inhabitants—levied the tribute. Oh, no! It is its tariff barons who levy the tribute and thus become millionaires.

Now, Mr. Chairman, I am not particularly interested in that form of robbery at this time, but in view of the wholesale manner a few hundred Pennsylvanians have taken the whole country by the throat for years, I am staggered.

Mr. ADAMS of Pennsylvania. Staggered——

The CHAIRMAN. Both gentlemen seem to be staggering under the weight of their appropriations in this bill. [Great laughter.]

Mr. BAKER. Mr. Chairman, when we come to deal upon this floor with that kind of demand by the delegation from Pennsylvania and from other Members, and when inquiry is made as to who is going to get the benefit of these improvements, we are told that the "trade and commerce" of Philadelphia, for instance, is entitled to this sum of money, or we are told that the "trade and commerce" of some other city is going to be benefited through these expenditures. Mr. Chairman, I want to say here that the people who are going to be benefited by this $750,000, if you (the Pennsylvania delegation) remain modest, or $1,250,000 if you are not modest, will be the men who own the lands adjacent to the waterways, who own land in each of the large centers of population, but not the trade and commerce of Philadelphia or any other city.

Mr. ADAMS of Pennsylvania. Oh, the gentleman ought not to be jealous.

Mr. BAKER. Now, Mr. Chairman, the gentleman has taken a large part of my time. If he is willing to get me five minutes more I will yield to him.

Mr. ADAMS of Pennsylvania. New York is always jealous of Philadelphia.

Mr. BAKER. Why, we are awake in New York! Jealous—why, we haven't time to be jealous of a sleepy town! [Great laughter and applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BAKER. I ask for five minutes more, Mr. Chairman.

The CHAIRMAN. The gentleman asks unanimous consent for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BAKER. Now, Mr. Chairman, every dollar of money carried in this bill will ultimately—it may not be immediately—but ultimately every penny of this money will be reflected in the value of the land in the communities where it is expended, provided, of course, that it is expended wisely and intelligently. It will not be worth anything to anybody but the contractors if it is not expended wisely. It will increase the rent values.

Every dollar of money that is expended in your river and harbor bills or for the erection of public buildings, every dollar of public money and, for the matter of that, every dollar of private money similarly spent, if intelligently expended, expended, as you claim, for the benefit of trade and commerce, ultimately reflects itself in the value of the land. The landowner is the only one who will ultimately benefit by your bill, he is the person who will in the end absorb all the benefits which you think this bill is going to confer on trade and commerce.

It is not the farmers or the manufacturers, the mechanics or the merchants, but the owners of land, who are interested. It is true that some manufacturers and some merchants are benefited, but only to the extent that manufacturers own the land on which they conduct their manufacturing business, or merchants own the land on which they conduct their mercantile business.

If these improvements are real and genuine improvements, if the money is wisely and intelligently expended, then the men that own the land are benefited, inasmuch as it will increase the rental values of land where these improvements are made. If this House is going to vote this $32,000,000 it will not be for the benefit of trade and commerce, but it will be for the benefit of the landowner, and there is no man upon this floor that can successfully controvert that position. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. That is already permitted under the rule.

Mr. MANN. Is it upon this subject?

The CHAIRMAN. The gentleman makes the inquiry as to whether the unanimous consent given to extend the remarks in the RECORD should apply to the subject under discussion. That would be the opinion of the Chair.

Mr. BAKER. Well, Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD on the subject of the single tax, which is the only remedy for this condition of affairs. The question is, Is the House going to give me that opportunity?

The CHAIRMAN. The Chair will submit that request.

Mr. MANN. How long would those remarks be on the single tax?

Mr. BAKER. I will confine it to four pages.

Mr. MANN. I have no objection to that.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. BARTLETT. I object.

Mr. BAKER. Being thus denied the right to extend my remarks in the RECORD, a privilege seldom denied to any Member, I avail myself of the right accorded by the rule adopted this morning under which all Members (whether they actually arise on the floor or not) are allowed to print remarks on this bill for ten days.

The action of the gentleman from Georgia [Mr. BARTLETT] being tantamount to refusing me the opportunity of pointing out to the people of this country who it is that benefits from the expenditures provided for in this river and harbor bill; of showing that the real beneficiaries are the owners of land, and not merchants and manufacturers, as the Members of this House contend, and that the single tax is the only means by which government, here or elsewhere, can make those who receive the benefits pay for them, I must assume that the gentleman from Georgia is totally ignorant of the single-tax principle or else he does not comprehend who is profiting from our present false system of taxation and fears—rightly fears,

I can tell him—that the institution of that just and righteous system of taxation will stop men so profiting. If this is the real reason of the gentleman from Georgia, why did he not object to the single-tax speech I have just delivered, when I said that—

It is not the farmers or the manufacturers, the mechanics or the merchants, but the owners of land who are interested.

And when I said in his hearing:

It is true some manufacturers and some merchants are benefited, but only when they own the land on which they conduct their manufacturing or their mercantile business.

And that—

If these improvements are real and genuine improvements, then the men that own the land are benefited, inasmuch as it will increase the rental values of land—

I was but stating the single-tax principle.

If that was heresy, or if that is not germane to the bill, then was the time, it would seem, for objection to be made by all those who want to maintain the present inequitable system to have called me to order on the ground that my remarks were not germane to the bill.

But to do is to say that we are to close our eyes to self-evident truths, to vote blindly for appropriations regardless of who are to receive their benefits. It would be no more farcical to play Hamlet with Hamlet left out than it would be to assert that the single tax is not directly and vitally related to every appropriation bill that comes before this House. There can be nothing more germane than to inquire who are the prospective beneficiaries of any proposed legislation. There can be nothing of more vital importance than the question of from whence and from whom taxes are obtained, and whence and for whom are those taxes to be expended.

The chairman of the Committee of the Whole, at the time I was interrupted by the gentleman from Pennsylvania [Mr. ADAMS], said: "Both gentlemen seem to be staggering under the weight of their appropriations in this bill." At which sally the House laughed uproarously.

However true that may be of the other gentlemen referred to, it was absolutely without point so far as it included me, for if I could have my way not another penny of money should be collected through indirect taxation (as all Federal revenues are) to be expended for rivers and harbors, or, to put it reversely, not another dollar should be spent to dredge rivers, build dams, or otherwise improve rivers and harbors until the system of raising revenue was changed so that those who reaped the harvest should pay for the seed and the planting.

Consider what the present system involves. You collect through your tariff taxes hundreds of millions annually. Those taxes are borne by the final purchaser of the goods, which are frequently doubled in price by the tax, and as the heaviest duties are levied upon articles of common use the poor bear most of the burden. Having thereby depleted the toiler of a large part of their already meager earnings, you then take the money thus wrung from the poor and so expend it that the owners of land along water fronts (rivers, harbors, etc.), and in the centers especially of our densely crowded cities are enormously benefited. And you do this, you say, to benefit "trade and commerce." I have already said that it is only when "trade and commerce"—i. e., merchants and manufacturers—own the land upon which their business is conducted that these merchants and manufacturers derive benefit from river and harbor and public building improvements. Then they profit not as merchants and manufacturers, but as landowners.

All other merchants and manufacturers pay in the form of increased rent for every improvement made by a river and harbor or a public buildings bill.

As I have already said I am not advocating the passage of this bill. Probably I am the only man in this House that would if I could prevent its passage until this House and the country shall learn this fundamental principle, that all public expenditures, intelligently and wisely (and therefore economically) made, whether they consist of dredging rivers, reclaiming swamps, removing tree stumps, draining or fencing farm land, or the grading, sewering, paving, lighting, and cleaning of streets; or the providing of an efficient fire and police force; or the erection of public buildings; or the building, equipping, and use of schools; all, all add to the value of the land of the city, town, or section affected by these improvements.

Therefore to say that Henry George's philosophy—the single tax—is not germane to the discussion of a river and harbor bill, is to say that those who bear the burden of taxation have no rightful voice in the disposition of the taxes they pay.

Succeeding generations will marvel at the obtuseness of a legislative body that did not comprehend this incontrovertible proposition, that the owner of land alone ultimately benefits from all public improvements.

The CHAIRMAN. The question is upon the adoption of the amendment offered by the gentleman from Ohio to strike out the last word.

Mr. BURTON. Mr. Chairman, for the encouragement of the gentleman from Philadelphia, I want to say that I have a report from the local engineer in charge, which states that the expenditure of $500,000, with the authorization of $750,000, will, in his judgment, in the next two seasons secure a channel 30 feet in depth and 300 feet in width. This width is very narrow, but it should be borne in mind that this width applies only to a portion of the channel.

I say unhesitatingly that the provision made is quite as generous, and even more generous, than for other ports. There is only one other port which receives as much, and that is the port of Baltimore. In fact, Baltimore receives $50,000 less, because that part of its appropriation is for maintenance.

I suggest, Mr. Chairman, that we have been proceeding for some time without any question pending, but I want to repeat what I have already said, that from the fact that no motion has been made here to increase or change this paragraph I shall take it for granted that no change must be made at any stage of this bill, that it is a direction from the House, in case an amendment is placed on the bill elsewhere, that that amendment should be resisted to the very end.

Mr. SULZER. Mr. Chairman, I want to ask the gentleman from Ohio a question. As I understand it, the people of Philadelphia want a 35-foot channel. The bill now provides for a 30-foot channel. Is that correct?

Mr. BURTON. The present project is for a 30-foot channel.

Mr. SULZER. Why not make the channel 35 feet?

Mr. BURTON. It requires $2,250,000 to complete a 30-foot channel, of which amount we have provided $1,250,000 and authorized $500,000 conditionally.

Mr. SULZER. I understand that, but what I am trying to get at is, why not make the channel a 35-foot channel, as the people of Philadelphia request?

Mr. BURTON. I would not want to answer that question offhand in the brief time I have here. I want to say that I should have to oppose that proposition, largely for this reason: When we have a large project on hand which is incomplete—for a 30-foot channel, say—it is not desirable to go ahead and make a further survey for 35 feet. I should feel like opposing strongly any proposition for a 35-foot survey until the 30-foot project is completed. In other words, where a large project is in progress, if we should adopt the rule that you could survey for a still larger project, we would soon be in such confusion that it would be exceedingly embarrassing.

I only want to say one thing further in regard to it, that the Corps of Engineers in reporting upon the channel for the Delaware River stated that whether a 30-foot channel could be maintained without very great expense could only be determined by trial, and I think we should first try that before seeking any greater depth.

Mr. SULZER. Mr. Chairman, now just a few words. The reason I make these observations is because the ships which are being built now, and some of which have been built—the great trans-Atlantic commercial ships—all draw more than 30 feet of water. These ships that are being built now and some of which have been built can not enter the port of Philadelphia. I think this is wrong. I am a friend of Philadelphia, and I want to meet the just requirements of her people.

Mr. BURTON. That question has been discussed here a great deal, and while I favor an increase in the depth of our great harbors, there has been a great deal of agitation on this subject that is entirely without foundation. In your own harbor of New York there is hardly a boat which has gone out drawing more than 32 feet, and in entering the ruling maximum is 28 or 29.

Mr. SULZER. Some of the big ships now draw 36 feet.

Mr. BURTON. It is true that a few have that capacity, but they very seldom are loaded to that depth.

Mr. SULZER. We have a 40-foot channel in New York, and it is absolutely necessary for our over-sea commerce.

Mr. BURTON. Not yet. I will say that it is absolutely out of the question, without an expense that is altogether out of proportion to any amount that we are appropriating, to provide for so great draft in all our leading ports. The question has been quite extensively discussed.

Mr. SULZER. Now, Mr. Chairman, where an appropriation has been made in the past, as I understand it, for a public improvement of the rivers and harbors of this country, there is no precedent for making the State to be partially benefited by the improvement pay a part of the expense or a portion of the appropriation. It should not be done in this case. It will establish a very bad precedent, in my opinion.

Mr. BURTON. That has been the custom for many years in

the improving of the levees of the Mississippi River. One-half the expense is paid by the abutting communities.

Mr. SULZER. That is quite a different proposition.

Mr. BURTON. And the same principle has been following in other cases.

Mr. SULZER. That is an entirely different question, and has no relation to the proposition I am presenting. The reason why the States pay a part of the money for the building of the levees on the Mississippi is to protect the land in those States. Now, of course, if this is the case the gentleman's contention does not apply at all, and it seems to me that this is a very bad precedent for this House to establish. I am absolutely opposed to it, and I think it should be stricken out.

Mr. BURTON. I think the gentleman could not have been here when that subject was discussed before. I explained the position of the committee, and it is useless to take it up in this fragmentary way.

I withdraw the pro forma amendment.

Mr. SULZER. Mr. Chairman, just a moment. Now, I do not want to see this House go on record in favor of the proposition of charging a part of the expenses for national improvements in our rivers and harbors upon any State. I think it is a very bad precedent, and, so far as I know, it has never been done before, and I trust that some member of the Pennsylvania delegation will rise here to-day and move to strike out the $500,000 charged against Pennsylvania, and then let us appropriate the $1,250,000, as provided in the bill, to continue the improvements in the Delaware River. I will vote that way, and I believe that a great many other Members of this House will vote the same way. Under our system of government our inland navigable waters belong to the whole country, and no State should be charged with a part of the expense of their improvement. It is entirely a national matter. The State has nothing to do with it.

Mr. BUTLER of Pennsylvania. Mr. Chairman, will the gentleman from Ohio allow me to ask him a question?

Mr. BURTON. Certainly.

Mr. BUTLER of Pennsylvania. There is no survey of the Delaware River for 35 feet?

Mr. BURTON. That is correct.

Mr. BUTLER of Pennsylvania. Is it the policy of the River and Harbor Committee to make any appropriation for additional surveys during the project of an enterprise like this?

Mr. BURTON. Not absolutely; it is the general policy.

Mr. BUTLER of Pennsylvania. There have been some exceptions made?

Mr. BURTON. None in a case similar to this that I recollect of. Perhaps the gentleman can call one to my attention.

Mr. BUTLER of Pennsylvania. No; I can not. I think, however, that there was something of that kind in the case of Boston and New York.

Mr. BURTON. As regards the case of Boston, that was ordered before we had rules quite as strict as we are following now. In framing this bill it is necessary to follow general rules or it will be tainted with favoritism. These rules have been the result of growth. We now observe the one about which the gentleman asks.

Now, in regard to the Boston channel. It was thought that those theretofore adopted were not the best and most direct for access to the sea. That which was surveyed was a different channel, affording a more direct access to the sea. The 35-foot survey proposed for the Delaware is not a parallel case.

Mr. BUTLER of Pennsylvania. Will the gentleman explain the additional appropriation in the case of Baltimore?

Mr. BURTON. There was a finished project and survey.

Mr. BUTLER of Pennsylvania. That project had not been finished, had it?

Mr. DENNY. Yes; it had been completed.

Mr. BURTON. It has been completed for some time. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. DENNY. Mr. Chairman, the people of Baltimore are much interested in this item of the bill which appropriates $1,250,000 for the main ship channel to the port of Baltimore, and I hope it will meet the favorable consideration of this House. I beg to suggest this favorable action not alone because its passage is a necessity for Baltimore, but for the commercial interests of a large portion of the West and other sections which ship through our port to foreign countries.

The pending bill carries much less than was anticipated. I know that the committee have tried honestly to do their best. The chairman has stated that the bill is framed to meet pressing necessities, and I think the position they have assumed is correct, and Baltimore's claim comes strictly within the definition. The necessities of our port are great, and our people have the pluck and energy to meet the conditions as they arise, but the Government must take charge of the navigable waters of the Patapsco River. Our people have determined to make Baltimore the best and cheapest Atlantic seaport. We are dreaming about channels and docks every day, because they are essential to our commercial existence. We have appropriated recently $6,000,000 for our docks, and we are going to have the most commodious docks on the Atlantic. We have taken care of our own harbor, and now we ask the Government to deepen the main ship channel to our port by making navigable the waters of the Patapsco River. We intend to accommodate the growing size of modern vessels by our docks, and we must also accommodate other urgent demands of our commerce abroad.

By the improvement of our waterways to the sea you are only doing your duty to the country. We are 200 miles nearer to the great grain-producing sections of the West. The Baltimore custom-house has paid into the Treasury in the last twenty years about $65,000,000 for imports. We have exported during the last year wheat and articles of the value of $1,000,000.

The city has heretofore expended in the river $2,397,000, $750,000 of which was expended under the direction of the United States Engineers.

We ask nothing for our harbor proper, but we do insist that the navigable water to our port be so deepened as to give our port the right to have fair competition with New York and Boston, already provided for.

While we are appropriating a hundred millions for our Army and a like sum for our Navy there are no good reasons why the Government should not encourage peaceful commerce by extending all reasonable facilities. We have a great harbor, with fifteen regular steamship lines, and export more wheat than any other Atlantic port.

We must have more depth to our main ship channel to accommodate the commerce of our port.

WHAT THE CHIEF ENGINEER SAYS.

Gen. G. L. Gillespie, Chief of Engineers, United States Army, in his annual report of 1903 to the War Department, on page 195, Appendix K, says:

"The draft that can now be carried to Baltimore, to which point the Patapsco River is navigable in fact, is 30 feet at mean low water, but this is not adequate for the commerce of the port. The depth at least should be increased to accommodate at full draft the vessels using the port."

Time has changed the carrying conditions of trade, and the Government must provide for the changed conditions affecting the commerce of American ports.

Mr. BANKHEAD rose.

Mr. BURTON. I will retain the floor to answer the gentleman's question.

Mr. BANKHEAD. The gentleman withdraws his amendment to strike this out?

Mr. BURTON. Yes.

Mr. BANKHEAD. It remains in the bill unless some other gentleman moves to strike it out?

Mr. BURTON. Yes.

Mr. GROSVENOR. Mr. Chairman, I move to strike out the last word. I was not present when the distinguished chairman made his opening statement on this bill. I would like to ask him a question or two, which I think are pertinent, and without expressing any opinion about what ought to be done, I would like to know what the theory of the committee is as to the joint improvement of the national waterway, whether it is intended that the State or the city shall contribute its money and that be the end of it, or whether there is to be some general ownership or control or management of the waterway after the improvement is made?

Mr. BURTON. I do not care to go into that question at length, because I have gone over the ground already; but, to repeat, I will say that I do not regard this bill as committing the United States Government to the idea of participation in improvements. We thought it desirable in some cases, where a large amount had been expended, to make conditions for contribution of at least a part of the appropriation or provision. I would say to my colleague that this method has been in vogue in some parts of the country. It is not entirely an innovation. I will say, also, that it is the prevailing method in many of the countries of Europe.

Mr. GROSVENOR. I am aware of that.

Mr. BURTON. In answer to the question as to whether it means a general participation in the management, I would say

no, because the United States must have the paramount right of control.

Mr. GROSVENOR. It is a contribution to aid the United States Government in controlling and managing the waterway. The gentleman will certainly distinguish between the administration of the European government and the administration of our dual form of government, having here a National Government and a State government. What I wanted to get at was, What would be the result, if any, between the National Government and the State government if they go into a sort of joint enterprise to improve a waterway?

Mr. BURTON. I would say in a general way that when the improvement is finished the control of the channel belongs to the United States. There are cases in this bill where it is provided that the maintenance of the channel shall be provided for without expense to the United States. The United States does not, however, relinquish its jurisdiction.

Mr. GROSVENOR. Now, Mr. Chairman, I believe I still have a minute or two.

I want to say that in my judgment there is no waterway in the United States the improvement of which is of greater national importance than is the improvement of the Delaware River. I do not look at it so much or at least not exclusively as a commercial waterway. I look at it as a great waterway incident to our naval armament, and in certain contingencies our naval defense. One never can tell what is going to happen in a great naval war. The British found it necessary, as early as the Revolutionary war, to run their vessels up the Delaware River, and the remains of some of them are still lingering there at Philadelphia, buried in the sand, almost oblivious to sight.

I look upon a channel with deep water, up through which a great war vessel could go with safety at all times to the refuge of the navy-yard and fortifications of Philadelphia, as one of the most important aspects that the Delaware River presents. Of course, I do not undervalue its importance as a great commercial waterway, but it is a waterway of absolute safety, a harbor of absolute refuge to the American war ships in case of the dire necessity of retreat. Of course we do not expect to retreat, but people have often been mistaken about the exigencies of war.

[Here the hammer fell.]

Mr. BUTLER of Pennsylvania. Mr. Chairman, I move to strike out the last two words. The amount of money recommended in this bill is not sufficient to complete this great undertaking. The action of the committee has brought to the people of Philadelphia and to the people of Pennsylvania a bitter disappointment. However, we want it understood that if we can get no more we will take it and build our hope for the future. This great improvement when completed means the life of Philadelphia and southeastern Pennsylvania. It has pleased the Government of the United States within the last eight years to expend $8,000,000 in the way of improvements of a great navy-yard, located at League Island, near the city of Philadelphia. The channel to that point is now but 26 or 27 feet in depth, and at some points it is not that deep.

Mr. ADAMS of Pennsylvania. Twenty-two and a half feet.

Mr. BUTLER of Pennsylvania. Furnishing a very dangerous pathway for these great engines to travel when going to and from this navy-yard. The gentleman from Ohio [Mr. GROSVENOR] has given us the true situation. There is the refuge, if trouble should come, to which these engines shall flee when disabled or threatened by a much superior force. There they will be safe.

Mr. BAKER. I thought they were for defense.

Mr. BUTLER of Pennsylvania. If they can not find their way to this place, prepared at great expense, for purposes of repair, then this improvement which we have been making has been uselessly made and without advantage to the Government. With all the energy that we had within us, New Jersey, Pennsylvania, and Delaware brought upon this committee every possible argument that could be made in favor of larger appropriations.

While the disappointment to our people will be great, and while we have no hope except that in future Congresses additional appropriations may be made sufficient to complete the project, I deem it the part of wisdom that we shall join with this committee in an earnest effort to secure in this Congress the passage of the bill that has been reported.

I do not believe that it would be possible to increase at this time, in this committee, the appropriation for the Delaware River. Furthermore, I believe that a successful attempt to greatly increase the appropriations in this bill might result in its defeat. The people of Pennsylvania have no wish for such a result. [Applause.]

Mr. BURTON. Mr. Chairman, just one word in response to my colleague from Ohio [Mr. GROSVENOR], who dwelt at length upon the necessities of this channel for naval purposes. It has seemed to me that my colleague must be ignorant of the very elementary facts in regard to the appropriations that we are making. With a naval bill of $100,000,000 per year and a river and harbor bill of seventeen millions, do you want us to take care of the commerce of the country and the navy besides? If you do, then advocate with all your might larger appropriations for rivers and harbors.

We have all we can do, Mr. Chairman, and far more than we can do in taking care of the present needs for better channels for the carriage of freight. We have been compelled to stop halfway, one-fourth of the way now, and so long as there is a disproportion of five to one—five times as much for the Navy as for rivers and harbors—we can give little of attention or of respect to the argument that we should dredge this channel or make this improvement to provide for the Navy. [Applause.] I have spoken on the floor of this House in regard to the Navy. I want it distinctly understood that I have never opposed appropriations for the Navy because of any desire to increase the river and harbor appropriations.

The comparative importance should be determined from a higher standpoint. I regard them as independent propositions, but when it is claimed that we must expend millions from this bill just to obtain access to some navy-yard, brushing aside the commerce of the country, I think it is time to bring to the attention of the House the disparity which exists between appropriations for the two, and ask if there is any reason for the improvement of the Delaware River in such an argument as that. [Applause.]

Mr. BROWN of Pennsylvania. Mr. Chairman, I move to strike out the last three words. I do that for the purpose of defining my position in the matter. In the first place, I do not charge the River and Harbor Committee with imposing a burden upon the State of Pennsylvania. I do not know whether it has been recommended by the people of Pennsylvania or the Pennsylvania delegation. I do not believe it would be satisfactory to the State of Pennsylvania if it were passed in this House, and I know that the people in my section of the country would resent it. But aside from that, Mr. Chairman, I would vote against it if I had the chance to vote against it, and would oppose it if I were not from Pennsylvania, because in principle I believe it is wrong.

The Clerk read as follows:

Improving harbors at Rockhall, Queenstown, Claiborne, Cambridge, and Chester; Choptank, Warwick, Pocomoke, La Trappe, and Manokin rivers, and Tyaskin (Wetipquin) Creek, Md., east shore: Continuing improvement and for maintenance, $44,000.

Mr. BURTON. Mr. Chairman, I desire to offer an amendment to correct a typographical error.

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

The Clerk read as follows:

On page 18 insert the word "and" at the end of line 23, and in line 24 strike out the comma after the word "Cambridge" and insert a semicolon. Also strike out the semicolon after the word "Chester" and insert a comma.

Mr. BUTLER of Pennsylvania. The purpose of your amendment is to separate those two propositions?

Mr. BURTON. The rivers and harbors are confused; it is simply a typographical error.

The CHAIRMAN. The question is on the adoption of the amendment.

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

The Clerk read as follows:

Improving Appomattox River, Virginia: For maintenance, $10,000.

Mr. BURTON. Mr. Chairman, I desire to offer an amendment, after line 15, page 19. I desire to state to the Chair this is an omission in making up the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 19, after line 15, insert:

"Improving Pagan River, Va.: The Secretary of War may, in his discretion, expend the balance remaining to the credit of said improvement to secure a channel width of not less than 40 feet, and such depth as may be obtained without exceeding said balance."

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

The Clerk read as follows:

For the removal of the water hyacinth from the navigable waters of the State of Florida so far as it is or may become an obstruction to navigation, $25,000.

Mr. BURTON. Mr. Chairman, I understand that the gentleman from Florida [Mr. DAVIS] desired to offer an amendment in regard to the water hyacinth. I am not interested myself, but I ask unanimous consent that it may be called up again on the request of the chairman or the delegation from Florida.

Mr. SPARKMAN. That is satisfactory.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the paragraph beginning line 11 and ending 13, page 28, be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Improving Red River in the States of Louisiana, Arkansas, and Texas and Indian Territory: For continuing improvement and for maintenance, $200,000: *Provided*, That of this amount $100,000 may be expended between Fulton, Ark., and Denison, Tex.: *Provided further*, That of the amount herein appropriated for improvement below Fulton $15,000 may, in the discretion of the Secretary of War, be spent in the improvement of the channel at Alexandria, La.

Mr. WALLACE. Mr. Chairman, I desire to offer an amendment.

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

The Clerk read as follows:

After the word "Louisiana," in line 16, page 33, add the words:
"And that $10,000 be appropriated for improving the channel and maintaining the banks of Red River at the town of Fulton, Ark., to the end that said town may escape destruction."

Mr. BURTON. Mr. Chairman, I raise a point of order on that. Has there been any estimate for that?

Mr WALLACE. Will you allow me to make a statement before you insist upon the point of order?

Mr. BURTON. I will reserve the point of order. I have no objection to the gentleman making a statement.

Mr. WALLACE. Mr. Chairman, I wish to state that some time ago I addressed a communication to the War Department and was advised by the Chief of Engineers that the work in course of being carried out on Red River was not authorized by existing law or could not be done under the appropriation for that purpose. I wish to state that Red River shifts its volume of current to the east bank, upon which bank is located the town of Fulton, and that that volume of water is eating away the bank and it has become necessary within the last twelve months for the people to remove some houses back from that stream.

Now, Mr. Chairman, all I have to say is that I will be glad if this amendment should be adopted in order that the channel of the river there might be improved, might be deepened or straightened, so that the banks might be improved in such a way as to protect that town and community from absolute destruction.

Mr. BURTON. Mr. Chairman, I withdraw the point of order. There are two or three objections of the most valid nature to this amendment. In the first place, we have sought in this bill, so far as possible, to make our appropriations generally for a whole river, leaving it to the discretion of the engineers in the working out of the general plans for the whole river to make improvements at specific places. The result of putting in provisions for this town and that town upon the river is that favoritism is promoted.

I am perfectly frank to say to the gentleman from Arkansas [Mr. WALLACE] that I regarded this provision in regard to Alexandria as a blemish on this bill, and I preferred that it should not be there. But such representations were made and such documents were before us that it seemed best to have it done. And I will say to the gentleman from Arkansas [Mr. WALLACE] that when in the interest of navigation any improvement is required at the place that he names, the engineer can make that improvement. In brief, if it is a deserving thing, it will be done without any such amendment.

But there is a further point. I notice in the amendment an expression in regard to preventing some town from destruction. Now, while that makes a very strong appeal to us, I will say to this committee that rather than to have the custom prevail of making appropriations merely for the protection of banks in all of the navigable and nonnavigable streams of this country, I would almost rather see this bill fail.

I can gather from experience that if you take up all these alluvial streams, these banks that are washed away by erosion, in a few years appropriations for these purposes would overshadow those for navigation. So that in the last bill of 1902 we strictly confined provisions for bank construction to those which were for the interest of navigation. Upon this latter ground, especially, I oppose this amendment, and I trust it will be promptly voted down.

Mr. WALLACE. May I ask the gentleman from Ohio [Mr. BURTON] a question?

The CHAIRMAN. Does the gentleman from Ohio [Mr. BURTON] yield to the gentleman from Arkansas [Mr. WALLACE]?

Mr. BURTON. Certainly.

Mr. WALLACE. In this section the amount of the whole appropriation is $200,000. After taking from that the $100,000 for the river above Fulton, there is $100,000 left. Now, that provision for Alexandria takes away $15,000 of that $100,000?

Mr. BURTON. Yes, sir; it leaves $85,000.

Mr. WALLACE. And it leaves, then, for the improvement of the Red River below Fulton $85,000?

Mr. BURTON. Yes. I will say to the gentleman for his information that there is a very considerable balance on hand there which will assist somewhat, or it was there at the date of the last report, namely, $84,000.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Arkansas [Mr. WALLACE].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Improving mouths of Sabine and Neches rivers, Texas, in accordance with the report submitted in House Document No. 634, Fifty-eighth Congress, second session, by connecting the same with Taylors Bayou, or a point in Sabine Lake near to the mouth of said bayou, by a channel at or near the west shore of Sabine Lake; the Secretary of War may enter into a contract or contracts for such materials and work as may be necessary to complete the said project, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate $411,500, exclusive of the amounts heretofore appropriated: *Provided*, That the channel may, in the discretion of the Secretary of War, be constructed through the land near the lake for any part of said route: *Provided further*, That the right of way is furnished without expense to the United States.

Mr. COOPER of Texas. Mr. Chairman, I may want to offer an amendment to the paragraph which has just been read. I do not desire to do so, however, until I have had an opportunity to confer with the chairman of the committee [Mr. BURTON]. Therefore I would like to have the paragraph passed without prejudice to any amendment which may be offered.

Mr. BURTON. I am ready to answer the gentleman from Texas [Mr. COOPER] now.

Mr. COOPER of Texas. I desire to see the chairman later, but before we pass the bill.

The CHAIRMAN. The gentleman from Texas [Mr. COOPER] moves that that part of the bill on page 38, lines 1 to 16, inclusive, be passed without prejudice. Is there objection?

There was no objection.

The Clerk read as follows:

Cypress Bayou, Texas: The available balance on hand may, in the discretion of the Secretary of War, be expended in cleaning and clearing the bayou and lakes between Jefferson, Tex., and Mooringsport, La.

Mr. BURTON. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. BURTON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 38, after line 20, insert:
"And the Secretary of War is authorized and directed to survey Cypress Bayou and the channels connecting Shreveport, La., with Jefferson, Tex., including an examination of the falls near Little Pass."

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Ohio [Mr. BURTON].

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

The Clerk read as follows:

Improving White River, Ark.: For maintenance, $15,000.

Mr. BRUNDIDGE. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Arkansas [Mr. BRUNDIDGE] offers an amendment, which the Clerk will report.

The Clerk read as follows:

At the end of line 9, page 30, add the following:
"For the construction of locks and dams numbered 3 and 4 in said river, $320,000."

Mr. BRUNDIDGE. I am aware of the fact, Mr. Chairman, that the rule not to amend the river and harbor bill has rarely been deviated from. But I think that an exception ought to be always made in meritorious cases. And that this is such a case, I do not have a question. Some five years ago, I believe it was, by a practically unanimous vote of the Committee on Rivers and Harbors it was determined to improve the upper White River, Arkansas, by a system of ten locks and dams, commencing at or near the town of Batesville and extending to a point known as Buffalo Shoals, in Marion County, Ark., a distance of about 100 miles. The engineer then in charge most heartily and most cordially recommended this great work.

Now, two of these locks and dams have already been completed, and provision had been made for another, but owing to the excessive cost of the first two, having to excavate for foundations, something like $700,000 has already been expended by the Government upon this project of improving the upper White River; and yet No. 3 of these locks and dams still remains unfinished, and this bill contains no provision whatever for continuing this work.

I contend, Mr. Chairman, that a work commenced after a thorough and complete investigation, as this was, and upon which such a large expenditure has already been made, ought not to be abandoned by the Government except for the very best of reasons, and certainly no such reasons have ever been

shown to exist, nor can they be shown, in this case. Let us see what the facts are.

I have already stated the distance is about 100 miles in length. The width of the territory to be affected is something like 50 miles.

That valley is thoroughly filled with energetic farmers who are tilling to-day extraordinarily fertile lands and are producing annually a rich harvest. That region abounds with almost unlimited timber resources, both pine and oak, that commands a splendid price in the markets of the world. They have there marble enough to build a wall around almost any city in this union. They have mineral resources, both developed and undeveloped, unequaled by any other State in the Union, and which Professor Branner, when he made his geological survey of that country, pronounced to be unequaled in richness in any other known area in the world.

This work was commenced in order to afford a market that could be easily reached for the resources I have just mentioned that we have in this territory for which we are asking this improvement.

Shortly after the work had started there came into charge another engineer. He has reported, as I understand, that this work should be discontinued; and the report that was made by him was put upon no higher ground than that there was a railroad penetrating this country, and that for that reason these people had an outlet for their products, and therefore this work ought to be abandoned by the Government. Now, when he puts his recommendation that this work be discontinued on no better and higher ground than that, I insist that it is the duty of this House to disregard his report and to continue this work, and it is the duty of this committee to make the recommendation for this improvement.

This work having already been undertaken by the Government, it was no part of the duty of the engineer to recommend that it be abandoned, and in doing so his conduct was, in my judgment, reprehensible. All he was required to do was to report how much he could use to advantage on the work, and not how soon he could secure its destruction. I am heartily in favor of the passage of this bill. I believe that no better railroad-rate bill has passed Congress or ever will pass Congress than a bill improving the waterways of this country. The rivers are the only common carriers that can not be controlled by monopolies or combinations. [Applause.] It has been demonstrated time and time again that those towns that have river competition are to-day enjoying from the different railroad companies lower freight rates than other towns can get or ever will get.

If there was no other cause, Mr. Chairman, I say that these people ought not to be turned over, with these wonderful resources for which they desire an outlet and a market, to the exorbitant charges of a railroad without competition; they ought not to be turned over to the mercies and into the hands of one railroad company, whose excessive freight charges have long retarded the material growth of the great State of Arkansas. They should have this river competition and river transportation that is so very desirable, for the character of freight which they will have to ship from that country, such as lead and zinc ore, which from its very character can always be carried more cheaply by water than by rail; and I may add further, that this country is but a continuation of the great zinc-mining region at Joplin, Mo., which has added so much to the wealth of that State.

Hence I shall hope this amendment will be adopted and that this work may be continued, regardless of whether it may suit the railroad company or not. This work was commenced not alone at the request of the Representatives of Arkansas, but the delegations of five other States joined in asking for the improvement and went before the River and Harbor Committee and urged it. Persons owning property interests there are scattered over more than a dozen States and the whole country is interested in its success.

Mr. BURTON. Mr. Chairman, I can not share the enthusiasm of my friend from Arkansas for this improvement. I want to say, in the first place, that the most valid ground for attacks upon river and harbor appropriations is the one arising from the construction of locks and dams in this country. If there has been a waste anywhere it has been there. A very singular fact in this connection is that when the Confederate constitution was framed it was so drawn as not to authorize this kind of an improvement by the central government.

Now, there are some who would exalt that document and others who would decry it; but there is one thing to be said: It was framed by men who were familiar with the Federal Constitution, who had seen its workings, and who sought to improve upon it. There are several improvements in this country that I might point out which have been prosecuted to the extent of millions of dollars in locks and dams, where the improvement has neither been to the lowering of freight rates nor has the traffic developed been sufficient to pay the cost of maintenance. I would advise the utmost caution in the construction of other locks and dams.

There are existing projects where they are very useful and very necessary. Others should be finished. For instance, in this bill we are seeking to hurry to completion the project for improving the Black Warrior, the Warrior, and the Tombigbee rivers in Alabama by locks and dams. I regard that as the very best opportunity to ascertain what the advantages of that kind of an improvement will be. I hope that the waterway may be finished at an early period, as it connects the coal fields of Alabama with the Gulf.

There are immense coal fields in the northern portion, and at the Gulf it is difficult to obtain a supply. If any unfinished project for locks and dams in this country will prove a thoroughly desirable one—that is, on those streams which do not now have any considerable commerce—I think this is the one.

Mr. BRUNDIDGE. Does not the gentleman realize the fact that the bill provides for other locks and dams besides the one he has mentioned?

Mr. BURTON. Most decidedly.

Mr. BRUNDIDGE. Has not every river and harlor bill of late years done the same?

Mr. BURTON. Certainly.

Mr. BRUNDIDGE. Then, another thing. I want to ask, does not the gentleman think it is just as essential that an opportunity be given to the people in the zinc region of northern Arkansas to ship their zinc ore, which is heavier than coal, down the Mississippi River, to reach the Gulf in that way, as for the Alabama coal people to get their coal out?

Mr. BURTON. In reply to the gentleman's question I will say that some few years ago I considered that question with some care, and I came to the conclusion that if all the zinc in the world went down that river it would not pay for the expense of constructing these locks and dams and canalizing this river. Let us see what has developed in this traffic already. There is one lock there already finished. The traffic through the lock since January 13, 1904, consisted of 8,320 tons of rafted railroad ties.

Well, those railroad ties probably could have gone down without an elaborate lock and dam. What next? Six house boats. The probability is it would have been better for them if they had stayed at home. One excursion steamer, two round trips; total, 135 passengers.

Now, that can not be called a startling development of commerce; and I am afraid that when you construct them there would only be a few house boats and some rafts that would go down a great deal easier if the locks and dams were out of the way than they would with them there.

Mr. BRUNDIDGE. Will the gentleman yield for a moment? The gentleman must certainly know that in the hearings before the River and Harbor Committee a delegation from five different States was asking for this identical improvement.

Mr. BURTON. I am aware of that, and I am getting a great many letters.

Mr. BRUNDIDGE. And the fact exists that before there was any lock and dam at all established there the commerce of this river was pretty considerable. Yet the fact was that only three months in the year was it navigable at all, and that was in the high-water season. Then the only means they had of getting their freight down was to construct temporary barges by which the freight was transported, many of which sunk.

Now, since that time the railroad has been built along the bank of this river. The majority of the freight then was hauled 40 or 50 miles to the railroad. The railroads made an agreement to stay out of the territory; but when the Government commenced to construct the locks and dams, then the Iron Mountain Railroad built along the bank of this river, and that railroad is to-day handling that freight at a rate that I contend is exorbitant. For that reason the commerce does not come down this river in as great quantity as it did before the work was commenced, for then there was no railroad penetrating the territory.

Mr. BURTON. I want to say to the gentleman, without in any way discouraging his line of argument, that the reason formerly given for the locks and dams was that there was no railroad there. Now they come, after the railroad is there, and change their line of argument, but insist upon them with equal urgency.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURTON. I ask unanimous consent to proceed for three minutes.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to proceed for three minutes.

Mr. BURTON. I want to read very briefly what the Chief of Engineers says on the subject:

For reasons stated in my last annual report, no further appropriations are recommended beyond those needed to complete and care for the locks and dams already practically finished.

Now, we are turning down a majority of the projects that are recommended by the Chief of Engineers. What an untried and enlarged field will we go into, if we undertake to appropriate for projects that are turned down by the Chief of Engineers. There would be no limit whatever. There have been other appropriations, but they have been Senate amendments. I have always opposed them.

And I can say this, that if we take up these locks and dams we ought to put on at least $40,000,000 worth that are ahead of them in traffic before we come to the class in which this belongs. It is true we are providing for some in this bill, but for the most part they are in completion of locks and dams partly finished already, or in completion of parts of an entire system. Here you are asking for dams farther up the river, nearer to the mountains, where traffic is less and where all the circumstances are against them.

I trust, Mr. Chairman, the amendment will be promptly voted down.

The question was taken; and the amendment was rejected.

Mr. BURTON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. WM. ALDEN SMITH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18809, the river and harbor bill, and had come to no resolution thereon.

CONVEYANCE OF PUBLIC LANDS TO THE CITY OF NEW YORK.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent for present consideration of the bill (S. 4782) for the conveyance of public lands belonging to the United States in the State of New York.

The Clerk read the bill, as follows:

Be it enacted, etc., 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 all 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.

Mr. CLARK. Mr. Speaker, I reserve the right to object.

Mr. SHERMAN. Mr. Speaker, I ask to substitute the Senate bill for the House bill, which was reported unanimously from the Committee on Interstate and Foreign Commerce. There are about 8 or 10 acres situated on the point of Staten Island near St. George, where the city is spending $5,000,000 in improvements. In order to change the grade of a street where it is very abrupt, it is necessary to take a small strip of the Government land. What is taken here is described by the Department as the back yard of a residence. It takes less than 1 acre of the land, and it rather improves than takes away from the value of the rest of the land. The real-estate men on Staten Island have appraised the value of this property, and the highest that three appraisers put the value is $32,000. This bill provides for the payment by the city of New York of $32,000 for this less than 1 acre of land that is to be used for the benefit of the public.

Mr. CLARK. How can a sale of 1 acre of land improve the balance of it?

Mr. SHERMAN. Because now the slope is up toward the rear and it is the rear part that is to be taken; it is clear up in the air, where it is of no special use to anybody. The city of New York in its improvement takes away the abrupt hill and makes a highway with an easy ascent, with a curve, instead of being at so abrupt an angle that it was almost impossible to draw a load up the grade.

Mr. CLARK. Where do these appraisers live?

Mr. SHERMAN. At Staten Island.

Mr. CLARK. Are they interested in the land in that neighborhood?

Mr. SHERMAN. I can not tell you.

Mr. CLARK. Who appointed them?

Mr. SHERMAN. The appraisal was made at the request of the Department of Commerce. This matter has been investigated by the Assistant Secretary, by the solicitor of the Department, Mr. Garfield, and by Captain Sebree, who is in charge of the light-house station, and they all unite in favor of the sale of this land. They say it is no drawback to the Government whatever, but is rather of a benefit to the remaining land.

Mr. CLARK. The money is to be paid into the Treasury?

Mr. SHERMAN. Yes.

Mr. CLARK. It will not be like that sale of the old treasury in New York, where the fellows kept the money and the building both? [Laughter.]

Mr. SHERMAN. No, that is not proposed in this bill.

The SPEAKER. Is there objection?

There was no objection.

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

RELIEF OF CERTAIN ENLISTED MEN OF THE TWENTIETH REGIMENT NEW YORK VOLUNTEER INFANTRY.

The SPEAKER laid before the House the bill (H. R. 1860) an act for the relief of certain enlisted men of the Twentieth Regiment of the New York Volunteer Infantry, with a Senate amendment.

The Senate amendment was read.

Mr. SULZER. Mr. Speaker, I move to concur in the Senate amendment.

Mr. MANN. Mr. Speaker, might I ask the gentleman from New York the effect of the Senate amendment?

Mr. SULZER. The only effect of the amendment is to leave the matter to the Secretary of War instead of to the Military Secretary.

The Senate amendment was agreed to.

On motion of Mr. SULZER, a motion to reconsider the last vote was laid on the table.

APPOINTMENTS IN THE TERRITORIES.

Mr. RODEY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16793) to amend section 1854 of the Revised Statutes of the United States, restricting appointment to office of members of the legislative assemblies in Territories, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That section 1854 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 1854. No member of the legislative assembly of any Territory now or hereafter organized shall hold or be appointed to any office whatever by the governor of said Territory or the legislature thereof during the term for which he was elected and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly in any Territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly or hold any office under the government of any Territory."

The following committee amendment was read:

In line 10 strike out the words "and for one year after the expiration of such time."

The SPEAKER. Is there objection?

Mr. CLARK. Reserving the right to object, I would ask the gentleman why that exception is put in there as to the first legislature?

Mr. RODEY. That is merely copying the old statutes, and it has no meaning particularly. The only way this changes existing law is that it adds the word "whatever." There is law everywhere restricting the appointment of legislators to any office pending their term, but it did not use the words "any office whatever," merely "any office," and the custom grew up

of giving them offices. That is all the change there is in existing law.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none; and the question is on the engrossment and third reading of the bill.

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

On motion of Mr. PAYNE, a motion to reconsider the last vote was laid on the table.

CLAUDE B. ALVERSON.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 3628) for the relief of Claude B. Alverson, which I send to the desk and ask to have read.

The Clerk read as follows:

Whereas on the 27th day of March, 1899, Claude B. Alverson, of St. Clair County, Ala., did pay to the receiver of the land office at Huntsville, Ala., the sum of $6, amount of fee and compensation of register and receiver for the entry of the southwest quarter of the northwest quarter of section 12, in township 16 south, range 3 east, under section 2290, Revised Statutes of the United States, and received a receiver's receipt for the same; and

Whereas said land had been reported to the land office as valuable for coal, and therefore not subject to entry; and

Whereas said Claude B. Alverson had, prior to notice of the fact that he could not enter said lands, made valuable improvements on said lands at considerable cost and expense: Therefore,

Be it enacted, etc., That the said Claude B. Alverson be, and he is hereby, authorized to perfect said entry just as if said lands had not been reported as coal lands.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

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

On motion of Mr. BURNETT, a motion to reconsider the last vote was laid on the table.

CONVEYING THANKS TO FOREIGN GOVERNMENTS PARTICIPATING IN LOUISIANA PURCHASE EXPOSITION.

Mr. TAWNEY. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 208, to authorize the President of the United States to convey to the foreign governments participating in the Louisiana Purchase Exposition the grateful appreciation of the Government and the people of the United States, which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved, etc., That the President of the United States be, and he is hereby, authorized, in such form and manner as he shall deem most suitable, to convey to the foreign governments represented at the Louisiana Purchase Exposition the grateful appreciation of this Government and of the people of the United States of America for the invaluable aid contributed by such governments to the success of said exposition and for their friendly participation in the commemoration of the one hundredth anniversary of the purchase of the territory of Louisiana, one of the most important international events in the history of the United States.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. TAWNEY, a motion to reconsider the last vote was laid on the table.

VALIDATING CONVEYANCES OF THE NORTHERN PACIFIC RAILROAD COMPANY.

Mr. JONES of Washington. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17580) validating certain conveyances of the Northern Pacific Railroad Company and the Northern Pacific Railway Company, which I send to the desk, and which has already been read.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk reported the title of the bill.

The SPEAKER. Is there objection?

Mr. UNDERWOOD. Mr. Speaker, I think we ought to have that bill read.

The SPEAKER. The bill has been heretofore reported to the House, but if the gentleman desires it will be read again.

Mr. UNDERWOOD. It seems to be an important bill.

Mr. JONES of Washington. Mr. Speaker, if the gentleman will permit me to explain, I think he will see it is not so important as it appears by the title.

Mr. UNDERWOOD. Very well.

Mr. JONES of Washington. When the Northern Pacific received its grant, it received a grant of the odd sections and also 400 feet of right of way in the even sections. It has been understood by the Department of the Interior, and by everybody, that it had an absolute title not only to all of the odd sections outside the right of way, but that including the right of way; but by a decision of the Supreme Court of the United States some doubt was thrown upon the question whether they did have full title to the 400 feet right of way in the odd sections.

Last Congress we passed a bill validating the conveyances that they had made of a portion of this right of way outside of a hundred feet from the middle line of the right of way. It has been found in the city of Spokane they platted some land in an odd section and platted some of the right of way, and some of the land platted extended within the hundred-foot limit, and this bill simply validates the conveyance of lots 1, 2, 3, 4, 5, 6, and 7 in block 6 and lots 18 and 19 in block 5 in the first addition to the third addition to the railroad addition in said city. I think there are nine lots all told affected, and this simply clears up the title, so that there is no cloud thrown upon it. This land was conveyed several years ago by the railroad company in good faith to innocent purchasers. They improved it, and by reason of this cloud this bill is brought to validate these conveyances.

Mr. BARTLETT. Overruling the decision of the Supreme Court?

Mr. JONES of Washington. No; it simply does what everybody thought they had a right to do in the first instance.

Mr. UNDERWOOD. Does this bill attempt in any way to settle the litigation between the Government and the parties out there?

Mr. JONES of Washington. Not at all; there is no litigation at all. The railroad company consented to the bill last session and certainly can not object to this. It simply makes their warranty deeds good.

Mr. UNDERWOOD. The railroad company is the one who sold the lots to the people?

Mr. JONES of Washington. Yes; they sold the lots to these parties.

Mr. UNDERWOOD. I do not exactly understand from the gentleman how the railroad makes claim to the lots.

Mr. JONES of Washington. They do not claim the lots now. We granted the Northern Pacific Company every odd section within 20 and 40 miles of its line, and this land was in one of the odd sections. We also granted a 400-foot right of way not only through the odd sections, but through the even sections, and the Department of the Interior went on the theory that in the odd sections the railroad had absolute title not only on the outside of the right of way, but in the right of way, and any conveyance they would make was valid, but the Supreme Court in a decision held that the right of way was granted to the railroad for right of way purposes not only in the even sections, but in the odd sections as well, and therefore they could not convey land for other purposes, and if the land ceased to be used for railroad purposes it would revert to the United States.

Mr. MANN. Were these lots involved in any way in the case in the Supreme Court?

Mr. JONES of Washington. No; that case involved lands in an even section, but the language of the decision was broad enough to cover odd sections.

Mr. PADGETT. This does not interfere with any existing righs there?

Mr. JONES of Washington. None whatever.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendment was agreed to.

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

On motion of Mr. JONES of Washington, a motion to reconsider the last vote was laid on the table.

The bill as amended is as follows:

A bill (H. R. 17580) validating certain conveyances of the Northern Pacific Railroad Company and the Northern Pacific Railway Company.

Be it enacted, etc., That all conveyances heretofore made by the Northern Pacific Railroad Company, or by the Northern Pacific Railway Company, of lots 1, 2, 3, 4, 5, 6, and 7 in block 6 and lots 18 and 19 in block 5 in the first addition to the third addition to railroad addition, in the city of Spokane, State of Washington, are hereby legalized, validated, and confirmed, said lands forming a part of the right of way heretofore granted by act of Congress to the Northern Pacific Railroad Company.

BRIDGE AT HARTFORD, CONN.

Mr. HENRY of Connecticut. Mr. Speaker, I ask unanimous consent to the consideration of the bill which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 19013) 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."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Be it enacted, etc., That section 1 of 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," approved February 18, 1903, be amended so as to read as follows: "The board of commissioners for the Connecticut River bridge and highway district, a body politic and corporate, created by the laws of the State of Connecticut, be, and hereby is, authorized to construct and maintain a drawless bridge across the Connecticut River at Hartford, in the State of Connecticut, between the city of Hartford and the town of East Hartford.

The committee amendment was read, as follows:

Provided, That the owners of said bridge shall, at their own expense, place a draw in the bridge whenever so ordered by the Secretary of War, the said draw to be built at such location and to afford such clear openings as he may decide to be necessary in the interest of navigation.

Mr. HENRY of Connecticut. Mr. Speaker, there is also a verbal amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

In line 8, page 1, strike out the word "or" and insert the word "of."

The amendments were agreed to.

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

On motion of Mr. HENRY of Connecticut, a motion to reconsider the last vote was laid on the table.

AUTHORIZING THE CITY OF BUFFALO, N. Y., TO CONSTRUCT A TUNNEL UNDER LAKE ERIE AND NIAGARA RIVER, ETC.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent for the present consideration of the following bill.

The SPEAKER. The Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 18637) to authorize the city of Buffalo, N. Y., to construct a tunnel under Lake Erie and Niagara River and to erect and maintain an inlet pier therefrom for the purpose of supplying the city of Buffalo with pure water.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the bill, as follows:

Be it enacted, etc., That it shall be lawful for the city of Buffalo, in the State of New York, to construct and maintain a tunnel under Lake Erie, Niagara River, Black Rock Harbor, and the United States lands known as Fort Porter, extending from a point 200 yards, more or less, northeast of the Horseshoe Reef light in the Emerald channel 10,000 feet to the present pumping station of the city of Buffalo, and to erect and maintain an inlet pier therefrom, said inlet pier to be located in the Emerald channel not more than 600 feet northeast of the present Horseshoe Reef light.

The committee amendment was read, as follows:

Provided, That the top of the said tunnel shall be located at least 40 feet below mean lake level, and that the city of Buffalo shall maintain a light from sunset to sunrise on the inlet pier at its own expense.

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

The bill as amended was ordered to a third reading, was read the third time, and passed.

On motion of Mr. ALEXANDER, a motion to reconsider the last vote was laid on the table.

Mr. UNDERWOOD. Mr. Speaker, it is now after 6 o'clock, and a very few are here to attend to business. If there is much more to be done, I would like to demand the regular order.

The SPEAKER. The Chair would like to state to the gentleman from Alabama [Mr. UNDERWOOD] that in his opinion all of the business upon the desk can substantially be disposed of in ten minutes.

HOMESTEAD SETTLERS IN MINNESOTA.

Mr. STEENERSON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 15586, which I send to the Clerk's desk.

The Clerk read as follows:

Be it enacted, etc., That the provisions of section 2301, Revised Statutes of the United States, as amended, be, and the same are hereby, extended to all homestead settlers who have made or shall hereafter make homestead entries under the provisions of the act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889.

The SPEAKER. Is there objection?

Mr. UNDERWOOD. Mr. Speaker, I would like to ask the gentleman from Minnesota [Mr. STEENERSON] to give a short explanation of what this bill carries.

Mr. STEENERSON. This bill extends the commutation to some settlers that are on Indian lands that have not got it now. They have got to pay for the land anyway. This land costs a dollar and a quarter an acre, and most of these settlers settled on it before it was opened. This enables them to pay for the land after complying with section 2301. Those that desire it can pay for it without living on it the extra five years.

Mr. UNDERWOOD. The gentleman from Minnesota [Mr. STEENERSON] means to say that they have got to comply with the homestead laws so far as payment and commutation are concerned?

Mr. STEENERSON. So far as living on it is concerned. These lands are scattered. The free-homes act that was passed on May 17, 1900, carried the right of commutation to all lands that were then open. These townships are scattered in amongst those where the commutation clause does not apply, and also to some 128 sections that were then not opened because of the claim to them of the State of Minnesota as school lands, which tied them up, and they were not opened until about a year ago. Now, most of these settlers have lived there a long time, and they ask for the privilege of paying the Indians $1.25 an acre before it is due.

Mr. UNDERWOOD. Is that all the bill carries?

Mr. STEENERSON. That is all it carries.

The bill was ordered to be engrossed and read a third time; was read a third time, and passed.

On motion of Mr. STEENERSON, a motion to reconsider the last vote was laid on the table.

LANDS IN THE STATE OF MONTANA.

Mr. LIND. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 7103) which I send to the Clerk's desk.

The Clerk read as follows:

Be it enacted, etc., That the several selections of the south half of the southeast quarter of section 5 and north half of northeast quarter of section 8, township 32 north, range 11 east; lot 6 of section 5, township 32 north, range 16 east; the southeast quarter of northeast quarter of section 5, township 32 north, range 17 east; the northwest quarter of northwest quarter of section 35, township 33 north, range 19 east; the southwest quarter of the southeast quarter and southeast quarter of southwest quarter of section 32, township 32 north, range 33 east, Montana principal meridian, in the State of Montana, containing in all 356.11 acres, made by the St. Paul, Minneapolis and Manitoba Railway Company in the United States land office at Helena, Mont., between the years 1893 and 1899, under the provisions of an act of Congress entitled "An act for the relief of settlers on certain lands in the States of North Dakota and South Dakota," approved August 5, 1892, and the patents of the United States thereafter issued under said act conveying said lands to said railway company be, and the same are hereby, ratified and confirmed, and the said lands granted to said railway company.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized and empowered to approve the selection of 120 acres of unsurveyed land situated in township 32 north, range 14 east, Montana principal meridian, made by the said The St. Paul, Minneapolis and Manitoba Railway Company, under the act of Congress aforesaid, on the 26th day of March, 1897, in the United States land office at Helena, Mont., whenever said land shall have been duly surveyed, and to thereafter patent and convey said land to said railway company, notwithstanding the limitations contained in section 3 of an act of Congress entitled "An act to ratify and confirm an agreement with the Gros Ventre, Piegan, Blood, Blackfeet, and River Crow Indians in Montana, and for other purposes," approved May 1, 1888: *Provided*, That said land was in all other respects subject to selection by said railway company under said act of 1892, and the said railway company has complied and shall hereafter comply with the requirements of said act of 1892.

The bill was ordered to be read a third time; was read the third time, and passed.

On motion of Mr. LIND a motion to reconsider the last vote was laid upon the table.

By unanimous consent, on motion of Mr. LIND a corresponding House bill was ordered to lie upon the table.

RELIEF OF RECEIVERS OF PUBLIC MONEYS.

Mr. LACEY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 6314 which I send to the Clerk's desk.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any unexpended balances of the appropriations made by the sundry civil act of March 3, 1903, the deficiency act of February 18, 1904, and the sundry civil act of April 28, 1904, for expenses of hearings in land entries and for contingent expenses of land offices, to certain receivers of public moneys acting as special disbursing agents, such amounts as they may have expended for per diem fees and mileage of witnesses during the period beginning July 1, 1903, and ending September 30, 1904, in the conduct of hearings ordered by the Commissioner of the General Land Office as have not been credited by the accounting officers of the Treasury Department in the settlement of the accounts of said special disbursing agents and as may have been heretofore or may be hereafter approved by the Commissioner of the General Land Office.

The SPEAKER. Is there objection?

Mr. UNDERWOOD. Mr. Speaker, I would like to ask the gentleman from Iowa [Mr. LACEY] to state the object of the bill.

Mr. LACEY. Mr. Speaker, this bill was introduced at the request of the Land Department in order to enable them to

close the accounts of certain receivers and registrars who have applied money in their hands in payment of per diem of witnesses in land cases in which the Government was liable for the witness fees. It had been customary to make the payment out of money or funds controlled by these officers. By a subsequent rule it was held that this could not be done. That is the reason these accounts were held up.

Mr. UNDERWOOD. How much money does the bill involve?

Mr. LACEY. It is not a very large sum. It is a few hundred dollars. The communication is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, December 10, 1904.

SIR: I have the honor to inclose the draft of a proposed bill for the relief of certain receivers of public moneys acting as special disbursing agents, and to recommend that it be enacted into a law.

This legislation is necessary, because prior to the construction of the act of January 31, 1903 (32 Stat., 790), by the Comptroller of the Treasury, on which departmental instructions were based, the receivers had no sufficient guide for making payments to witnesses in hearings in land entries, in consequence of which erroneous disbursements were made, and credit therefor has been disallowed by the accounting officers of the Treasury.

Very respectfully, E. A. HITCHCOCK,
Secretary.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Mr. UNDERWOOD. I understand that these receivers paid out fees that were unwarranted.

Mr. LACEY. No; instead of it coming out of funds in the Treasury, it came out of funds in the clerks' hands. It should have been audited and paid from the Treasury instead of being paid by them. The money has been paid once and will not have to be paid again. It relieves these clerks.

Mr. UNDERWOOD. Then it is a mere matter of bookkeeping.

Mr. LIND. It is a mere matter of bookkeeping; that is what I was going to suggest.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

The SPEAKER. Without objection, a similar House bill will be laid on the table.

There was no objection.

DAM ACROSS NIOBRARA RIVER, NEBRASKA.

Mr. KINKAID. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 17861.

The Clerk read as follows:

A bill (H. R. 17861) to grant to Charles H. Cornell the right to abut a dam across the Niobrara River on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric-railway line and telegraph and telephone lines across said reservation.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert as follows:

"That Charles H. Cornell, his assigns, assignees, successors, and grantees, be, and are hereby, privileged, authorized, and granted the authority and right to construct, maintain, and use for power purposes a dam across the Niobrara River on parts of sections 22 and 27, township 34 north, range 27 west of the sixth principal meridian, in the State of Nebraska, and to abut said dam on the east bank of said Niobrara River upon land which is a part of the Fort Niobrara Military Reservation, the property of the United States; and said dam may be of sufficient height and strength to support a body of water affording or furnishing as much as 50 feet effective head for power purposes, with the privilege of backing water upon or overflowing such part of the Fort Niobrara Military Reservation as may reasonably result from the proper construction, maintenance, and use of said dam, and that any damages caused thereby may be assessed by the Secretary of War and paid to the United States before any construction hereby provided for shall be commenced; and the said Charles H. Cornell, his assigns, assignees, successors, and grantees are further privileged, authorized, and granted the authority and right to construct and operate a trolley or electric railway, with necessary side tracks and station buildings, also telegraph and telephone lines, upon, over, and across the land of said Fort Niobrara Military Reservation, said trolley or electric railway and telegraph and telephone lines to start from the town of Valentine and run by a feasible route as nearly as may be in a direct course to the Fort Niobrara military post upon said military reservation, thence north upon a feasible route in the direction of the Rosebud Indian Agency, in the State of South Dakota, with authority to operate and use such trolley or electric railway and telegraph and telephone lines: *Provided*, That a map of said proposed dam, storage reservoir, railway line, telegraph line, or telephone line shall be filed with the honorable Secretary of War and the location thereof shall by him be approved before any of these privileges herein aforesaid shall become effective: *Provided*, That the said Charles H. Cornell, his assignees and successors, shall be required, of the power so created by said dam, to rent or sell to the Government for military purposes, to be used at said Fort Niobrara military post, power at reasonable rates, in such an amount as he may reasonably spare the same when it may be applied for: *Provided further*, That the privileges herein granted may at any time be rescinded or suspended by order of the Secretary of War, and said corporation shall at any time, when so ordered by the Secretary of War, remove its rails and all fixtures and appurtenances at its own expense and cost and without any claim of any kind from the United States: *Provided further*, That the grants and privileges mentioned in this act shall become void unless the road shall be commenced within one year from the date of the approval of this act and said road and telegraph or telephone line be completed from the town of Valentine to the Fort Niobrara military post, on said Fort Niobrara Military Reservation, and put into operation within three years from the date of the approval of this act.

The SPEAKER. The question is on agreeing to the amendment in the nature of a substitute.

Mr. MANN. I would like to ask the gentleman from Nebraska whether this is a navigable stream?

Mr. KINKAID. It is not; perhaps there have been some circumstances under which it could have been so called.

Mr. MANN. Is it considered a navigable stream by the engineers of the Government?

Mr. KINKAID. Not at all.

Mr. MANN. What committee has reported this bill?

Mr. KINKAID. The Committee on Military Affairs.

Mr. MANN. On the ground that it is in a military reservation?

Mr. KINKAID. The military reservation borders upon the stream. On one side of the stream is the military reservation—at this particular point.

Mr. MANN. It is customary for bills in reference to dams across waterways to go to the Committee on Interstate and Foreign Commerce, which gives consideration to them.

Mr. KINKAID. This is an unnavigable stream.

Mr. MANN. This is crossing a stream, and if there was any other question connected with it arising from the fact that it is connected with a purely military reservation, and not in the interest of navigation, the Committee on Interstate and Foreign Commerce would not have jurisdiction.

Mr. KINKAID. A little backwater comes occasionally on the military reservation.

The substitute was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. KINKAID, a motion to reconsider the vote by which the bill was passed was laid on the table.

BOUNDARY LINE BETWEEN SOUTH DAKOTA AND NEBRASKA.

The SPEAKER. The Chair lays before the House the following Senate bill, which the gentleman from Nebraska [Mr. MCCARTHY] asks unanimous consent to consider at this time.

The Clerk read as follows:

A bill (S. 7117) establishing that portion of the boundary line between the State of South Dakota and the State of Nebraska south of Union County, S. Dak.

Be it enacted, etc., That the portion of the boundary line between the State of South Dakota and the State of Nebraska lying and being south of Union County, S. Dak., shall be in the middle of the main channel of the Missouri River as now existing, and the compact between said States establishing said boundary line is hereby approved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

On motion of Mr. MCCARTHY, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. UNDERWOOD. I ask for the regular order.

The SPEAKER. The gentleman from Alabama demands the regular order.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 17939. An act 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

H. R. 659. An act correcting the record of Harris Graffen.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 3479. An act making provision for conveying in fee certain public grounds in the city of St. Augustine, Fla., for school purposes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 18815. An act to authorize the construction of a bridge across Red River at or near Boyce, La.; and

H. R. 659. An act correcting the record of Harris Graffen.

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 17984. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1906, and for other purposes;

H. R. 5498. An act to provide for circuit and district courts of the United States at Albany, Ga;

H. R. 7022. An act to amend section 4 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901;

H. R. 4100. An act to provide for the appointment of a district judge for the western judicial district of South Carolina, and for other purposes; and

H. R. 1860. An act for the relief of certain enlisted men of the Twentieth Regiment of New York Volunteer Infantry.

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

S. R. 109. Joint resolution to print the report of the Eighth International Geographic Congress;

S. 7239. An act to amend section 13 of chapter 394 of the Supplement to the Revised Statutes of the United States;

S. 7227. An act granting an increase of pension to Josephine E. Bard;

S. 7077. An act granting a pension to Robert Catlin;

S. 2666. An act granting a pension to Dora D. Walker;

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. NORTON P. OTIS, late a Representative from the State of New York.

Resolved, That a committee of five Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to take order for superintending the funeral of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

And that the Presiding Officer had announced the appointment of Mr. DEPEW, Mr. BURROWS, Mr. ELKINS, Mr. MARTIN, and Mr. BLACKBURN as the committee on the part of the Senate to join the committee on the part of the House of Representatives.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate joint resolution and bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 7239. An act to amend section 13 of chapter 394 of the Supplement to the Revised Statutes of the United States—to the Committee on the Post-Office and Post-Roads.

S. 7227. An act granting an increase of pension to Josephine E. Bard—to the Committee on Invalid Pensions.

S. 2666. An act granting a pension to Dora D. Walker—to the Committee on Pensions.

S. R. 109. Joint resolution to print the report of the Eighth International Geographic Congress—to the Committee on Printing.

H. R. 4100. An act to provide for the appointment of a district judge for the western judicial district of South Carolina, and for other purposes, with Senate amendments—to the Committee on the Judiciary.

S. 7077. An act granting a pension to Robert Catlin—to the Committee on Invalid Pensions.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

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

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. 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. 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. 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. 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. 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. 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. 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. 14444. An act granting an increase of pension to William A. Stovall;
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. 15169. An act granting an increase of pension to Loretta V. Biggs;
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. 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. 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. Elkinton;
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. 15645. An act granting an increase of pension to Samuel B. Clark;
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. 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 W. Wright;
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. 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 Rader;
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. 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 George 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. 16654. An act granting an incraese 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 Loesser;
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. 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. 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. 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. 17060. An act granting an increase of pension to Daniel H. Hastings;
H. R. 17046. An act granting an increase of pension to Hartvig Engbretson;
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. 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. 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. 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. 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 Willian 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;
H. R. 18268. An act granting an increase of pension to Annie Crawford;
H. R. 3426. An act granting a pension to George W. Craig;
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. 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;
H. R. 9062. An act granting a pension to John Goodspeed;
H. R. 9405. An act granting a pension to Andrew Long;
H. R. 9410. An act granting a pension to Rosa Miller;
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. 12155. An act granting a pension to Nancy Hill;
H. R. 12341. An act granting a pension to John Stilts;
H. R. 13332. An act granting a pension to Honora Sullivan;
H. R. 14305. An act granting a pension to Walter Gardner;
H. R. 14406. An act granting a pension to Paul W. Thomson;
H. R. 14485. An act granting a pension to Charlotte M. Wylie;
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. 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. 15328. An act granting a pension to William H. H. Simpkins;
H. R. 15491. An act granting a pension to Theresa M. Kennedy;
H. R. 15535. An act granting a pension to John Crotty;
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. 15655. An act granting a pension to Mattie M. Bond;
H. R. 15891. An act granting a pension to Harriett Stanley;
H. R. 16384. An act granting a pension to Thomas Poag;
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. 16540. An act granting a pension to Annie B. Orr;
H. R. 16625. An act granting a pension to Laura A. Baughey;
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. 16849. An act granting a pension to Edward H. Holden;
H. R. 16932. An act granting a pension to Louisa E. Cummings;
H. R. 17151. An act granting a pension to Avery Dalton;
H. R. 17261. An act granting a pension to Mary A. Gibson;
H. R. 17274. An act granting a pension to Louis A. Lavalley;
H. R. 17635. An act granting a pension to John Burke;
H. R. 18785. An act to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life;
H. R. 15305. An act granting a pension to Isaac F. Clayton; and
H. R. 17331. An act relating to a dam across Rainy River.

SYLVESTER BARTRON.

Mr. WRIGHT, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Sylvester Bartron, Fifty-seventh Congress, H. R. 6413, no adverse report having been made thereon.

Mr. PAYNE. I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 6 o'clock and 18 minutes p. m.) the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MILLER, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 18636) to extend the time for the completion of the Alaska Central Railway, and for other purposes, reported the same with amendment, accompanied by a report (No. 4821); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BURNETT, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 4699) to relinquish and quitclaim to Jacob Lipps, of Pensacola, Fla., his heirs and assigns, and T. E. Welles, of Pensacola, Fla., his heirs and assigns, respectively, all the right, title, interest, and claim of the United States in, to, and on certain properties in the city of Pensacola, Escambia County, Fla., reported the same without amendment, accompanied by a report (No. 4824); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the Senate (S. 5245) to indemnify G. W. Hardy and Joseph Lard, of Scott County, Miss., for homestead land by granting other lands in lieu thereof, reported the same without amendment, accompanied by a report (No. 4825); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DAVEY of Louisiana, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 4372) for the relief of H. Gibbes Morgan and other coowners of Cat Island, in the Gulf of Mexico, reported the same without amendment, accompanied by a report (No. 4818); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 7227) granting an increase of pension to Josephine E. Bard, reported the same without amendment, accompanied by a report (No. 4819); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8696) to authorize the Secretary of War to revoke and vacate sentence of court-martial against Daniel Smith, reported the same adversely, accompanied by a report (No. 4822); which said bill and report were ordered laid on the table.

Mr. BROUSSARD, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 17419) for the relief of John Schenk, reported the same adversely, accompanied by a report (No. 4823); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GOULDEN: A bill (H. R. 19095) to amend sections 18, 27, 28, and 29 of an act entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes"—to the Committee on Insular Affairs.

By Mr. SHERMAN: A bill (H. R. 19096) to refund to the State of New York certain duties paid by said State in 1863 to arm State troops organized to aid in suppressing the then existing insurrection against the United States—to the Committee on War Claims.

By Mr. SOUTHARD: A bill (H. R. 19097) to authorize the

Missouri Central Railroad Company to construct and maintain a bridge across the Missouri River near the city of St. Charles, in the State of Missouri—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 19098) to authorize the Missouri Central Railroad Company to construct and maintain a bridge across the Missouri River near the city of Glasgow, in the State of Missouri—to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT: A bill (H. R. 19099) to define and regulate common carriers engaged in the transportation of oil and gas—to the Committee on Interstate and Foreign Commerce.

By Mr. WILEY of Alabama (by request): A bill (H. R. 19100) to prohibit railroad companies doing interstate business from employing any person as a locomotive engineer who has not had three years' experience as a locomotive fireman or one year's experience as a locomotive engineer—to the Committee on Interstate and Foreign Commerce.

By Mr. BROWNLOW: A bill (H. R. 19101) to grant pensions to the East Tennessee bridge burners—to the Committee on Invalid Pensions.

By Mr. SOUTHARD: A resolution (H. Res. 524) authorizing payment for services of Charles Douglass as janitor and messenger—to the Committee on Accounts.

Also, a resolution (H. Res. 525) to employ Ben Anderson as an additional folder—to the Committee on Accounts.

By Mr. STEPHENS of Texas: A resolution (H. Res. 526) requesting information from the Secretary of the Interior regarding the Foster lease of oil and gas lands—to the Committee on Indian Affairs.

Also, a resolution (H. Res. 527) requesting certain information from the Secretary of the Interior—to the Committee on Indian Affairs.

By Mr. CALDERHEAD: Memorial from the legislative assembly of the State of Kansas, asking that Congress enact legislation controlling the Standard Oil Company—to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT: Memorial by the legislature of the State of Kansas, requesting action by Congress controlling the Standard Oil Company—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. SIMS: A bill (H. R. 19102) granting an increase of pension to John K. McKnight—to the Committee on Invalid Pensions.

By Mr. BROWN of Wisconsin: A bill (H. R. 19103) for the relief of John Feltis—to the Committee on Military Affairs.

By Mr. GUDGER: A bill (H. R. 19104) granting a pension to William E. Eller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19105) for the relief of J. G. Thompson—to the Committee on War Claims.

By Mr. PATTERSON of Tennessee: A bill (H. R. 19106) for the relief of Edmund W. Williams, executor of the estate of Joseph R. Williams, deceased—to the Committee on Claims.

By Mr. ROBINSON of Indiana: A bill (H. R. 19107) for the relief of Marion Brady—to the Committee on War Claims.

By Mr. SHERMAN: A bill (H. R. 19108) authorizing the Secretary of the Treasury to pay certain expenditures incurred by the State of New York for the defense and protection of the frontier from invasion from Canada in the year 1864—to the Committee on War Claims.

By Mr. TIRRELL: A bill (H. R. 19109) to correct the record of and grant to Thomas S. Washburn an honorable discharge—to the Committee on Military Affairs.

By Mr. WEISSE: A bill (H. R. 19110) granting a pension to George C. Powell—to the Committee on Invalid Pensions.

By Mr. DARRAGH: A bill (H. R. 19111) for the relief of First Lieut. George Van Orden, United States Marine Corps—to the Committee on Naval Affairs.

PETITIONS, ETC.

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

By Mr. ADAMSON: Petition of the Board of Trade of Lagrange, Ga., asking for a suitable post-office building for that city—to the Committee on the Post-Office and Post-Roads.

Also, petition of Division No. 409, Brotherhood of Locomotive Engineers, of Columbus, Ga., for more stringent laws regarding employment of locomotive engineers—to the Committee on Interstate and Foreign Commerce.

By Mr. BIRDSALL: Petition of citizens of Buchanan and Franklin counties, Iowa, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BOWERSOCK: Petition of citizens of Salina, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Morris County, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Kansas State Temperance Union, asking for passage of bill H. R. 4072—to the Committee on the Judiciary.

Also, petition of citizens of Thayer, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Cherokee County, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Osborne and Smith counties, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Sylvia, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Weir, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Ellis County, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BROWN of Wisconsin: Petition of citizens of Wisconsin against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BUCKMAN: Petitions of citizens of Crow Wing County, Minn., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE: Petition of citizens of Bowdle, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Canton, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Madison, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Parker, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Westford, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Clark County, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Raritan, Day County, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Groton, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Milltown, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Aberdeen, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Turner County, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Beresford, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Britton, S. Dak., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKETT: Petition of citizens of Blair, Nebr., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Norfolk, Nebr., against religious

legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Bartley, Nebr., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Holdredge, Nebr., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. CALDERHEAD: Petition of Subdivision No. 261, Brotherhood of Locomotive Engineers, for stringent laws relative to employing engineers—to the Committee on Interstate and Foreign Commerce.

By Mr. CAMPBELL: Petition of citizens of Lewis, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Franklin County, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. CASSINGHAM: Petition of Tuscarawas County (Ohio) Grange, favoring a law against unjust discrimination in freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. CURRIER: Petition of Nashua (N. H.) Subdivision, Brotherhood of Locomotive Engineers, for more stringent laws regarding employment of locomotive engineers—to the Committee on the Judiciary.

By Mr. DOVENER: Petition of citizens of Clarksburg, W. Va., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. ESCH: Petition of Milwaukee Musicians' Association, favoring increase in pay of the Marine Band—to the Committee on Naval Affairs.

By Mr. FITZGERALD: Petition of 513 citizens of the State of New York, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the New York Cotton Exchange, favoring bill S. 2262—to the Committee on Interstate and Foreign Commerce.

By Mr. FRENCH: Petition of citizens of Rigby, Idaho, favoring laws to insure fair rates on railways—to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT of Massachusetts: Petition of citizens of South Hadley, Mass., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Massachusetts State Grange, against repeal of the Grout law—to the Committee on Agriculture.

By Mr. GRANGER: Petition of Subdivision No. 57, Brotherhood of Locomotive Engineers, for stringent laws relative to employment of engineers—to the Committee on Interstate and Foreign Commerce.

By Mr. GUDGER: Paper to accompany bill for relief of Benjamin R. Trull—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William E. Eller—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of J. G. Thompson—to the Committee on War Claims.

By Mr. HASKINS: Petition of Harley C. Sanborn et al., of Thetford, Vt., favoring railway-rate legislation—to the Committee on Interstate and Foreign Commerce.

By Mr. HITT: Petition of the Freeport Federation of Musicians, favoring increase of pay for the Marine Band—to the Committee on Naval Affairs.

By Mr. HULL: Petition of Subdivision No. 113, Brotherhood of Locomotive Engineers, for stringent laws relative to employment of engineers—to the Committee on Interstate and Foreign Commerce.

Also, petition of Subdivision No. 203, Brotherhood of Locomotive Engineers, for stringent laws relative to employment of engineers—to the Committee on Interstate and Foreign Commerce.

By Mr. KELIHER: Petition of 200,000 marine workers of the Great Lakes, against paragraph 52 of the pending river and harbor bill—to the Committee on Rivers and Harbors.

By Mr. KINKAID: Petition of citizens of Logan, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Oconto, Nebr., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. LACEY: Petition of citizens of Richland, Urbana, North English, and Sac City, Cedar County, Iowa, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. LAWRENCE: Petition of citizens of Windsor, Mass., favoring establishment of a parcels-post system—to the Committee on the Post-Office and Post-Roads.

By Mr. LINDSAY: Petition of the New York Cotton Exchange, favoring passage of bill S. 2262—to the Committee on Interstate and Foreign Commerce.

By Mr. LITTLEFIELD: Petition of citizens of Maine, against repeal of the Grout law—to the Committee on Agriculture.

Also, petition of citizens of Maine, favoring parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. LUCKING: Petition of citizens of Michigan, for an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

By Mr. PAYNE: Petition of citizens of Cayuga, N. Y., favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. RIXEY: Paper to accompany bill for relief of John P. Wright—to the Committee on War Claims.

By Mr. ROBINSON of Indiana: Paper to accompany bill for relief of Marion Brady—to the Committee on Pensions.

By Mr. RODEY: Petition of Cloudcroft Subdivision, No. 591, Brotherhood of Locomotive Engineers, for stringent laws relative to employment of engineers—to the Committee on Interstate and Foreign Commerce.

Also, petition of Sierra Blanca Subdivision, No. 209, Brotherhood of Locomotive Engineers, for stringent laws touching employment of engineers—to the Committee on Interstate and Foreign Commerce.

Also, petition of Mesa Subdivision, No. 264, Brotherhood of Locomotive Engineers, for more stringent laws in employment of engineers—to the Committee on Interstate and Foreign Commerce.

Also, petition of Subdivision No. 446, Brotherhood of Locomotive Engineers, for more stringent laws regarding employment of engineers—to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPERT: Petition of the board of managers of the New York Cotton Exchange, favoring enactment of bill S. 2262—to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT: Petition of citizens of Manhattan, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Marquette, Kans., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Kansas, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Pennsylvania: Petition of citizens of Armstrong County, Pa., asking for a law to prevent unjust discrimination in railway rates—to the Committee on Interstate and Foreign Commerce.

By Mr. SNOOK: Petition of Conroy Grange, Patrons of Husbandry, favoring a railway-rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SULLIVAN of Massachusetts: Petition of the Massachusetts State Grange, in its thirty-second annual session, against repeal of the Grout oleomargarine law—to the Committee on Agriculture.

By Mr. SULZER: Petition of 200,000 marine workers of the Great Lakes, calling attention to paragraph on page 52 of pending river and harbor bill, and objecting to the same—to the Committee on Rivers and Harbors.

Also, petition of the New York Cotton Exchange, favoring bill S. 2262—to the Committee on Interstate and Foreign Commerce.

By Mr. TIRRELL: Paper to accompany bill for relief of Thomas S. Washburn—to the Committee on Military Affairs.

By Mr. WADSWORTH: Petition of citizens of Livingston and Wyoming counties, N. Y., for acknowledgment of the authority of Christ and of the law of God in the Constitution of the United States—to the Committee on the Judiciary.

By Mr. WEISSE: Petition of the National Business League, for an early repeal of the desert-land law, the commutation clause of the homestead act, and the timber and stone act—to the Committee on the Public Lands.

Also, petition of citizens of Readstown, Wis., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Green Valley, Wis., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.