

SENATE.

MONDAY, February 5, 1906.

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

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

The VICE-PRESIDENT. The Journal stands approved.

THE FIVE CIVILIZED TRIBES.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior submitting an estimate of appropriation for inclusion in the urgent deficiency appropriation bill to complete the unfinished work devolving upon the Commission to the Five Civilized Tribes for the fiscal year ending June 30, 1906, \$75,000; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

LIST OF JUDGMENTS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a list of judgments rendered by the Court of Claims amounting to \$32,845.61; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

CLAIM OF WILLIAM H. VAN SYKEL.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a record of an award made by the Spanish Treaty Claims Commission under the provisions of the act of March 2, 1901, to William H. Van Sykel, \$2,400; which was referred to the Committee on Appropriations, and ordered to be printed.

ESTIMATE OF APPROPRIATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, for inclusion in the urgent deficiency appropriation bill, an additional estimate of appropriation to pay amounts found due by the accounting officers of the Treasury on account of the appropriation "Bringing home criminals" for the fiscal year 1905, \$520.75; which was referred to the Committee on Appropriations, and ordered to be printed.

BALTIMORE AND WASHINGTON TRANSIT COMPANY.

The VICE-PRESIDENT laid before the Senate the annual report of the Baltimore and Washington Transit Company of Maryland for the fiscal year ended December 31, 1905; which was referred to the Committee on the District of Columbia, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Minna H. Glassie *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

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

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, one of its clerks, announced that the House had passed a bill (H. R. 8107) extending the public-land laws to certain lands in Wyoming; in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Board of Trustees of the Chamber of Commerce of Spokane, Wash., praying that if Congress deems it wise to loan any moneys of the National Government that such moneys be loaned to the Reclamation Service to expedite the completion of the irrigation projects; which was referred to the Committee on Irrigation.

Mr. GALLINGER presented petitions of sundry citizens of Norma, Meridian, Ames, Luther, Goodwin, Maramec, Pond-

creek, and Newkirk, all in the Territory of Oklahoma, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in that Territory when admitted to statehood; which were ordered to lie on the table.

He also presented a petition of the Commercial Club of Pawhuska, Okla., praying for the adoption of the clause in the so-called "statehood bill" making the Osage Indian Reservation one county; which was ordered to lie on the table.

He also presented petitions of sundry citizens of Philadelphia, Pa.; Oyster Bay, N. Y., and Bryn Mawr, Pa., praying for the enactment of legislation granting separate statehood to the Indian and Oklahoma Territories; which were ordered to lie on the table.

He also presented a petition of the committee on schools and libraries of the East Washington Citizens' Association, of the District of Columbia, praying for the enactment of legislation to increase the salaries of public school teachers; which was referred to the Committee on the District of Columbia.

He also presented a petition of the East Washington Citizens' Association, of the District of Columbia, praying for the enactment of legislation providing a cross-town car line from north to south in the eastern section of that city; which was referred to the Committee on the District of Columbia.

He also presented a memorial of the American Federation of Labor, of Washington, D. C., remonstrating against the repeal of the present eight-hour law relative to the daily service of laborers and mechanics employed upon public works of the United States and in the District of Columbia, as applied to the construction of the isthmian canal; which was referred to the Committee on Interoceanic Canals.

He also presented a petition of the United States Historical Society, praying for the enactment of legislation providing a temporary home in the District of Columbia for soldiers and sailors of the late wars; which was referred to the Committee on the District of Columbia.

He also presented a petition of the East Washington Citizens' Association, of the District of Columbia, praying for the enactment of legislation providing for the improvement of South Carolina avenue from Thirteenth to Fifteenth streets, and Massachusetts avenue SE. from Twelfth to Fourteenth streets, and remonstrating against the neglect to improve other important avenues and streets in that city; which was referred to the Committee on the District of Columbia.

Mr. NELSON presented a petition of sundry citizens of Douglas County, Minn., praying for the enactment of legislation providing for the freer manufacture of crude alcohol for commercial purposes; which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of New York City, N. Y., praying for the enactment of legislation for the relief of the victims of the *General Slocum* disaster in New York Harbor; which was referred to the Committee on Claims.

He also presented memorials of sundry citizens and merchants of Arco, Minn., remonstrating against the passage of the so-called "Henry parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Cedar River Lodge, No. 283, Brotherhood of Railroad Trainmen, of Austin, Minn., praying for the passage of the so-called "anti-injunction bill," and also of the so-called "employers' liability bill;" which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Carver County, Minn., remonstrating against the passage of the so-called "Philippine sugar bill;" which was referred to the Committee on Finance.

He also presented memorials of sundry citizens of Shakopee, Chaska, and Carver, all in the State of Minnesota, remonstrating against a reduction of the duty on sugar; which were referred to the Committee on Finance.

Mr. CARTER presented a petition of sundry citizens of Montana, praying for the enactment of legislation making subject to settlement and disposal under the land laws of the United States the Blackfeet Indian Reservation, in that State, etc.; which was referred to the Committee on Indian Affairs.

Mr. DRYDEN presented a petition of Central Lodge, No. 372, Brotherhood of Railroad Trainmen, of Elizabeth, N. J., praying for the passage of the so-called "anti-injunction bill" and the "employers' liability bill;" which was referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Club of Glen Ridge, N. J., and petitions of the State Federation of Women's Clubs of New Jersey, praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented memorials of M. H. Garrard, of Bellport, N. Y.; of the Friday Evening Club of Morristown, and of the Society for the Prevention of Cruelty to Animals, of Morris-

town, all in the State of New Jersey, remonstrating against the enactment of legislation extending the time for the interstate transportation of live stock from twenty-eight to forty hours; which were referred to the Committee on Interstate Commerce.

He also presented the petition of Charles E. Eaton, of Orange, N. J., praying for the enactment of legislation to establish a national forest reserve in the White Mountains of New Hampshire; which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a petition of the Federated Trades' Council of Orange, N. J., and a petition of Washington Camp, No. 20, Patriotic Order Sons of America, of Trenton, N. J., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. GAMBLE presented the petition of Chris. Meyer and sundry other citizens of New York City, N. Y., praying for the enactment of legislation for the relief of the victims of the *General Slocum* disaster in New York Harbor; which was referred to the Committee on Claims.

He also presented a petition of the Association of Railway Conductors of Aberdeen, S. Dak., praying for the passage of the so-called "employers' liability bill" and also the anti-injunction bill; which was referred to the Committee on Interstate Commerce.

He also presented a memorial of the Retail Merchants and Hardware Dealers' Association of South Dakota, remonstrating against the passage of the so-called "parcels-post bill" and also against the numbering of rural free-delivery mail boxes; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Retail Merchants and Hardware Dealers' Association of South Dakota, praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a petition of the Retail Merchants and Hardware Dealers' Association of South Dakota, praying for the passage of the so-called "railway-rate bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Bar Association of Ardmore, Ind. T., praying for the adoption of certain amendments to the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes of the Indian Territory, and for other purposes; which was referred to the Committee on Indian Affairs.

Mr. McENERY presented sundry papers to accompany the bill (S. 412) for the relief of the estate of Isabella Ann Fluker, deceased; which were referred to the Committee on Claims.

Mr. HANSBROUGH presented the petition of E. M. Gallaudet and sundry other citizens of Washington, D. C., praying for the enactment of legislation to extend the lines of the Capital Traction Company; which was referred to the Committee on the District of Columbia.

Mr. KITTREDGE presented a petition of the Commercial Club of Aberdeen, S. Dak., praying for the enactment of legislation to secure the opening to settlement of the reservation lands lying west of the Missouri River in that State, etc.; which was referred to the Committee on Indian Affairs.

Mr. PILES presented a petition of Bay City Council, No. 3, Junior Order United American Mechanics, of New Whatcom, Wash., and a petition of Seattle Council, No. 2, Junior Order United American Mechanics, of Seattle, Wash., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. BRANDEGEE presented a petition of sundry citizens of Meriden, Conn., and a petition of sundry citizens of East Haddam, Conn., praying for an investigation of the existing conditions in the Kongo Free State; which were referred to the Committee on Foreign Relations.

He also presented petitions of the Other Club of Danbury, the Sigma Epsilon Society of Bridgeport, the Travelers' Club of Danbury, the Literata Club of Danbury, and the Women's Civic Club of New Haven, all in the State of Connecticut, praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented memorials of Local Union No. 180, Cigar Makers' International Union, of Danbury; of Local Union No. 42, Cigar Makers' International Union, of Hartford; of Local Union No. 26, Cigar Makers' International Union, of South Norwalk, and of the Connecticut Broadleaf Tobacco Company, all in the State of Connecticut, remonstrating against the passage of the so-called "Philippine tariff bill;" which were referred to the Committee on the Philippines.

Mr. FULTON presented a petition of the Chamber of Commerce of Bandon, Oreg., praying that an appropriation of

\$55,000 be made for the improvement of the lower channel and mouth of the Coquille River, in that State; which was referred to the Committee on Commerce.

Mr. DEPEW presented a petition of the Organization of the *General Slocum* Survivors, of New York City, N. Y., praying for the enactment of legislation granting relief to the victims of the *General Slocum* disaster in New York Harbor; which was referred to the Committee on Claims.

He also presented a memorial of the American Society for the Prevention of Cruelty to Animals, of New York City, N. Y., remonstrating against any change in the present law governing the interstate transportation of live stock; which was referred to the Committee on Interstate Commerce.

He also presented memorials of sundry citizens of Norway, of the Woman's Christian Temperance Union of Yonkers, and of the congregation of the Thirty-seventh Street Methodist Episcopal Church, of New York City, all in the State of New York, remonstrating against the enactment of legislation to restore the sale of fermented malt beverages and light wines to soldiers and sailors of the United States; which were referred to the Committee on Military Affairs.

He also presented a memorial of sundry employees of Dunn & McCarthy, of Auburn, N. Y., remonstrating against the imposition of a duty of 15 per cent ad valorem on imported hides and leather; which was referred to the Committee on Finance.

Mr. PROCTOR presented a petition of Otter Creek Division, No. 347, Brotherhood of Locomotive Engineers, of Rutland, Vt., praying for the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

Mr. LONG presented the petition of W. D. Greason, of Paola, Kans., praying for the enactment of legislation for the removal of the tariff on linotype and composing machines; which was referred to the Committee on Finance.

He also presented a paper to accompany the bill (S. 2618) granting an increase of pension to Howland P. Wolcott; which was referred to the Committee on Pensions.

He also presented a paper to accompany the bill (S. 3737) granting an increase of pension to Samuel E. Frint; which was referred to the Committee on Pensions.

Mr. DANIEL presented the petition of Frank J. Blair, of the United States, praying that he be granted a pension; which was referred to the Committee on Pensions.

Mr. PENROSE presented a paper to accompany the bill (S. 3153) for the relief of Louisa Weaver; which was referred to the Committee on Claims.

He also presented a petition of the National Board of Trade, praying for the enactment of legislation for the improvement of the merchant marine; which was ordered to lie on the table.

He also presented a petition of the National Board of Trade, praying for the enactment of legislation providing for the opening of economical routes of transportation by water; which was referred to the Committee on Commerce.

He also presented a petition of the National Board of Trade, praying for the enactment of legislation for the reorganization of the consular service; which was ordered to lie on the table.

Mr. HOPKINS presented petitions of sundry citizens of Chicago and Evanston, and of the Civic Improvement League of East St. Louis, all in the State of Illinois, praying for the enactment of legislation to prevent the impending destruction of Niagara Falls, on the American side, by the diversion of the waters for manufacturing purposes; which were referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a petition of the Organization of the *General Slocum* Survivors, of New York City, N. Y., praying for the enactment of legislation granting relief to the victims of the *General Slocum* disaster in New York Harbor; which was referred to the Committee on Claims.

He also presented a petition of the Milk Producers' Institute 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 a petition of the G. W. Tilton Division, No. 404, Brotherhood of Locomotive Engineers, of Chicago, Ill., praying for the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

He also presented petitions of Local Division No. 404, Brotherhood of Locomotive Engineers, of Chicago; of Local Lodge No. 424, Brotherhood of Railroad Trainmen, of Chicago; Union Lodge, No. 138, Brotherhood of Locomotive Firemen, of Freeport, and of Local Division No. 74, Order of Railway Conductors, of Decatur, 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.

He also presented memorials of sundry cigar manufacturers of Chicago, of the Cigar Makers' Local Union of Alton, and of

Crump Brothers, of Chicago, all in the State of Illinois, remonstrating against the passage of the so-called "Philippine tariff bill;" which were referred to the Committee on the Philippines.

He also presented memorials of the Alton Branch of the Illinois Humane Society, of Springfield; of the Humane Society of Winnebago County; of the Humane Society of Rockford; of the Humane Society of Quincy; of the Humane Society of Chicago, and of C. L. Harcourt, of Chestnut, all in the State of Illinois, remonstrating against the enactment of legislation extending the time of the interstate transportation of live stock; which were referred to the Committee on Interstate Commerce.

He also presented petitions of the Sabbath Association of Illinois; of the Woman's Christian Temperance unions of Maringo, Polo, Danville, Elgin, Toulon, and Chicago; of the congregations of the First Methodist Episcopal churches of El Paso, Davis Junction, Maywood, and Byron; of the congregations of the Baptist and Congregational churches of Toulon; of the Woman's Presbyterian Society for Home Missions, of Chicago; of Kygar Post, Department of Illinois, Grand Army of the Republic, of Georgetown, and of sundry citizens of Herrick, Eureka, El Paso, Washburn, Wheaton, and Minonk, all in the State of Illinois, 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 petition of the Trades Council of Elgin, Ill., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented sundry petitions of citizens of Illinois, praying for the ratification of international reciprocity treaties; which were referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

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

A bill (S. 3402) granting an increase of pension to Jesse W. Elliott;

A bill (H. R. 3216) granting an increase of pension to John W. Seeber; and

A bill (H. R. 3214) granting a pension to Maggie Parker.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (S. 1799) granting an increase of pension to Henry Logan, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 1798) granting an increase of pension to Robert K. Smith, reported it with an amendment, and submitted a report thereon.

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

A bill (S. 201) granting an increase of pension to Lyman E. Farrand;

A bill (S. 984) granting an increase of pension to William W. Benedict;

A bill (S. 2797) granting an increase of pension to James Buggie;

A bill (S. 2328) granting an increase of pension to Benjamin Franklin Bigelow;

A bill (S. 207) granting an increase of pension to Marion F. Howe; and

A bill (S. 1414) granting an increase of pension to Sidney G. Smith.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (S. 3120) granting an increase of pension to Mary Driscoll, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 2975) granting a pension to Mary Z. Miller;

A bill (S. 2329) granting an increase of pension to Knud Targerson;

A bill (S. 2327) granting an increase of pension to Sidney F. Mullen;

A bill (S. 1465) granting an increase of pension to Patrick Fallihee; and

A bill (S. 3123) granting an increase of pension to W. H. Alban.

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

A bill (S. 2337) granting an increase of pension to Ellen S. Larned;

A bill (S. 2257) granting an increase of pension to Mary J. Campbell;

A bill (H. R. 4708) granting an increase of pension to William T. Wiley; and

A bill (S. 3240) granting an increase of pension to John T. Jones.

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

A bill (S. 2405) granting an increase of pension to John P. Winget; and

A bill (S. 1883) granting an increase of pension to Nellie Raymond.

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

A bill (H. R. 4195) granting an increase of pension to Hamilton Secheverell;

A bill (H. R. 4713) granting an increase of pension to Mary M. C. Manning;

A bill (H. R. 4765) granting an increase of pension to George W. Shepherd;

A bill (H. R. 9352) granting a pension to Mary Van Blarcom;

A bill (H. R. 2394) granting an increase of pension to Frank Buncher; and

A bill (H. R. 1467) granting an increase of pension to Hiram E. Monroe.

Mr. ANKENY, from the Committee on Irrigation, to whom was referred the bill (S. 87) providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes, reported it with an amendment, and submitted a report thereon.

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

A bill (S. 583) granting an increase of pension to Francis M. Munson;

A bill (H. R. 4735) granting an increase of pension to Thomas Adair;

A bill (H. R. 4737) granting an increase of pension to Odilia Logan;

A bill (H. R. 3380) granting an increase of pension to George W. Wilburn;

A bill (H. R. 8618) granting an increase of pension to John G. Rowan;

A bill (H. R. 1797) granting a pension to James H. Cole, alias John V. Cole; and

A bill (S. 2702) granting an increase of pension to George W. Dightman.

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

A bill (S. 3537) granting an increase of pension to Anthony W. Presley; and

A bill (S. 3039) granting an increase of pension to Joseph Smith.

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

A bill (S. 1753) granting an increase of pension to Waldo W. Paine; and

A bill (S. 992) granting a pension to Albert E. Lyon.

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

A bill (S. 3630) granting an increase of pension to Martin L. Barber; and

A bill (S. 1670) granting an increase of pension to William McNabb.

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

A bill (S. 894) granting an increase of pension to Mrs. Sewell; and

A bill (S. 3643) granting an increase of pension to Seth Raymond.

Mr. BURKETT, from the Committee on Indian Depredations, to whom was referred the letter of the Attorney-General of Decembr 4, 1905, transmitting, in compliance with section 8 of the act of March 3, 1891, a list of judgments rendered against the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Appropriations; which was agreed to.

Mr. TALIAFERRO, from the Committee on Pensions, to

whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1124) granting an increase of pension to John J. Grant;

A bill (H. R. 1125) granting an increase of pension to Frances Ann Batchelor; and

A bill (H. R. 1123) granting an increase of pension to Sarah Emaline Finklea.

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

A bill (S. 125) granting an increase of pension to John E. Hadsall;

A bill (S. 2377) granting a pension to Clara T. Leathers;

A bill (S. 1433) granting an increase of pension to Joseph W. Willard; and

A bill (S. 124) granting an increase of pension to Curtis B. McIntosh.

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

A bill (S. 4029) granting an increase of pension to Martha G. Archer; and

A bill (S. 2380) granting an increase of pension to David B. McCleary.

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

A bill (H. R. 4215) granting an increase of pension to John A. Roberts;

A bill (H. R. 4217) granting an increase of pension to Daniel M. Rose;

A bill (H. R. 4218) granting an increase of pension to John M. Williamson;

A bill (H. R. 4738) granting an increase of pension to Henry Roberts;

A bill (H. R. 4739) granting an increase of pension to Lawrence B. Smith;

A bill (H. R. 5238) granting an increase of pension to Lockey Stuard;

A bill (H. R. 1283) granting an increase of pension to Epsy Ann Austin;

A bill (H. R. 2169) granting an increase of pension to Elisha White;

A bill (H. R. 2291) granting an increase of pension to William Elmes;

A bill (H. R. 2289) granting an increase of pension to Algeron Lightcap;

A bill (H. R. 1280) granting a pension to Mary K. Lewis; and

A bill (H. R. 3678) granting an increase of pension to Jonathan C. S. Twitchell.

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

A bill (S. 1835) granting an increase of pension to James G. Doane;

A bill (S. 620) granting an increase of pension to Elizabeth S. Law; and

A bill (S. 640) granting an increase of pension to Hugh P. Buffon.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (S. 3667) granting an increase of pension to Martha J. Brisco, reported it with amendments, and submitted a report thereon.

Mr. HANSBROUGH. I am directed by the Committee on Irrigation, to whom was referred the bill (S. 3687) providing for the segregation of \$1,000,000 from the reclamation fund created by the act of June 17, 1902, and for other purposes, to report it with an amendment in the nature of a substitute. I will ask leave at a later date to file a written report to accompany the bill.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. NELSON, from the Committee on Territories, to whom was referred the bill (S. 3522) to amend an act entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes," approved January 27, 1905, reported it without amendment, and submitted a report thereon.

Mr. PATTERSON, from the Committee on Pensions, to whom was referred the bill (S. 3309) granting an increase of pension to John C. Baber, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2752) granting an increase of pension to Robert S. Moore, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 590) granting a pension to John White, reported it with amendments, and submitted a report thereon.

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

A bill (H. R. 1974) granting an increase of pension to William R. P. Foale;

A bill (H. R. 7418) granting an increase of pension to Fritz Muller;

A bill (H. R. 7420) granting an increase of pension to Michael Wren;

A bill (H. R. 6192) granting an increase of pension to Edward J. Mills;

A bill (H. R. 5016) granting an increase of pension to Francis Carey;

A bill (H. R. 5015) granting an increase of pension to Edwin R. Goodell;

A bill (H. R. 4879) granting an increase of pension to John W. Roache; and

A bill (H. R. 4607) granting a pension to Annie Rohr.

Mr. LA FOLLETTE, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3587) granting an increase of pension to Eliza Orr;

A bill (S. 3507) granting an increase of pension to Isaac Van Valkenburg; and

A bill (S. 3291) granting an increase of pension to Mathew D. Raker.

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

A bill (S. 1298) granting an increase of pension to Francis W. Usher;

A bill (S. 1731) granting an increase of pension to William O. Colson;

A bill (S. 1744) granting an increase of pension to Joseph B. Papy; and

A bill (H. R. 11324) granting an increase of pension to Sarah E. MacGowan.

VACANCY IN SMITHSONIAN BOARD OF REGENTS.

Mr. DRYDEN. I am directed by the Committee on the Library, to whom was referred the joint resolution (S. R. 28) to fill a vacancy in the Board of Regents of the Smithsonian Institution, to report it favorably without amendment. I call the attention of the Senator from Massachusetts [Mr. LODGE] to it.

Mr. LODGE. I ask that the joint resolution may have present consideration.

The VICE-PRESIDENT. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to fill the vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, by the reappointment of Richard Olney, a citizen of Massachusetts.

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

GRAND AND PETIT JURIES IN OKLAHOMA.

Mr. CLARK of Wyoming. I am instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. 5289) to provide for the selection of grand and petit jurors for the district courts in the Territory of Oklahoma, to report it favorably without amendment. In view of the immediate importance of the legislation requested, I ask unanimous consent for the consideration of the bill at this time.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The bill was read.

Mr. TELLER. Mr. President, I should like to know what bill it is that has been read. It is impossible to tell what is being read unless we have more order.

Mr. CLARK of Wyoming. I will explain in a moment the object of the bill. The circuit court of appeals has recently declared in effect that the law authorizing the drawing of jurors in Oklahoma is fatally defective; and there will be no meeting of the legislature of that Territory until a year from now. So the defects can not be cured by the Territory at this time, and the terms of the court are about coming on. This is a

House bill providing for the drawing of juries in the Territory of Oklahoma until such time as their legislature shall otherwise provide.

Mr. TELLER. I have no objection to the bill; but some time a bill passed in such confusion as oftentimes prevails in the Senate will be a bill that ought not to be passed. Nobody could tell from the reading of the pending bill what it contained. I suppose it has been reported by the Judiciary Committee.

Mr. CLARK of Wyoming. The Judiciary Committee of the Senate has submitted no written report to accompany the bill, but there was a written report submitted by the committee in the House of Representatives showing the facts of the case.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

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

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

BILLS INTRODUCED.

Mr. DEPEW introduced a bill (S. 4089) to place David Robertson, sergeant, first class, Hospital Corps, on the retired list of the United States Army; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

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

A bill (S. 4090) granting an increase of pension to Sydda B. Arnold; and

A bill (S. 4091) granting an increase of pension to Berthald Fernow.

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

A bill (S. 4092) granting an increase of pension to John Smith; and

A bill (S. 4093) granting an increase of pension to Lewis E. Kauffer (with accompanying papers).

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

A bill (S. 4094) to amend section 4426 of the Revised Statutes of the United States, regulation of motor boats; and

A bill (S. 4095) to establish a light and fog-signal station at or near Isle au Haut Harbor, Maine.

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

A bill (S. 4096) granting an increase of pension to Norman W. Lombard (with an accompanying paper); and

A bill (S. 4097) granting an increase of pension to Julius T. Williamson.

Mr. GALLINGER introduced a bill (S. 4098) for the relief of the estate of David Heller, deceased, and E. Mary Heller; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 4099) to license chimney sweeps in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 4100) granting an increase of pension to Carlton A. Wheeler; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FORAKER introduced a bill (S. 4101) granting an increase of pension to A. P. Middleton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DRYDEN introduced a bill (S. 4102) granting an increase of pension to John Broadwell; which was read twice by its title, and referred to the Committee on Pensions.

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

A bill (S. 4103) granting an increase of pension to John McGuire; and

A bill (S. 4104) granting an increase of pension to Robert H. John.

Mr. PENROSE introduced a bill (S. 4105) for the relief of the William Cramp & Sons Ship and Engine Building Company, of Philadelphia, Pa.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. DICK introduced a bill (S. 4106) granting an increase of pension to Katherine Wills; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LONG introduced a bill (S. 4107) for the establishment

of an additional recording district in Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. McCUMBER introduced a bill (S. 4108) granting an increase of pension to Martha M. Lambert; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WARREN introduced a bill (S. 4109) to increase the efficiency of the Bureau of Insular Affairs of the War Department; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GAMBLE introduced a bill (S. 4110) granting an increase of pension to Absalom Wilcox; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BULKELEY introduced a bill (S. 4111) to authorize the Chief of Ordnance, United States Army, to receive four 3.6-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Connecticut; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BURKETT introduced a bill (S. 4112) granting an increase of pension to H. M. Swigart; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 4113) granting an increase of pension to Dell E. Pert; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 4114) for the relief of the estate of Benjamin Downs, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. TALIAFERRO introduced a bill (S. 4115) to provide for sittings of the circuit and district courts of the southern district of Florida in the city of Miami, in said district; which was read twice by its title, with the accompanying papers, referred to the Committee on the Judiciary.

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

A bill (S. 4116) for the relief of the heirs of John S. Askin, Arthur Ipock, and John T. Ipock;

A bill (S. 4117) for the relief of the First Baptist Church, of Newbern, N. C.; and

A bill (S. 4118) for the relief of the heirs of D. W. Morton.

Mr. MONEY introduced a bill (S. 4119) granting a pension to Edith A. McCarteney; which was read twice by its title, and referred to the Committee on Pensions.

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

A bill (S. 4120) granting an increase of pension to Daniel Jones;

A bill (S. 4121) granting a pension to William A. Rives;

A bill (S. 4122) granting an increase of pension to Albert H. Jones (with accompanying paper); and

A bill (S. 4123) granting a pension to Henry C. Doll.

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

A bill (S. 4124) granting an increase of pension to Alden Fuller;

A bill (S. 4125) granting an increase of pension to Alphonzo L. Field;

A bill (S. 4126) granting an increase of pension to Willard Farrington; and

A bill (S. 4127) granting an increase of pension to Samuel D. Payne (with an accompanying paper).

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

A bill (S. 4128) permitting the building of a dam across the Red Lake River at or near the junction of Black River with said Red Lake River, in Red Lake County, Minn.; and

A bill (S. 4129) to regulate enlistments and punishments in the United States Revenue-Cutter Service.

Mr. CARTER introduced a bill (S. 4130) to authorize the Capital City Improvement Company, of Helena, Mont., to construct a dam across the Missouri River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BURROWS introduced a bill (S. 4131) granting an increase of pension to John Connor; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 4132) granting a pension to Maria A. Holloway; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. BRANDEGEE introduced a bill (S. 4133) granting an increase of pension to George Brewster; which was read twice by its title, and referred to the Committee on Pensions.

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

A bill (S. 4134) for the relief of the estate of Richard W. Aikin, deceased (with an accompanying paper);

A bill (S. 4135) for the relief of the legal representatives of S. A. Buckner; and

A bill (S. 4136) for the relief of the estate of Arthur F. Clift, deceased (with an accompanying paper).

Mr. BACON introduced a bill (S. 4137) granting a pension to Helen Augusta Mason Boynton; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced the following bills, which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 4138) for the relief of Jane Holbrook;

A bill (S. 4139) for the relief of the heirs of Benjamin F. Crowley, deceased;

A bill (S. 4140) for the relief of the heirs of Greenberry Backus, deceased;

A bill (S. 4141) for the relief of the heirs of Seaborn J. Burk, deceased;

A bill (S. 4142) for the relief of the heirs of J. S. Perkerson, deceased; and

A bill (S. 4143) for the relief of the heirs of William Kile, deceased.

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

A bill (S. 4144) granting a pension to Elizabeth Sadler;

A bill (S. 4145) granting an increase of pension to Nimrod T. Stoner; and

A bill (S. 4146) granting a pension to John W. Hall.

Mr. HOPKINS introduced a bill (S. 4147) to relieve Robert Stickles of the charge of desertion and to grant him an honorable discharge; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced a bill (S. 4148) authorizing the War Department to settle the account of Peter Casey, late captain Company H, Nineteenth Regiment Illinois Volunteers; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 4149) for the relief of occupants and owners of property at Camp Tyler, in Cook County, Ill.; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORGAN introduced a bill (S. 4150) for the relief of La Grange Military Academy; which was read twice by its title, and referred to the Committee on Claims.

AMENDMENTS TO BILLS.

Mr. TALIAFERRO submitted an amendment proposing to appropriate \$5,000 to conduct experiments looking to the protection of orange groves from infection and damage by the insect known as the "white fly," intended to be proposed by him to the agricultural appropriation bill; which was referred to the Committee on Agriculture and Forestry, and ordered to be printed.

Mr. DUBOIS submitted an amendment intended to be proposed by him to the bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States; which was ordered to lie on the table, and be printed.

Mr. PETTUS submitted an amendment intended to be proposed by him to the bill (S. 529) to promote the national defense, to create a force of naval volunteers, to establish American ocean mail lines to foreign markets, to promote commerce, and to provide revenue from tonnage; which was ordered to lie on the table, and be printed.

JOHN W. DAMPMAN—WITHDRAWAL OF PAPERS.

On motion of Mr. PENROSE, it was

Ordered, That leave be granted to withdraw from the files of the Senate the papers in the case of John W. Dampman, accompanying Senate bill 2571, Fifty-seventh Congress, first session, and Senate bill 5875, Fifty-sixth Congress, second session, copies of the same to be left in the files, as provided by clause 2 of Rule XXX.

CARS IN RAILWAY MAIL SERVICE.

Mr. TILLMAN. I send to the desk a resolution, for which I ask immediate consideration.

The resolution was read, as follows:

Resolved, That the Postmaster-General be instructed to send to the Senate information on the following points:

1. How many accidents involving loss of life or injury to postal clerks have occurred on the railways of the United States during each of the last five years, giving the number killed, seriously injured, and slightly injured.

2. How many postal cars are now in the service built wholly or partly of steel, and what is the percentage of such cars to the whole number in use.

3. Have any such cars built wholly or partly of steel been in wrecks since they have been in use, and what was the result to the occupants in loss of life or injury.

4. How many postal cars now in the service have been running more than ten years.

5. What is the cost of a postal car built according to the most approved type under the specifications of the Railway Mail Service, and how does it compare in price to the old type.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. TILLMAN. Mr. President, the resolution is self-explanatory, and it will only require probably a brief explanation as to why I introduce it.

I have noticed for years as a newspaper reader that whenever there is a wreck if there is anyone on the train injured it is almost invariably a postal clerk. Occasionally you find that the occupants of the postal car are the only ones injured, because the engineer and fireman, seeing the danger, have had the opportunity to jump, whereas the postal clerk, not knowing that anything was ahead, busy possibly, or else tired and sitting down, has his first notice of the trouble by the power which will knock his life out or break his limbs or injure him otherwise.

In reading the report of the Superintendent of the Railway Mail Service my attention was directed to the fact that there are now being substituted cars built partly of steel, which are of such a character as not to be telescoped at all, something along the line of the Pullman car, and it has occurred to me it would be a good thing to have the information, that we might determine whether or not it is not due these important and hard-working servants of the people who handle our mails on the railway post-offices to hurry up the substitution of life-saving cars in place of the rattletrap affairs now being run on the roads.

That is all the object I had in introducing the resolution.

Mr. ALLISON. I suggest to the Senator that he use the word "directed" instead of "instructed."

Mr. TILLMAN. I am perfectly willing. They are words so nearly alike that if one suits the Senator from Iowa better than the other I am perfectly willing.

Mr. ALLISON. We have a form which is usually adopted, although either word would be perfectly proper.

Mr. TILLMAN. Very well; insert the word "directed" instead of "instructed." It is entirely immaterial to me.

The VICE-PRESIDENT. The resolution will be modified as suggested.

Mr. KEAN. Let the resolution be again read.

The Secretary again read the resolution.

Mr. TILLMAN. It has been suggested to me by a brother Senator that it might be well to amend the resolution by inquiring the relative age of all the postal cars. I understand some of them have been running thirty years.

The VICE-PRESIDENT. Does the Senator wish to modify his resolution?

Mr. TILLMAN. I should like to have it amended so as to get that information in addition to the rest. Let us get it all.

The VICE-PRESIDENT. If the Senator will state the modification he desires, it will be read from the desk.

Mr. TILLMAN. The clerks can incorporate it at the proper point. Just simply add, after "running more than ten years," the words "and state the length of service such cars have had."

The VICE-PRESIDENT. The resolution will be so modified. The question is on agreeing to the resolution as modified.

The resolution as modified was agreed to.

DEMOCRATIC CAUCUS ACTION.

Mr. PATTERSON. Mr. President, I offer a resolution, which I send to the desk.

The VICE-PRESIDENT. The resolution will be read for the information of the Senate.

The resolution was read, as follows:

Whereas the Constitution of the United States provides that "the Senate of the United States shall be composed of two Senators from each State, chosen by the legislatures thereof," and that "each Senator shall have one vote;" and

Whereas each Senator, before assuming the duties of his office, is required to solemnly swear or affirm that he "will support and defend the Constitution of the United States, and that he will faithfully discharge the duties of the office upon which he is about to enter;" and

Whereas, because it was currently reported that one or more Democratic Senators might vote upon certain matters pending before the Senate contrary to the views of a majority of the body of Democratic

Senators, the Democratic Senators were called to caucus upon such matters; and

Whereas it was found at such caucus that said reports were correct, and that certain Democratic Senators might or would vote contrary to the views of said majority; and

Whereas thereupon the following resolutions were presented and adopted by more than two-thirds of the Senators present at said caucus:

Resolved, That the Senate ought not to advise and consent to the treaty between the United States and the Republic of Santo Domingo, now pending before the Senate.

Resolved, That if two-thirds of this caucus shall vote in favor of the foregoing resolution it shall be the duty of every Democratic Senator to vote against the ratification of the said treaty; and

Whereas the apparent purpose of said resolutions and action was to improperly induce or coerce Democratic Senators who might believe that the best interests of the country required the ratification of said treaty, and because thereof held it to be their duty to vote for its ratification, into disregarding that part of their oaths in which they declared that they would faithfully discharge the duties of the office of Senator: Therefore, be it

Resolved, First. That such action by the said or any other caucus is in plain violation of the spirit and intent of the Constitution of the United States.

Second. That for two-thirds or any other number of the Senators of any party to meet and declare that "it shall be the duty" of any Senator to vote upon any question other than as his own convictions impel him is a plain violation of the manifest intent and spirit of the Constitution all have sworn to uphold and defend.

Third. That the "one vote" the Constitution declares each Senator shall have is his own vote and not the vote of any other or of any number of other Senators, and for a Senator to cast that "one vote" against his convictions of right and duty in the premises is to disfranchise his State in the Senate and to deprive it of the representation in that body the Constitution provides it shall have.

Fourth. That when any number of Senators by combination or otherwise undertake, through any species of coercion, to induce other Senators to vote except as their judgments and consciences tell them, it is an invasion of the rights of a State to equal representation with other States in the Senate, and is subversive of their rights to equal representation and the votes of its Senators in the Senate that the Constitution has provided for.

Fifth. That the Senator who permits any body of other Senators to declare and define for him what his duty is in the matter of his vote in the Senate, and who casts his vote in response to such interference, votes not as a Senator from his own State, but as a Senator from the other States, and he augments the power of the other States beyond that permitted by the Constitution and weakens and degrades the power of his own State in the Senate, in violation of the spirit of the Constitution.

Sixth. That for any Senator to vote except as his judgment and sense of duty under his oath of office requires is to degrade the high office of Senator and to assail the dignity and standing of the Senate of the United States—qualities possessed in such high degree by no other legislative body in the world.

Mr. PATTERSON and Mr. TILLMAN addressed the Chair.

The VICE-PRESIDENT. The Senator from Colorado [Mr. PATTERSON] is recognized. Does he yield to the Senator from South Carolina?

Mr. TILLMAN. I merely want to know what is the parliamentary status. Is it a question of personal privilege?

Mr. PATTERSON. No; it is a resolution.

Mr. TILLMAN. Then I object to its consideration this morning, Mr. President.

The VICE-PRESIDENT. The Senator from South Carolina objects to the present consideration of the resolution.

Mr. PATTERSON. Mr. President, I have had no idea of asking for its consideration this morning. It is a resolution that will not be hurt by standing over, and I ask that it lie over until to-morrow, when, at the close of the morning business, I shall address the Senate upon it.

The VICE-PRESIDENT. The resolution will lie over.

GEOLOGY AND RESOURCES OF SHOSHONE RESERVATION.

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

Resolved, That the Secretary of the Interior be directed to furnish to the Senate such information relating to the geology and the natural resources of that portion of the Shoshone Reservation which is to be opened for settlement in July, 1906, as may be in the possession of the Geological Survey.

HOUSE BILL REFERRED.

H. R. 8107. An act extending the public-land laws to certain lands in Wyoming was read twice by its title, and referred to the Committee on Public Lands.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had, on the 26th ultimo, approved and signed the act (S. 2159) authorizing the Jasper and Eastern Railway Company, its successors and assigns, to construct and operate a railroad bridge across the Sabine River, in the States of Texas and Louisiana.

The message also announced that the President of the United States had, on the 27th ultimo, approved and signed the act (S. 321) to provide for the extension of time within which homestead settlers may establish their residence upon certain lands which were heretofore a part of the Uinta Indian Reservation, within the counties of Uinta and Wasatch, in the State of Utah.

CONSIDERATION OF THE CALENDAR.

The VICE-PRESIDENT. If there be no further concurrent or other resolutions, the morning business is closed, and the Calendar, under Rule VIII, is in order.

The bill (S. 2165) extending the provisions of the pension laws of the United States to persons engaged in the operation and construction of military telegraph lines during the war of the rebellion was announced as first in order on the Calendar.

Mr. McCUMBER. I ask that that bill may go over, retaining its place on the Calendar.

The VICE-PRESIDENT. The bill will go over, retaining its place.

Mr. WARREN. Mr. President, as we are on the Calendar, I ask that the Senate now proceed to the consideration of Order of Business 16, being the bill (S. 1539) to increase the efficiency of the Medical Department of the United States Army, which has been heretofore read.

Mr. LODGE. Why not go through the Calendar regularly? It is very short.

The VICE-PRESIDENT. The bill referred to by the Senator from Wyoming [Mr. WARREN] was passed over under objection the other day without prejudice. Is there objection to its consideration at this time?

Mr. LODGE. Why should we not follow the regular order and go through the Calendar in order?

The VICE-PRESIDENT. There is objection to the request.

Mr. LODGE. I think we had better proceed with the Calendar in regular order.

IMPORTATION OF UNWHOLESMOME TEA.

The bill (S. 1548) to amend an act entitled "An act to prevent the importations of impure and unwholesome tea," approved March 2, 1897, was announced as next in order.

The VICE-PRESIDENT. The bill has been heretofore read.

Mr. KEAN. The Senator from Missouri [Mr. STONE] is interested in that bill. I do not see him present, and therefore I suggest that the bill go over.

The VICE-PRESIDENT. The bill will go over without prejudice.

PURE-FOOD BILL.

The bill (S. 88) for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes, was announced as next in order.

Mr. McCUMBER. I ask that that bill may go over without prejudice, retaining its place.

The VICE-PRESIDENT. The bill will go over, retaining its place on the Calendar.

GEORGETOWN HEIGHTS PARK.

The bill (S. 54) to provide a public park on Georgetown Heights, in the District of Columbia, was considered as in Committee of the Whole.

Mr. GALLINGER. I have some amendments which I desire to offer to the bill. In section 1, page 1, line 4, after the word "acquire," I move to insert "for a park."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. In section 1, page 1, line 4, after the word "acquire," it is proposed to insert "for a park;" so as to make the section read:

That the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to acquire for a park, by purchase or condemnation, the tract of land known as Montrose, lying immediately north of Road or U street and east of Lovers lane, on Georgetown Heights, containing 16 acres, more or less, at an expense not exceeding \$150,000; and for that purpose the sum of \$150,000 is hereby appropriated, payable one-half out of the revenues of the District of Columbia and one-half out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. GALLINGER. I now move to strike out section 2 of the bill and to insert what I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to strike out section 2 of the bill, as follows:

SEC. 2. That said tract of land when acquired shall be forever held and used as a park for the recreation and pleasure of the people.

And in lieu thereof to insert:

SEC. 2. That if the Commissioners of the District of Columbia can not purchase said tract of land at the price hereinbefore stated they are hereby authorized and directed to institute in the supreme court of the District of Columbia, sitting as a district court, by petition, particularly describing the lands to be taken, a proceeding in rem to condemn the land that may be necessary for said park.

SEC. 3. That of the amount found to be due and awarded as damages for and in respect of the land condemned for the said park as herein provided, such amount thereof shall be assessed by the jury hereinafter provided as benefits, and to the extent of such benefits, against those pieces or parcels of land abutting on said park and also on any

or all pieces or parcels of land which will be benefited by the said park as said jury may find said pieces or parcels of land will be benefited; and in determining the amounts to be assessed against said pieces or parcels of land the jury shall take into consideration the respective situations of such pieces or parcels of land and the benefits they may severally receive from said park as aforesaid: *Provided*, That if the aggregate amount of the benefits to be assessed, as determined by said jury pursuant to the provisions hereof, is less than one-half of the amount of damages awarded for and in respect of the land condemned, the Commissioners of the District of Columbia may, in their discretion, reject the award and assessment of said jury, and all proceedings hereunder shall be null and void.

SEC. 4. That the said court shall cause public notice of not less than ten days to be given of the filing of said proceedings, by advertisement, in such manner as the court shall prescribe, which notice shall warn all persons having any interest in the proceedings to attend court at a day to be named in said notice and to continue in attendance until the court shall have made its final order ratifying and confirming the award of damages and assessment of benefits of the jury; and in addition to such public notice said court, whenever in its judgment it is practicable to do so, may cause a copy of said notice to be served by the marshal of the District of Columbia, or his deputies, upon such owners of the land to be condemned as may be found by said marshal or his deputies within the District of Columbia.

SEC. 5. That after the return of the marshal and the filing of proof of publication of the notice provided for in the preceding section, said court shall cause a jury of seven judicious, disinterested men, not related to any person interested in the proceedings, and not in the service or employment of the District of Columbia or of the United States, to be summoned by the marshal of the District of Columbia, to which jurors said court shall administer an oath or affirmation that they are not interested in any manner in the land to be condemned nor are in any way related to the parties interested therein, and that they will, without favor or partiality, to the best of their judgment, assess the damages each owner of land taken may sustain by reason of the acquisition of said park and the condemnation of lands for the purposes of said park and assess the benefits resulting therefrom as hereinbefore provided. The court, before accepting the jury, shall hear any objections that may be made to any member thereof, and shall have full power to decide upon all such objections and to excuse any juror or cause any vacancy in the jury, when empaneled, to be filled; and after said jury shall have been organized and shall have viewed the premises, said jury shall proceed, in the presence of the court, if the court shall so direct, or otherwise, as the court may direct, to hear and receive such evidence as may be offered or submitted on behalf of the District of Columbia and by any person or persons having any interest in the proceedings for the acquisition of said park.

When the hearing is concluded, the jury, or a majority of them, shall return to said court, in writing, its verdict of the amount to be found due and payable as damages sustained by reason of the acquisition of said park under the provisions thereof, and of the pieces or parcels of land benefited by such park and the amount of the assessment for such benefits against the same.

SEC. 6. That if the use of a part only of any piece or parcel of ground shall be condemned, the jury, in determining its value, shall not take into consideration any benefits that may accrue to the remainder thereof from the establishment of said park, but such benefits shall be considered in determining what assessment shall be made on or against such part of such piece or parcel of land as may not be taken as hereinbefore provided.

SEC. 7. That the court shall have power to hear and determine any objections which may be filed to said verdict or award, and to set aside and vacate the same, in whole or in part, when satisfied that it is unjust or unreasonable, and in such event a new jury shall be summoned, who shall proceed to assess the damages or benefits, as the case may be, in respect of the land as to which the verdict may be vacated, as in the case of the first jury: *Provided*, That if vacated in part, the residue of the verdict and award as to the land condemned or assessed shall not be affected thereby: *And provided further*, That the exceptions or objections to the verdict or award shall be filed within thirty days after the return of such verdict and award.

SEC. 8. That when the verdict of said jury shall have been finally ratified and confirmed by the court, as herein provided, the amounts of money awarded and adjudged to be payable for lands taken under the provisions hereof shall be paid to the owners of said land by the disbursing officer of the District of Columbia from moneys advanced to him by the Secretary of the Treasury upon requisitions of the Commissioners of said District, as provided by law; and a sufficient sum to pay the amounts of said judgments and awards is hereby appropriated, one half from the revenues of the District of Columbia and the other half out of any moneys in the United States Treasury not otherwise appropriated.

SEC. 9. That when confirmed by the court the several assessments herein provided to be made shall severally be a lien upon the land assessed, and shall be collected as special-improvement taxes in the District of Columbia, and shall be payable in five equal annual installments, with interest at the rate of 4 per cent per annum from and after sixty days after the confirmation of the verdict and award. In all cases of payments, the accounting officers shall take into account the assessment for benefits and the award for damages, and shall pay only such part of said award in respect of any lot as may be in excess of the assessment for benefits against the part of such lot not taken, and there shall be credited on said assessment the amount of said award not in excess of said assessment. That said court may allow amendments in form or substance in any petition, process, record, or proceeding, or in the description of property proposed to be taken, or of property assessed for benefits, whenever such amendments will not interfere with the substantial rights of the parties interested.

SEC. 10. That each juror shall receive as compensation the sum of \$5 per day for his services during the time he shall be actually engaged in such services under the provisions hereof.

SEC. 11. That the sum of \$300 is hereby appropriated to provide the necessary funds for the costs and expenses of the condemnation proceedings taken pursuant hereto, one half payable from the revenues of the District of Columbia and the other half out of any money in the United States Treasury not otherwise appropriated.

SEC. 12. That no appeal by any interested party from the decision of the supreme court of the District of Columbia confirming the assessment or assessments of benefits or damages herein provided for, nor any other proceeding at law or in equity by such party against the confirmation of such assessment or assessments, shall delay or prevent the payment of awards to others in respect to the property condemned, nor delay or prevent the taking of any of said property, sought to be con-

demned, nor the opening of such park: *Provided, however*, That upon the final determination of said appeal or other proceeding at law or in equity, the amount found to be due and payable as damages sustained by reason of the acquisition of said park under the provisions hereof shall be paid as hereinbefore provided.

SEC. 13. That said tract of land when acquired shall be forever held and used as a park for the recreation and pleasure of the people.

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.

MEDICAL DEPARTMENT OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1539) to increase the efficiency of the Medical Department of the United States Army.

The VICE-PRESIDENT. This bill was considered as in Committee of the Whole on the 25th of January, and then read in full.

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

AFFAIRS OF MOROCCO.

The resolution submitted by Mr. BACON January 8, 1906, requesting the President to furnish the Senate with copies of papers relating to the holding of a conference on matters relating to Morocco, etc., was announced as next in order.

Mr. LODGE. Let that go over, Mr. President.

The VICE-PRESIDENT. The resolution will go over, retaining its place on the Calendar.

BILLS PASSED OVER.

The bill (S. 577) granting to the State of Idaho 50,000 acres of land to aid in the continuation, enlargement, and maintenance of the Idaho State Soldiers and Sailors' Home was announced as next in order.

Mr. ALLISON. I ask that that bill may go over without losing its place on the Calendar.

The VICE-PRESIDENT. The bill will go over without losing its place on the Calendar. The next bill on the Calendar, being the bill S. 608, granting to the State of Wyoming 50,000 acres of land to aid in the continuation, enlargement, and maintenance of the Wyoming State Soldiers and Sailors' Home, is of the same character and will go over, retaining its place on the Calendar.

FRENCH TRANSATLANTIC CABLE COMPANY.

The bill (S. 2872) for the relief of the French Trans-Atlantic Cable Company was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to the French Trans-Atlantic Cable Company \$77,712 for expenses incurred in repairing the company's cables and property damaged by the United States military forces in 1898, during the war between the United States and Spain.

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

PUBLIC LANDS ACCOUNTS.

The bill (S. 311) regulating the settlement of the accounts between the United States and the several States relative to the disposition of the public lands, and for other purposes, was announced as next in order.

Mr. KEAN. That seems to be rather an elaborate bill, Mr. President, and I suggest that it had better go over.

The VICE-PRESIDENT. Under objection, the bill will go over.

Mr. GAMBLE. I ask that it may retain its place on the Calendar.

The VICE-PRESIDENT. The bill will retain its place on the Calendar.

AGREEMENT WITH KLAMATH INDIANS.

The bill (S. 1794) to ratify an agreement with the Indians of the Klamath Indian Reservation, in Oregon, and making appropriations to carry the same into effect, was announced as next in order.

Mr. LODGE. I ask that that bill may go over.

The VICE-PRESIDENT. The bill will go over.

EXPENSES OF TRIAL OF INDIANS.

The bill (S. 2783) to repeal section 11 of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1890, and for other purposes," was considered as in Committee of the Whole.

Mr. KEAN. What is the act which is referred to?

Mr. LODGE. I ask that the report may be read, Mr. President. That will explain the matter fully, I presume.

The VICE-PRESIDENT. The report will be read at the request of the Senator from Massachusetts.

The Secretary read the report submitted by Mr. CLAPP January 15, 1906, as follows:

The Committee on Indian Affairs, to which was referred the bill S. 2783, having considered the same, recommends its passage without amendment.

In support of the foregoing recommendation the committee transmits the following letter from the Attorney-General, which is made a part hereof:

DEPARTMENT OF JUSTICE,
Washington, December 4, 1905.

SIR: Herewith inclosed is a draft of a proposed bill to repeal section 11 of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1890, and for other purposes."

By section 9 of the act "making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1886, and for other purposes," Indians committing certain offenses within the Territories or within a State became subject to the laws of the Territory or the State, as the case might be.

Under section 11 of the above-mentioned act, making appropriations for the fiscal year ending June 30, 1890, the expenses incident to the trial of Indians under the provisions of said section 9 became payable by the United States.

An early repeal of said section 11 is strongly recommended. This Department, as well as the accounting officers of the Treasury, have had very unsatisfactory experiences with the accounts of expenses incurred by Territorial or county officers under the provisions of said section. Such officers are in no way under the control of this Department or of the officers of the United States. The accounts rendered have been in very unsatisfactory form, and are frequently rendered years after the expenses were incurred, so that the appropriations from which the expenses would have been paid if the accounts had been promptly rendered have been covered into the Treasury. The expenses charged against the United States in such cases have been unnecessarily large. Furthermore, expenses which should be paid by the Territory may be charged against the United States, or the same expenses may be charged both against the Territory or a county thereof and against the United States. It is insisted, as a general rule, that expenses which can not be controlled by the United States or by its officers should not be paid by the United States.

Respectfully,

WILLIAM H. MOODY,
Attorney-General.

THE PRESIDENT OF THE SENATE.

Mr. LODGE. Mr. President, I think the bill is a very proper one and that it ought to pass; but its language ought to be amended. It now reads:

That section 11 of the act above mentioned be, and the same is hereby, repealed.

But the act is only mentioned in the title of the bill. The bill ought to read:

That section 11 of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1890, and for other purposes," be, and the same is hereby, repealed.

I move to amend the bill by making it read in that way.

The VICE-PRESIDENT. The question is on the amendment submitted by the Senator from Massachusetts.

The amendment was agreed to.

Mr. ALLISON. If I understood the reading of the report, there seems to be a difference as to date of the act therein named and the act referred to in the bill.

Mr. GAMBLE. If there be any objection to the bill, perhaps it had better be passed over without prejudice, as the chairman of the committee is not at present in the Chamber, and we can return to it later.

Mr. LODGE. I think the bill is all right, Mr. President, as it has been amended.

Mr. CLAPP. As I have just entered the Chamber, may I ask what is the nature of the amendment which has been agreed to?

Mr. LODGE. The language of the bill refers to "the act above mentioned" without stating what the act is. The amendment which has been agreed to simply recites the description in the body of the bill which is contained in the title.

Mr. CLAPP. That is right.

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.

PAY DIRECTOR E. B. ROGERS.

The bill (S. 2262) for the relief of Pay Director E. B. Rogers, United States Navy, was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to E. B. Rogers, pay director, United States Navy, \$1,000, to be in full for all losses of personal property incurred by him by reason of the destruction by fire of the Windsor House, at Yokohama, Japan, on the morning of February 8, 1886.

The bill was reported to the Senate without amendment, or-

dered to be engrossed for a third reading, read the third time, and passed.

MEDALS OF HONOR TO NAVY AND MARINE CORPS.

The bill (S. 697) providing for the award of medals of honor to certain officers and men of the Navy and Marine Corps was announced as next in order.

Mr. TELLER. Mr. President, I do not know whether I correctly understood the reading of that bill, but, if I understood it, the bill provides for the issuing of medals to those who have served with merit otherwise than in battle. Is that the fact?

Mr. LODGE. Yes.

Mr. TELLER. I should like some one to tell me what the character of the service would be?

The VICE-PRESIDENT. A report accompanies the bill.

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

Mr. TELLER. I should like to hear the report read.

The VICE-PRESIDENT. The report will be read. The Secretary read the report submitted by Mr. BURROWS January 16, 1906, as follows:

The Committee on Naval Affairs, to whom was referred the bill (S. 697) providing for the award of medals of honor to certain officers and men of the Navy and Marine Corps, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Navy Department, as will appear by the following communication:

NAVY DEPARTMENT,
Washington, December 5, 1905.

SIR: On January 28, 1905, at the suggestion of the Admiral of the Navy, this Department transmitted the draft of a measure providing for the awarding of medals of honor to officers and men of the Navy and Marine Corps who, by special acts of valor or by conspicuous gallantry or merit, may deserve such recognition. This measure was introduced by you January 31, 1905, as S. 6970, and, it is understood, was passed by the Senate (February 8, 1905), although it was not acted upon by the House.

Under the provisions of the act of July 12, 1862, as amended by the act of March 3, 1863 (12 Stat. L. pp. 623, 624, and 751), medals of honor are awarded to officers, noncommissioned officers, and privates in the Army. By section 1407 of the Revised Statutes and the act of March 3, 1901 (31 Stat. L. p. 1099), it is provided that enlisted men of the Navy may be given medals for gallantry. There is, however, no general statute authorizing the bestowal of medals of honor on officers of the Navy.

Appreciating the appropriateness and the justice of the suggestion made by the Admiral of the Navy that this omission, which does not appear to have been the result of any legislative intent, be corrected, the attention of the committee is again invited to this measure with a view to its favorable consideration at the present session.

Very respectfully,

CHARLES J. BONAPARTE, Secretary.

HON. EUGENE HALE,
Chairman Committee on Naval Affairs, United States Senate.

A like bill passed the Senate in the Fifty-eighth Congress.

Mr. TELLER. We are proceeding under the five-minute rule, and as I think the bill is of some importance, I shall object to it.

The VICE-PRESIDENT. Under objection, the bill will go over, retaining its place on the Calendar.

EXISTING STATUS IN SANTO DOMINGO.

Senate resolution No. 39, requesting the President to give information to the Senate regarding the existing status in Santo Domingo, etc., was announced as the next business in order on the Calendar.

Mr. LODGE. I ask that the resolution may go over.

The VICE-PRESIDENT. The resolution will go over.

CONTRACTS WITH THE DISTRICT OF COLUMBIA.

The bill (S. 69) regulating the retent on contracts with the District of Columbia was announced as the next business in order on the Calendar.

Mr. GAMBLE. I ask that the bill may go over without prejudice.

The VICE-PRESIDENT. The bill will go over without prejudice, retaining its place on the Calendar.

STATEHOOD BILL.

The bill (H. R. 12707) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, was announced as the next business in order on the Calendar.

Mr. LODGE. Let the bill go over.

The VICE-PRESIDENT. Under objection, the bill will go over, retaining its place on the Calendar.

Mr. FORAKER subsequently said: Has Calendar No. 411 been reached? I have been sitting here very patiently listening

The VICE-PRESIDENT. The statehood bill was reached and passed over under objection.

Mr. FORAKER. It was reached on the Calendar, and I think it is due to all interested in the measure to know what is desired, especially as to the time of taking a vote.

Mr. BEVERIDGE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. FORAKER. I merely wish to say one thing. I was sitting here listening for the call of the Clerk, and I did not hear the bill called at all.

Mr. BEVERIDGE. So was I.

Mr. FORAKER. Did the Senator from Indiana hear it?

Mr. BEVERIDGE. I did not, and I was not apprised of it, and that is the reason why I immediately called the Senator's attention to the fact that it—

Mr. FORAKER. Who did hear? I want to know who did hear?

Mr. LODGE. I heard it, and I objected.

Mr. GALLINGER. I heard it, and I shall object now, if necessary.

Mr. BEVERIDGE. I had expected that the bill would be taken up to-day and read, and then I expected to prefer a request that a time be fixed, any reasonable date in the future, for a vote on the bill.

Mr. LODGE. It is out of the question to fix a time now for a vote on that bill.

Mr. GALLINGER. Before we discuss it.

Mr. FORAKER. I only want to say that I have no objection to the Senator from Indiana being allowed a certain date on which to take a vote on this measure.

Mr. BEVERIDGE. That is what I have understood.

Mr. FORAKER. I do not want to be put in the attitude of obstructing the measure. Newspaper articles are being sent to me—I received one yesterday—to the effect that I am going to resort to every kind of obstructive tactics to defeat the measure. I never did resort to obstructive tactics to defeat any measure.

Mr. BEVERIDGE. I am sure—

Mr. FORAKER. All that I have wanted, since this bill is where it might be regularly reached, is that it might be considered to such extent as Senators desire to consider it. I do not know that I will take occasion to say anything at all on the subject. That depends upon what may be said on the other side. I am opposed to the measure as it passed the House. I have presented some amendments which at the proper time I wish to offer. It would be some relief if we knew when the Senate will vote on it, because we could then put it aside until that time. I wish to have it understood that I do not want to delay an hour the vote on the bill at any time.

Mr. BEVERIDGE. As I said, it was my expectation when the bill was reached on the Calendar to-day to ask that it be read for to-day at least. I had understood that no objection could prevail against the mere reading of the bill when it was reached on the Calendar, and that much, then, would have been out of the way.

Mr. FORAKER. Yes.

The VICE-PRESIDENT. The Chair will say to the Senator from Indiana that the bill was reached in the regular order.

Mr. BEVERIDGE. Yes; I understand that.

The VICE-PRESIDENT. It was distinctly reported by the Secretary, and objection was interposed by the Senator from Massachusetts [Mr. LODGE].

The rule permits objection to be made under such circumstances. By Rule VIII, under which the Senate is proceeding, it is provided that—

At the conclusion of the morning business for each day, unless, upon motion, the Senate at any time otherwise order, the Senate will proceed to the consideration of the Calendar of bills and resolutions, and continue such consideration until 2 o'clock; and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, upon any question; and the objection may be interposed at any stage of the proceedings.

Mr. BEVERIDGE. I understand how the bill was reached and how it was disposed of. I have no complaint of the rule or of its disposition thereunder. Both the Senator from Ohio and I chanced to be engaged in conversation and did not hear the bill called. I thought there were two or three bills yet remaining before it would come up. I do not understand that the rule which the Chair has read, with which I was more or less familiar, precludes the mere reading of the bill when reached on the Calendar.

I wish to state further that after reading the bill I was then going to ask the Senate if a day in the future, near or remote, could not be agreed upon for the final disposition of the measure; and I had been assured that perhaps there would be no objection to that request. But since there is, the incident for to-day, I suppose, is closed.

Mr. LODGE. I merely wish to say the rule is absolutely clear. Objection can be interposed at any stage, before the reading or after the reading. I interposed the objection before the reading because I was certain that the bill could not be disposed of now, and to take the time necessary to read so long a bill would simply interfere with the passage of other and unobjection bills which could be disposed of in the morning hour.

Mr. BEVERIDGE. That is all right.

Mr. LODGE. I desire to say one word further. As the Senator from Indiana is well aware, I am in favor of his bill as it stands—thoroughly in favor of it—but it is impossible to take up a bill of that kind, which is disputed and will lead to debate, and agree upon a time to vote on it when we have not yet even made it the unfinished business—when it has never even been taken up by the Senate. It seems to me we must dispose of these things in order.

Mr. FORAKER. I am perfectly familiar with the rule, and nobody is quarreling with the rule, but it is the general practice of the Senate that the Senator who is known to have a measure in charge will ask that it go over, if he so desires, and that other Senators will await his pleasure to make that request.

Mr. GALLINGER. Oh, no.

Mr. FORAKER. I mean wait until he has had an opportunity when the case is reached on the call of the Calendar.

The Senator from Indiana says I was engaged in conversation at that time, and so was he; and I am reminded by that of an incident which I do not want to apply to this case, but I can not refrain from telling about it. I have had my pocket picked but once, and after it was done I recalled that somebody engaged me in conversation just at that moment. [Laughter.]

I only want to take advantage of the opportunity to let it be known to Senators and everybody else that I have no disposition either to obstruct this measure or to hurry it. I am perfectly willing that the Senator from Indiana shall have a convenient time in which to bring it before the Senate. If he wants to debate it, well and good. If he does not, and wants a vote, and will ask for it, I shall be willing, so far as I am concerned, to comply with his request to vote to-day, to-morrow, or any other time, as soon as he pleases.

Mr. BEVERIDGE. There was no disposition to prefer an unusual request to the Senate, but there was and is a disposition to ask for the disposition of the measure at as early a date as practicable, and, of course, that was done only after consultation and assurance that no objection would be interposed to fixing a date for a vote upon the bill. Since objection is made to its consideration and it has gone over, of course I will not prefer the request at this time, although I am very anxious to have a vote on the bill at an early day.

PENSIONS TO MILITARY TELEGRAPH EMPLOYEES.

The bill (S. 2165) extending the provisions of the pension laws of the United States to persons engaged in the operation and construction of military telegraph lines during the war of the rebellion was announced as the next business in order on the Calendar.

Mr. KEAN. Let the bill go over.

Mr. SCOTT. I had intended to take this opportunity to submit a few remarks on the bill.

The VICE-PRESIDENT. Under objection, the bill will go over, retaining its place on the Calendar.

ARMY DENTAL SURGEONS.

The bill (S. 2355) to regulate the corps of dental surgeons attached to the Medical Department of the Army was announced as the next business in order on the Calendar.

Mr. ALLISON. Let the bill go over.

The VICE-PRESIDENT. Under objection, the bill will go over, retaining its place on the Calendar.

Mr. PETTUS subsequently said: The senior Senator from Iowa [Mr. ALLISON] has withdrawn his objection to Senate bill 2355.

Mr. ALLISON. I withdraw the objection I made a few moments ago.

Mr. PETTUS. I ask for the present consideration of the bill. Bills on the line of this one have been approved by every Surgeon-General of the Army for the last nine years. The bill has had the unanimous sanction of the Committee on Military Affairs, so far as I have heard. I will say that this is one of the most modest bills that I have seen introduced in the Senate. The whole idea in the bill is to give rank to the men of this learned profession in the Army, and it is very modest rank at that.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

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

Mr. KEAN. I ask the Senator from Alabama what is the highest rank that a dental surgeon will receive under the bill?

Mr. PETTUS. The highest rank is major.

Mr. KEAN. From lieutenant up to major?

Mr. PETTUS. There is one major to start with, and captains and lieutenants. That is all the rank they receive. It is all subject to the Surgeon-General of the Army.

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

INDIAN LANDS IN WISCONSIN.

The bill (S. 2787) to amend the act of Congress approved February 11, 1901, entitled "An act providing for allotments of lands in severalty to the Indians of the La Pointe, or Bad River, Reservation in the State of Wisconsin" was announced as the next business in order on the Calendar.

Mr. GAMBLE. When this bill was reached on Friday the senior Senator from Wisconsin [Mr. SPOONER] asked that it go over, and I suggest, as he is not present, that it and the next, being the bill (S. 2788) to enable the Indians on the La Pointe, or Bad River, Reservation to obtain title to the lots occupied by them in the village of Odanah, Wis., and to have said village surveyed, and for other purposes, go over, retaining their places on the Calendar.

The VICE-PRESIDENT. The bills indicated will go over without prejudice, retaining their places on the Calendar.

ADDITIONAL RECORDING DISTRICTS IN INDIAN TERRITORY.

The bill (S. 134) establishing an additional recording district in Indian Territory was considered as in Committee of the Whole. It proposes that in addition to the places now provided by law for holding courts in the central judicial district of Indian Territory, terms of the district court of the central district shall hereafter be held at the town of Wilburton, and the United States judge of the central district is authorized to establish by metes and bounds a recording district for that court.

Mr. KEAN. Let the report in this case be read, because I see right after it comes another bill for an additional recording district.

Mr. LODGE. It is at another place.

Mr. McCUMBER. The bill provides for two recording districts upon the request of the judge of the United States court there. I do not know that there is any lengthy report with the bill this year. A similar bill passed the Senate during the last session. Both of those bills, in fact, passed the Senate.

Mr. KEAN. I have no objection to the bill. I only wanted to know the reason why so many recording districts were being created in the Indian Territory.

The VICE-PRESIDENT. Does the Senator from New Jersey withdraw his request for the reading of the report?

Mr. KEAN. I withdraw the request, as the Senator has made a statement on the subject.

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

The bill (S. 1669) for the establishment of an additional recording district in the Indian Territory, and for other purposes, was considered as in the Committee of the Whole. It proposes to create in the Cherokee Nation, Indian Territory, an additional recording district to be known as district No. 27.

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

WILLIAM A. HAMMOND.

The bill (S. 200) to amend an act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army," was announced as the next business in order on the Calendar.

Mr. KEAN. Let the bill go over.

The VICE-PRESIDENT. The bill will go over, retaining its place on the Calendar.

ROBERT W. CALDWELL.

The bill (S. 2625) for the relief of Robert W. Caldwell, First Regiment Ohio Heavy Artillery Volunteers, was considered as in Committee of the Whole. It authorizes the Secretary of War to revoke the order dismissing Robert W. Caldwell from the military service of the United States as a major of the First Regiment of Ohio Heavy Artillery Volunteers, and to issue to him an honorable discharge as of the date of that order.

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

ISSUE OF WARRANTS BY JUSTICES OF THE PEACE.

The bill (H. R. 120) to amend section 9 of the Code of Law for the District of Columbia was announced as the next business in order on the Calendar.

Mr. GAMBLE. Let the bill go over without prejudice, retaining its place on the Calendar.

The VICE-PRESIDENT. At the request of the Senator from South Dakota, the bill will go over without prejudice, retaining its place on the Calendar.

CONDEMNED CANNON FOR UNIVERSITY OF SOUTH DAKOTA.

The joint resolution (S. R. 12) authorizing the Secretary of War to furnish a condemned cannon to the board of regents of the University of South Dakota, at Vermillion, S. Dak., to be placed on the campus of said institution as a memorial to students of said university who served in the Spanish-American war was considered as in Committee of the Whole.

The joint resolution was reported from the Committee on Military Affairs with an amendment, to add at the end the following proviso:

Provided, That the donation shall be without expense to the United States.

The amendment was agreed to.

Mr. TELLER. I move to strike out the words, beginning in line 9, "as a memorial to the former students of the university who served in the Army and Navy of the United States during the war with Spain." The cannon is to be left there for all time, and there is certainly no necessity to put those words in the joint resolution.

Mr. GAMBLE. Mr. President, I have no objection to the amendment. I simply followed the form used in other joint resolutions of this character.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Colorado.

The amendment was agreed to.

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

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

The title was amended so as to read: "A joint resolution authorizing the Secretary of War to furnish a condemned cannon to the board of regents of the University of South Dakota, at Vermillion, S. Dak., to be placed on the campus of said institution."

LICENSE TAXES IN THE DISTRICT OF COLUMBIA.

The bill (H. R. 9757) to amend paragraph 34 of section 7 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902, was considered as in Committee of the Whole. It proposes to amend the paragraph by adding thereto the following:

Persons licensed to store or sell kerosene or oils of like grade, or explosives of any kind, shall pay a license tax of \$1 per annum for each permit issued; for storing or selling fireworks the license tax shall be 50 cents per annum for each permit issued; for storing or selling gasoline or oils of like grade the license tax shall be \$5 per annum for each permit issued: *Provided*, That persons paying a license tax as fuel hucksters shall not be required to pay an additional tax for storing or selling such articles.

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

EXTENSION OF TWENTY-THIRD STREET NW.

The bill (S. 133) authorizing the joining of Twenty-third street NW. and Kalorama avenue was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was to strike out sections 1 and 2 of the bill, in the following words:

That the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to join Twenty-third street NW. to Kalorama avenue (a distance of about 200 feet) through lot 1, block 20, Kalorama Heights subdivision, and lots 9, 10, and 24, L. R. Tuttle's subdivision. Said Commissioners shall, within thirty days from the passage of this act, institute, by petition particularly describing the lands to be taken, proceedings in rem in the supreme court of the District of Columbia, holding a district court for the United States for said District, for the condemnation of said lands necessary for the joining of Twenty-third street NW. and Kalorama avenue.

Sec. 2. That of the amount found to be due and awarded as damages for and in respect of the land condemned for the joining of Kalorama avenue and Twenty-third street as herein provided, such amount thereof shall be assessed by the jury hereinafter provided for as benefits, and to the extent of such benefits, against those pieces or parcels of land on each side of said streets as joined, and also on any or all pieces or parcels of land which will be benefited by the joining of said streets as said jury may find said pieces or parcels of land will be benefited, and in determining the amounts to be assessed against said pieces or parcels of land the jury shall take into consideration the respective situations of such pieces or parcels of land and the benefits they may severally re-

ceive from the joining of said streets as aforesaid: *Provided*, That if the aggregate amount of the benefits to be assessed, as determined by said jury pursuant to the provisions hereof, is less than one-half of the amount of the damages awarded for and in respect of the land condemned, the Commissioners of the District of Columbia may, in their discretion, reject the award and assessment of said jury, and all proceedings hereunder shall be null and void.

And in lieu thereof to insert:

That within sixty days after the passage of this act the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the supreme court of the District of Columbia, sitting as a district court, by petition, particularly describing the lands to be taken, a proceeding in rem to condemn the land that may be necessary for the extension of Twenty-third street NW. from U street to Kalorama road, so as to include so much of lots 9 and 24, L. R. Tuttle's subdivision, and lots 1 and 18, block 20, Kalorama Heights subdivision, as lie between two parallel curved lines 50 feet apart, the easterly of which begins at a point on north line of lot 9, L. R. Tuttle's subdivision, and 50 feet easterly from the northwest corner thereof, and which passes thence in a southeasterly direction on a circular arc with a radius of 512 feet, more or less, to a point on the west line of lot 24 of said subdivision, and 55 feet, more or less, from the southwestern corner of said lot.

SEC. 2. That the entire amount found to be due and awarded as damages for and in respect of the land condemned for the extension of Twenty-third street, as herein provided, shall be assessed by the jury hereinafter provided for as benefits, and to the extent of such benefits, against those pieces or parcels of land on each side of said street as extended, and also on any or all pieces or parcels of land which will be benefited by the extension of said street, as said jury may find said pieces or parcels of land will be benefited; and in determining the amounts to be assessed against said pieces or parcels of land the jury shall take into consideration the respective situations of such pieces or parcels of land and the benefits they may severally receive from the extension of said street as aforesaid; and the verdict of said jury shall also be for a sufficient sum to cover all the costs of the condemnation proceedings herein provided for.

The amendment was agreed to.

The next amendment was, in section 4, page 5, line 10, to strike out "joining" and insert "extension;" in line 11, to strike out "streets" and insert "street;" in line 12, to strike out "joining" and insert "extension;" in line 24, to strike out "joining" and insert "extension;" in line 25, to strike out "streets" and insert "street;" on page 6, line 3, to strike out "joining" and insert "extension;" in the same line, to strike out "streets" and insert "street;" and in line 5, to strike out "joining" and insert "extension;" so as to make the section read:

SEC. 4. That after the return of the marshal and the filing of proof of publication of the notice provided for in the preceding section, said court shall cause a jury of seven judicious, disinterested men, not related to any person interested in the proceedings, and not in the service or employment of the District of Columbia or of the United States, to be summoned by the marshal of the District of Columbia, to which jurors said court shall administer an oath or affirmation that they are not interested in any manner in the land to be condemned nor are in any way related to the parties interested therein, and that they will, without favor or partiality, to the best of their judgment, assess the damages each owner of land taken may sustain by reason of the extension of said street, and the condemnation of lands for the purpose of such extension, and assess the benefits resulting therefrom as hereinbefore provided. The court, before accepting the jury, shall hear any objections that may be made to any member thereof, and shall have full power to decide upon all such objections, and to excuse any juror or cause any vacancy in the jury, when impaneled, to be filled; and after said jury shall have been organized and shall have viewed the premises, said jury shall proceed, in the presence of the court, if the court shall so direct, or otherwise as the court may direct, to hear and receive such evidence as may be offered or submitted on behalf of the District of Columbia and by any person or persons having any interest in the proceedings for the extension of said street. When the hearing is concluded the jury, or a majority of them, shall return to said court, in writing, its verdict of the amount to be found due and payable as damages sustained by reason of the extension of said street under the provisions thereof, and of the pieces or parcels of land benefited by such extension, and the amount of the assessment for such benefits against the same.

The amendment was agreed to.

The next amendment was, in section 5, page 6, line 10, to strike out "joining" and insert "extension;" and in line 11, to strike out "streets" and insert "street;" so as to make the section read:

SEC. 5. That if the use of a part only of any piece or parcel of ground shall be condemned, the jury, in determining its value, shall not take into consideration any benefits that may accrue to the remainder thereof from the extension of said street or highway, but such benefits shall be considered in determining what assessment shall be made on or against such part of such piece or parcel of land as may not be taken as hereinbefore provided.

The amendment was agreed to.

The next amendment was, in section 7, page 7, line 7, after the word "land," to strike out the words "by the Treasurer of the United States, ex officio commissioner of the sinking fund of the District of Columbia, upon the warrant of the Commissioners of said District, out of the revenues of the District of Columbia; and a sufficient sum to pay the amounts of said judgments and awards is hereby appropriated out of the revenues of the District of Columbia," and to insert "by the disbursing officer of the District of Columbia from moneys advanced to him by the Secretary of the Treasury upon requisitions of the Commissioners of the said District, as provided by law; and a sufficient

sum to pay the amounts of said judgments and awards is hereby appropriated from the revenues of the District of Columbia;" so as to make the section read:

SEC. 7. That when the verdict of said jury shall have been finally ratified and confirmed by the court, as herein provided, the amounts of money awarded and adjudged to be payable for lands taken under the provisions hereof shall be paid to the owners of said land by the disbursing officer of the District of Columbia, etc.

The amendment was agreed to.

The next amendment was, in section 11, page 9, line 6, to strike out "opening" and insert "extension;" in the same line to strike out "streets" and insert "street;" in line 10 to strike out "joining" and insert "extension;" and in the same line to strike out "streets" and insert "street;" so as to make the section read:

SEC. 11. That no appeal by any interested party from the decision of the supreme court of the District of Columbia confirming the assessment or assessments of benefits or damages herein provided for, nor any other proceeding at law or in equity by such party against the confirmation of such assessment or assessments, shall delay or prevent the payment of award to others in respect to the property condemned, nor delay or prevent the taking of any of said property sought to be condemned, nor the extension of such street: *Provided, however*, That upon the final determination of said appeal or other proceeding at law or in equity the amount found to be due and payable as damages sustained by reason of the extension of said street under the provisions hereof shall be paid as hereinbefore provided.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill authorizing the extension of Twenty-third street NW. to Kalorama road."

AGREEMENT WITH KLAMATH INDIANS.

Mr. FULTON. There was a bill passed over the other day, Order of Business 195, under Rule VIII. It was read and passed over without prejudice. I should like unanimous consent to have it taken up at the present time.

THE VICE-PRESIDENT. When the bill was reached to-day on the regular call of the Calendar it went over under objection.

Mr. FULTON. Was that Calendar called?

THE VICE-PRESIDENT. It was called in regular course.

Mr. FULTON. I did not know that it had been called to-day.

OLNEY P. B. WRIGHT.

The bill (S. 3321) granting an increase of pension to Olney P. B. Wright was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, before the word "dollars," to strike out "thirty" and insert "twenty-four;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Olney P. B. Wright, late assistant surgeon Fifty-second Regiment Wisconsin Volunteer Infantry and Fifteenth Regiment Illinois Volunteer Infantry, and to pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

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.

JOSHUA W. TOLFORD.

The bill (S. 676) granting an increase of pension to Joshua W. Tolford was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Joshua W. Tolford, late captain Company G, Twenty-third Regiment Wisconsin Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

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

WILLIAM PAINTER.

The bill (H. R. 4226) granting an increase of pension to William Painter was considered as in Committee of the Whole. It proposes to place on the pension roll the name of William Painter, late of Company K, Eightieth Regiment Ohio Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

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

FREDERICK SCHULTZ.

The bill (H. R. 4223) granting an increase of pension to Frederick Schultz was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Frederick Schutz, late of Company K, Second Regiment Wisconsin Volun-

teer Infantry, and to pay him a pension of \$20 per month in lieu of that he is now receiving.

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

JOHN N. STONE.

The bill (H. R. 7509) granting an increase of pension to John N. Stone was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John N. Stone, late captain Company G, Nineteenth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of \$24 per month in lieu of that he is now receiving.

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

ELSE C. ISACHSEN.

The bill (H. R. 6166) granting a pension to Else C. Isachsen was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Else C. Isachsen, dependent mother of Alfred C. Isachsen, late of Company F, First Regiment Wisconsin Volunteer Infantry, war with Spain, and to pay her a pension of \$12 per month.

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

MARIAM T. SHREVE.

The bill (H. R. 9382) granting a pension to Mariam T. Shreve was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mariam T. Shreve, widow of Caleb Shreve, late of Company I, Sixth Regiment Wisconsin Volunteer Infantry, and to pay her a pension of \$8 per month.

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

EDWARD COY.

The bill (H. R. 4742) granting an increase of pension to Edward Coy was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Edward Coy, late of Companies C and L, Second Regiment New York Volunteer Cavalry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

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

THOMAS O'CONNOR.

The bill (H. R. 4744) granting an increase of pension to Thomas O'Connor was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Thomas O'Connor, late of Company G, Tenth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

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

JOHN BRINKLEY.

The bill (H. R. 9130) granting an increase of pension to John Brinkley was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John Brinkley, late of Company E, Gilpin's battalion, Missouri Mounted Volunteers, war with Mexico, and to pay him a pension of \$20 per month in lieu of that he is now receiving.

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

THE VICE-PRESIDENT. This completes the Calendar.

THE MERCHANT MARINE.

MR. GALLINGER. I ask unanimous consent that the unfinished business may now be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 529) to promote the national defense, to create a force of naval volunteers, to establish American ocean mail lines to foreign markets, to promote commerce, and to provide revenue from tonnage.

MR. TELLER. Mr. President, I do not intend to detain the Senate at any length upon this subject. I have no desire to discuss the pending measure for the purpose of delaying it. I stated the other day that I was ready to vote upon it, and I am ready to vote upon it whenever the Senate is ready; and although I made some objection the other day, I shall make no further objection if the Senator from New Hampshire chooses to ask for a time to be fixed for the final vote that will give Senators who desire to speak an opportunity to be heard.

MR. DUBOIS. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER (Mr. PERKINS in the chair). The Senator from Idaho suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Alger	Clark, Wyo.	Hansbrough	Perkins
Allée	Clarke, Ark.	Hopkins	Pettus
Allison	Clay	Kean	Piles
Ankeny	Culberson	Kittredge	Proctor
Bacon	Dick	La Follette	Rayner
Blackburn	Dillingham	Latimer	Scott
Brandegee	Dubois	Long	Simmons
Bulkeley	Flint	McCreary	Smoot
Burnham	Frazier	Martin	Sutherland
Burrows	Frye	Nelson	Teller
Carter	Fulton	Nixon	Warner
Clark, Mont.	Gallinger	Overman	

THE PRESIDING OFFICER. Forty-seven Senators have answered to their names. A quorum is present. The senior Senator from Colorado will proceed.

MR. TELLER. Mr. President, when the bill was before the Senate the last time the Senator who has it in charge alleged that the reclamation act was a pure and simple subsidy measure, as I understood him. I have not looked at the RECORD, but that is my recollection of the statement he made.

I wish to say a few words about the reclamation act. I do not mean to say—I have not said and I shall not say—that Congress may not, at the proper time, grant a bounty, a pure and simple bounty, to some enterprise. There have been so many precedents made that it is too late for any man to contest that question. He might question the propriety of it, but the power has been pretty well established by the custom Congress has established.

But the reclamation act has not been in any sense considered as a bounty. The Government of the United States is, I presume, the greatest landholder in the world. At all events, the Government of the United States is the holder of an immense area in the West, west of the Mississippi River at least, that is called the "arid region." Some of it is designated as semiarid. By that, I suppose, it is meant regions in the West that can be cultivated in some way without water, while the arid region is practically that which we have considered a desert unless water could be obtained.

I have not stopped to figure up or to determine exactly what is the area of arid land, but the published statements of the Department having charge of the subject have declared repeatedly that the arid region is two-fifths of the United States. Whether in that they take in some portions of the country that may not be considered entirely arid I do not know, but there are certainly two-fifths of the United States that will be benefited by the use of water for irrigation.

Now, the Government owns in the Western States immense areas that never can be sold or utilized, in my judgment, without some irrigating system. While in some of the States, like Nebraska, Kansas, and eastern Colorado, there is a considerable area of country that may be occupied by farms, and farming may be done with perhaps as much profit as it may be done in some of the New England States, if water could be put upon that very same land you could more than double the productive capacity of the land.

The Government proposes to take this land that belongs to itself, put it under water, sell it when it gets through to the farmers who wish it, charging them the entire amount of money that may be expended on the land, and give the farmer ten years to pay for it. To the extent that no interest is charged, that may be considered a benefaction to the West, and beyond that there is no benefaction in it whatever.

In the first place, the money that is to be expended is money that is paid for land. It is money the settler has paid to the Government for land that, according to my theory of government, belongs to the men who are willing to occupy it.

I do not think the Government made any greater mistake in its history anywhere, or at any time, than it did when the land was held and disposed of for revenue to the Government itself. Had the Government determined when the country was new that no land should be the subject of individual proprietorship except it was accompanied by cultivation and occupation, and then in a limited quantity, as the homestead act of 1862 provided, this country would have been in a very much better condition, although the Government would have been out the dollar and a quarter an acre, or the two dollars and a half an acre, whatever it might have received from it.

There are, perhaps, two excuses why the Government did not do that. In the first place, the Government of the United States was poor and needed the money and the land was considered a source of revenue, as it turned out to be a source of revenue, and a considerable revenue.

Another excuse, perhaps, might be stated to be that the people of the United States had been accustomed to an entirely different system. The land had belonged to the sovereign—to the King of Great Britain, the King of France, or Spain, whoever it might

be—claiming ownership of the western lands in this new continent; and they had been in the habit of picking out favorites and giving them a great amount of land, sometimes upon the theory that the favorite would found a colony and sometimes without any such qualification or restriction.

In 1837 the Government found itself with a surplus of about \$35,000,000—somewhere in that neighborhood, perhaps a little less. That surplus was practically derived from the sale of the public lands in the region of country called "the West;" at least it was then called "the West." We included in the West in those days all lying west of the State of Pennsylvania, along the Lakes, Michigan, Ohio, Wisconsin (not yet a Territory, as I recollect), Illinois, and Indiana. All west of the Mississippi River was then practically unoccupied except the State of Missouri, the State of Arkansas, and the State of Louisiana. I do not know what to-day ought to be called "the West." I do not know whether we ought to include anything east of the Mississippi River or not.

Some day when I have an opportunity I may speak of the new West, by which I mean all that lies west of the Mississippi River, but I do not intend to go into that by detailing its productions or its capacity or anything of that kind to-day. I only want to bring it to the attention of the Senate that we in the West have never asked anything of the Government that I think anybody could declare to be unfair. We have never had any bounties. I think you can hardly call a homestead a bounty which was granted to a settler who went upon the public lands in that region or even in the regions blessed by rain and sunshine which made it productive. I am sure those who have been brought up in the West or those who went there in their early manhood and have seen the West grow will bear testimony that the man who went out and made a home upon the public lands of the United States was entitled to every thing he got, and, Mr. President, entitled to more than he got.

As I was saying, in 1837 there had been practically derived from the public lands in the States east of the Mississippi River a sum more than the Government then needed for its use. Thereupon the Government of the United States passed a law that the money should be distributed, and it was distributed. Every State that took it did so with a certificate that on demand of the United States they would return it without interest. As I said the other day, not a dollar of that amount, a little over \$28,000,000, has ever been returned. Of course I ought to say in good faith in describing this occurrence that the Government at no time ever called upon a State to return it.

As I said the other day, nobody ever expects it to be returned. For myself, I have no hesitation in saying that I should not be a party to the calling upon the governments of the several States to return it. About \$380,000 of that went to States west of the Mississippi River—to the States of Louisiana, Arkansas, and Missouri, they being all the States we then had lying west of the river. All the remainder went to the Eastern and the Middle States, the States that I might call the "old West," east of the river. The other day I called the attention of the Senate to this subject. I am not complaining of that donation, for that is what it is. It was a loan in theory, but a donation in fact.

The Government of the United States has made an appropriation for reclamation purposes by an act which was passed through this body, and, I think, through the other, with a remarkable degree of unanimity. In this body I believe there was not even a roll call upon its passage, and in the other body it passed with such a degree of unanimity that was at least unusual. We in the West are grateful when we get a small favor from outside the West. We are often surprised, and I think that the people in my section of the country were particularly surprised when the passage of that act was announced to them. I do not know of any other section of the country that has up to this hour received any immediate benefit from that act. I believe last summer the Government did open a ditch in the State of Nevada, and I suppose next year there will be water put upon the arid lands of Nevada; but I predict, Mr. President, that the 110,700 square miles of that State will, under the beneficent influence of that act, ultimately become not a State to be treated as a rotten borough, not as a State to be sneered at, but that it will become a great agricultural State, as it has been one of the great mining States of this country, and will continue to be so in the future.

The Government has an enterprise in Colorado. The Government has commenced the construction of a tunnel two and a quarter miles long through a mountain so high that no water can be carried over it. The tunnel will open into a valley with a sufficient amount of water to reimburse the Government for every dollar that it will put into the tunnel and the ditches to distribute the water. Before the Government began the work,

or put a dollar on the tunnel, it had secured from the residents of that valley a sufficient amount of pledges, of bonds, from the men who own the land that it is to be watered to reimburse the Government, even if the Government never sold an acre of this land; and it has thousands and tens of thousands of acres that will eventually be made worth what the work costs, and in addition as much as the price would be if the land was within the rain belt instead of in the arid region.

I can not conceive, Mr. President, that there is any analogy between that act on the part of the Government and the shipping bill. The Government has parted with a great quantity of its land in the West for railroad enterprises. Mr. President, I was in the West before an acre of that land was donated or pledged to railroads, and I must say that, if I had had my way, I would not have voted an acre of public land as a donation to a railroad. It would have been infinitely better if the Government of the United States had taken the money from the Treasury and paid it to the railroads, and saved the land for its own use and disposition to the settlers of the country. But the Government determined not to lose anything in that enterprise. It immediately increased the price of the public land from \$1.25 an acre, at which it had been formerly, to \$2.50 in the section of country which came within its railroad grants. So we have more than paid, not perhaps for all the railroads, but we have paid so much toward their construction that the Government has not lost anything on its railroad assistance.

I do not think that any Senator can ask me to vote for the pending bill because he or the Senators from any other section voted for the reclamation bill. The reclamation bill, Mr. President, is of no more interest to me, living in the West, than it is to the Senator from New Hampshire [Mr. GALLINGER], who lives in the East. The time has now come when the young men and young women in Massachusetts, in Maine, in New Hampshire, in Vermont, in Connecticut, in New York, and in Pennsylvania, when they become of age, do not find the opportunities there which their fathers found; and the population of the great West has been largely made up of New England's sons and daughters and the sons and daughters of Pennsylvania and New York, who, not finding opportunities as great as they wished in their native States, have gone West to make homes; who took Greeley's advice, "Go west, young man; go west." They have gone west, Mr. President, by the thousands and tens of thousands, until to-day west of the Mississippi there is found more than one-fifth of the entire population of the United States.

Mr. President, all sections of the country are interested in the reclamation service. Its advantages are as open to the children of New England and New York as they are to those of Colorado, of Wyoming, of Idaho, or of Montana. They go there and take the lands upon the same terms that we take them, and, Mr. President, we are anxious to see them come. As I said the other day, we have found them good citizens and useful members of society, and they are as much entitled as are the sons of the West to great credit for the growth, the prosperity, and the moral worth and stamina of those western communities. I remember, however, to have heard that section of the country spoken of by high authority as "the undesirable communities of the United States;" but, Mr. President, if they are undesirable communities, they are the undesirable citizens of the East who have come to us, for they compose the great bulk of our population. I do not mean to say that we have not some foreigners, but we have proportionately a greater American population than have many of the Eastern States. The best class of foreigners which come to this country find their way into the great West. They are not the class that lodge in the cities of the East; they are not the class that are found in the near Atlantic ports. They are those who have the enterprise and the vigor to go west, to go into new communities, and to better their condition in that way.

I am as anxious to see the commerce of the United States carried in American bottoms as is anybody else, provided it can be carried as cheaply in American bottoms as it can in any other way. There is a benefit, perhaps, that might offset something as against the fact that it is not carried quite as cheaply in American bottoms; there is some advantage under this bill which, I think, will be given to us in its first section; that is the provision for the naval reserve. I know that if we want men to man our ships in time of war and if we want our transportation done in time of war it will be some benefit if we can have American ships for that transportation. All the Senator from New Hampshire has to do, in my judgment, to secure the passage of such a bill is to show that the bounty or donation or subsidy—whatever you choose to call it—will bring to the American people benefits of sufficient character to warrant the expenditure of the money. I can not see where the Senator has

made such a case in the report of the committee, and I have not been convinced from any arguments made on the floor that such will be the fact.

I do not know that I adequately appreciate what this bill will cost. I have read the report with care. Since the report was made, however, there has been a decided change in the bill, and the feature of it which it was supposed would bring some revenue to the Government by way of a tax on tonnage—which I think was of doubtful value, but which would have had the merit at least of reducing the total amount that the Government would expend by way of bounties to these ships—has, as I understand, been stricken from the bill.

I thought I heard the Senator from New Hampshire say the other day before the bill was modified that in ten years it was estimated there would be—I think he said—about \$40,000,000 all told. I make the amount much larger. Certainly if we do not give to this fund the amount that was supposed to come into the Treasury from the tonnage dues, the sum required will be somewhat larger.

I should like to ask the Senator from New Hampshire if he is prepared to state what the expenditure will be—I do not, of course, expect him to do that accurately—but has he the estimates, or has he, with his knowledge of the subject, information which will justify him to say what the cost will be at the end of the first ten years and then at the end of the second ten years? I will wait for the Senator's reply, if he chooses to reply to that inquiry.

Mr. GALLINGER. I will say to the Senator, in the first place, that I have never believed that the estimate made in the report was at all accurate; and I am going to be entirely frank in my statement about it.

Mr. TELLER. I believe that.

Mr. GALLINGER. I think it is altogether too high, while the Senator thinks it is too low, as I understood him to say a moment ago.

Mr. TELLER. I want to say to the Senator that really I have not sufficient acquaintance with what would happen so as to judge of the matter; but I have always imagined that most of these estimates were too low and that the result would show an increase instead of a decrease from year to year.

Mr. GALLINGER. The Senator is wrong about that. The Commissioner of Navigation made this estimate at my suggestion. I said to him that I wanted him to make it high enough; that I had no disposition to impose—and I certainly should not, if I knew it—upon the Senate in a matter of this kind. The Commissioner of Navigation estimated that we should have 10,000 naval reserves; that we would establish every one of these mail lines under this bill—of which there is no certainty—and that we would give a very large subvention to the so-called cargo-carrying vessels. The suggestion is made that, by the second year, under this bill, it is believed sufficient new mail steamers will have been constructed to put into operation new mail service that will require an expenditure of \$1,500,000. I do not believe that by the second year enough of those steamers can be built, for they will all have to be new steamers, to call for that amount—\$1,500,000. The estimate, if the Senator will examine it very carefully, presupposes that three things will happen: First, that we will establish every one of these mail lines in ten years; next, that we will have 10,000 naval reserves in that time, and, third, that we will give to cargo vessels a subvention of \$29,250,000.

On that point the Senator from Florida [Mr. MALLORY] in his excellent speech took the ground that, in his judgment, we would not succeed in getting any such number of naval volunteers under this bill; and, next, that we would not be able to build many cargo carriers upon the subvention that is allowed in the bill, because it is too small. I believe the Senator did not make any suggestion concerning the mail lines, but I think the Senator will agree with me—

Mr. MALLORY. I did say, Mr. President, that I would favor an increase of the mail subvention so far as the Gulf of Mexico was concerned.

Mr. GALLINGER. What I meant to say was that the Senator did not make any suggestion as to whether or not, in his opinion, the lines would all become established during that period. The Senator will agree with me that that is problematical at best.

Mr. MALLORY. Yes.

Mr. GALLINGER. To be entirely frank about the matter, if this estimate of the Commissioner of Navigation, to which I do not fully assent, proves correct, the cost under this bill for ten years will be as follows: Naval reserves, \$4,350,000; cargo vessels, \$29,250,000; mail subventions, \$23,486,250; increased subvention to Oceanic Line, \$2,170,000, or a total of \$59,256,250.

Mr. TELLER. In ten years?

Mr. GALLINGER. In ten years. As I said a moment ago, I myself do not agree to this. I think it is altogether too large. On two points I want to add a word, if the Senator will permit me.

Mr. TELLER. Certainly.

Mr. GALLINGER. I do not want to take the Senator's time, of course.

Mr. TELLER. I am only going to speak briefly.

Mr. GALLINGER. I want to call attention to the fact that the present profit of our ocean mail service just about balances the subventions to these new mail lines. Every other government of which I have any knowledge uses those profits, if they have any, in the development of their merchant marine. We do not; we put the profits in the National Treasury. Of course, that does not change the cost—

Mr. TELLER. The profits have not been great, have they?

Mr. GALLINGER. We have had very large profits.

Mr. FRYE. One million eight hundred thousand dollars a year.

Mr. GALLINGER. Nearly \$2,000,000 a year.

Mr. TELLER. That heretofore has gone into the Treasury?

Mr. GALLINGER. That goes into the Treasury at the present time. Again, if the provision in the original bill in regard to tonnage taxes should remain, it would produce \$15,000,000, or very nearly that.

Mr. TELLER. That provision is out of the bill.

Mr. GALLINGER. It is out of the bill. I am going to explain that. If it should go into the bill again before it becomes a law, it would reduce the estimate of the total amount of the cost of the bill to \$44,000,000, just above what was suggested in the first place. But I want to emphasize this point, that I think the Senator himself, if he will sit down uninterrupted and examine the bill and take these approximate estimates made by the Commissioner of Navigation, will see that they are altogether too high. The Senator, I apprehend, does not believe that every one of these mail lines will be established. I myself hope they will be; but it is hardly to be expected that they will all be established. If they are not, of course that will reduce the amount to be paid under the bill. The amount that is estimated for cargo carriers is so much higher than the Senator from Florida thinks it will be that it is startling, and it is very much higher than I believe it will be.

Mr. TELLER. Will the Senator give us his opinion about it? I should as lief have the Senator's opinion as that of the Commissioner of Navigation, and I think I would a little rather have it.

Mr. GALLINGER. Mr. President, of course the Commissioner's estimate is approximate.

Mr. TELLER. How much would the Senator deduct from the estimate of the Commissioner of Navigation?

Mr. GALLINGER. My judgment is that as the bill stands to-day if during the ten-year period \$35,000,000 were expended it would be a fair estimate, but I may be wrong. Perhaps I ought to put it at \$40,000,000.

Mr. TELLER. That is an average of about three and a half millions a year?

Mr. GALLINGER. It is.

Mr. TELLER. Well, Mr. President, if this bill is a success, it seems to me from my figures—and I have been trying to figure on it, but I am not very confident so far as my own estimate is concerned—it seems to me that if the bill only requires that amount in ten years it will not be very successful; it will not do very great good to the cargo-carrying trade of this country.

I suppose the purpose of this bill is to secure to American ships the carrying of as many as possible of the products of this country going out and the imports coming in.

Mr. FRYE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Maine?

Mr. TELLER. Yes.

Mr. FRYE. This estimate is entirely theoretical.

Mr. TELLER. Certainly; I know it.

Mr. FRYE. The more successful the bill, if it becomes a law, the higher the cost.

Mr. TELLER. Certainly.

Mr. FRYE. If the bill fails to succeed at all, then the cost, perhaps, will suit the Senator from Colorado—and it will not be much, if anything. If, on the contrary, it is a perfect success, then the cost will pay for the success and will be adequate to pay for the success. I myself hope it will cost a good deal more than \$50,000,000 in ten years.

Mr. TELLER. The Senator from Maine assumes, then, that I do not want to increase the commerce in American ships?

Mr. FRYE. No; I assume that the Senator, from his interrogations, does not wish to vote for this bill because it is going to cost a good deal of money.

Mr. TELLER. That is one feature in it. I think sometimes the outlay of a little money is a waste, while the outlay for the same identical purpose of a sufficient amount is very profitable indeed.

Mr. FRYE. I entirely agree with the Senator about that.

Mr. TELLER. That, I think, is a business principle that every business man understands. You may put only such money in an enterprise as to make a failure of it, and you may put a little more or a good deal more in and make it a great success. I myself do not believe a success can be made of this Naval Reserve. I do not think the amount of money provided in the bill to be paid to these sailors will be sufficient to induce such a class of men as we want for sailors to go into the service.

If the naval reserve were provided for in a separate bill, Mr. President, I should not have any hesitation in saying that I thought it an appropriate and proper bill. I could support it, but I would not support it with any enthusiasm if it provided only for the payments that are proposed in the pending bill. They ought to be larger.

Mr. FRYE. Mr. President, if the Senator will allow me just a word there—

Mr. TELLER. Yes.

Mr. FRYE. My impression is that the pay provided for the Naval Reserves in this bill is the same that Great Britain provides for her naval reserves, and she has found the system a success.

Mr. TELLER. But, Mr. President, the difference in wages and opportunities between this country and Great Britain is so great that, unless you accept a class of men that nobody wants to see in that reserve, I think no comparison can be made. Great Britain might succeed in securing men for her naval reserve by the payment of such a sum. She succeeds in securing men on her ships at very much less than the wages for which we are able to secure men on our ships. Is not that a fact?

Mr. FRYE. Yes; it is.

Mr. TELLER. That has been one of the things, I think, that has been more embarrassing to the effort to build up the carrying of American commerce in American ships than anything else.

There are other methods that we might adopt. I alluded to one the other day, but evidently it does not seem to meet with approbation. I myself believe that if the law provided that every American ship bringing imports into our ports should be given a reduction of the duty on such imports, or, in other words, if it were so arranged that a shipowner bringing in imports should have the benefit of a certain percentage of the customs dues, it would do more to encourage American shipping than this bill. Then a man could take a shipload of goods abroad with a guaranty that he would have no difficulty when he got into the great European ports, or even into South American ports, of finding a return cargo. I understand that is one of the difficulties with which our shipping has to contend. When American vessels go into a port, whether it be Asiatic or European, they find themselves compelled to compete with tramp ships, that can be run much cheaper perhaps, but if they could say to exporters in that country, "If you will send your goods in our ship, we can afford to carry them at the same rate that the foreign ship carries them," very likely they would get their share of the trade. It is possible that they might carry for a little less, if the Government was liberal in that reduction. That plan has always seemed to me to be a proper one. I have heard it discussed here for twenty-five years at least, but yet I have never seen an attempt honestly and vigorously made to secure anything of that kind. I suppose it is because those who are more familiar with the subject doubt whether or not it would succeed. I have never been connected with any branch of the public service that required me to initiate anything of this kind or that would even justify me in initiating it, but I express my opinion that that is one of the ways by which this difficulty could be met.

The other day there was some discussion about the coastwise trade. I have myself never found fault that ships trading from one American port to another should have some preference, but it is not very long since we adopted a new system. We extended the coastwise law to the Philippine Islands. That certainly is not an American trade, whatever the relations of the Philippine Islands may be to us. I think the Supreme Court has established the fact that the ports of the Philippines are not American ports. That can not be questioned. That action gave to American shipping some advantages, but not sufficient, I suppose, to make the slightest difference with the trade. That

trade does not amount to anything. We sent over last year about \$4,000,000 worth of goods to the Philippine Islands. I suppose half of that amount went there because of the American occupation, and would not have gone if there had not been such occupation. They sent us somewhere between twelve and thirteen million dollars' worth, as I recollect, though I can not speak exactly, because I have not looked up the matter for some time. At any rate, the trade with the Philippines amounts to a sum between seventeen and twenty million dollars—not a very considerable trade—and if the American ships had it all it would not amount to a great deal.

I believe those who have been conversant with affairs over there think that when that act is in full operation it will not benefit the shipowners, because the exports from there will go to other lands and not to ours. The exports that come to us from the Philippine Islands are of a character that can go to any part of the world. They are not specially adapted to our trade and to our demands, and a good deal of the Philippine trade now goes to Europe and comes to us in ships belonging to other nations and not to ours. It goes from the Philippines to Europe in European ships, and in European ships it comes back to us. That will not benefit our shipping interest any.

I do not know but that we might apply the principle of the coastwise trade to some other ports besides the Philippine ports. I suppose it would be difficult to apply it to those of Great Britain. We ship an immense quantity of stuff to Great Britain every year, and I suppose Great Britain would resent it if we provided any method by which her ships could not get into the trade between that country and ours. I do not see that there is any way to do it. I do not know whether there is or not.

Mr. GALLINGER. If the Senator will permit me—

Mr. TELLER. Certainly.

Mr. GALLINGER. I will say that I think under our commercial agreement with Great Britain we could not possibly do that.

Mr. TELLER. My idea is that whenever our necessities require us to modify these commercial relations we can do so, provided we are careful in so doing and do not injure ourselves. When we can get any benefit out of it, we have a right to modify such arrangements or change them at any time.

Mr. GALLINGER. Certainly.

Mr. PERKINS. Mr. President—

Mr. TELLER. I yield to the Senator from California. Mr. PERKINS. I was going to ask my friend the Senator from Colorado a question, with his permission. His public life has been so identified with the history of our country in matters of legislation during the past forty years that I know of no statesman whose judgment and opinion I hold in higher esteem than I do those of my friend the Senator from Colorado. Therefore I wish to ask him a question.

Until 1855 we had control of the transportation and commerce of the world. Our ships did the business. We would have continued in that business had it not been that Great Britain, Germany, and France have taken it away from us by subventions and subsidies to their shipping. How can we revive that business without a subsidy or subvention similar to those given by foreign nations?

I was much interested in what the Senator said in the beginning of his remarks relative to the reclamation of our arid lands in the West. He says it is not a subsidy. The same rule perhaps applies to our domestic mail matter. We have a deficiency each year of fifteen or twenty million dollars more than we receive in postage. We make it up without a dissenting voice. Is not that a subsidy? Is it not similar to what we are asking in this case—to revive American shipping?

I do not wish to interrupt the Senator; I am asking for information, and I know of no one better equipped with it than is my friend the Senator from Colorado.

Mr. TELLER. The Senator from California does not need any information from me on shipping matters. That I know. I do not think there is any analogy between the payment of money to railroads for carrying the mails and the proposition here, except so far as this provides somewhat for the mail. Beyond that there is no analogy. We do have a deficiency in the Postal Department. We have had it ever since I have been in public life. We would not have had a deficiency in the postal revenues if we had confined ourselves to the old idea of carrying the mail to the communities and putting it in post-offices and letting the people come to the post-office and get the mail. But when we out West saw that some little towns in New England—and I could name some of them, not in New Hampshire perhaps, but in New England—were getting their mail five and six times a day, delivered at their doors, our folks said, "That is not fair; we ought to have something." Somebody devised a scheme. I believe it was first put in operation in the East. It is what is

called the rural mail delivery. I think we at first made an appropriation of a few hundred thousand dollars for it. I objected to that when it was made.

I was brought up in a country district in the State of New York. We had a little post-office. We had post-offices on both sides of us. You could go to a post-office 2 miles from father's farm; you could go to another 4 miles; you could go to another 6 miles; to another 12 miles, and so on. We got the mail once a week—all that the Department in those days thought necessary. We got the New York papers. If a man was a Democrat, he got the old New York Evening Post. If he was a little off color and did not want to be a full Democrat, he could take the New York Herald. If he was a Whig, he took the Times, or Greeley's paper when that came on. Every Saturday you could go down to the post-office, where there was a store and a blacksmith shop, etc., and you could find probably a dozen or fifteen or twenty boys of the neighborhood, all the way from 10 to 20 years old, who had come in for the mail. It was a delight for the boys to go after the mail. It did not cost anything. They got the newspapers. They had a little social conference with each other around the post-office in the afternoon or along toward night while getting the mail. That condition did not call for any relief by this Government.

Now we are expending \$20,000,000 a year for this service. We will expend \$50,000,000 per annum in a few years, and the people will be no better off. You can not give to every portion of the country the same advantages that other sections may have and are entitled to. If people live in a town it is to the interest of the Government not to have everybody go to the post-office for the mail, because you would have to provide buildings, appointments, clerks, etc., to handle the mail to such an extent that it is probably better in towns to deliver the mail in the way it is now delivered.

When you put your free-delivery service in a country where there is perhaps upon a quarter section of land a house, and then upon the next section, a mile away, there may be another house, you are doing what you are not required to do. That is one of the leakages and one of the methods by which we are prevented from getting the small postage that some of us at least have hoped to see. I can remember very well when we used to pay 5 cents for a letter. Then it got down to 3 cents, and we thought we had done wonders when the mail came to us for 3 cents. It is now 2 cents, and if we would treat the post-office as it ought to be treated, as it would be treated in the hands of good business men, we could give the mail to the whole country at a cent. I know that this matter is not exactly pertinent to the pending bill.

Some people contend that the Government of the United States ought not to furnish mail to the extreme sections of the country at the same rate that it does to near-by places. I can very well remember when the Government carried mail so many miles for a certain sum, and so many more miles for a certain other sum. That was all abolished years ago. Sensible men said: "You can not do that. Let us wipe it all out and give to the people of the country wherever they are, whether in California or New England, mail at one figure. If there is a man in California whose sons and daughters are in New England, let him send mail to them for the regular uniform rate."

I should like to see the time come when we could send mail all over this country for 1 cent. I do not know that I am especially interested in some features of our present system in the Post-Office. I would not myself, if I had the making of the regulations, make the mail a conveyor of merchandise. I would open it to literature—books, etc.—but I would not open it to merchandise; and I do not think we were called upon to do that. However, this is not the subject I got up to discuss. I have been drawn away to it.

The Senate has stricken out the eighth section of the pending bill, which, if it appropriates at all, should come from the House and not from this body. I myself doubt very much whether it would be a valuable addition to the bill, no matter where it originates. I could readily see that if it was a tax upon foreign ships it might do first rate, but I can not see why we can not legally and properly say—and I do not believe any nation has a right to complain if we do say—that every foreign ship which comes into our ports shall pay a certain tonnage duty, and every American ship that comes in may do just as she does now when she comes from one American port to another—not pay anything.

As I have said, these are matters that have not been turned over to me to look after. I am not on the Committee on Naval Affairs; I am not on the Committee on Commerce; I am not on the Committee on Foreign Relations, and I do not have anything to do with those subjects especially.

There is one thing that stares us in the face, and when I shall

have referred to it that will be about all I want to say on the subject now. It stares us squarely in the face: Where are you going to get the money to pay, if this is a success, and it runs to five or six or ten million dollars a year? Where is the money coming from? To-day, every month there is a deficit, though not large. Last year it was much larger than it will be this year. Our customs duties this year up to the present time—the year is but little more than half out—are twenty-three or twenty-four million dollars more than they were last year at the same time. That is not an especially inspiring thing to me. I have never been anxious to see the imports to the United States increase very largely.

Our internal-revenue collections this year are in the neighborhood of \$10,000,000 more than they were last year for the same length of time. It looks as if the deficiency might be small, but still there is a deficiency, and the deficiency will be increased when the revenues are taken out of the Treasury by the appropriations we are going to make at this session. It is safe to say there will be a deficiency this year, and no matter whether it is small, or more, or large, if it is a dollar, whatever you expend in the shipping business you must provide for. How are you going to provide for it? You can not increase your import duties. To do that would probably lessen the revenues. You may increase the internal-revenue taxes. That nobody would want to do in these days. We have been trying to reduce them. Your land revenues, which used to run from four to ten million dollars, have been devoted by law to a special purpose. Your Government expenses are increasing every year.

The other day we heard a Senator from one of the Western States tell us about the forest reserves which had been created. We began the forest-reserve business as we began the post-office business, by making at first an appropriation of a couple of thousand dollars to look the situation over and see whether the timber in the country was being properly guarded and taken care of; and then a little more and a little more until this year it will be \$2,000,000 for forest reserves. It is morally certain that every year you maintain the forest reserves you add to the expense. If it is \$2,000,000 this year you may look for \$2,500,000 next year, and so on. Your postal revenues will fall behind next year probably more than this year, because you can not very well say to one section of the country, "You shall not have rural delivery," if you do not say it to all sections.

Where can you raise the money? How can you legitimately increase your expenses and not attempt to find a way to increase the revenue? Of course you can sell bonds, and possibly for a time you can get along by using what is called the "reserve fund," established in 1900, which we now have, amounting to \$150,000,000. Every time I take up one of the Government publications on the subject I see marked at the top "Reserve fund, gold coin and bullion, \$150,000,000." I read them every day. I have never seen the day since 1900 that it has not been a hundred and fifty millions. Why? That is there for the purpose of maintaining the paper money of the country, maintaining the gold reserve. Has it ever been invaded? If any Senator will take the trouble to look, he will see that since that time the entire redemption could have been made for about \$17,000,000 each year, which could have been taken and is taken from the current revenues of the country.

We have a provision in that wonderful bill of 1900 that whenever a thousand dollars is taken out of the \$150,000,000 fund, immediately, the same day, a thousand dollars must go back; and if you should find a demand upon the Government of the United States for a hundred million dollars immediately and it were taken from this fund a hundred and fifty million dollars would be taken out of the Treasury and shoved into this fund. Will some one tell me—some wise financier, some man who knows all about maintaining the honor of the country and its credit—how much better it is, if any, to have it in this special fund than it would be to have it in the Treasury of the United States?

We might use that for a while, Mr. President, but in the end you must increase your revenues or you must decrease your expenses. You are going to build a canal. We have provided for selling a hundred and thirty million dollars of bonds for this purpose. We will sell them. There is no trouble to sell a 2 per cent United States bond in these days, if you give it all the rights that a national bond has, for use in banking and all of these things. But you will have to sell a hundred and thirty million dollars' worth more undoubtedly. I do not care whether it is a lock canal or a sea-level canal—it does not make any difference—you will not build it for that money.

If the Senator could show me that great benefit would come from this bill, I would not be very much alarmed about running in debt some, because with \$140,000,000 in the Treasury,

which is available now, and a hundred and fifty millions in the reserve, there is practically \$300,000,000 we can use, and we might tide along for four or five years and not become bankrupt. But every year our expenses increase, and I think any scheme for the restoration of American shipping and American commerce, putting it where we were in 1860, when we were carrying the largest part of our products outward and bringing in the largest part of our imports, ought to be self-supporting, or there ought to be a proposition to secure funds to pay the expenses that will be incurred.

Mr. President, that is all I care to say on this subject. I do not regard this measure as threatening the stability of the Government or even its credit. I have not half the interest in opposing this proposition that I have in some others, and I do not think it will do any great injustice to any part of the country. I do not believe it will do much good to any part of the country. I do not believe it is based upon a system that will restore the commerce of the country in the way the Senator desires.

I wish to say that I made same objections to the Senator having the bill set down for a vote, but so far as I am concerned I am ready to vote on it now. I do not suppose the Senator wishes to have the Senate vote on it at this time, but so far as I am concerned I do not propose to enter an objection to anything the Senator asks for which the Senate is willing to agree to.

Mr. GALLINGER. Mr. President, I have never at any time during the discussion of this measure felt like asking anything unreasonable in connection with it, nor do I feel that way now. I will venture to ask the Senate for unanimous consent that on Tuesday, the 13th of the present month, at 5 o'clock, we vote on the bill and all pending amendments and amendments that may be offered.

Mr. PATTERSON. Let me suggest—

The VICE-PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Colorado?

Mr. GALLINGER. Certainly.

Mr. PATTERSON. Let me suggest to the Senator from New Hampshire that he slightly amend the request for unanimous consent, and say that after the morning hour on the 13th, if any Senator desires to discuss any feature of the bill, that right shall exist.

Mr. GALLINGER. I will ask that the bill shall be taken up after the routine morning business on Monday and Tuesday of that week.

Mr. PATTERSON. That is satisfactory, so far as I am concerned, speaking only for myself.

Mr. GALLINGER. And that we shall vote on it at 5 o'clock on Tuesday.

The VICE-PRESIDENT. The Senator from New Hampshire asks unanimous consent that the pending bill and all amendments thereto now pending or hereafter to be offered be voted upon at 5 o'clock Tuesday, the 13th instant. Is there objection?

Mr. GALLINGER. And that the bill shall be taken up on Monday, the 12th, and Tuesday, the 13th, immediately after the routine morning business.

The VICE-PRESIDENT. And that the bill shall be taken up Monday and Tuesday, immediately after the routine morning business. Is there objection?

Mr. DANIEL. Permit me to inquire if the Senator would object to making it Wednesday or Thursday of that week?

Mr. GALLINGER. No; not at all. I will make it Wednesday, the 14th. It will be quite agreeable; and that the bill shall be taken up on Tuesday and Wednesday after the routine morning business.

The VICE-PRESIDENT. The Chair will restate the request.

The Senator from New Hampshire asks unanimous consent that the pending bill and all amendments thereto now pending or hereafter to be offered be voted upon at 5 o'clock on Wednesday, the 14th instant, and that the bill be taken up for consideration after the routine morning business on the Tuesday preceding, and on Wednesday the day of the vote. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. LODGE. Mr. President, I wish to correct a mistake of which I was guilty when the bill was last up, and the statement I asserted with an assurance which I ought not to have used. It was in regard to the laws of other countries affecting the coastwise trade. I said that I believed that all other countries had laws confining the coastwise trade to their own vessels. The point was raised in regard to the coastwise trade of Great Britain—that is, the trade on the coasts of the British islands—and I stated that I thought it was reserved to British vessels. I was mistaken.

I ought to have remembered what I did well know—that the famous navigation laws, which were originally passed in the time of Cromwell's protectorate, were repealed in 1849, and the law which confined the coastwise trade to English vessels was repealed at that time or soon after.

What misled me was that I knew, as matter of fact, that the entire coastwise trade of the British Isles was carried in British vessels; and, of course, there are regulations, especially regulations of Lloyds Insurance Company, which make it very difficult for any foreign vessel to enter the British coastwise trade. There may be an occasional Norwegian ship engaged in that trade, but they are very, very few.

I found out, however, when I made my inquiries, that the coastwise trade of England's great colonies, like Canada and Australia, was confined to vessels of Canadian or Australian or British register—that is, of colonial or British register—and that foreign vessels are entirely excluded from that colonial coastwise trade unless the foreign country admits the vessels of the colony to its own coastwise trade. So, in practice, no foreign vessels are admitted to the coastwise trade of the British colonies, and the trade between the mother country and the colonies, owing to the exceptionally generous subsidies provided by England, is wholly in the hands of British shipowners.

France, Spain, Italy, and Russia, which command practically all the coasts of Europe where there is a considerable coastwise trade, have laws similar to our own, confining the coastwise trade to their own vessels.

I merely wished to make this statement, because, having made the error, I desired to correct it as publicly as I made it.

The VICE-PRESIDENT. What is the further pleasure of the Senate?

Mr. KEAN. If the Senator from New Hampshire will yield to me, I will move an executive session.

Mr. GALLINGER. Certainly; I yield.

EXECUTIVE SESSION.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After sixteen minutes spent in executive session the doors were reopened, and (at 3 o'clock and 28 minutes p. m.) the Senate adjourned until tomorrow, Tuesday, February 6, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 5, 1906.

REGISTER OF THE TREASURY.

William T. Vernon, of Kansas, to be Register of the Treasury, to succeed Judson W. Lyons, resigned.

DISTRICT ATTORNEY.

Alfred E. Holton, of North Carolina, to be United States attorney for the western district of North Carolina. A reappointment, his term having expired on January 12, 1906.

MARSHALS.

S. Brown Allen, of Virginia, to be United States marshal for the western district of Virginia. A reappointment, his term expiring March 19, 1906.

John R. Abernathy, of Oklahoma, to be United States marshal for the Territory of Oklahoma, in the place of William D. Fossett, whose term will expire March 31, 1906.

Claudius Dockery, of North Carolina, to be United States marshal for the eastern district of North Carolina, in the place of Henry C. Dockery, whose term expired January 12, 1906.

James M. Millikan, of North Carolina, to be United States marshal for the western district of North Carolina. A reappointment, his term having expired on December 16, 1905.

SURVEYOR OF CUSTOMS.

Leopold G. Rothschild, of Indiana, to be surveyor of customs for the port of Indianapolis, in the State of Indiana, to succeed Archibald A. Young, whose term of office expired by limitation January 22, 1906.

COLLECTOR OF CUSTOMS.

Elwell S. Crosby, of Maine, to be collector of customs for the district of Bath, in the State of Maine, to succeed George Moulton, Jr., whose term of office expired by limitation.

PROMOTION IN THE ARMY.

Col. P. Henry Ray, Fourth Infantry, to be placed on the retired list of the Army with the rank of brigadier-general from the date upon which he shall be retired from active service.

POSTMASTERS.

CALIFORNIA.

F. L. Bostwick to be postmaster at Laton, in the county of Fresno and State of California. Office became Presidential January 1, 1906.

COLORADO.

Robert L. Chambers to be postmaster at Colorado Springs, in the County of El Paso and State of Colorado, in place of Lo C. Dana. Incumbent's commission expired January 23, 1906.

CONNECTICUT.

Bennett C. Atwood to be postmaster at Watertown, in the county of Litchfield and State of Connecticut, in place of Bennett C. Atwood. Incumbent's commission expired January 16, 1906.

Seth Pratt to be postmaster at Litchfield, in the county of Litchfield and State of Connecticut, in place of Seth Pratt. Incumbent's commission expired January 29, 1906.

Hubert Williams to be postmaster at Lakeville, in the county of Litchfield and State of Connecticut, in place of Hubert Williams. Incumbent's commission expired January 29, 1906.

DELAWARE.

David O. Moore to be postmaster at Laurel, in the county of Sussex and State of Delaware, in place of George E. Smith. Incumbent's commission expired January 21, 1906.

FLORIDA.

George W. Bean to be postmaster at Tampa, in the county of Hillsboro and State of Florida, in place of Gerald B. Reynolds. Incumbent's commission expired January 21, 1906.

ILLINOIS.

W. E. Puffer to be postmaster at Odell, in the county of Livingston and State of Illinois, in place of Richard R. Puffer, deceased.

INDIANA.

A. J. Kitt to be postmaster at Goodland, in the county of Newton and State of Indiana, in place of Morton Kilgore, resigned.

John Owen to be postmaster at Noblesville, in the county of Hamilton and State of Indiana, in place of William C. Vance. Incumbent's commission expired January 20, 1906.

Edgar A. Simmons to be postmaster at Kokomo, in the county of Howard and State of Indiana, in place of John A. Kautz. Incumbent's commission expired January 9, 1906.

Fred Snyder to be postmaster at Angola, in the county of Steuben and State of Indiana, in place of Elias O. Rose. Incumbent's commission expires February 7, 1906.

IOWA.

Charles W. Gray to be postmaster at Corning, in the county of Adams and State of Iowa, in place of Arthur M. Beymer. Incumbent's commission expired January 31, 1906.

Samuel D. Henry to be postmaster at Coon Rapids, in the county of Carroll and State of Iowa, in place of Samuel D. Henry. Incumbent's commission expired January 20, 1906.

Harry E. Hull to be postmaster at Williamsburg, in the county of Iowa and State of Iowa, in place of Harry E. Hull. Incumbent's commission expired December 16, 1905.

William F. Kopp to be postmaster at Mount Pleasant, in the county of Henry and State of Iowa, in place of John W. Palm. Incumbent's commission expired December 16, 1905.

N. C. Nelson to be postmaster at Essex, in the county of Page and State of Iowa, in place of John J. E. Carlson. Incumbent's commission expired January 28, 1906.

Gerald L. Whinery to be postmaster at Iowa Falls, in the county of Hardin and State of Iowa, in place of Gerald L. Whinery. Incumbent's commission expired January 21, 1906.

KANSAS.

Delmar E. Deputy to be postmaster at Manhattan, in the county of Riley and State of Kansas, in place of Delmar E. Deputy. Incumbent's commission expired January 16, 1906.

Thomas D. Fitzpatrick to be postmaster at Salina, in the county of Saline and State of Kansas, in place of Thomas D. Fitzpatrick. Incumbent's commission expired January 16, 1906.

Frank Fuhr to be postmaster at Meade, in the county of Meade and State of Kansas. Office became Presidential January 1, 1906.

John O. Hanson to be postmaster at Jamestown, in the county of Cloud and State of Kansas. Office became Presidential January 1, 1906.

Frank Harlow to be postmaster at Kingman, in the county of Kingman and State of Kansas, in place of Frank Harlow. Incumbent's commission expired January 16, 1906.

William A. Hopkins to be postmaster at Solomon, in the county of Dickinson and State of Kansas, in place of William A. Hopkins. Incumbent's commission expired January 16, 1906.

Simon Skovgaard to be postmaster at Greenleaf, in the county of Washington and State of Kansas, in place of Simon Skovgaard. Incumbent's commission expired January 16, 1906.

John M. Watson to be postmaster at Frankfort, in the county of Marshall and State of Kansas, in place of John M. Watson. Incumbent's commission expired January 16, 1906.

LOUISIANA.

George J. Hollister to be postmaster at Ponchatoula, in the parish of Tangipahoa and State of Louisiana. Office became Presidential January 1, 1906.

NEBRASKA.

William W. Hopkins to be postmaster at Oakland, in the county of Burt and State of Nebraska, in place of William W. Hopkins. Incumbent's commission expired January 20, 1906.

NEW HAMPSHIRE.

Charles E. Slate to be postmaster at Winchester, in the county of Cheshire and State of New Hampshire, in place of Charles E. Slate. Incumbent's commission expired January 29, 1906.

NEW JERSEY.

Thomas F. Austin to be postmaster at Millville, in the county of Cumberland and State of New Jersey, in place of Thomas F. Austin. Incumbent's commission expires February 28, 1906.

Frank Wanzer to be postmaster at Vineland, in the county of Cumberland and State of New Jersey, in place of Frank Wanzer. Incumbent's commission expires February 28, 1906.

NEW YORK.

George R. Vail to be postmaster at Chester, in the county of Orange and State of New York, in place of George R. Vail. Incumbent's commission expires February 10, 1906.

NORTH DAKOTA.

James M. Cubbison to be postmaster at Minnewaukon, in the county of Benson and State of North Dakota, in place of James M. Cubbison. Incumbent's commission expired January 21, 1906.

Chester A. Revell to be postmaster at Harvey, in the county of Wells and State of North Dakota, in place of Fred O. Brewster, resigned.

PENNSYLVANIA.

Richard L. Ashhurst to be postmaster at Philadelphia, in the county of Philadelphia and State of Pennsylvania, in place of Clayton McMichael. Incumbent's commission expired December 17, 1906.

Frank N. Donahue to be postmaster at Carrolltown, in the county of Cambria and State of Pennsylvania. Office became Presidential January 1, 1906.

Charles J. McGill to be postmaster at Dawson, in the county of Fayette and State of Pennsylvania, in place of Charles J. McGill. Incumbent's commission expired January 28, 1906.

Joseph S. Paul to be postmaster at South Fork, in the county of Cambria and State of Pennsylvania, in place of Joseph S. Paul. Incumbent's commission expired January 16, 1906.

Jacob R. Zuck to be postmaster at Mount Pleasant, in the county of Westmoreland and State of Pennsylvania, in place of Jacob R. Zuck. Incumbent's commission expired January 30, 1906.

TEXAS.

Ferman Carpenter to be postmaster at Franklin, in the county of Robertson and State of Texas. Office became Presidential January 1, 1906.

VIRGINIA.

Hansford Anderson to be postmaster at Westpoint, in the county of King William and State of Virginia, in place of Hansford Anderson. Incumbent's commission expired January 21, 1906.

Royal E. Cabell to be postmaster at Richmond, in the county of Henrico and State of Virginia, in place of Wray T. Knight. Incumbent's commission expires May 7, 1906.

WASHINGTON.

Frank E. Pells to be postmaster at Ballard, in the county of King and State of Washington, in place of Frank E. Pells. Incumbent's commission expired January 16, 1906.

Charles A. Phillips to be postmaster at Wilbur, in the county of Lincoln and State of Washington, in place of Charles A. Phillips. Incumbent's commission expired January 13, 1906.

Charles C. White to be postmaster at Waterville, in the county of Douglas and State of Washington, in place of Joseph G. Tuttle, resigned.

WEST VIRGINIA.

Harry E. Munday to be postmaster at Shepherdstown, in the county of Jefferson and State of West Virginia, in place of

Harry E. Munday. Incumbent's commission expires February 10, 1906.

WISCONSIN.

Allan Beggs to be postmaster at Hudson, in the county of St. Croix and State of Wisconsin, in place of Allan Beggs. Incumbent's commission expires February 7, 1906.

George Graham to be postmaster at Tomah, in the county of Monroe and State of Wisconsin, in place of George Graham. Incumbent's commission expired January 21, 1906.

Hugh McInnes to be postmaster at Edgerton, in the county of Rock and State of Wisconsin, in place of Lawrence C. Whittet. Incumbent's commission expired January 30, 1906.

Andrew Noll to be postmaster at Chilton, in the county of Calumet and State of Wisconsin, in place of George D. Breed. Incumbent's commission expires February 7, 1906.

Joseph J. Schultz to be postmaster at Kewaunee, in the county of Kewaunee and State of Wisconsin, in place of Joseph J. Schultz. Incumbent's commission expires February 7, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 5, 1906.

COLLECTOR OF CUSTOMS.

James B. Stewart, of Virginia, to be collector of customs for the district of Richmond, in the State of Virginia.

POSTMASTERS.

ALABAMA.

William M. McNaron to be postmaster at Albertville, in the county of Marshall and State of Alabama.

Walter T. Stewart to be postmaster at Sylacauga, in the county of Talladega and State of Alabama.

ARKANSAS.

Albert B. Andrews to be postmaster at Harrison, in the county of Boone and State of Arkansas.

John W. Bell to be postmaster at Greenwood, in the county of Sebastian and State of Arkansas.

A. C. Curtis to be postmaster at Lonoke, in the county of Lonoke and State of Arkansas.

Jack Grayson to be postmaster at Prescott, in the county of Nevada and State of Arkansas.

David R. Hammer to be postmaster at Siloam Springs, in the county of Benton and State of Arkansas.

John O. May to be postmaster at Booneville, in the county of Logan and State of Arkansas.

O. D. Sanborn to be postmaster at Blytheville, in the county of Mississippi and State of Arkansas.

John N. Sarber, Jr., to be postmaster at Clarksville, in the county of Johnson and State of Arkansas.

Henry M. Sugg to be postmaster at Dardanelle, in the county of Yell and State of Arkansas.

CALIFORNIA.

J. W. Duckworth to be postmaster at Anaheim, in the county of Orange and State of California.

COLORADO.

John Alfred to be postmaster at Leadville, in the county of Lake and State of Colorado.

Olie Thorson to be postmaster at Glenwood Springs, in the county of Garfield and State of Colorado.

CONNECTICUT.

Roswell S. Edgcomb to be postmaster at Groton, in the county of New London and State of Connecticut.

James W. Hague to be postmaster at Torrington, in the county of Litchfield and State of Connecticut.

William H. Marigold to be postmaster at Bridgeport, in the county of Fairfield and State of Connecticut.

J. Henry Roraback to be postmaster at Canaan, in the county of Litchfield and State of Connecticut.

GEORGIA.

John Fleming to be postmaster at Sparta, in the county of Hancock and State of Georgia.

ILLINOIS.

Smith D. Atkins to be postmaster at Freeport, in the county of Stephenson and State of Illinois.

Otto W. Balgeman to be postmaster at Elmhurst, in the county of Du Page and State of Illinois.

Henry Brueggemann to be postmaster at Alton, in the county of Madison and State of Illinois.

W. E. Eastman to be postmaster at Moline, in the county of Rock Island and State of Illinois.

Emory Gregg to be postmaster at Fairbury, in the county of Livingston and State of Illinois.

John W. Hancock to be postmaster at Casey, in the county of Clark and State of Illinois.

Thomas G. Lawler to be postmaster at Rockford, in the county of Winnebago and State of Illinois.

Richard F. Lawson to be postmaster at Effingham, in the county of Effingham and State of Illinois.

H. A. J. McDonald to be postmaster at Rock Island, in the county of Rock Island and State of Illinois.

Thomas S. Reynolds to be postmaster at Harrisburg, in the county of Saline and State of Illinois.

C. A. Simington to be postmaster at Sheffield, in the county of Bureau and State of Illinois.

Alice A. Sumner to be postmaster at Pecatonica, in the county of Winnebago and State of Illinois.

INDIANA.

James F. Crawford to be postmaster at Farmersburg, in the county of Sullivan and State of Indiana.

John W. Cronk to be postmaster at Veedersburg, in the county of Fountain and State of Indiana.

Frank Duffendach to be postmaster at Huntingburg, in the county of Dubois and State of Indiana.

Charles Fricke to be postmaster at Tell City, in the county of Perry and State of Indiana.

Jesse E. Haddon to be postmaster at Dana, in the county of Vermilion and State of Indiana.

John R. Lancaster to be postmaster at Jeffersonville, in the county of Clark and State of Indiana.

Harry C. Martin to be postmaster at Attica, in the county of Fountain and State of Indiana.

Lewis Miller to be postmaster at Thorntown, in the county of Boone and State of Indiana.

John H. Spencer to be postmaster at Rockville, in the county of Parke and State of Indiana.

INDIAN TERRITORY.

Art Asbell to be postmaster at Checotah, in District Ten, Indian Territory.

Nelson L. Eggleston to be postmaster at Minco, in District Nineteen, Indian Territory.

IOWA.

B. E. Allen to be postmaster at Laurens, in the county of Pocahontas and State of Iowa.

Charles L. Early to be postmaster at Sac City, in the county of Sac and State of Iowa.

Francis A. Lewis to be postmaster at Marcus, in the county of Cherokee and State of Iowa.

George H. Loring to be postmaster at Dallas Center, in the county of Dallas and State of Iowa.

Lewis H. Mayne to be postmaster at Emmetsburg, in the county of Palo Alto and State of Iowa.

Fred C. McCall to be postmaster at Nevada, in the county of Story and State of Iowa.

Harold E. Scott to be postmaster at Sibley, in the county of Osceola and State of Iowa.

Kate C. Warner to be postmaster at Dayton, in the county of Webster and State of Iowa.

KANSAS.

Joseph W. A. Cooke to be postmaster at Ellinwood, in the county of Barton and State of Kansas.

KENTUCKY.

Cam B. McPherson to be postmaster at Horse Cave, in the county of Hart and State of Kentucky.

MAINE.

George W. Goulding to be postmaster at Oakland, in the county of Kennebec and State of Maine.

MASSACHUSETTS.

James A. Eldridge to be postmaster at Williamstown, in the county of Berkshire and State of Massachusetts.

Merton Z. Woodward to be postmaster at Shelburne Falls, in the county of Franklin and State of Massachusetts.

MICHIGAN.

Melvin A. Bates to be postmaster at Grayling, in the county of Crawford and State of Michigan.

Julius O. Becroft to be postmaster at Dowagiac, in the county of Cass and State of Michigan.

James A. Button to be postmaster at Flint, in the county of Genesee and State of Michigan.

Byron H. Colburn to be postmaster at Lawrence, in the county of Van Buren and State of Michigan.

Henry A. Graves to be postmaster at Quincy, in the county of Branch and State of Michigan.

Milo B. Halliwill to be postmaster at Flushing, in the county of Genesee and State of Michigan.

James G. Hayden to be postmaster at Cassopolis, in the county of Cass and State of Michigan.

John D. Mangum to be postmaster at Marquette, in the county of Marquette and State of Michigan.

MINNESOTA.

Charles C. Eastman to be postmaster at Wadena, in the county of Wadena and State of Minnesota.

Edward F. Joubert to be postmaster at Wheaton, in the county of Traverse and State of Minnesota.

Casper F. Schonlau to be postmaster at Houston, in the county of Houston and State of Minnesota.

James H. Smullen to be postmaster at Lesueur Center, in the county of Lesueur and State of Minnesota.

George M. Young to be postmaster at Perham, in the county of Otter Tail and State of Minnesota.

MISSOURI.

Samuel A. Chapell to be postmaster at Monett, in the county of Barry and State of Missouri.

William T. Clements to be postmaster at Platte City, in the county of Platte and State of Missouri.

Herschel P. Kinsolving to be postmaster at Malden, in the county of Dunklin and State of Missouri.

Simon P. Loebe to be postmaster at Charleston, in the county of Mississippi and State of Missouri.

Luther McGehee to be postmaster at Joplin, in the county of Jasper and State of Missouri.

Gus A. Page to be postmaster at Grandin, in the county of Carter and State of Missouri.

Samuel A. Shelton to be postmaster at Marshfield, in the county of Webster and State of Missouri.

Henry C. Shubert to be postmaster at Richland, in the county of Pulaski and State of Missouri.

W. R. Sweeney to be postmaster at Salisbury, in the county of Chariton and State of Missouri.

Thomas J. Ulen to be postmaster at Dexter, in the county of Stoddard and State of Missouri.

Vinson T. Williams to be postmaster at Stanberry, in the county of Gentry and State of Missouri.

MONTANA.

James H. Powell to be postmaster at Virginia City, in the county of Madison and State of Montana.

NEBRASKA.

Timothy B. Calnon to be postmaster at Lyons, in the county of Burt and State of Nebraska.

Henry Gietzen to be postmaster at Humphrey, in the county of Platte and State of Nebraska.

Chess Chinn to be postmaster at St. Paul, in the county of Howard and State of Nebraska.

Sanford D. Cole to be postmaster at Wymore, in the county of Gage and State of Nebraska.

Cyrus E. Hunter to be postmaster at Wakefield, in the county of Dixon and State of Nebraska.

Roy A. Richmond to be postmaster at Wausa, in the county of Knox and State of Nebraska.

Lewis M. Short to be postmaster at Ainsworth, in the county of Brown and State of Nebraska.

NEVADA.

Ephriam D. Turner to be postmaster at Delamar, in the county of Lincoln and State of Nevada.

NEW HAMPSHIRE.

Charles E. Marsh to be postmaster at Greenville, in the county of Hillsboro and State of New Hampshire.

NEW JERSEY.

George L. Clarke to be postmaster at Morristown, in the county of Morris and State of New Jersey.

Nathaniel H. Furman to be postmaster at Lawrenceville, in the county of Mercer and State of New Jersey.

Richard F. Goodman to be postmaster at Newton, in the county of Sussex and State of New Jersey.

George M. MacDonald to be postmaster at Springfield, in the county of Union and State of New Jersey.

NEW MEXICO.

Luther M. Shely to be postmaster at Santa Rosa, in the county of Guadalupe and Territory of New Mexico.

NEW YORK.

Henry A. France to be postmaster at Far Rockaway, in the county of Queens and State of New York.

George H. Hubbs to be postmaster at Central Islip, in the county of Suffolk and State of New York.

Ezra Sayre to be postmaster at Corinth, in the county of Saratoga and State of New York.

NORTH DAKOTA.

Percy R. Trubshaw to be postmaster at Cooperstown, in the county of Griggs and State of North Dakota.

Thomas H. Thorlson to be postmaster at Grafton, in the county of Walsh and State of North Dakota.

OHIO.

Thomas E. Frisbee to be postmaster at Prairie Depot, in the county of Wood and State of Ohio.

Isaac N. Medford to be postmaster at Fort Recovery, in the county of Mercer and State of Ohio.

Edwin Morgan to be postmaster at Alliance, in the county of Stark and State of Ohio.

John N. Snoots to be postmaster at Roseville, in the county of Muskingum and State of Ohio.

George L. Stoughton to be postmaster at Westerville, in the county of Franklin and State of Ohio.

George R. Vincent to be postmaster at Hiram, in the county of Portage and State of Ohio.

Chester R. P. Waltz to be postmaster at Delta, in the county of Fulton and State of Ohio.

Fred Yeager to be postmaster at Perrysburg, in the county of Wood and State of Ohio.

OREGON.

O. A. Wolverton to be postmaster at Monmouth, in the county of Polk and State of Oregon.

PENNSYLVANIA.

Charles M. McDanel to be postmaster at New Brighton, in the county of Beaver and State of Pennsylvania.

RHODE ISLAND.

Moise Meunier to be postmaster at Arctic, in the county of Kent and State of Rhode Island.

SOUTH CAROLINA.

Joshua F. Ensor to be postmaster at Columbia, in the county of Richland and State of South Carolina.

William F. Rice to be postmaster at Denmark, in the county of Bamberg and State of South Carolina.

SOUTH DAKOTA.

Frederic J. Brown to be postmaster at Britton, in the county of Marshall and State of South Dakota.

Charles E. Johnson to be postmaster at Bridgewater, in the county of McCook and State of South Dakota.

William C. Mathieson to be postmaster at Fort Pierre, in the county of Stanley and State of South Dakota.

Walter McKay to be postmaster at Lead, in the county of Lawrence and State of South Dakota.

John C. McMillan to be postmaster at Sturgis, in the county of Meade and State of South Dakota.

Addison H. Pease to be postmaster at Wagner, in the county of Charles Mix and State of South Dakota.

Charles J. Porter to be postmaster at Madison, in the county of Lake and State of South Dakota.

John A. Stanley to be postmaster at Hot Springs, in the county of Fall River and State of South Dakota.

TENNESSEE.

Giles Rives to be postmaster at Brownsville, in the county of Haywood and State of Tennessee.

TEXAS.

Frank C. Blaine to be postmaster at Del Rio, in the county of Valverde and State of Texas.

H. E. Kinsloe to be postmaster at Corsicana, in the county of Navarro and State of Texas.

Nathan Leavitt to be postmaster at Stamford, in the county of Jones and State of Texas.

VIRGINIA.

John M. Griffin to be postmaster at Fredericksburg, in the county of Spotsylvania and State of Virginia.

William T. Miller to be postmaster at Shenandoah, in the county of Page and State of Virginia.

Edwin M. C. Quimby to be postmaster at Suffolk, in the county of Nansemond and State of Virginia.

Charles H. Revercomb to be postmaster at Covington, in the county of Alleghany and State of Virginia.

Charles P. Smith to be postmaster at Martinsville, in the county of Henry and State of Virginia.

WISCONSIN.

Henry Curran to be postmaster at Stevens Point, in the county of Portage and State of Wisconsin.

Jorgen C. Jacobson to be postmaster at Elroy, in the county of Juneau and State of Wisconsin.

WYOMING.

George W. Hoyt to be postmaster at Cheyenne, in the county of Laramie and State of Wyoming.

HOUSE OF REPRESENTATIVES.

MONDAY, February 5, 1906.

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

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of Saturday, February 3, was read and approved.

CERTAIN TOWN SITES ON THE FLATHEAD INDIAN RESERVATION.

Mr. DIXON of Montana. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 8461) to amend chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section 9 of chapter 1479, Revised Statutes of the United States, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That chapter 1495, Revised Statutes of the United States, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment" as amended by section 9 of chapter 1479, Revised Statutes of the United States, be amended by adding the following sections:

"SEC. 17. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks, not less than 40 acres of said land at or near the present settlements of Arlee, Dayton, Ravalli, Dixon, and Ronan, and not less than 80 acres at the present settlement of St. Ignatius and Polson, and at such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlements.

"The work of surveying, laying out, and platting such town sites shall be done by competent surveyors, who shall prepare three copies of each of said town sites, which, when the surveys are approved by the Secretary of the Interior, shall be filed as follows: One in the Office of the Commissioner of Indian Affairs, one with the clerk and recorder of the county in the State of Montana in which such town site may be located, and one in the office of the Indian agent for the Flathead Indian Reservation.

"Whenever any portion of any tracts of land so set aside for town-site purposes shall, at the time of its survey, be occupied by any member of any tribe of Indians living upon said reservation, or any Indian trader, or other person or corporation, or any church organization, or school district, lawfully occupying the same, such occupant shall be allowed to purchase any lot or lots upon which he then has improvements, other than fences, tillage, and temporary improvements, at \$10 per lot, not exceeding ten lots to any one person, corporation, church organization, or school district. All remaining lots shall be disposed of by the Secretary of the Interior from time to time at public auction to the highest cash bidder under such rules and regulations as the Secretary of the Interior shall prescribe: *Provided, however*, That no lot shall be sold for less than \$10: *And provided further*, That said lots when surveyed shall approximate 50 by 150 feet in size.

"SEC. 18. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside 160 acres of land at and surrounding the present hot springs, situated on said reservation near the settlement of Camas.

"That said hot springs and the said 160 acres of land last mentioned shall be under the control and direction of the Secretary of the Interior, under such rules and regulations as he may prescribe, but any and all moneys that shall be derived from such use shall be for the benefit of the persons holding tribal relations with said tribes of Indians, the same to be disbursed as provided in section 13 of this act.

"SEC. 19. That nothing in this act shall be construed to deprive any of said Indians or said persons or corporations to whom the use of land is granted by this act of the use of any water appropriated or used by them for the irrigation of their lands or for domestic use or any ditches, dams, flumes, reservoirs constructed or used by them in the appropriation or use of said water."

With the following amendment:

Page 2, line 7, after the word "Arlee," insert the word "Dayton."

The SPEAKER. Is there objection?

Mr. CLARK of Missouri. Mr. Speaker, I would like to ask the gentleman two or three questions about this bill. It is so long that I could not understand it very well. What is it all about? I reserve the right to object.

Mr. DIXON of Montana. Mr. Speaker, I will say to the gentleman from Missouri that two years ago Congress passed an act opening the reservation to settlement. At that time in the preparation of the bill we forgot to put in a provision regarding the town sites. There are six or eight little nucleus settlements throughout the reservation where there are little towns now, probably twenty or thirty or forty houses, and this provides for the platting of these 40 acres into town sites and the sale of the lots at public auction to the highest bidder, the money to go to the Indians. That is the first provision.

Mr. CLARK of Missouri. This is the Indians' land?

Mr. DIXON of Montana. Yes.

Mr. CLARK of Missouri. They get the benefit of it?

Mr. DIXON of Montana. Yes.

Mr. CLARK of Missouri. Is it the unanimous report of the committee?

Mr. DIXON of Montana. Yes.

Mr. CLARK of Missouri. And reported in the last Congress with the exception of one section?

Mr. DIXON of Montana. It was passed in the last Congress.

Mr. LACEY. It would increase the price of the land for the Indians, each town site giving that much higher to the Indians than if it had been sold under the general law.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to ask whether or not it entails any expense on the part of the Government?

Mr. DIXON of Montana. None at all. It occurs to me as the bill is read there was an appropriation for the original surveys, reimbursable to the Government out of the proceeds of the sale of the land.

Mr. CLARK of Missouri. These Indians want this thing done as well as the white people?

Mr. DIXON of Montana. Every one on the reservation. Every head chief has been talked with.

Mr. CLARK of Missouri. They are always anxious to sell the land and get the money and spend it, I suppose?

Mr. DIXON of Montana. They are getting \$10 a lot under this bill, whereas under the original bill they would get only \$5 an acre.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the amendment.

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

The SPEAKER. The question now is on the engrossment and third reading of the bill as amended.

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

On motion of Mr. DIXON of Montana, a motion to reconsider the last vote was laid on the table.

WATERWORKS FOR LAWTON, OKLA.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 13674) to amend an act entitled "An act to amend an act entitled 'An act to supplement existing laws relating to the disposition of lands, etc., approved March 3, 1901,' approved June 30, 1902," which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That an act to amend an act entitled "An act to supplement existing laws relating to the disposition of lands, etc., approved March 3, 1901," approved June 30, 1902, be amended by adding thereto the following:

"*And provided further*, That in the event the amount which the Secretary of the Interior is authorized to cause to be expended for the town of Lawton is found by him to be not sufficient for the purpose intended, including the securing of an adequate water supply for said town of Lawton, he is hereby authorized, in his discretion, to cause to be expended out of the proceeds of the sale of town lots in said town, under the conditions, limitations, and restrictions above set forth, and subject to his supervision and control, the further sum of \$60,000, or so much thereof as may be available from said proceeds, so that the total amount which he is authorized to cause to be expended as aforesaid for the town of Lawton from the proceeds of the sale of town lots in said town will not exceed \$210,000."

Mr. LACEY. Mr. Speaker, reserving the right to object, I would like to ask the gentleman a question. What committee reports this bill?

Mr. LLOYD. The Committee on Territories.

Mr. LACEY. It provides for the disposition of town lots in the town of Lawton, does it not?

Mr. LLOYD. No; it provides for the disposition of part of the proceeds of the sale of town lots. When Comanche County was laid out and Lawton established as the county seat, the law provided that the lots should be sold and that the money should be placed in the hands of the Secretary of the Interior, to be by him used in county improvements.

Mr. LACEY. Yes; I remember that bill came from the Indian Committee originally.

Mr. LLOYD. And under that they have constructed a county court-house, a county jail, and built bridges and made quite a number of improvements.

Mr. LACEY. There is nothing involved in this bill excepting the further disposition of the funds that are now in the hands of the town of Lawton?

Mr. LLOYD. That is all.

Mr. MANN. I would like to ask the gentleman if this bill itself is as formidable as its title?

Mr. LACEY. No, sir; it is not so dangerous.

Mr. STEPHENS of Texas. I think the bill should pass. I understand the situation there, and I think it is urgently demanded, and the bill should pass.

The SPEAKER. The Chair hears no objection.

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

On motion of Mr. LLOYD, a motion to reconsider the last vote was laid on the table.

REGULATION OF RAILROAD RATES.

On motion of Mr. HEPBURN, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 12987) to regulate railroad rates, Mr. VREELAND in the chair.

Mr. HEPBURN. Mr. Chairman, I yield one hour to the gentleman from Maine [Mr. LITTLEFIELD].

The CHAIRMAN. The gentleman from Maine is recognized for one hour.

Mr. LITTLEFIELD. Mr. Chairman, at the last Congress I voted for a bill that was aimed to meet some of the difficulties that are now sought to be reached by the pending measure. More ample consideration and further examination of the question, and as I trust a more full appreciation of the gravity of the situation, has led me to the conclusion that as the bill now stands it is impossible for me to support it, and I beg the indulgence of the committee for a while that I may give some reasons that lead me to that conclusion. I am perfectly well aware that conditions exist throughout the country giving rise to agitation that this legislation is expected to adequately meet. I have not any doubt, Mr. Chairman, that grievances exist, that injustices have been done, that there is oppression, and that there are grave discriminations and great difficulties involved in the transportation problem. I doubt very much, however, whether the picture is entitled to the dark shades that have been given to it by some of the distinguished gentlemen who, in the enthusiasm of the moment, have engaged in this discussion.

It would not be very surprising, Mr. Chairman, with some two hundred and ten thousand miles of railroad transportation, with the investment of something like eleven billions of capital, involving every financial and business interest in the Republic, in its articulation, interdependence with these business interests, that we should necessarily have difficulties, injustices, oppressions, and grievances. I suppose, Mr. Chairman, that this great body of which we are members in time past has been guilty of foolish and extravagant conduct, and I have no doubt that in time to come it will to a certain extent repeat those curious performances. The Supreme Court itself has had occasion from time to time to reverse itself, upon a more full consideration of important questions depending before it, and the Interstate Commerce Commission has made more blunders than it has exercised right and proper judgment in connection with this very question in the discussion of which we are now engaged; so that, Mr. Chairman, it is not surprising these conditions exist. I concede also, Mr. Chairman, that they exist in such a degree as may require reasonable legislation for the purpose of adequately and conservatively meeting the situation, and to a reasonable extent I am perfectly willing to go, and, as I shall indicate a little later, I am perfectly willing to follow in the lead of any distinguished gentleman who may have mapped out a line of legislation that will reasonably and conservatively and fairly and judiciously undertake to meet adequately this situation.

There are a few things, perhaps, to which I should call attention and allude to in passing. First, there is this: A good deal is said, if I may judge—I have been necessarily deprived of attending the exercises of the House for the last two or three days—but a great deal has been said in this discussion as to the paternity or proprietorship of this legislation. Now, Mr. Chairman, I take a very languid interest in the question as to who may be the originator of legislation that may be desirable. If William Jennings Bryan is the proprietor or originator of the proposition that impresses me as wise and just, I shall vote for it, Mr. Chairman, notwithstanding he is the proprietor. [Applause.] It is entirely immaterial to me who may be associated with or responsible for a legislative proposition. If it commands itself to my judgment, I will vote for it, no matter who may support it. On the other hand, if it fails to command itself to my judgment as being right I will vote against it, no matter who may indorse and approve or originate it. The responsibility of legislation is ours and we act, Mr. Chairman, upon it. It is a great pleasure, though, for me to say in the very outset of this discussion under these conditions that I would support—although, as I shall indicate a little later, it might not be absolutely necessary for the purpose of adequately taking care of existing conditions—I would support a measure that went as far and no further than the recommendations of the President of the United States in 1904 and 1905.

I said I cared very little about the paternity of the measure. I would not like to have that applied, however, to the name of the distinguished gentleman who stands to-day as the sponsor of this measure before the House. If this legislation proves to be wise—as I very much fear, aye, as I believe it will not if enacted into law—if it should prove to be wise, it is a great

pleasure to me to know that the distinguished chairman of this committee has given his name to this bill. His services—long, arduous, patriotic, efficient, and successful—to his constituents and to his country, his great ability, and his high character and unquestioned integrity rightly entitle him to any mark of legislative distinction that is within the power of this body to bestow. [Applause.]

Now, I wish to advert to a few fundamental suggestions before I reach the discussion of the concrete proposition pending before this body. I hear people discuss this measure, and I read the discussions, and they refer glibly to a reasonable rate and the circumstances under which this legislative body may exercise a legislative control over that rate. What is the origin of the legislative power to control the exercise of a public franchise?

The origin rests, Mr. Chairman, so far as this general control is concerned, upon the broad fundamental principles of the common law, because never yet was a public franchise granted, either for the operation of a railroad or a water company, an electric-light company, or for any other public purpose, that did not involve inherently the fundamental proposition that it should be exercised in the public interest, that the public should be served at a reasonable rate without any discrimination. That is fundamental. It has been the law of the land from the time whereof the memory of man runneth not to the contrary. We do not act here under the legislative power to regulate and control a franchise by virtue of this inherent power, because we are not acting upon Federal corporations. Very few railroad corporations get their life and being from Federal legislation. The vast mass of them are the creatures of the State; and it would be for the State to exercise this power as a scientific, legal proposition. But we undertake to exercise a power, and we can exercise it by virtue of the commerce clause of the Constitution, which enables us to say, not how they shall exercise a franchise and protect the people in the exercise of their rights and serve them in a just and reasonable manner without discrimination, but upon what conditions corporations engaged in interstate commerce shall do their business. And under that I concede, Mr. Chairman, that we have undoubted power to enact this legislation.

I grant the suggestion of my distinguished friend from Michigan [Mr. TOWNSEND] upon that line. I think our power is full and plenary. But let me go a little bit further with some general suggestions which absolutely underlie this whole agitation. What is a reasonable rate? Who is there upon this floor that can tell? I undertake to assert, Mr. Chairman, and I challenge successful contradiction, that there is not to be found in the books, either in the reports of the States or the reports of the United States Supreme Court, one single case that lays down a definite, scientific rule upon which a reasonable rate can be determined. It is absolutely indefinite and indeterminate to the very last degree. Not only is that true of the decisions of the courts of the country—and well might Mr. Justice Harlan, in the opinion in *Sinythe v. Ames*, say that this was surrounded by a great deal of embarrassment—I say, not only is it true as to the judicial tribunals of this country, but it is more than true of the Interstate Commerce Commission. They do not know, no other person knows, what that definite, scientific rule is. You may search the opinions of the Interstate Commerce Commission from the year 1887 to the year of our Lord 1905, and no live man can tell by any decision that tribunal has ever rendered what its next decision will be upon the question of the scientific determining of what a reasonable rate is. No railroad, no shipper, can tell from the decisions already rendered what the next decision is to be. I do not suggest, Mr. Chairman, that these important and underlying considerations should negative any legislative action.

But I suggest them on the threshold of this discussion in order that we may appreciate the vast and tremendous difficulties involved in this great question, in order that we may fully understand what power we are proposing now by this bill to rest in a purely political tribunal without recourse and without appeal. If any distinguished gentleman desires to examine the law for the purpose of ascertaining the character of this indefiniteness and would like to get the most recent and valuable declaration of a court upon this great question as to whether there is any definite, scientific basis upon which a reasonable rate is to be determined, which is the absolute foundation of all this agitation, the complete genesis upon which this bill must ultimately rest, I will give him two cases to which he can refer. There is a distinguished and able judge in my State, Judge Savage, a very learned man, who has rendered two opinions which contain more careful, scientific detail, marking it out more plainly than any other opinion yet announced by any court; and yet after all he says they have this same delightful uncertainty and this characteristic great indefiniteness. I will

give you the names of the cases, and if you have any occasion or curiosity you can refer to them. Kennebec Water District against Waterville, 97 Me., 185; Brunswick and Topsham Water District against Maine Water Company, 99 Me., 71.

Now, these suggestions, Mr. Chairman, are simply fundamental, and they illustrate the infinite difficulties involved in the question to be submitted to this tribunal, which is to be vested with power by this bill. It provides for determinations that are practically absolutely arbitrary to the very last degree. That is the kind of power we propose to rest in this tribunal.

I have said, Mr. Chairman—and I wish to emphasize that assertion—that I would be entirely willing upon this occasion to follow the recommendations of the President of the United States; and so I would. But I submit that this bill goes vastly further. I do not wish to be understood, however, as admitting that it is absolutely necessary to pass many of the provisions of this bill, except a few minor details, because I submit, and I submit it with all candor, under these circumstances of excitement, that if the provisions of existing law, statutory, Federal in their character, and the provisions of the common law, which require every carrier to serve at a reasonable rate and without any discrimination, independent of either Federal or State legislation, fundamental as the law itself, I submit, Mr. Chairman, that if the existing provisions of Federal legislation, which are nothing more than the enactment of the fundamental provisions of the common law, and their application to interstate commerce, if they were reasonably and fairly and continuously enforced, and the people who are affected by this condition would avail themselves of their common-law rights in the tribunals established by law for the purpose of maintaining and vindicating them, nine-tenths of the occasion for this legislation would absolutely vanish and disappear.

But, Mr. Chairman, I said that I would support this bill, provided it followed the recommendations of the President of the United States. Now, I wish to make myself clear. There are three great important particulars in which this legislation is not in harmony with the recommendation of the President of the United States. Under these circumstances it has become a very important political question, and we stand here to-day upon this floor and witness the edifying spectacle of both sides of this Chamber engaging in a legislative race to see which side will get most credit for applying relief to this condition; and in that race, I submit, Mr. Chairman, that the procession has gone away beyond its leader; the army is away in advance of its general. The leader has made some prescriptions calculated to take care of this disease, but under our zeal, under the circumstances, I submit, Mr. Chairman, with great confidence and I trust with great candor, that in our zeal we have gone vastly further and are about to apply remedies not recommended or asked for, which, in my judgment, will be vastly worse than the disease.

First, this bill confers upon this Commission, in my opinion, the power to initiate rates; second, the bill does not give what the President's recommendation, twice repeated, declares is necessary in order that it may conserve wise legislation. It does not give any court of appeal. And the third is vastly more important than either. This bill puts in the hands of a tribunal of seven men the power to say whether they shall have eliminated the preferential rates that prevail everywhere in all this great Republic, from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico, and which absolutely affect every class of business interest in this country, and upon which their business welfare and prosperity depend.

INITIATING RATES.

Now, I say first, Mr. Chairman, it confers the power of initiating rates. It is hardly necessary for me to call attention to the fact, as I shall now do, that the President says in so many words that he does not want that power conferred. He says:

I call your attention to the fact that my proposition is not to give the Commission power to initiate or originate rates generally, but to regulate the rate already fixed and originated by the road upon complaint and after investigation.

The committee agreed entirely with that, and made this assertion in their report:

As before observed, the power to initiate rates is not given to the Commission. So far as is known, but very few persons have thought it wise to confer this power, and it is just to the Interstate Commerce Commission to say that, as we are advised, no member of the Commission thinks it wise that they should be invested with this power.

I want to say, Mr. Chairman, that I concur with the President, and I agree with the distinguished chairman of this committee. I do not believe that a tribunal of seven men should be at one and the same time a detective agency, a prosecuting attorney, and a lord high executioner, even though railroads

may be the subject aimed at. I agree with the President of the United States, and with the distinguished chairman of the committee. Now, as to this assertion of the chairman as to the effect of this bill, I feel bound to say, taking into account his great ability and integrity, when I came to read the bill I had grave doubts of the fact, but on more careful reading of it, and I submit it to the consideration of my distinguished friend, it satisfied me, Mr. Chairman, that while it may not have been intended or expected, that this amendment contained in this bill does, under the circumstances, confer precisely that power. I call your attention, Mr. Chairman, to section 4 in this bill, which amends section 15, and I beg you to note carefully its language:

That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made—

Now, mark the language—

as provided in section 15 of this act.

This section 4 neither adds to nor takes from the powers vested in this Interstate Commerce Commission by section 13. It does not increase their power; it does not diminish their power. It leaves it exactly where section 13 defines them. And then we have this concluding language in section 4, amending section 15:

The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this act.

Expressly providing that the provisions of law that obtain in section 13 shall remain absolutely intact. Now, let me call your attention to section 13, and the manner in which, under that section, complaint may be originated.

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts, etc.

What does section 4 amending section 15 do? It simply re-enacts all the provisions of section 13; but I have not read them all. Under section 13 the Commission have held that a common carrier could not make complaint. Complaints were confined to parties interested adversely to the common carrier. The amendment gives to common carriers that right. This does not make any other change in that section, but that section contains another provision which further defines how complaints can be made. The concluding parts of section 13 read as follows:

Said Commission * * * may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

That is "the complaint" made as provided in section 13 of this act.

As the law now stands, adverse complaint and complaints or inquiries instituted by the Commission amounting to the same thing, are the only things upon which the Commission can base an investigation or a finding. Their finding or order is not effective until approved and enforced by the court. The amendment simply adds the carrier as a complainant and makes the orders made on complaints self-executing. As to adverse complaints, the only change made is in the consequences following the complaint. The adverse complaint is, under the bill, potential as the basis of a self-executing order. That portion of section 13 conferring upon the Commission the power to "institute any inquiry" remains in full vigor, as no attempt is made to in any way amend it. The Commission still has the power to "initiate any inquiry," and as the bill makes the adverse complaint potential as the basis of a self-executing order, and as the inquiry instituted by the Commission still has, by the express language of the statute, "the same effect as though complaint had been made," the conclusion is obvious and necessary that the Commission "may institute any inquiry" that will also be the potential basis of a self-executing order. Hence to all intents and purposes they can initiate rates.

Mr. HARDWICK. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. LITTLEFIELD. Certainly; except I would not like to have the gentleman take up too much of my time, as I have a great deal of ground to cover.

Mr. HARDWICK. Just a moment. I am very much interested in the point the gentleman is making, and have the opposite view of it. Section 15 says, "Whenever, after full hearing upon a complaint made, as provided in section 13."

Mr. LITTLEFIELD. Precisely so.

Mr. HARDWICK. That language would not cover any action originated by the Commission itself, would it?

Mr. LITTLEFIELD. It covers every complaint contemplated by section 13. Section 13 provides for two methods of originat-

ing proceedings, in terms for the originating of complaints, one by the adverse party, and expressly confers upon the Commission the power to originate an inquiry, in effect a complaint itself, in the same manner and with the same effect as though a complaint were made.

Mr. HARDWICK. It does not say that the Commission may originate complaints itself.

Mr. LITTLEFIELD. No; it does not, in terms; but complaints are provided for and the Commission is authorized to make a complaint substantially itself. The Commission originates the inquiry, in the same manner and *with the same effect* as though complaints were made, and I will say further that a distinguished member of that Commission, after conference with myself, now entertains the view that this probably does confer upon the Commission this power. I agree with the President, the committee, and the Commission that this power of originating complaints ought not to be conferred upon them, and this bill clearly carries that power with it. They ought not to be allowed to roam about the country looking for trouble. If people are injured they will find it out, and if they are not enough interested in having their wrongs righted to make a complaint to the Commission they ought not be wet-nursed into litigation by a statutory prosecutor.

REVIEW BY THE COURTS.

This bill does not undertake to give any review by the courts; and I desire to read the recommendation of the President of the United States upon that point, and then I desire to discuss this question for a few moments as to how effective a review may be and under what circumstances it may be had. The President of the United States repeats twice the proposition that there must be a review by the courts. I will read his first recommendation:

In my judgment, the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to *review by the courts*.

It does not answer that recommendation to say that under certain circumstances the court can review the action of this Commission, circumstances which practically amount to confiscation, under which the extraordinary power of the court of equity can be invoked. I submit the President of the United States in making this recommendation contemplated that the legislation that conferred upon this Interstate Commerce Commission the power to fix a maximum rate and maintain that rate until it was overturned by a review by the courts would contain a provision providing for that review. He repeats this recommendation.

Mr. MANN. Mr. Chairman, will the gentleman pardon me?

The CHAIRMAN. Does the gentleman yield?

Mr. LITTLEFIELD. Yes.

Mr. MANN. Does the gentleman think the President of the United States contemplated that the courts should determine in review what was a reasonable rate—should review the reasonableness of the rate?

Mr. LITTLEFIELD. That is exactly what the President said.

Mr. TOWNSEND. Does the gentleman contend that the power could be conferred upon a court to do anything of that kind?

Mr. LITTLEFIELD. Mr. Chairman, I will reach that point a little bit later, and I think I will explain my position perfectly well to the gentleman from Michigan [Mr. TOWNSEND]. The President says:

But, in my judgment, the necessity for giving this further power is by no means as great as the necessity for giving the Commission or administrative body the other powers I have enumerated above; and it may well be inadvisable to attempt to vest this particular power in the Commission or other administrative body until it already possesses and is exercising what I regard as by far the most important of all the powers I recommend as being vitally important—that to fix a given maximum rate, which rate, after the lapse of a reasonable time, goes into full effect, *subject to review by the courts*.

Now, if language in a Presidential message is entitled to ordinary construction, I submit that that conveys to the ordinary mind the meaning that the President of the United States contemplated, whether constitutionally or otherwise—I have not reached the discussion of that point as yet—that the same legislation that invested this tribunal with this extraordinary autocratic power would also vest another tribunal with a power to review the determination of that tribunal. Whether it is constitutional or not raises another question. I would say, in connection with this question, that under these peculiar circumstances and curious conglomerate of legal relation, that this Commiss-

sion undoubtedly, when it undertakes to determine whether or not an existing rate is fair or reasonable, acts in a judicial capacity, and it is also absolutely true, Mr. Chairman, that when it undertakes to say what a rate shall be it acts in its legislative capacity; so that we have, independent of the question of review, a curious conglomerate of legal powers in this incongruous, administrative, judicial body; a union of judicial power, executive and legislative power supposedly to be exercised, aye, must be exercised, according to the genesis of this bill at one and the same time by the same tribunal.

I will say as to that proposition that I am not clear whether it is possible, whether it is constitutional, whether it is proper for us to combine judicial, legislative, executive, and administrative functions in one and the same body at the same time, political in its character though it may be. There has not yet been any determination by the courts of the United States or any other courts that hold that that either can or can not be done. The courts have talked about it. Judge Sage, in an oral opinion in one of the Federal reporters, said that this tribunal exercised a quasi judicial power as well as a legislative power; but that is the foundation of your whole proposition—that you can combine in one body three—yes, three—absolutely distinct, independent, constitutional powers—judicial, administrative, and legislative.

That is the foundation of your proposition. Now, if it be sound that that can be done, I want to say that at least on one of the phases of the power vested in this tribunal—that this curious act vests in it—the court would have the right to review at least that judicial power. Whether they could go further and vest in it the right to control the legislative power, of course, as my friend says, that raises a serious question, and I doubt whether it can be done. Under the theory as maintained and thoroughly believed in by some, that when in this bill this Interstate Commerce Commission is vested with the power to say whether a rate is reasonable or otherwise and vested with the power to fix a just and reasonable rate, it is acting, Mr. Chairman, in accordance with the provisions of the law, and if it should turn out that it did not fix a just and reasonable rate that it then violated the law and hence it was open to review by some higher tribunal on the ground that its acts were unlawful. It is claimed the court would have that power. I do not say I adhere to that so far as I am concerned, but if you can take your conglomerate Commission and make it stand up under the provisions of this bill, it may be possible that you could make a provision that would stand, that would take that same Commission before a court that would review its determinations in accordance with the law of the land.

Why, it is no answer to the suggestion to say we are engaged in legislation here that involves a proposition that no railroad can be protected against a decision of the Interstate Commerce Commission unless—what? Why, unless its decisions practically deprive it of its constitutional rights, take its property without due compensation, deprive it of its property by depriving it of the value of its use; that under these extraordinary circumstances a court of equity is called upon to intervene. Now, for a moment let us divorce ourselves from the excitement appertaining to this great question. Does not every lawyer upon this floor know that a court of equity never interferes under circumstances like that except—when? Except when the constitutional right of a railroad is invaded or infringed. Is this a bill for the purpose of exercising the right of eminent domain and under that guise take away the value of the property of the railroad companies? If you are going to exercise the control you are talking about and the circumstances under which you propose to exercise it, one might suppose that you propose to invoke at least one element of eminent domain, that of taking the property. We are creating a tribunal which will simply say what is a reasonable rate.

Does the Constitution of the United States, I ask you, Mr. Chairman, guarantee to any railroad company 6 per cent on its capital, 5 per cent, 4 per cent, 3 per cent, 2 per cent, or 1 per cent? Not for a moment; and the only point where we are able to interfere is precisely the point that is just within the point of confiscation.

Mr. TOWNSEND. If I understand the gentleman's argument correctly, he holds that it is possible that a court might review the orders of the Commission on the ground that it would be lawful to make such a review. I ask him if he does not understand that this bill provides that this action may bring in question the lawfulness of the Commission's order, and if the court has power to do that, inasmuch as this bill does not interfere with any of the existing powers of the court, that that right would still rest with the petitioner?

Mr. LITTLEFIELD. I will answer the gentleman by this suggestion: Every lawyer knows—and that includes my friend,

because he is a good lawyer—that no man can go into a court of equity and ask for the interposition of a writ of injunction except in an extraordinary case. It is absolutely fundamental to the equity jurisdiction.

It is only when the constitutional right under this bill would be infringed and invaded that the power of the court can be invoked, and there is not a lawyer when he sits down and coolly reflects but knows that is a perfectly accurate statement of the law of the land. This right can not be impaired by the Congress or by any tribunal created by it. Now, forsooth, is that an appeal from the orders of the Commission that are to take effect and be operative until this extraordinary power is invoked? Now, I do not say that the legislative discretion of this Commission can be reviewed by the court. I do not think it can, although I will admit the authorities are not entirely uniform on the proposition as to when the court will interfere.

Mr. TOWNSEND. I am not talking about—

Mr. LITTLEFIELD. One moment. I desire to say this: I say any orders of this conglomerate tribunal known as the "Interstate Commerce Commission," composed of judicial, executive, and legislative authority, so far as it exercises judicial authority, it is subject to review; so far as it exercises purely executive, administrative, or legislative authority, I do not think it is open to review.

I do not think it is open to review until the exercise of that legislative discretion infringes the constitutional right of either the railroad or some other person in this country, and in this instance it is only railroads, because it is only aimed at them.

While I am on this point of the discussion I want to call attention to the fact that there is no well-considered case that says just exactly under what circumstances the court will interfere by injunction. Asking the time of the House, I am going to call attention now, just for a moment, to the decision of the Supreme Court upon that question found in *Smythe v. Ames*, 169 United States, 466. I will read a few of the citations upon which the court relied, and call your attention to the facts upon which the court passed in that particular case. The court makes several citations, three or four of which I shall read extracts from. One extract is from the case of *Budd v. New York* (143 U. S., 517), where the court said—this was involving the precise proposition as to when the United States Supreme Court would interfere by injunction to restrain the operation of an order of a State commission, not the Interstate Commerce Commission, but a State commission, involving the same legal principle—and in that case the court said that—

Such power [commission] was not one to destroy or a power to compel the doing of the services without reward, or to take private property for public use without just compensation or without due process of law.

And from the case of *Reagan v. Farmers' Loan and Trust Company* (154 U. S., 362) the court made this citation:

This, as has been often observed, is a Government of law, and not a Government of men; and it must never be forgotten that under such a Government, with its constitutional limitations and guarantees, the forms of law and the machinery of government, with all their reach of power, must in their actual workings stop on the hither side of the unnecessary and uncompensated taking or destruction of any private property legally acquired and legally held.

And again, from the *St. Louis and San Francisco Railway* case (156 U. S., 649):

There is a remedy in the courts for relief against legislation establishing a tariff of rates which are so unreasonable as to practically destroy the value of property of companies engaged in the carrying business, and that especially may the courts of the United States treat such a question as a judicial one, and hold such acts of legislation to be in conflict with the Constitution of the United States, as depriving the companies of their property without due process of law, and as depriving them of the equal protection of the laws.

The next case is the *Covington* case, and from that the court cited:

A statute which, by its necessary operation, compels a turnpike company, when charging only such tolls as are just to the public, to submit to such further reduction of rates as will prevent it from keeping its road in proper repair, and from earning any dividends whatever for stockholders, is as obnoxious to the Constitution of the United States as would be a similar statute relating to the business of a railroad corporation having authority, under its charter, to collect and receive tolls for passengers and freight.

Now, I beg you to note that in these three or four citations made by Justice Harlan in his opinion every one of them proceeds upon the hypothesis that it is confiscation that fixes the boundary of the jurisdiction of this Commission, and it is only when the point of confiscation is reached that the extraordinary power of the court in equity and appeal, forsooth, to review the decision obtains. Nobody on earth, Mr. Chairman, can question the jurisdiction of this legislative body in the operation of its legislative functions, and we clothe this Interstate Commerce Commission with our legislative power, with all its privileges and subject to all these conditions, and among others, that supreme power to exercise within its scope its uncontrolled discretion.

Now, what does Justice Harlan say after having cited these various opinions, every one of which turned upon confiscation? He said:

In view of the adjudications these principles must be regarded as settled.

After stating two principles unrelated to this discussion, he states the third, as follows:

While rates for the transportation of persons and property within the limits of a State are primarily for its determination, the question whether they are so unreasonably low as to deprive the carrier of its property without such compensation as the Constitution secures, and therefore without due process of law, can not be so conclusively determined by the legislature of the State or by regulations adopted under its authority, that the matter may not become the subject of judicial inquiry.

Now, that was the *Smyth & Ames* case. Seven railroads were being considered and the order of the railroad commission of the State of Nebraska cut down their rates 29½ per cent. It turned out upon examination that in one case at least under this order of the railroad commission the earnings of one railroad had been so reduced that it would have been operated at a loss of \$62,243, and it was absolute confiscation in that case.

There were seven roads affected, and in all but two they would have been operated at a loss, and in those with only a very small margin above operating expenses. So the court said:

On the contrary, we are of opinion that as to most of the companies in question there would have been, under such rates as were established by the act of 1893, an actual loss in each of the years ending June 30, 1891, 1892, and 1893; and that in the exceptional cases above stated, when two of the companies would have earned something above operating expenses in particular years, the receipt of gains, above operating expenses, would have been too small to affect the general conclusion that the act, if enforced, would have deprived each of the railroad companies involved in these suits of the just compensation secured to them by the Constitution.

So that I think, Mr. Chairman, that the summation of the legal proposition is fairly this: That the Court will simply stop just this side of confiscation. This bill confers no rights of review of any kind upon the courts. So far as the railroads are concerned it stops short of nothing except their constitutional rights, which it has no power to invade.

PREFERENTIAL RATES.

Now I wish to go further and say, in my judgment, this bill confers upon the Interstate Commerce Commission power over the preferential; and here again I regret very much to say that I am not able to agree with my distinguished friend the chairman of this committee. I want to call attention right here to this important fact. Is there any agitation to-day in this country, is there any demand in this country that this Interstate Commission should be authorized to put its hands upon the preferential in existence throughout the length and breadth of this land, without which business could not exist and interference with which would greatly impair business? What is the agitation and what is its strength?

Is there much said against the increase of rates or against excessive rates? Very little. The complaints are principally about rebates and discriminations, but little about excessive rates. And under those circumstances or conditions has anything been said concerning the preferential rate? The report says:

As but little complaint has been made to the committee concerning classification, it was not deemed wise at this time to suggest new legislation upon that subject. So, too, with the question of the relation of rates. The committee has not deemed it wise at this time to suggest new legislation to change existing law upon that subject. It is one of very great importance—interesting, however, as a rule—to certain particular communities rather than to the public at large. It involves conflicts between towns and cities rather than the public generally, and it relates more to the building up of certain local interests of a local nature rather than to the interests of the people of the whole country.

Therefore we thought best not to hamper or hinder the subjects of the bill by adding to them those other less urgent considerations. In fact, the committee has endeavored to confine its action to the recommendations of the President as contained in his annual messages of 1904 and 1905.

Here we have the great authority of this committee establishing the fact that there is "but little complaint," and that the recommendation of the President does not include "the relation of rates." This ought to settle that question.

Now, right here upon this point let me call attention to one of the latest fulminations of an archagitator on questions involving railroad legislation and railroad rates. I refer to an article by Ray Stannard Baker in the February number of McClure's, in which he makes one of his very intense and interesting attacks upon the beef trust and speaks of the rebates and advantage of indiscriminations by which they are enabled to build up their business.

He says, referring to Armour:

He was getting special favors, rebates, concessions, discriminations, by which unfair, unjust, and positively unlawful means he built up his business. That was wholly bad.

Not a word about preferentials or differentials or even excessive rates *per se*, but rebates, discriminations, private cars, refrigerator cars, switches treated as independent lines, fake lawsuits, etc. And that is the burden, Mr. Chairman, of the song.

Now, I submit that this bill confers upon this Commission the power to control the preferential, and of course I understand perfectly that in this I am undertaking to demonstrate a proposition that will be gratifying to the gentleman from Michigan [Mr. TOWNSEND], and I feel sorry that I am obliged to differ with the distinguished chairman of the committee.

I believe, Mr. Chairman, that this bill is not only open to that construction, but is bound to have that construction. Under existing conditions, what has the Commission done? When the Commission has found what they call an unjust or undue preference, and that a locality is injured by this preference, or an individual industry, they have issued an order, ordering them to desist, and these orders have to be complied with in one of two ways. What is the essence of a preferential? The essence is that less is charged *pro rata* for a long haul of transportation than for a short haul. How would you correct this preferential? Either by raising the rate of the long haul or by lowering the rate of the short haul. Either, Mr. Chairman, is equally as potential, as successful; and in compliance with such orders of the Commission heretofore made, both ways have been used interchangeably and with like success. That is to say, they have either raised the rate of the long haul or lowered the short-haul rate. Now, I submit that this bill—

Mr. TOWNSEND. Will the gentleman yield?

Mr. LITTLEFIELD. Yes.

Mr. TOWNSEND. Does the gentleman state that the Commission have ever raised a rate?

Mr. LITTLEFIELD. I do not know whether they have raised a rate or not. No; the Commission has never raised a rate and it has never lowered a rate. The Commission, whenever they have made any order in connection with the preferential, if Mr. Prouty stated it correctly to me—the Commission has simply issued an order for the railroad to desist when they are engaged in what they believe to be an undue or an unjust preference between localities, and they have left it to the railroads to determine whether they would raise the long-haul rate or lower the short-haul rate.

Mr. TOWNSEND. I desire to say to the gentleman in that connection that if he will read the report that the Commission made to the Senate during its hearings, or read Senate Document No. 30 in the Fifty-fourth Congress, he will discover that they did lower a rate. I call the gentleman's attention specifically to the case known as the "Walla Walla Case." The Commission ordered that they should desist from charging the then existing rate, and that they should not exceed a certain lower rate.

Mr. LITTLEFIELD. That is precisely the proposition here. This bill in terms gives the Commission the power to lower a rate absolutely. I am obliged to the gentleman. The order which he says the Commission made is precisely the order they are authorized by this bill to make.

Now, what is the bill? Let me read it on that point. Section 15, page 10, as amended, says, after providing that the Commission shall investigate the question of unduly preferential or prejudicial rates:

or otherwise in violation of the provisions of this act—

Mark you—

otherwise in violation of any of the provisions of this act.

It does not stop at one section, it does not stop at two sections—"or otherwise in violation of *any* of the provisions of this act."

Any act that they have no right to do, any act that they ought to do, can be inquired of by the Commission under the express language of this bill. Now, how does section 3 read? It is not amended by this section, but it is a part of this act. Section 3 reads:

SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Now, I am not discussing the propriety of this; I am discussing the question whether they have the power to take charge of the preferentials. I have here the report that was made to the Senate by the Commission, and if I have time before I get through with this discussion I will take occasion to refer to it, because it demonstrates the inefficiency of this Commission as compared with the traffic managers in the control of the railroad system in fixing rates, if the determination of the Supreme Court of the United States stands for anything.

Now, this section 3 of the act in terms gives the Commission the power to inquire into the preferential between localities, and section 15 says they may inquire into any violation of the provisions of the act.

And then what? My friend says that they have imposed a lower rate. That is just exactly what this bill authorizes them to do when they find a preference existing, which simply means a low rate with a long haul as compared with a high rate with a short haul. What does this bill say? The bill says they may fix "the charge or charges to be thereafter observed in such case as the maximum to be charged." They are authorized by section 3 to consider the preferential proposition. They are vested with a power by the amendment to consider the violation of any provision of this act, and this act itself authorizes them to say what the maximum rate is that shall be charged, and they can say to the short haul with its high rate, Cut down the rate and wipe out the preferential. Now, there is another provision of this bill which practically in terms confers this vital, important power upon this Commission, and against which I may say now that my argument is made and in which I find the most vital objection to this legislation, because I think it is extremely dangerous in its character.

What is the next provision? I am reading now from line 25, page 10, "and to make an order that the carrier shall cease and desist from any violation." Mark you, that, so far as it goes, is exactly a repetition of the law as it now stands. How does the law read on that point as it stands now? It reads as follows in section 15: If they find that anything has been done or omitted to be done in violation of the provisions of this act—

It shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with notice to such common carrier to cease and desist from such violation.

That is all we have in the law to-day—an order to cease and desist. Now, then, suppose we have a preferential, and the Commission are of the opinion that it is undue and unjust to the extent of being 10 per cent too low, or, if you please, upon the short haul 10 per cent too high? What does this amendment do? This amendment authorizes them to make an order that the common carrier shall cease and desist from such violation.

Now, on the assumption that I have made—and it is a perfectly proper assumption, because it might well occur—they have found a violation of the act to the extent of 10 per cent too low on the long haul or 10 per cent too high on the short haul, a violation of "the provisions of this act." Then, what does the bill say? Instead of stopping there, as the old law did, it goes on to provide "and to make an order that the carrier shall cease and desist from such violation to the extent to which the Commission shall find the same to exist"—expressly conferring upon this Commission, if they find a discrimination either upon the long or the short haul, the power to order the common carrier to desist to that specific extent. I say I am not discussing the propriety of the proposition—whether they will exercise their judgment wisely or otherwise—but I am discussing the question as to whether the power is vested in this Commission, and I submit it will be impossible under a fair analysis of the conditions of this bill, taken in connection with the provisions of the existing law, to hold otherwise.

They have the power to take into account the preferential and say whether or not the long haul—that is, the low rate—shall be higher or the short haul—that is, the high rate—shall be lower. It would be, if in their judgment it was unjust or unreasonable, a violation of the provisions of this act, and in terms they are authorized to say to what extent that desisting shall take place, or, to quote the language exactly, "the extent to which the Commission find the same to exist." So that, I think, Mr. Chairman, I have demonstrated that this bill confers upon this Commission what I believe to be a tremendous power. Now, what is the power? It is the power to regulate and control the preferential that exists not only between industries and individuals, but between localities, and you want to bear in mind this fact, if this is an important power and if this is a grave question, we ought to be careful how we act here, because any power vested in this Commission is probably vested in it for all time.

We are not legislating for to-morrow morning; we are not legislating for the year 1909. We are legislating here, not only for the railroads, but for the business interests of this country and for our children and our children's children, and the question is whether we will take the vast interests of this country, independent of the railroads, because, as I say, I submit to you that the interest the railroads have in this question is, in my judgment, a minor one in its character as compared with the

vast interests involved in this bill, so far as the business interests are concerned—the question is whether we shall take from their managers the control of the railroads and their development of the conditions that exist to-day, with flourishing localities, and the permeation of these preferential rates throughout the length and breadth of this country, that flexible, moveable, adjustable, articulate control that is now vested in them and place it in a cast-iron strait-jacket, of which this Commission shall be the sole possessor of the key with which to lock or unlock the industries of this country.

What is a preferential? Simply this: How would California get its fruit into the East and be able with its peaches to compete with the peaches of Georgia and Delaware if it were not for what, Mr. Chairman? Why, a long haul at a low rate. Where would the oranges of California be in competition with the oranges of Florida if they were not able to carry them across a continent from the Pacific to the Atlantic through the operation of a long haul at a low rate? And yet this bill puts it in the power of this Interstate Commerce Commission to keep in California by change of that preferential every particle of fruit grown in that State. A blunder on their part would rot it in the orchards.

Mr. SIBLEY. Will the gentleman yield for a moment? I wish to say, inasmuch as the time of the gentleman from Maine has nearly expired and there are so few of us who entertain the opinion so ably expressed by the gentleman from Maine, I hope the distinguished chairman of the Committee on Interstate and Foreign Commerce will afford us an opportunity to voice our opinion by extending to the gentleman time sufficient to conclude his remarks.

Mr. HEPBURN. I will yield thirty minutes additional time.

Mr. SIBLEY. I hope the gentleman—

Mr. HEPBURN. There are other gentlemen who expect to speak who are here awaiting their time.

Mr. SIBLEY. Oh, we understand that, but I trust he may be permitted to conclude. This debate had better go over one day more. We have got everything except the appropriation bills behind us and let us have one more day's debate, so the truth may be ascertained, rather than we shall not have the opportunity of hearing the gentleman from Maine.

Mr. GAINES of Tennessee. Now, Mr. Chairman, I want to ask—

Mr. LITTLEFIELD. I hope I will not be interrupted much more.

Mr. GAINES of Tennessee. Just a single question. From 1887 to 1897 the Commission fixed rates, upheld some differentials, and possibly regulated or reduced others. During these ten years the country was not paralyzed nor were widows bankrupted. Why can not we have a Commission like that?

Mr. LITTLEFIELD. I will advert to the action of the Commission, if I have time, before I get through my speech.

Mr. GAINES of Tennessee. Why can not we confer this power on a commission? It is not more power than the Commission exercised for ten years.

Mr. LITTLEFIELD. The Commission has never yet succeeded in enforcing in the Supreme Court of the United States practically a single decision they ever made upon the question of differentials.

Mr. GAINES of Tennessee. None have ever gone there.

Mr. LITTLEFIELD. Ah, well; that is another proposition. Whether any minor cases involving merely cases of advice have been followed or not I can not undertake to say. I have their report, I have it here in my hand, and, if I am not interrupted and have sufficient time, I will allude to it before I get through; but I defy any man to take that report and undertake to tell us whether they have undertaken in any advice they have given to disturb any preferential or differential that has existed in this country from time immemorial until now, and under which the vast industrial development is growing now from one end of this country to the other.

Mr. TOWNSEND. Will the gentleman yield to me just a moment? I would ask the gentleman if his attention has been called to the fact that the carriers themselves in trying to fix differentials have themselves voluntarily gone to the Commission and submitted the question to them and allowed the Commission to fix the differentials for them? I ask the gentleman if he knows that to be the fact?

Mr. LITTLEFIELD. I understand an arrangement of that sort may have been made some time, but that does not involve this question. I call attention to the preferentials between localities. In 1902 I stood on the wharf in Tacoma, and I saw taken out of an old fishing smack halibut which were loaded in a freight car, and I learned that very car was attached to a passenger train and was carried to the Atlantic coast; and three weeks later, on returning, I learned from a fish dealer in my

town that he had sold halibut that had come that distance by means of a preferential. Furthermore, Mr. Chairman, the farmers of Nebraska within the last year have been sending their cream to a creamery in Omaha. That creamery has manufactured it into butter and sent it to Lowell, Mass., in competition with the farmers around St. Albans, who send their cream to the creamery in St. Albans. So, through a pronounced preferential the farmers of Nebraska are competing at that point with the farmers of Vermont. This the Commission can arbitrarily stop. Out in the State of Iowa there is furnished an illustration of what in operation this legislation could accomplish. They have now existing a plan formulated by the railroad commission of the State of Iowa which concentrates in the hands of the jobber in Iowa the jobbing trade.

Now, how, and why? Why, simply in this way: The jobber can ship from Chicago in carload lots right through Colfax to Des Moines, 20 or 30 miles beyond Colfax, and the jobber in Des Moines can break the cargo lots, and can ship the same freight in smaller lots back to Colfax at substantially the same price or less than the direct rate from Chicago to Colfax. There is a preferential existing throughout the State of Iowa, and it will be open upon this bill for the shippers in Chicago to insist that there is a preferential existing in favor of the jobbers in Iowa; and that there is no reason why the rate from Chicago to Colfax should not be in proportion to the rate from Chicago to Colfax via Des Moines back to Colfax. This Commission, under this bill, can disorganize the whole railroad system of Iowa.

Look at the wheat that is raised in the great Northwest. How much of the wheat that is raised in the Northwest could find a market on either ocean, find either point of departure, find either the hungry people of Europe or Asia, the Occident or the Orient, if it was not for a low preferential rate that exists in its favor?

Take into account, if you please, the cotton industry. We have cotton mills in the South, we have cotton mills in the North. Now, I happen to know, under existing conditions, with the favorable hours of labor and the lack of embarrassing labor legislation prevailing in the South, and the facilities they have for the employment of child labor, that to-day it is all the people in New England can do, with their cotton mills, to compete with the cotton mills in the South. A preferential exists in favor of the cotton mills in New England. They transport their raw material at a cheaper rate on a long haul than the mills in the South can from the same point of the supply of the raw material. They ship their manufactured products out in precisely the same way, on a long haul, at a cheap rate.

Do I want to turn over to the tender mercies of a political commission of seven the existence of the cotton industries of New England? Within two weeks I have had it stated to me by distinguished gentlemen who believe in this legislation and are anxious to see it prevail, that they hope under its terms to destroy the preferential charges existing in favor of these New England industries in order that the industries located near the raw material can have the benefit of what they call their natural proximity thereto. They conceded that by this indirect method they expect to transfer the cotton manufacturing industry from the North to the South. I do not propose by my vote to put in the hands of seven men the question as to whether there shall still be a Fall River, a Lawrence, a Lowell, a Manchester, a Biddeford, or a Lewiston. Their interests are too vast. There are too many millions involved. The employment of too many people is dependent upon it.

I will not take the chances with any political tribunal without revision or appeal and put into their hands these vast business interests. Worcester, the heart of the great Commonwealth of Massachusetts, represented upon this floor by a worthy and able son of a most distinguished sire, and presenting to-day the finest illustration of diversified manufacturing industry that can be found in the confines of this great Republic or in any other land, is absolutely dependent upon its preferential long haul for the shipping in of its raw material and the shipping out of its manufactured products. I will not consent to put the fate of Worcester into the hands of any commission to say what its future shall be, whether it shall live or die, whether it shall flourish or whether it shall vanish as a manufacturing industrial center; whether its manufactories, now busy and active, profitably employed, shall be silent, filled only with rusting machinery, and its houses, now occupied by an industrious people, shall in the future be filled with poverty, want, and distress.

I have in my own State—I do not know that it is affected by the preferential—the finest illustration of the dependence of development upon railroad transportation that I think can be found anywhere. Fifteen years ago, at Rumford Falls, there were but two farmhouses, and yet at that spot, with its splen-

did, wondrous beauty, there was a waterfall with 30,000 potential horsepower roaring, rushing, and tumbling unharnessed to the sea. It had no transportation. Material had to be carried in and hauled out by teams. About fifteen years ago men of genius, with capital behind them, put a railroad into Rumford Falls, and that place is utilizing to-day 17,000 horsepower. It has 10,000 people, and is the finest illustration of manufacturing and industrial development that can be found anywhere. I do not propose to leave that community where any seven men can arbitrarily and without appeal control its destiny and say whether it shall live or die.

Let me call your attention, Mr. Chairman, to this fact, that the power to fix a maximum rate, segregated from other rates, if you can segregate them, independent of its relation to other rates, without correlation to other rates, is very trifling, especially if it is confined to complaints in individual cases, as compared with this vast power you are conferring upon this Commission.

In case of an excessive rate, if it is so charged, and if the Commission determines that the rate is excessive and cuts it down, who is affected?

The railroad, and the railroad company alone. It simply affects the stockholders and bondholders by diminishing the receipts of the company. And if they get to where it reaches beyond the danger point, they have a remedy. It would aid industries and communities by cheapening and facilitating transportation. But here is a vast community and vast interests that are absolutely dependent upon railroad transportation for their life; and whoever has the power to put their hands on the railroad transportation has the power to throttle the business interests served thereby and wipe out localities, especially if they can control the preferential. Gentlemen know that industries are now carried on by vast aggregations of capital, with the large volume of business that is done on a very small margin, so that any increased burden on that business might well bankrupt those engaged therein. What would be the effect upon a community or industry if the long-haul rates were raised? It would make it impossible for them to successfully carry on the business in which they are now engaged, and if the short-haul rate was lowered the result would be the same.

If the long-haul rate were raised, the railroads would gain, at least temporarily, and there could be no complaint from them, because while the dissolution was taking place in the industry or locality affected, the railroad would be getting its harvest. It would be increasing its gains, and it could not complain of the rate that had been made. Where is the appeal, however, for the locality that is adversely affected, if you please, by an inadvertent or mistaken order of this Commission? Do you find it anywhere? It is not so nominated in the bond. There is no appeal for the industries of this country. They stand before this Commission at their mercy and in their power. They can regulate us and they can control us. Do gentlemen have any notion of the interest involved in this legislation? I say, in the whole equation, that the interest of the railroads is negligible in extent. What have the railroads involved? There are said to be about \$11,244,852,000 of capital invested in railroads, according to the census.

Of course, my friend from Michigan says it will be about six or seven billions. Other people say it will be about fourteen billions. They receive \$2,188,108,801 annual earnings and income. How about the interests and the products of industries the existence of which are solely dependent upon cheap transportation? How about the value of mines and mining, of manufactures and of agriculture? There are in agriculture, mines, and manufactures invested \$32,860,630,402 capital—manufactures, \$9,846,628,564; mines and mining, \$2,500,000,000 (estimated), and agriculture, \$20,514,001,838. The value of their annual products was \$18,575,304,735—manufactures, \$13,039,279,566; mines and mining, \$796,826,417, and agriculture, \$4,739,118,752. In addition to this are the billions invested in mercantile pursuits, likewise dependent upon transportation for existence. If the long-haul preferential was wiped out and there was an increase made, so as to cut off in transportation their ability for competition, these business interests might be destroyed.

What would agriculture be worth if this Commission was to exercise an unwise and vicious power? I call attention again to that vicious power and the evil of its exercise over any industry, either of mines or mining, agriculture, manufacture, or mercantile, as being without right of appeal from the autocratic fiat of this Commission when it is once issued. Only the railroad can interfere. Manufacturers, farmers, miners, and merchants do not exercise any public franchise. The Constitution does not guarantee them a reasonable return for the amount of money invested in mines and mining, in agriculture, or in manu-

facturing industries or mercantile ventures. They have to fight for their lives in the open market, and this Commission is to sit on the valve that controls the circulation without which they can not live. I submit to the candid consideration of this committee, Mr. Chairman, that all of these interests are vastly more vital and more potent than the mere interest of the transportation companies themselves. Our industries furnish the vital lifeblood. The railroads simply the veins and arteries through which it circulates. The railroads have an opportunity to go into the court and protect their rights and preserve their existence under the power of injunction, but these industries have not.

Now, let me go a little further and call your attention to the fact that the answer may be made that this power is only to be exercised in cases where an injustice has been done. Now, the question is whether it is wiser and safer to put these vast business interests, involving billions of dollars of invested capital and \$18,000,000,000 and more of annual products, in the hands of seven men politically appointed, dependent for their tenure of office upon favor of the powers that be or that are to be, or to leave them in the hands, if you please, of the ten or twelve that have up to date managed them in this tremendous and successful development.

What has been the result—what has been accomplished under the control of seven or eight men as railroad managers—and I assume it for the purpose of argument, although I know, and every other man knows, that no seven or eight men control the immense diversity of rates for transportation in this country, but, on the contrary, thousands of men are engaged every day of the three hundred and sixty-five days of the year, less Sundays, in adjusting and modifying and regulating and accommodating these rates to the condition or conditions of business to meet the demands of the markets throughout the country?

Mr. GROSVENOR. Will the gentleman allow me an interruption?

Mr. LITTLEFIELD. Yes, although I have but a short time.

Mr. GROSVENOR. I want to ask the gentleman if it is not a fact that these seven men, or six or ten men, that he is talking about—president, general superintendent of the great railroad lines—have nothing whatever to do with fixing the rate and know nothing about the system?

Mr. LITTLEFIELD. I have no doubt the gentleman is entirely right.

Mr. GROSVENOR (continuing). But that they are fixed by the traffic managers?

Mr. LITTLEFIELD. Precisely so. Hundreds and thousands of traffic managers, experts, grown up in the business for years and familiar with the development of the business and with the great industrial interests of the country and of the people whose servants they are.

Now, then, is it wise to take it out of the hands of these hundreds and thousands of men who have demonstrated their ability and capacity by the condition of the industrial, agricultural, mining, and mercantile prosperity and success of this great country to-day, the parallel of which has not been seen since history began to be written? It is for gentlemen who want to transfer the control and power for fixing rates, especially the differential rate, to put the control of this vast property and this medium of transportation, these instruments of communication between one part of this country and the other, serving its vast business interests over long distances and necessary rates—it is for the gentlemen who want to transfer it from the thousands of experts to satisfy us that the seven men, politically appointed, will give us better administration and accomplish better results.

Mr. COOPER of Wisconsin. Will the gentleman allow me?

Mr. LITTLEFIELD. Yes; if you will not take up too much of my time.

Mr. COOPER of Wisconsin. In connection with the gentleman's statement that the rates are fixed by the traffic managers, I want to ask him if he recollects the incident mentioned in one of the Interstate Commerce Commission's reports, where a rate was raised in the Southwest, complaint was made, and the traffic manager went on the stand and swore that he did not himself raise the rate, but that he raised it in pursuance of a dispatch or letter sent to him by an official in New York State; that he had nothing to do with it himself? The Commission decided that it was unjust and that it ought to be lowered.

Mr. LITTLEFIELD. Does the gentleman from Wisconsin have an idea that with thirteen billions of money and 213,000 miles of railroad you will not have sporadic cases of unjust rates? That is absolutely incident to every human condition. We can not expect perfection from railroad managers; and I want to say to you that if you put it on the basis of perfection,

the ability to determine what is right and what is wrong under the laws of the land—thank God! not agitation, not excitement, not passion or prejudice, but under the laws of the land—I say if you put it on the question of efficiency, I will demonstrate from their own record the utter incapacity of this Interstate Commerce Commission to take charge of this great question. I, state that advisedly.

Let me go further and see how they can justify turning over this great transportation that so articulates itself with the business interests of this great country and upon which everything is dependent from the hands of these experts into the hands of seven men. To justify it they must satisfy us that they will improve conditions. Will there be more farms? Will they be better cultivated? Will there be more industries? Will they build up larger towns than have already been built up by traffic conditions that have been operated under practical economic conditions and natural laws in a zone where it is practically impossible for legislation to effectively enter? If they will not do that, what will they do? Will they paralyze development, or go further? I submit that it is for them, notwithstanding some disagreeable and unjustifiable conditions, to satisfy us and satisfy the industries of this country that they are going to safely exercise this power and at least maintain, if not improve, conditions. Who is there that can take the responsibility of making that assertion and guaranteeing that result? How can we get a "bond of fate?"

Now, I call attention to what my friend from Michigan [Mr. TOWNSEND] has once or twice alluded to, and I hold in my hand a document called "Regulation of Railway Rates, Appendix D," and it is the response of this Interstate Commerce Commission to a resolution of the Senate committee. What does it say? I am not going to undertake to revise every decision made by this Interstate Commerce Commission. I am going to do this: I am going to try the efficiency of this Interstate Commerce Commission. I want to go further and say here that I have no reflection to make on any gentleman who is a member of that Commission. I know the most of them. They are men of high character, great ability, of public spirit; they are honest, patriotic citizens endeavoring to do what they think is right, and if it be true that they have blundered more often than they have been right, it is not because of any lack of intention; it is not because of any inferior ability; but it is because of the infinite and inherent difficulty involved in the whole situation, in the attempt to control by legislation what should be left to the operation of individual control and the operation of natural laws and causes. It is not their fault; it is the fault of the scheme of control.

Let me call attention to what they say, and after I have called attention to this Commission I desire to call the attention of this committee to the possibilities inherent in this situation, the kind of Commission that we might finally land with, because, as I have already said, we are not legislating for tomorrow, we are legislating for years to come. I do not believe that Theodore Roosevelt would ever appoint men on that Commission who were not good men, and if certain men are appointed whom it is now suggested may be appointed I would very gladly join in saying that in my judgment it would be a very wise selection; but Theodore Roosevelt is not always to be President of the United States. We may not always control the policy of this Government. There may be other men to control it, and I shall refer to that a little later. What has the Commission done up to date? I try them not upon all the acts they have performed, but by every act they have performed upon which the court has passed, and I have here the record. I am going to take the cases that have gone to the courts of the United States for the purpose of determining whether this conglomerate Commission, consisting of judicial, executive, and legislative power, has been able up to date by reason of the uncertainty and indefiniteness of the situation to reach wise and just and lawful conclusions. Here is the record: Excessive rates, Commission sustained, three cases; Commission not sustained, twelve cases. Now, then, if that is any criterion, they are four times as likely to be wrong as they are to be right.

Mr. TOWNSEND rose.

Mr. LITTLEFIELD. Oh, I am coming to what the gentleman undoubtedly has in mind in a moment. I shall call attention to that. Wait until I am through and then I will yield. I am going to give these people a fair deal; yes, a square deal—something that is often talked about. [Applause.] Unjust discrimination, Commission sustained eight times; unjust discrimination, Commission not sustained twenty-four times. That is their record. In other words, in case of unjust discrimination, *prima facie*, the record shows when they have been tested by the law of the land as administered by a tribunal that holds its tenure for life, subject to good behavior, and can not be removed except

by impeachment—this tribunal that can be removed any moment by Executive power—the record shows, when tested by that standard, that they are three times as likely to be wrong as they are to be right in the case of unjust discriminations. Now, I ought to say this, there are three of these cases involving the maximum rate where the Commission adopted a rule that had not been passed upon at that time by the court, and they adopted the wrong rule, so that it does not indicate that the Commission were in that sense wrong. It ought to be deducted from the amount.

There were seven cases involving the preferential where they had announced a decree before the court construed the rule, and therefore the Commission, of course, was wrong in that, so that there are ten cases that should be deducted. But I am going to give the defense the Commission itself makes on this question, for I want to treat the Commission fairly. The Chairman of the Commission says:

Four cases have been discontinued and 4 are now pending in circuit courts. In 6 of the 29 cases in which the orders were not enforced the decision was based wholly or partly—perhaps it would be fair to say mainly—upon the ground that the new trial in the courts, which occurs under the present law, developed such a different state of facts from those found by the Commission, because of new and additional evidence not produced before the Commission, as to modify or change in material respects the findings upon which the ruling of the Commission was predicated. In the other 23 cases the decisions of the courts, also rendered after new trial, were based upon a different construction of the act than had been made and attempted to be applied by the Commission. In these cases, in other words, the courts held directly or by implication that the statute did not give the Commission authority to make the orders sought to be enforced.

The courts have not held in these cases that the grievance found and condemned by the Commission did not exist in fact as ascertained and reported; they have merely held that the things done which constituted the grievance could not be prevented under the present law. *It was not decided in any case that the acts complained of were not wrongful and unjust, but that the correction attempted by the Commission was not within the scope of its authority.*

Mark especially this language:

It was not decided in any case that the acts complained of were not wrongful and unjust.

Now, in Appendix A we have the cases given by the Commission. The first case I call attention to, bearing in mind the fact that the assertion of the chairman is—inadvertent, no doubt—that the facts show that where they undertake to interfere with the rate it did not appear that the railroad was right, but it appeared, on the contrary, that the Commission was right and the railroad wrong. Let me take the second case which they cite, and the second case is a case of the Interstate Commerce Commission *v.* Baltimore and Ohio Railroad Company (145 U. S., 263). That was a case involving the question as to whether or not it was unjust for a railroad company to sell party tickets in lots of ten for less than they sold one ticket. What did the Commission do? Well, the Commission held that the party-rate ticket constituted an unjust discrimination and was therefore illegal.

Now, to sustain the assertion of the chairman of this Commission, it should appear that the court also held that that was unjust, but overruled for other reasons. The Commission, as it appears by the opinion, held that the "party-rate" tickets constituted "unjust discrimination and are therefore illegal." Let me quote from the language of the opinion:

The court held that they were not open to the objection found by the Interstate Commerce Commission.

In other words, they were just and they had the right to sell them, but upon the question of justice or injustice the Interstate Commerce Commission was not sustained by the court and the railroad was.

Mr. GAINES of Tennessee. Have you any data showing how many cases of Federal judges were reversed by the Supreme Court wherein it reversed or affirmed the action of the Commission? Do you not find the Supreme Court reverses the courts as well as the Commission?

Mr. LITTLEFIELD. Certainly. I find they reverse the courts; but we are not vesting autocratic, despotic power in a court. I am simply discussing the tribunal in which you propose to vest this power. It is beside the proposition when I am undertaking to determine whether or not the railroad managers have been right or the Commission have been wrong to spend my time discussing a question as to whether a Federal judge is right or wrong. Now, I will not take further time, because my time is drawing to a close, to go over these cases in detail, and will briefly summarize them.

In Interstate Commerce Commission *v.* Lehigh Valley Railroad Company (74 Fed. Rep., 784) the Commission determined the cost of carrying a ton of coal at 85 cents. The chairman says: "The court held that this method of estimating the cost of carrying coal was not justified, because it assumed that the expense of transporting coal over this particular branch of the carrier's system was necessarily only the average cost of carrying coal over the entire system." But the court, in its

opinion—not quoted by the chairman—went further, and said: “We have only to add that the evidence before us is quite convincing that the actual cost of transporting coal from the Lehigh and Mahanoy regions to Perth Amboy was and is considerably more than 85 cents per ton;” hardly a holding that the carrier’s charge was unjust.

In Cincinnati, New Orleans and Texas Pacific Railway Company et al. v. Interstate Commerce Commission (162 U. S., 184), the Commission held that the Atlanta rate was unreasonable and reduced it from \$1.07 per 100 pounds to \$1, on the ground that it was unreasonable, and the abstract shows that “That court held that the Atlanta rate was not unreasonable.” The road was right, the Commission was wrong. In Interstate Commerce Commission v. New York, Philadelphia and Norfolk Railroad Company the Commission held charges on articles from Jersey City to Philadelphia unreasonable and ordered a reduction.

In the circuit court, after hearing more evidence, the petition was dismissed and again the carriers’ rate was sustained as just. In East Tennessee, Virginia and Georgia Railroad Company v. The Interstate Commerce Commission (181, U. S. 1) the Commission found that it could not sustain one of its decisions unless a certain rate was shown to be unreasonable, and upon a full hearing it was compelled to dismiss the petition, as it could not be shown that the carriers’ rate was wrongful or unjust, and for the fifth time the road as against the Commission was sustained.

In Interstate Commerce Commission v. Chicago, Burlington and Quincy R. R. Co. (186 U. S., 320) the Commission held “a terminal of \$2 was unreasonable,” and say in their abstract: “The Supreme Court said that the order of the Commission condemning the \$2 rate was general and operated upon all the carriers in the whole territory covered by the complaint, and it plainly appears from the decision of the Supreme Court that on account of such reduction having been made from undefined territory it was unable to determine from the record whether the order of the Commission as applied to the whole territory was and should be enforced.” It is proper to say, as illustrating a method of ratiocination, that from the case it “plainly appears” that the court used this language:

It can not be in reason said that the inherent reasonableness of the terminal rate, separately considered, is irrelevant, because its reasonableness is to be determined by considering the through rate and the terminal charge contained in it, and yet when the reasonableness of the rate is demonstrated by considering the through rate as reduced, it is then held that the through rate should not be considered.

Well, that looks pretty elementary, and then the court said:

In other words, two absolutely conflicting propositions can not at the same time be adopted.

By the court, mind you, not by the Commission, because the Commission did adopt it and proceeded on that basis. It says further:

It follows that there can be no possible view of the case by which the conclusion that the rates were unjust and unreasonable can be sustained.

By all of which it does not seem to appear that the carrier was wrong and the Commission right on the facts. Seventy and lastly, in Interstate Commerce Commission v. Louisville and Nashville Railroad Company (190 U. S., 273), the Commission also found as an independent proposition that the rates from New Orleans to Lagrange were unreasonable and unjust under the first section of the act, and on that point the court said: “No room in reason is left to sustain the view that the Commission could have held that the rates to Lagrange were in and of themselves unreasonable, irrespective of the competitive condition prevailing at Atlanta and the arrangement of rates which arose from it, which formed the main subject of complaint.”

I leave this statement of the chairman, with this abstract of the cases that he cites to sustain it, without any comment. It is clear that more than two-thirds of the time, on the question of the justice or the injustice of the rate, where it has been tested by the courts, the Commission has been wrong and the carriers have been right, and upon that showing they coolly ask me to turn over these vast business interests to this Commission, subject to its plenary autocratic power. I do not reflect upon the Commission. It simply demonstrates the inherent difficulty of placing a commission in a position where it has to deal with a question so vast and complicated.

Other people may think differently about it, but for one, Mr. Chairman, I will not accept an invitation to place such vast business interests of this country in the hands of a commission that is thus indeterminate, because of its demonstrated inability to determine those things wisely and well or as well as the carriers themselves have determined those questions.

Now, I said this is a political Commission. That is true.

What do I mean by that? I mean exactly what I say. I mean that that Commission is bound to be affected by the political conditions that prevail from time to time in this country. What is it? Why, this Commission, as it exists to-day, consists of five men. The act creating it reads as follows:

Sec. 11. That a Commission is hereby created and established to be known as the “Interstate Commerce Commission,” which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the 1st day of January, A. D. 1887, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner peculiarly interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

The act provides that they can be removed for inefficiency, neglect of duty, or malfeasance in office. What does this act do? Of course everybody understands that the President of the United States to-day can arbitrarily remove any man on that Commission by simply stating that he is inefficient, that he has neglected his duty, and that he has been guilty of malfeasance in office. There is no review of the action of the President. He is supreme. But the specification of these causes of removal is some restriction upon the arbitrary exercise of that power by the Executive, but in the last analysis the Executive can remove them, and no one can say him nay.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIBLEY. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended five minutes in order to enable him to conclude his remarks.

Mr. MANN. Mr. Chairman, I yield five minutes to the gentleman from Maine.

Mr. LITTLEFIELD. I am very much obliged to the gentleman. This bill, Mr. Chairman, provides in an additional section—not an amendment to section 11, which provides for the circumstances under which removals shall be made—but this act provides for a new section, and the new section does not say anything about the circumstances under which a removal shall be made:

Sec. 8. That a new section be added to said act at the end thereof, to be numbered as section 24, as follows:

“Sec. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive \$10,000 compensation annually. The qualifications of the Commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1911, one for a term expiring December 31, 1912. The terms of the present Commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present Commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional Commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Not more than four Commissioners shall be appointed from the same political party.”

I do not undertake to say as an absolute hard and fast legal proposition that the same restrictions do not apply, but I very much doubt it. If the section creating the Commission and providing that they could not be removed, except for inefficiency and neglect of duty and for malfeasance in office, had been amended by making the Commission seven instead of five, there would not be any question about it. But under these circumstances you have a new section practically providing for a new Commission. And that Commission, if that restriction does not apply, can be removed without cause at any time by the President of the United States. In any event the President has the supreme power of removal and no tribunal can review his action.

Let me submit this proposition. I have said that Theodore Roosevelt may not always be President of the United States. According to his repeated declarations, he will be President for the balance of this term and no longer. And after that some other gentleman will be President of the United States. What is possible? I can imagine some man as President of the United States in whose hands I would not want to see vested the power to control this Commission of seven men, four to be members of one political party. How long would it take a President with a complacent Senate to remove enough to make four of his political party? And what if that political party happened to be the Populist party? I want to say here and

now in all seriousness, when many distinguished gentlemen who, not perhaps in connection with this question, sometimes lend their aid to the dissemination and the propagation of the ideas that tend to segregate a few individuals in the community into what is known as the "classes" and array against them the masses, nobody can tell who will be the President of the United States or what influence will be behind him. If you inflame the masses and preach and inveigh against what you call the "classes"—against invested capital—I warn you now that you may kindle a fire that you can not stamp out when you get ready to extinguish it. [Loud applause.]

Let me go a little bit further and ask, What if we have a Populist President? I have in my mind the name of a gentleman that I would not want to leave the constitution of this tribunal in the hands of. It would be perfectly open to him to have four that represented his peculiar views and his extraordinary vagaries in connection with the government of this great country. More than that, it would be open to him to arbitrarily remove the other three; and what power is there on earth, under the terms of this bill or any other, that would require him under those circumstances to appoint three others, and make that Commission full? Why, the law now assumes that it is not necessary to fill vacancies, and expressly provides, "No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission."

It makes only four a quorum, and it is open to any vicious man who occupies the White House and has his creatures in this Commission to take, by removing three, the industries of this great country by the throat and compel them to bow down and worship him. Three is a majority of a quorum, and your act is so constituted and the possibilities are such that it is open to have three men, viciously inclined, take the mining, manufacturing, and agricultural and mercantile interests of this country, and, through the medium of that vital transportation upon which they exist and without which they can not live, throttle them until they waver and die or render the necessary tribute to Caesar to enable Caesar to control the political destinies of the Republic.

Now, other men may agree to it, but so far as I am concerned, Mr. Chairman, I decline to assent to that proposition. I know that public agitation and excitement, inspired, maybe, by passion and prejudice, violence and hate, may carry men off their feet. To-day we have agitation and excitement and prejudice arrayed against the great transportation interests of this country. Our friends of the West, inspired by their exasperation and out of just resentment cry out, "Crucify him! Crucify him!" and the more extreme this legislation the greater the gratification.

I warn you that if we weakly quail before this storm and turn over these vast interests bound hand and foot to this fallible political tribunal without recourse or appeal, that when the disastrous results that are well-nigh sure to follow the exercise of this tremendous uncontrollable power shall be visited upon a helpless people that same people will turn again and rend you because you have been false to your trust as representatives of the American people. Inspired by passion, prejudice, smarting under the sting of resentment, because there are wrongs that have not been redressed, they may now bless us, but then, with equal facility and vastly greater zeal, they will rise up and curse you. They now applaud. Then we shall be *anathema maranatha*. [Loud and long-continued applause.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. CRUMPACKER having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolution of the following titles:

On January 25, 1906:

H. J. Res. 87. Joint resolution to authorize use of transport *Sumner* to convey members of Santiago Battlefield Commission and others to Cuba and return.

On January 31, 1906:

H. R. 2012. An act granting an increase of pension to William Wilson.

On February 2, 1906:

H. R. 12314. An act to amend an act approved February 3, 1905, authorizing the construction of a bridge across Red River at Shreveport, La.;

H. R. 1199. An act granting a pension to Lydia A. Jewell;

H. R. 2435. An act granting a pension to Hilia Ann Connor;

H. R. 3716. An act granting a pension to Augustus Foss;

H. R. 7309. An act granting a pension to Louis Dieckgraefe;

- H. R. 486. An act granting an increase of pension to John Armstrong;
- H. R. 532. An act granting an increase of pension to James T. Berry;
- H. R. 604. An act granting an increase of pension to Hiram F. Armstrong;
- H. R. 723. An act granting an increase of pension to George W. Raigle;
- H. R. 1062. An act granting an increase of pension to George E. Brickett;
- H. R. 1073. An act granting an increase of pension to William J. Castlow;
- H. R. 1074. An act granting an increase of pension to Benjamin F. Bean;
- H. R. 1179. An act granting an increase of pension to Thomas Pickett;
- H. R. 1288. An act granting an increase of pension to Sterns D. Platt;
- H. R. 1339. An act granting an increase of pension to James Kelley;
- H. R. 1361. An act granting an increase of pension to Camillus B. Leftwich;
- H. R. 1378. An act granting an increase of pension to Henry H. Hobart;
- H. R. 1381. An act granting an increase of pension to David H. Quigg;
- H. R. 1505. An act granting an increase of pension to William Birmingham;
- H. R. 1511. An act granting an increase of pension to Cornelius A. Hallenbeck;
- H. R. 1653. An act granting an increase of pension to Frank W. Weeks;
- H. R. 1675. An act granting an increase of pension to Melissa S. Lee;
- H. R. 1686. An act granting an increase of pension to George S. McGregor;
- H. R. 1752. An act granting an increase of pension to Hugh Lokerson;
- H. R. 1766. An act granting an increase of pension to John T. Stone;
- H. R. 1772. An act granting an increase of pension to James C. Plybon;
- H. R. 1789. An act granting an increase of pension to Jacob Shade;
- H. R. 1853. An act granting an increase of pension to William J. Johnson;
- H. R. 1868. An act granting an increase of pension to Perry Egge;
- H. R. 1908. An act granting an increase of pension to Emma Rowe;
- H. R. 1986. An act granting an increase of pension to Morris Bennett;
- H. R. 2011. An act granting an increase of pension to John Lezenby;
- H. R. 2089. An act granting an increase of pension to Laura J. Forbes;
- H. R. 2395. An act granting an increase of pension to Christopher Clinton;
- H. R. 2594. An act granting an increase of pension to Levi Bearss;
- H. R. 2718. An act granting an increase of pension to James F. Hare;
- H. R. 2735. An act granting an increase of pension to Samuel Foster;
- H. R. 2770. An act granting an increase of pension to Ephraim Plumpton;
- H. R. 3006. An act granting an increase of pension to William H. Crites;
- H. R. 3010. An act granting an increase of pension to Thomas C. Meadows;
- H. R. 3245. An act granting an increase of pension to Robert C. Smyth;
- H. R. 3283. An act granting an increase of pension to Bruno Tiesler;
- H. R. 3340. An act granting an increase of pension to William Moorhead;
- H. R. 3368. An act granting an increase of pension to William McNair;
- H. R. 3402. An act granting an increase of pension to Sidney S. Brigham;
- H. R. 3405. An act granting an increase of pension to David Palmer;
- H. R. 3427. An act granting an increase of pension to William B. Kimball;

H. R. 3428. An act granting an increase of pension to Samuel E. Chamberlain;

H. R. 3449. An act granting an increase of pension to Harvey Gaskill;

H. R. 3451. An act granting an increase of pension to Alpheus A. Rockwell;

H. R. 3481. An act granting an increase of pension to William H. Cranston;

H. R. 3487. An act granting an increase of pension to Ferdinand Weise;

H. R. 3506. An act granting an increase of pension to George W. McCormick;

H. R. 3573. An act granting an increase of pension to John V. Sanders;

H. R. 3575. An act granting an increase of pension to Silas B. Hovious;

H. R. 3606. An act granting an increase of pension to John S. Hoover;

H. R. 3758. An act granting an increase of pension to George Nulton;

H. R. 4153. An act granting an increase of pension to Henry C. Wildy;

H. R. 4165. An act granting an increase of pension to Henry C. Sternberg;

H. R. 4176. An act granting an increase of pension to Michael Mohan;

H. R. 4196. An act granting an increase of pension to James J. Winans;

H. R. 4216. An act granting an increase of pension to Robert Boon;

H. R. 4348. An act granting an increase of pension to William McCraw;

H. R. 4701. An act granting an increase of pension to Elijah Thompson Hurst, alias Elijah Thompson;

H. R. 4876. An act granting an increase of pension to William L. Beeks;

H. R. 5027. An act granting an increase of pension to Charles W. Knight;

H. R. 5686. An act granting an increase of pension to Adelle Tobey;

H. R. 6518. An act granting an increase of pension to James M. Long;

H. R. 7408. An act granting an increase of pension to Joseph W. Price;

H. R. 8550. An act granting an increase of pension to John Blerer; and

H. R. 8713. An act granting an increase of pension to Payton S. Lynn.

REGULATION OF RAILROAD RATES.

The committee resumed its session.

Mr. MANN. I yield one hour to the gentleman from Minnesota [Mr. STEVENS].

Mr. STEVENS of Minnesota. Mr. Chairman, this committee is to be congratulated upon the high order of excellence of the debate upon this most important proposition of legislation upon railway rates. We have been especially instructed and entertained by the remarks of the three distinguished gentlemen from Pennsylvania [Mr. SIBLEY], Massachusetts [Mr. McCALL], and, lastly, the gentleman from Maine [Mr. LITTLEFIELD], who have addressed us in opposition to the passage of the pending measure. If the dire prophecies of these gentlemen could become true, if the doleful results which they foresee could come to pass, none of us would want this measure enacted into law. It is because we are confident that there is not contained in this bill any of the provisions upon which these gentlemen base their arguments and prophecies, it is because we believe that they have brought into this Chamber only huge phantoms of their own imagination and have conducted a most vigorous moot combat against them that we have been comfortably edified here to-day. We believe in their mind's eye they have seen huge and evil things—horrid and unearthly shapes—which are not possible within the provisions and results of this legislation.

I agree with some of the propositions so powerfully advanced by the gentleman from Maine, as to the joinder of the great powers of government—executive, legislative, and judicial—in the authority given this Commission; also with some of his remarks with regard to its history and record. But with his basic propositions—with his construction of the provisions of this bill as to their power to initiate rates, the power to review their rate-making orders, their power to control differentials—your Committee on Interstate and Foreign Commerce are unanimously opposed to his views and believe them to be entirely unwarranted and unfounded by any fair construction of the bill before this House. I shall briefly discuss these subjects in the course of my remarks. The gentleman from Pennsylvania [Mr. Sim-

LEY] and the gentleman from Massachusetts [Mr. McCALL] relied much upon the able treatise of Professor Meyer upon railroad rates. If they had been as conversant with this bill as they seemed to be with that book neither of the speeches would have been delivered—at least, not in the form they were. This bill is a compromise. No one contends it is perfect; no one is entirely satisfied with all of it; but we all agree that if it could be enacted into law it would be of far greater good than evil. Your committee fully realize the seriousness and the great importance of this question. They framed this measure not as one of class legislation, but to prevent class distinctions. We believe it will tend to allay class hatred and class prejudices; that it will be for the great interest of all of the people—of the railroads as well as of the consumers and producers of this country.

REASONS FOR LEGISLATION.

Your committee realized that there exists a profound unrest throughout the land; that men are stirred because of the too prevalent arrogance and heedlessness of concentrated wealth, because of the notorious abuses of corporate power and privileges, and especially of public franchises, granted by a generous people. They are stirred, too, because of recent revelations concerning men of power and influence in the financial world, who disclosed their inability to realize the sacredness of a trust, and of their carelessness with the property of others confided to them. The people realize that many of the prominent lines of industry in the country have been concentrated into a few hands, and that some of the most important are in the grasp of monopolies controlling the sources of a nation's necessities. Then, too, the great railroad business of this country has gradually been concentrated into a few great systems, necessarily by the pressure of business conditions. These great industrial concerns, and these great transportation systems, and the great financial interests of this country have gradually become interwoven one with the other into a most complicated and powerful arrangement. It is only natural that such intimacy and the tempting opportunities for vast power and wealth should blunt the senses of men.

EVILS OF REBATES.

In the business of transportation there have been the abuses of extortion and favoritism. It was because of these abuses nearly twenty years ago that there was compelled the enactment of the original interstate-commerce act. Many of these abuses have continued, others exist to-day. The system of rebates originally started by the railways has since grown into a tremendous weapon for the powerful and unscrupulous shipper to eliminate his weaker and more conscientious competitor and to establish a more or less complete monopoly in the particular line of business. It is this system of favoritism which has contributed so much to upbuild the already powerful and conscienceless and to oppress the weak, the defenseless, and the innocent. It is this system of favoritism which has created the monopoly of so many of our sources of supply and distribution and has prevented the development of resources in parts of our land. This system of favoritism and combination has injured the enterprising and industrious and the progressive of our people. It has decreased opportunities and discouraged the very class which in a Republic like ours needs and deserves encouragement. It has tended to breed class hatred and a burning sense of injustice. So that many of our thoughtful and conservative have lamented existing evils and prophesied dire results in the future unless these vicious tendencies can be checked and controlled.

RAILROADS FACTORS OF DEVELOPMENT.

Our committee realizes, on the other hand, that the railroad interests have been the chief factors in the wonderful development of our country. That in the enormous progress in every line of material endeavor the railroad managers have done more than their full share, so that at the present time the prosperity of our country is mingled inextricably with that of the great transportation interests of the land. It is by the boldness and genius of our railway managers that our vast wildernesses have been traversed, our mountains have been pierced, and the uttermost parts of a common country inspired by a common patriotic sympathy.

By the construction of great railway systems the old frontiers have been eliminated and the markets of the world brought to the bold pioneers of our fertile prairies.

This development has become so interlinked with the universal interests that the prosperity of the railways and people are mutual. Any injury to one is certain to react upon the other. Both must prosper or fall together. We have by far the largest internal commerce of any nation in the world, amounting to more than \$22,000,000,000 annually, of which more than \$13,000,000,000 is of manufactures, \$6,400,000,000 of agri-

culture, \$1,600,000,000 of mineral products, and \$700,000,000 of forest, fisheries, and miscellaneous.

And a very large part of this most splendid production and development depends for its chief value upon the facility and cheapness to reach profitable markets. This is provided by the railway systems of the country. So that a very large part of our population has become dependent upon the progressive excellence of our railroads, which have developed into the most efficient in the world, with the least expense on the average to the patrons.

MORE IMPROVEMENTS NEEDED.

Then, too, there never has been a time in our history when there was needed more development in the various lines of transportation than right now. New lines of railway are required and projected into the waste places of our land, and additional lines of communication are planned; many single tracks should be doubled and double tracks should be quadrupled; heavier rails and roadbeds are required for the tremendous loads, and much additional equipment should be furnished to our producers. During this last fall millions upon millions of bushels of grain have rotted upon the ground because of lack of facilities for carriage. Millions and millions of dollars have been wasted in other lines for lack of facilities. Yet we know the shops are running overtime to keep pace with the orders to supply these pressing needs. We think all this should be done, even while existing evils must be considered; and your committee has deemed it of the utmost importance that some measure should be framed which should not imperil one dollar of present invested capital; that should not prevent one dollar of additional capital entering into these improvements; that should not diminish the facilities or the safety of the person or the property of our people, and should not reduce the amount or the wages of our skillful and faithful labor in the railroad service. We believe this measure accomplishes these difficult results, and that it will remedy some of the evils; that it will not bring the dire calamities so vehemently prophesied by the opponents of this bill.

PROVISIONS OF BILL.

Now, this measure, in brief, contains five affirmative provisions:

First. The power to fix a maximum rate and make it effective.

Second. The power to prescribe through routes and rates and make divisions thereof.

Third. Extending the affirmative power and scope of the Commission over such subjects as private cars and refrigeration, terminals and private switches, elevator charges, and, in short, over the various devices now used to grant or secure rebates, drawbacks, personal discriminations, favoritism, or unfair advantage.

Fourth. The power to enforce proper schedules and determine the length of time for putting them into effect, with the expectation that thereby the evil of midnight rates may be eliminated, or at least diminished.

Fifth. The power to make and require examinations and reports as to the affairs of public carriers.

The pivotal point in this bill, the one upon which there is the greatest or, in fact, only contest, the proposition which naturally arouses the strongest and most bitter antagonism, is that of the power to fix the rate. The other provisions are of benefit and yet are of secondary importance, and most of them are agreeable to nearly all interested in transportation. The great contest is over the power to control a maximum rate for freight transportation.

OBJECTIONS OF RAILROADS.

Now, we all realize that this power is strenuously opposed by the great transportation interests of this country, and there is a natural reason for such opposition. First of all, they can not seem to consider this question of transportation in any other way than as one of their own personal business, which they have as much right to operate as they see proper, within limits, as the owner of a grocery store, sawmill, or stone quarry. They all believe that they can transact every part of their vast and important business better than the public can do it, or any part of it, for them. They have the natural pride in successfully conducting and extending the great enterprises associated with their name and fame, and which they know will prosper under their own management. They have a right to that pride and belief, and they have a right to exercise that vast power so long as it does not conflict with the greater public interest. But this question presented to us to-day is beyond the personal pride, ambition, or ability of these men, beyond the question of successful personal control of their great business. It concerns one of the basic functions of our Government—one of those great questions of public concern

which will affect the business interests of this nation and our people for all future time, and it ought to be settled without any sentiment of passion or prejudice and with the sole desire to do whatever shall be necessary and best for our great country and its future. The main and sole question is, Shall the great function and power to finally and adequately control the railroad interests in their relation to the people rest with the railroad corporations and their private management, or with a public tribunal having authority to effect justice to all interests?

FUNDAMENTAL PROPOSITIONS.

Some propositions seem fundamental. First, that railways are public carriers; that commerce is of public concern, and that common carriers are engaged in a public business and are subject to public regulation and control; that corporations in doing this work are transacting the public business by permission of the public and must be subject, naturally, to public regulation; and wherever the private corporate interests conflict with the great public interests the public must necessarily be paramount and the private must be secondary. These propositions have been well established by the Supreme Court of the United States and by the courts of last resort and by the legislatures of nearly every State in the Union. It is realized, too, that these great railroad interests have now become combined into eight or ten great systems of immense wealth and power, and that the persons engaged in managing the railroads are, in too many cases, also engaged in other lines of business having connection with the railroads. This makes an overpowering temptation to use the great power of the railroads to help personal friendly interests to the detriment of the general public. It is realized, too, that these vast interests, as a rule, have their headquarters in the city of New York. These great systems control from 150,000 to 200,000 miles of railway, radiating all over the land.

These financial managers at that distant point can not fully realize the changes or conditions or the difficulties or complaints which arise in the distant regions of the United States. They can not naturally be in sympathy with their people, whom they seldom see and between whom rises a natural antagonism, and the people can not be in sympathy with them. These managers are naturally immersed in their own large affairs, and realize only one side of their great responsibilities. They do not seem to comprehend their true relation and that their primary duties as public carriers are to the public, and that the managements are trustees in this great public responsibility.

Instead of that, the interests of these great controlling powers seem to regard as primary the welfare of the security holders, of their stockholders, and of their bondholders. They seem to have only a secondary interest as to the public, the reverse of the true and well-founded doctrine of the courts and of the legislatures; the reverse of the true doctrine long established and necessary for the public welfare. The people believe that evils exist, that there will be more menacing evils in the future, caused by this misapprehension of public duties by these powerful men, and they demand that we should give proper heed and exercise proper control over these great interests. The only way it can be adequately done is by asserting the paramount affirmative power of the Government in regulating this great public business, by making the public interests superior to the private interests, by creating a public tribunal having power when necessary to fix a rate, to make it effective, and to regulate practices and facilities, all to be subject to proper constitutional and legal limitations and control.

Second, for many centuries, under the doctrine of civil and common law, all sorts of controversies, public and private, difficult and complicated, have been referred to a public tribunal for final settlement, and this tribunal was impartial and uninformed of any of the facts of the controversy until such came before it for determination. In this country many of the public controversies concerning transportation have heretofore been decided by one of the interested parties, the railroad, and all must admit that, on the whole, this most important work has been fairly and adequately performed, as such things go. The great public now believes that it is time that these controversies concerning transportation in various of its phases should be decided, the same as are all other controversies, by a disinterested public tribunal having the authority to settle the dispute and make its judgment effective.

Third. All have admitted that abuses existed which compelled the enactment of the interstate-commerce law nearly twenty years ago. Many of these abuses exist now, and others have since arisen which demand an adequate remedy. It would seem

to be the natural, logical, and most effective remedy that where a public tribunal ascertains that a wrong that exists it necessarily is compelled to find the standard of right by which that wrong is adjudged. Then that tribunal, in order to remedy that wrong, upon the same facts, the same argument, and the same operation of mind which ascertains that standard of right and the departure from it as a wrong, should have the power to say "This is wrong; stop it," and have the power to compel the wrong to cease; and to make a complete remedy at the same time to order "This is right; do it," and have the power to make that order effective.

Fourth. The gentleman from Massachusetts [Mr. McCALL] keenly ridiculed the original message of President Roosevelt advising that Congress confer the rate-making power upon the Interstate Commerce Commission to meet the evils of rebates, drawbacks, discriminations, and the like.

The learned and distinguished gentleman referred to this as a model of a non sequitur, and would place it in the texts upon logic as a masterpiece of illogical statement. He evidently has not fully analyzed the situation.

There can not safely be any thorough suppression of rebates and discriminations without there accompanies it some power to fix and control rates by a public tribunal. Favoritism by rebates and discriminations is but the outgrowth and manifestation of extreme unfair, illegitimate competition, out of which, however, the general public gets some share, by reason of a reduction of price or increase of benefits. Otherwise the rebate would not increase the business of the favorite. Favoritism by rebate can not be stopped without correspondingly stopping the competition, which to some degree always benefits the public. But competition will not cease unless some greater power compels it; either the railways or business interests by combination, or the Government by the exercise of adequate and tremendous powers. If the railroads and business interests stop rebates and suppress competition by means of powerful combinations, it puts also in their hands a corresponding power of monopoly and extortion, the only remedy for which would seem to be the still higher power of the Government to fix a rate to stop the extortion, so that the people could enjoy about the same privileges as during the period of competition. So the natural complement of the power to suppress rebates and competition would seem to be the power to fix a rate to prevent extortion.

OTHER PROVISIONS.

The other affirmative provisions of the bill are subordinate, it is true, and yet important.

The committee are confident that they have reached some of the worst features of the private car evils and extortions by charges for mileage and compensation for cars and refrigeration. No measure could meet all evils, but this will cure some of them without doing equal damage to other interests. The power to establish through routes and rates and to lengthen the time for reducing rates is designed to stop various species of favoritism and discriminations, and we are confident that some benefits will be derived from them. We believe the power to compel reports from railroads, to prescribe uniform form of books, accounts, and reports, and especially the power to make examinations of the affairs, whenever necessary, by the expert agents of the Government will have the double effect of discovering some delinquencies and in that way stopping and preventing them, and again by acting as a deterrent, with the apprehension always of a possible discovery, disgrace, cost, and punishment.

We are confident that none of these provisions or powers will injure either the railroad companies or the public. The serious objections to the Esch-Townsend bill are cured in this measure. The rates can not be confiscatory, as the Constitution and courts can in some way and degree protect that under any bill. The rates can not be so rigid and inelastic as not to be responsive to business changes and conditions, because the Commission itself has the power to modify or suspend its order, the courts always have such power, and especially the rate ceases to be effective as a legislative mandatory rate in three years, when it becomes the same as any other rate, changeable by the railroads upon filing the schedules required by law. By these methods neither the railroad nor the public should suffer if ordinary good faith is observed.

OBJECTIONS TO BILL.

Now, the gentleman from Maine [Mr. LITTLEFIELD], with the wonderful power and eloquence for which he is distinguished, stated three fundamental objections to this bill. First, that the Commission by it will have authority to initiate a rate. Second, there is no power of review of the order of the Commission by the courts. Third, the Commission would have authority over

differentials. The gentleman from Maine conceives this first objection under the provisions of section 13 of the original law, in connection with the provisions of section 4 of the pending bill. In reading the provisions of this measure he carefully omitted an amendment which this committee proposed to section 13, by enlarging the number of those entitled to make complaint to the Interstate Commerce Commission. This bill adds the words "or upon the complaint of any common carrier." This committee foresaw that some such objection might be made. We were careful in amending the provisions of that bill so to make it clear that only a complaint to the Interstate Commerce Commissions can initiate a legislative rate. This is jurisdictional and goes to the very foundation of the power to act. The fixing of a rate is a legislative act, and the authority to make this act effective is delegated to a Commission, which must work within the scope granted by Congress. It is clearly the intent as well as the language of the acts that this machinery can only be put in motion by a complaint as to an existing situation, thereby pointing out the wrong to be redressed and limiting the scope of the legislative action, which is one of the objects desired to be obtained. The number who might complain is enlarged, clearly showing a necessity for naming those who could initiate complaints. This amendment would have been unnecessary if the Commission itself could start any proceeding, at any time, to fix or charge a rate. The gentleman earnestly contends that the latter clause of section 4—"the foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in making an order under the provisions of this act"—in connection with the clause of section 13, "that the Commission 'may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made,'" will not include the power to initiate.

If he would give the ordinary construction to the two provisions, he would find himself relieved of his great distress.

The clause as to inquiry in section 13 has been uniformly exercised by the Commission to make investigation upon subjects of public importance bearing upon interstate commerce, such as transportation of beef products, flour and grain products, private cars and refrigeration, export and import rates, and many similar subjects. It has not been used as a preliminary step to adjust rates. In this measure the jurisdiction to fix a rate can only be exercised after a foundation has been laid by a complaint to show the wrong and limit the scope; and this jurisdiction will not be enlarged by such strained construction of a provision intended and used for another and far different and useful purpose. The doctrine of the Supreme Court, laid down in the Maximum Rate case, clearly fostered such construction. The court there held that unless Congress clearly provided for the exercise of the tremendous power to fix a rate, that doubtful language will not be construed to so grant it. Here the history of the statute, the action and construction of the Commission, the history and language of the present provisions, the reasons for their existence, and the theory and careful scope of this act all forbid the Commission to fix a rate until after a complaint, an unreasonable rate found, and an order in such case made. There are many other kinds of orders to be made by the Commission besides the order fixing a rate, and the concluding sentence of section 4 of this act was only inserted out of abundant caution that the Commission should not be deprived of its authority to make any such orders. This is the initial power they have, and we want them to have that power carefully preserved. We have no intention of taking it away from them, but we have clearly and carefully taken away from them the power to initially fix a rate.

POWER OF COURTS.

Second. The gentleman from Maine strongly maintained that this bill contains no power to review any order of the Commission as to its reasonableness or lawfulness. It seems very clear to the committee that this measure contains protection for all purposes to the carriers. We could not limit the powers of the courts of this country, and we have not tried to. The provisions of the Constitution of the United States are explicit in establishing a judiciary with full judicial powers, and the courts are always zealous in upholding their own powers and jurisdiction. In addition, section 22 of the original interstate-commerce law provides that "any of the powers of the courts or remedies provided by common law or statute shall not be abridged or altered by means of this act," but that such act shall be in addition to such remedies. The only effect of this measure then will be not to change or deprive of any existing remedies, but not to add any new statutory remedies to those already in existence.

It seems clear to your committee that under existing laws and by means of the provisions of this bill, to which I will hereafter refer, that means, more or less adequate, have been pro-

vided to review the orders of the Commission fixing a rate both as to lawfulness and reasonableness.

The only difficulty which appeals to some of us is, not whether there will be provided any power to review the orders, the lack of which terrified the gentleman from Maine [Mr. LITTLEFIELD], but whether under the conditions and circumstances by or in which the matter can be presented to the court there can be adequately and fully considered the various questions as to lawfulness and reasonableness so as to do substantial justice in the case.

Some are sincerely apprehensive as to whether the courts will go far enough in the various proceedings possible under this bill to grant full relief from any oppressive, unjust, and confiscatory act or order of the Commission. Any such question will arise under the laws of the United States, consequently the Federal courts will have undoubted jurisdiction. Where a wrong is committed or claimed to have been committed against persons or property in the enforcement of such laws, the courts generally have found some way to protect the injured.

It may not always be good policy to place such a burden upon the courts, such as adapting old remedies to new conditions. But so far it has been fairly safe, and we believe that reliance can be placed now upon the general power of the courts to redress any wrongs or grievances to our citizens which may arise under our laws. It has seemed to me that there can be reviewed by the courts in some way the following acts or powers, or exercise of power, by the Interstate Commerce Commission:

First. The question of jurisdiction of the Commission to act.

Second. The lawfulness of an order.

Third. The reasonableness and justice of an order.

JURISDICTION.

The question of jurisdiction by the Commission is always an ever-present one. This bill provides that the Commission, whenever after full hearings upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, "shall be of the opinion that any of the rates or regulations or practices are unjust or unreasonable, etc., then it shall make an order as provided by this act."

This language does not provide that the rates, charges, etc., shall be unreasonable or unjust. Such would require judicial action, a judgment or decree of a court having jurisdiction and rendering formal judgment in the case. But the bill does require an opinion of the Commission as to the existence of certain facts and conditions set forth in the complaint and shown upon full hearing. Unless these prerequisites, the complaint, full hearing, and opinion as to certain definite facts affirmatively appear, there can be no jurisdiction to make an order affecting the rate. The opinion, of course, may be erroneous, based upon insufficient facts or the like, and yet not be subject to objection by a court reviewing the order. But if the opinion was a violation of decent and reasonable discretion, if it had no warrant in justice and was manifestly outrageous, it does seem that it could be assailed in the courts.

This is manifestly difficult and almost impossible in many cases, yet it is always a loophole when the courts can review the exercise of discretion of an administrative board.

LAWFULNESS.

Second. It is not controverted, even by the strongest opponents of this bill, that the power exists somewhere in the courts to prevent confiscation of the property of any citizen or carrier by an order of the Commission. Nothing to this effect is specified in this bill; but it is an inherent constitutional power of the courts. The real practical difficulty will be found to be, not in the existence of the power of the courts to act, but whether in so acting they can do full justice in the case. As a general proposition the Commission will make an order affecting only one rate or a few rates, only a very small proportion of the aggregate of rates, and reducing only slightly the aggregate revenues of the company.

The order will probably not reduce the revenues sufficiently to make any one rate or a few rates confiscatory, and so not be reviewable on the ground of lawfulness, even though such reduction be a rank injustice. This review might occur in some few cases involving railroads like the ore roads or coal roads, or even some of the grain roads, but it is not likely to be possible on most of the railroad systems of the country. This trouble is mostly in the inherent difficulty of the subject-matter and not in a defect of power of the court.

REASONABLENESS.

Third. One of the most important questions to be considered is whether it will be possible for the courts to review the action of the Commission in fixing a rate as to its justice and reasonableness. The courts have held that the power to fix a rate for

the future is a legislative act, and as such can not be reviewed by the court. The policy of an act of Congress can not be questioned by a coordinate department only when it violates the organic act establishing all the great departments of government.

Congress can not delegate its legislative powers to any other tribunal. It alone must exercise the authority which was granted to it by the Constitution. But it may work out its broad policies by creating and using various tribunals to make effective its directions. Such is the only way that most acts by Congress can be enforced and the only way most of its policies can be made effective.

In this particular instance Congress must exercise its legislative power in fixing a rate.

It can not delegate such great authority to the Interstate Commerce Commission or to the courts or to the President or anyone else. Since Congress can not well fix the exact rate and charges and regulations in a legislative act, it can only lay down broad general rules and principles, prescribe how such shall be carried into effect, and then provide for some administrative body to make such directions effective.

PROVISIONS OF ACT.

In the case of charges made for transportation of persons and property this act provides:

SECTION 1. That all such transportation shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

This provision, very broad and general, is an entirely proper and constitutional method of declaring a policy, in the opinion of Attorney-General Moody, though his view is controverted by eminent lawyers. In this measure Congress declares, not what shall be exactly the just and reasonable rate for the future, as it might do, but empowers the Commission to—determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed as the maximum to be charged, etc.

This order shall go into effect thirty days after notice to the carrier, etc. The effect of this provision is to constitute the Interstate Commerce Commission into an administrative body to carry out the mandates of this act. Its powers are prescribed in this act, and are limited by the provisions of the act. It is not given any purely legislative authority which can not be reviewed by the courts if such powers be exceeded or violated. It is only given a certain power to carry out the will of Congress, and when it fails to do so, to the injury of citizens, some redress must exist to correct it.

In performing such service within the evident scope of its authority, provided by Congress, its orders can not be successfully assailed any more than can the acts of any other administrative department or board be questioned when carrying out the laws for its existence; but its authority is only delegated, and if it violates the laws of its creation, if it exceeds its authority, if it refuse to obey the law limiting it, such disobedience can and ought to be questioned by any party injured by its unlawful acts.

No one can doubt that an act or order of the Commission can be assailed for want of jurisdiction or because it confiscates property in violation of constitutional restriction; and by the same reasoning such an act or order should be also questioned when it exceeds the authority provided by the statutes or violates the limitation or provisions of the act creating it. The Commission can not exceed or depart from the powers delegated to it by Congress, and any such misdoing, when it injures a citizen, should be remedied the same as a violation of the jurisdiction of the Commission or of the Constitution.

Congress has delegated to the Interstate Commerce Commission "to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate to be thereafter observed in such case as the maximum to be charged."

The Commission is not given authority to fix a rate.

The latter is a legislative power, and not reviewable by the courts. But the Commission is given authority to determine and prescribe a just, reasonable, and fairly remunerative rate, in its judgment.

"In its judgment" is the decisive power here which is delegated. It is commanded to make up its judgment as to a rate to be changed; and it is further commanded that such rate must be "just, reasonable, and fairly remunerative." That is the limitation upon its judgment. It is not to exercise its discretion broadly, but within the limits provided by this language. Of course, its judgment can not be reviewed where merely erroneous, unless express legislative authority is given for such review.

But if it clearly and outrageously violates the delegated authority provided in this act, if it grossly exceeds its scope or

power, such violations can be corrected. Such abuse of reasonable and fair discretion can be restrained. It would be monstrous to hold otherwise whenever an administrative body, in the exercise of its discretion, clearly limited by law, outrageously and flagrantly exceeds its authority and injures the property of citizens. Such abuses are always restrained and corrected by the courts. The courts will not review any acts within the reasonable scope of the Commission's discretion unless expressly authorized to do so by statute.

But the courts will restrain the Commission's excesses and violations of law. The difficulties always are in the application of these well-known and wholesome rules.

The real difficulty is not in having the authority and remedy, but in making a case, in proving the violation of the delegated power.

For example, Congress has power to declare that a railroad shall have the right to a rate which would insure at least a 6 per cent dividend on its stock, considering that a just, reasonable, and fairly remunerative rate. This sort of an act has been on several statute books and in the charters of several railroads. If the Commission should make an order, under such a law as this, which allowed or should result in allowing only 4 per cent dividend on its stock, is there any question but that the Commission could be brought into court and such an order reviewed as to its lawfulness in not properly exercising its delegated authority, and is there any question but what such an order could be annulled on the ground that its delegated authority had been violated?

I do not believe there is any doubt about it at all. Such an order would be made after full jurisdiction, as provided by law, and it would not violate any constitutional provision, because a return of 4 per cent is not a confiscation of property; but yet it is a violation of the delegated power of the Commission and as such could be reviewed by the courts.

It would hardly seem to require argument that any order of this Commission which adversely affects property rights and which violates the authority of Congress in delegating this Commission authority to do its work can be reviewed in some proceedings in the courts. Now, instead of fixing an exact rate which these railroads can earn, Congress instead may provide that the Commission may prescribe a rate which shall be, in its judgment, just, reasonable, and fairly remunerative. That is the only difference from the case above described.

Of course, the Commission may honestly err and the rates prescribed may not be just, reasonable, and fairly remunerative, and if such action be in good faith, with a reasonable exercise of official discretion, it can not be assailed. But if such honest, reasonable, fair discretion be not exercised, and, among other things, the rates be clearly unjust and unremunerative, it would certainly seem that the courts would have an opportunity to grant redress. It may be a matter extremely difficult to prove, as it is to prove that a single rate is confiscatory, but the opportunity is afforded to make the case and demand the redress.

Now, what remedy is provided? All the remedies which exist under the Constitution of the United States and are commonly exercised by the courts.

Section 16, page 17, of this bill contains a provision authorizing and, in a degree, outlining these remedies. The language, "the venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office." It is clear that this bill contemplates suits against the Commission to set aside, enjoin, annul, or suspend any order of the Commission.

These are the ordinary everyday actions to defend the rights of property, guaranteed by the Constitution and the laws.

Mr. COOPER of Wisconsin. Will the gentleman permit a question?

Mr. STEVENS of Minnesota. Certainly.

Mr. COOPER of Wisconsin. What is the difference between the principal office and the principal operating office, and what does the bill mean by the use of the language "principal operating office?"

Mr. STEVENS of Minnesota. Oh, I suppose that "principal office" might be the principal financial office, which might be, and probably could be, in the city of New York. The principal operating office, as in the case of the Southern Railway, might be in Washington.

Mr. COOPER of Wisconsin. Is it wise to leave it to the question "might be?"

Mr. STEVENS of Minnesota. That would seem to be but one possible construction. The principal operating office is where

the actual operation and physical management of the road is directed. We think that is very clear.

Mr. COOPER of Wisconsin. Where is the operation of the road directed—from what office?

Mr. STEVENS of Minnesota. Where the president and general manager and superintendent and those officials issue their orders for the very many things which have to be done in running a railroad. In the case of the Southern Railway it would be the city of Washington.

Mr. COOPER of Wisconsin. As I understand, the principal offices, like the president's and some of the other great offices, are not always located where the general manager is; in fact, they are hundreds of miles from him sometimes, as I understand it.

Mr. STEVENS of Minnesota. I do not think that is true as a rule.

Mr. COOPER of Wisconsin. Suppose they were separated, then where is the general operating office?

Mr. STEVENS of Minnesota. Where the road has its general managing operating office. For example, the Pennsylvania road, I understand, has its principal operating office in the city of Philadelphia, the Baltimore and Ohio in the city of Baltimore, the Southern Railway in the city of Washington, and the New York Central in the city of New York. I think the Lake Shore has its principal operating office in Cleveland. Those offices would be the principal operating offices and would be the venue of any suits to set aside this order.

Mr. COOPER of Wisconsin. I had in mind the Illinois Central. As I understand, the president of that road lives in the city of New York, and I am quite sure that the general manager is in Chicago.

Mr. STEVENS of Minnesota. The principal operating office of that road would be in Chicago. The headquarters of the Illinois Central are in Chicago, although the president can have his residence in any city where he chooses, and probably the financial headquarters may be in the city of New York. This would illustrate the very distinction made by this provision, that the general operating office may be in the city of Chicago, while the general financial headquarters may be in the city of New York.

Mr. MANN. That term is well known.

Mr. STEVENS of Minnesota. Yes; we consider it very clear. As the act was passed to expedite actions under the Sherman antitrust law and the interstate commerce law, it only applied to suits brought by the United States, but this section makes it applicable to any broad litigation described in this section to test the action of the Commission. Again, this measure also provides that the Commission may employ counsel and pay expenses of employment out of its appropriation to conduct these very proceedings, so that every sort of proposition seems to be covered in this bill, so that there shall be a review both of the lawfulness of all orders and the constitutional rights of the carrier and as to whether or not the Commission has conformed to the fundamental law of its existence, in its judgment, in fixing a reasonable and fairly remunerative rate.

Mr. PALMER. Mr. Chairman—

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

Mr. STEVENS of Minnesota. Certainly.

Mr. PALMER. Now, if all that is true, what objection could there possibly be to making it plain and putting a provision in the bill that parties aggrieved shall have the right to appeal, under proper restrictions and limitations?

Mr. STEVENS of Minnesota. Why, Mr. Chairman, it will be unnecessary. The carrier has that right, under the Constitution, which can not be taken away, and we do not desire to take it away. We desire that the carrier should have scope for redress, and that opportunity exists by reason of the provisions we have given for the advantage of all the remedies provided by the Constitution and statutes.

DIFFERENTIALS.

The gentleman from Maine was greatly exercised about this bill controlling the most important question of "preferentials," as he termed them. If I thought it did give that power I would be just as much exercised as he is. My people are just as much interested that there should not be any undue control of differential rates as the gentleman from Maine, because if any political body should have such authority we should always be in danger of distance tariffs and unwise action compelled by political exigencies. This would either exclude our products from our best markets or greatly reduce the value of our products and our property. But it is just as clear to us and to the whole committee that there is no such power in this bill, which seems to so disturb his soul. The

situation presented by the bill and the reasons why differentials are not covered are very simple. Under this bill the Commission would have authority to fix what, in its judgment, would be a just, reasonable, and fairly remunerative rate or rates as the maximum to be charged. It would have no authority to fix an absolute rate, which must be observed by the carrier, and no authority to fix a minimum rate, below which the carrier can not go; and a preferential can not be controlled without there is authority to control absolutely both legs of the differential. In this case the Commission can not control either. It must fix a rate which shall be just and reasonable and fairly remunerative as the maximum to be charged. This leaves the carrier to charge anything it pleases below that maximum. And since there is no power to fix any absolute rate and no minimum rate, there is no power in the Commission to control the relation of rates, and so no power to control the differential. We were extremely careful to take away that power from the Commission, and so all of the evils which were so strongly dilated upon by the gentleman from Maine prove to be only figments of his own imagination. There is no reason for their existence by the terms of this bill. There is another conclusive reason why the differential can not be controlled by the Commission. The rate fixed by the judgment of the Commission must be just and reasonable and fairly remunerative.

The Commission would have no authority to reduce a rate that is already just, reasonable, and fairly remunerative of itself, even if it did constitute a part of a relation of rates which bore hardly upon some community. These two powers—the power of the Commission to limit and fix a maximum rate which must be fair, and when, in addition, it is clearly forbidden to fix an absolute or a minimum rate which prevent control of either of the parties to the differential, I do not see how the intelligence of the gentleman from Maine can possibly construe into this bill a power to control preferentials. He tries to do it under the language of section 4, lines 17 and 18:

Or unjustly discriminatory or unduly preferential or prejudicial.

Also line 25 et seq.:

And the carrier shall cease and desist from such violation to the extent to which the Commission shall find the same to exist.

This language only takes the present act and adapts it to the new powers.

All the Commission could do in making any order to stop preferences would be to go to the court and enforce it just exactly as the present law provides, and the court has no power to fix a rate for the future. It can only stop a violation of law. The Commission has no power to fix a minimum or an absolute rate, and the court has no power to fix a rate for the future; consequently there can be nothing done by the Commission or court in control of differentials, except to stop existing violations of law.

Mr. MANN. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. Certainly.

Mr. MANN. Is the power proposed to be given there to the Commission to go into court and require the carrier to cease and desist from doing any act in violation of the law any different from the power now conferred upon the Commission?

Mr. STEVENS of Minnesota. No; the gentleman from Maine said it would not.

Mr. MANN. So there is no additional power given by this bill over the subject of "preferentials," as the gentleman from Maine denominated them, or "differentials," as the railroads denominate them?

Mr. STEVENS of Minnesota. The only additional power given by this act to control rates is the power to fix a just, reasonable, and fairly remunerative rate, which shall be the maximum to be charged, and that can not control differentials at all, because the railroads could make any reasonable rate under that. Of course, the language of the present law affects differentials somewhat, and that is not changed or designed to be changed more than that. The rates may be lowered when they are extortionate, and that is just. The relation of rates which constitute the differentials need not be affected by the language of this bill, and the reasons are plain why our committee decided this ought not to be done.

Mr. OLMSTED. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. Certainly.

Mr. OLMSTED. Do I understand under this bill the railroads may make as many unjust discriminations as they please and the Commission would be powerless to correct them?

Mr. STEVENS of Minnesota. Oh, no; the gentleman misunderstood me. Section 3 of the original act applies just the same. We have not undertaken to amend, limit, or extend section 3. Whatever is unjust and discriminatory under section 3 is unjust under the provisions of this bill, and such will be prohibited;

but we will not allow the making of a minimum or absolute rate, which is the only adequate way of controlling a differential.

Mr. OLMSTED. I want to ask the gentleman something like this. I intended to ask the gentleman from Maine, but was prevented from doing so.

I happen to own a little farm in Cumberland County, Pa., on a stream rejoicing in the classic name of Yellow Breeches. There are a good many more farms along that beautiful stream and in that country, and it costs us now about the same to get a bushel of wheat to tide water as it does to get it from the gentleman's Minnesota district, fifteen times as far distant. The result of that discrimination and preferential has been to greatly impair the value of Pennsylvania farms. And while the gentleman from Maine [Mr. LITTLEFIELD] seemed to have in mind only the communities which might be injured by preventing the long haul at the short rate, I represent communities which are injured by the long haul at the low rate. But I wanted to ask the gentleman from Minnesota [Mr. STEVENS] if he does not think that they are entitled to some consideration, so that the coal mines in Pennsylvania need not, as I have seen them, lie idle because of the low rate given to coal from West Virginia, where men were able to work for 5 cents a day less than they were willing to work for in Pennsylvania, and therefore shut up the Pennsylvania mines? Whether, if we are going to have regulation, such a community, engaged in agriculture and mining, is not entitled to some protection by this bill as well as those who live at a distance from the market?

Mr. STEVENS of Minnesota. That, Mr. Chairman, opens up the great field that your committee seems to have excluded from the provisions of this bill.

Mr. OLMSTED. That is what I am complaining about—that they are excluded.

Mr. STEVENS of Minnesota. If the rate from the gentleman's farm to its market is just and fair and reasonable, he has no right to complain under the provisions of this bill. I agreed with your colleague from Pennsylvania [Mr. SIBLEY] that if we attempt to control rates in the way of fixing differentials, in the way of having a political authority designate specially what market shall be had for different sections, we would get into the field of disaster. We have not tried to do so. If the gentleman is suffering from some injury, all he can do under the provisions of this bill, and what he ought to do, is to have an unreasonable rate reduced and a reasonable rate fixed, and that is as far as he can or ought to go.

Mr. OLMSTED. Does the gentleman think it is fair that farm products in my district should be charged for at the rate of ten times as much per ton per mile upon the transportation of wheat and flour as from his district in Minnesota to the same point?

Mr. STEVENS of Minnesota. Now, it must be conceded, Mr. Chairman, that there always is an element of unfairness in such a situation. It may or may not be unfair as to the point the gentleman stated. His rate may be reasonable and fair and just. If so, he can not complain. The relation of rates may injure him. That is one of the things that he and everybody else will have to stand in this country. Somebody is going to be injured by any kind of legislation we pass. If we granted to the gentleman the benefit he desires, we might injure others, and we think we would—ten times as much. What we are trying to do is to injure just as little and benefit as much as we can, and that is why we reduce the power of the Commission to the smallest scope, which shall be fairly effective, as we do by the provisions of this bill.

Mr. OLMSTED. But in this bill, while giving the Commission the power to determine what is fair and what is unfair as to certain things, you take away from the Commission the power to decide what would be fair and what would be unfair in such a case as I have mentioned.

Mr. STEVENS of Minnesota. But we do not take anything away from them. If there is an unfair discrimination under the provisions of the present law existing, you have the same remedy, if this should become a law, as you did before, and no more and no less.

Mr. OLMSTED. We do not have any more. That is what I am getting at. Ought we not to have more?

Mr. STEVENS of Minnesota. No, you ought not, under the present circumstances, because that would bring the evils so eloquently shown by the gentleman from Maine [Mr. LITTLEFIELD] and your colleague [Mr. SIBLEY], which we realize and desire to avoid. These gentlemen brought in here a host of bogie men; they have brought in phantoms that do not exist, and if they did, would be evils. This bill can not correct all evils and does not pretend to. We only say that we are endeavoring to correct some of them.

Mr. OLMSTED. They may have brought in bogie men, but this is a real character that I have brought in.

Mr. STEVENS of Minnesota. Yes; and there are real characters of all sorts all over the United States, but if we attempt to control all of the injustices we find we will get into an illimitable field of greater injustice. So we decided not to try, and limit ourselves to where we believed some good will be accomplished and little harm be done.

Mr. GAINES of Tennessee rose.

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Tennessee?

Mr. STEVENS of Minnesota. Yes.

Mr. GAINES of Tennessee. I would like to ask the gentleman this: They use rather of a new word in here, namely the word "remunerative." I have not the bill before me, and therefore can not get the clause, but I wish the gentleman would read it and explain what the word "remunerative" means, what it is intended it should mean, and if he can find any dictionary or any court on the top of the earth that has ever defined the word. I hope that he will have the definition printed in his remarks. And in addition to that, I would like his opinion about it. I would like to know what is meant by it, and why it was put in.

Mr. STEVENS of Minnesota. Mr. Chairman, I do not wish to be responsible for everything that is in this bill. It is a compromise measure. There are undoubtedly things in it I do not believe in, there are things in it that every member of the committee does not approve, but we put it in because it is the best that we can do under all the circumstances. Now, as to these particular words, I believe they would have about this effect. We think that Congress has the right to delegate to this Commission the power to name a rate that in its judgment should be just and reasonable which would legally include the words "fairly remunerative." Undoubtedly these would have just about this significance. As I have read the cases, the courts construe that anything less than that is confiscatory of the property affected. Now this makes the legislative definition of what constitutes a reasonable rate correspond exactly with the judicial construction of what constitutes a reasonable rate. This exact power is delegated to the Commission so that this element should be had in mind in fixing a rate. It is one of the elements susceptible of proof in an action testing the order. It would give the railways a little better chance for a standing in court in defining the scope of the authority of the Commission in making the order. It makes the judicial construction correspond with the legislative construction.

Mr. GAINES of Tennessee. The courts have always held that the railroad must be paid for the services it renders. But is it not a fact that that would not in all cases be a remunerative rate? Now, what are you to do with this sort of a case? Say there is a railroad that has been run through some Sahara or unproductive country. You levy a rate for goods through that country that is so high that it does not get the traffic and is not remunerative. Do you call that a just and reasonable rate for the people?

Mr. STEVENS of Minnesota. The gentleman must understand that the confiscation the Constitution prohibits is the confiscation of all the property, and not by a single rate. The best the Commission could do is to guess at what individual rate would be fair and just. Now, if that particular rate that the gentleman mentions should be fair and reasonable, and yet prove prohibitive to the people of that section, I am afraid the people would have to stand it, unless these new words so obnoxious to him, "fairly remunerative," might be used to compel a change.

Mr. GAINES of Tennessee. Would not that be an unjust and an unfair rate?

Mr. STEVENS of Minnesota. That might all depend upon conditions. If the Commission thought it was fairly reasonable, if it was not confiscatory, if it did not come within the scope of the delegated power, I do not believe any power could change it except the Commission. But the rate fixed by the Commission is only the maximum to be charged. The railroad could lower the rate at any time to any which seemed to be best, and in that way carry all the traffic in sight. That is the way it would actually work.

Mr. GAINES of Tennessee. Now, suppose it would not be a fair rate to the people, the people on that road would not go over it and could not use the road, because the rates were prohibitory.

Mr. STEVENS of Minnesota. I can not understand that that would be the result, because the Commission or the railroad would have the right to change the rate. It is not absolutely fixed by either of them. And then the railroad can lower the rate at any time it chooses on thirty days' notice.

Mr. GAINES of Tennessee. But suppose they did not do it? The Commission have said that this rate is remunerative, and it

would be reasonable and just also. Now, what power has the Commission to change the rate that it has once made?

Mr. STEVENS of Minnesota. The Commission has a perfect right to change its mind under this bill when it thinks it ought to. It can modify or suspend its orders to meet changes of conditions or any exigency in affairs. The courts have the powers I have set forth. But to prevent any cast-iron system of rates, which would tie up the business of the country, the bill provides the rates terminate in three years.

CAN NOT CURE ALL ILLS.

Now, Mr. Chairman, we do not expect this bill covers all the evils. It is not passed for that purpose. It is only passed as the best we can agree upon to remedy some of the evils which now exist, and as a basis for other legislation when the proper time shall come to consider it. We are confident it will not afflict people with the evils so strongly described by the gentlemen who have spoken against this bill. And it will do some positive good.

We all realize that this bill will not be satisfactory to many who have clamored for railway rate legislation. Some are even now inveighing against it.

I do not believe it will much reduce railroad rates, since even now our rates in this country average as the lowest in the world. The Commission can not reduce the great bulk of them, and, in fact, the railroads themselves will reduce far lower than any Commission dare go. But it will afford a forum where redress in a speedy and adequate way can be had in a case of extortion, and this is a great gain to the people.

Some special rebates caused by special privileges or facilities, such as private cars, refrigeration, private switches, terminals, elevators and charges, and midnight rates can be under better surveillance and control. But no one must expect that all can be stopped. That would be beyond the limit of human possibility. But this bill will help. Those who believe there should be a control of differentials, who desire a vital long and short haul provision and a distance tariff will be disappointed. There is nothing in this bill as to those particulars to change existing law or existing conditions. Any really grievous evil can be reached now by a vigorous enforcement of the present law. And many of the evils designed to be cured by this bill could be adequately reached under the present law if it were properly enforced.

But there seem to me some fundamental defects in this bill which can not be considered now. I only wish to call attention to them as sometime Congress will be obliged to consider them when the time shall come to amend whatever action shall be had during this present session.

These fundamental evils are two. First, the union of the great powers of government—executive, legislative, and judicial—to some extent in one tribunal. Second, the real basis for rebates, discriminations, and unjust favoritism is not eliminated or removed by this act.

OBJECTION TO JOINDER OF POWERS.

I agree with the objection made by the gentleman from Maine [Mr. LITTLEFIELD] as to the joinder of the great powers of the Government, legislative, executive, and judicial, in this Commission. I believe such objection is well founded and that such joinder of powers ought not to exist, and that there can not be a satisfactory and efficient administration of affairs under such conditions. But the time has not yet come to remedy that evil. The time has not yet come when we can revolutionize the interstate-commerce law, procedure, and Commission. We all realize that responsibility for the enforcement of this act must be placed upon an official competent, powerful, and with adequate means to perform his duty. It is the only way we can cope with the great and exceedingly able railway managers and their attorneys. Yet the enforcement of this act is left to the same Commission, which acts to a certain extent as judges and legislators, and no man is big enough to act fairly and efficiently in all capacities. Of course this bill does not and could not confer strictly judicial authority and does not make the Commission into a court. It very carefully avoids that by requiring only the opinion of the Commission to find a rate unreasonable as a basis for action. We all realize that strictly legislative power is not conferred, but only power is delegated to work out the details of the legislative will and make it effective. But quasi-judicial and quasi-legislative powers are conferred upon an executive tribunal, and it is not an effective or satisfactory policy to be pursued. The investigation and prosecutions should be definitely committed to an executive officer and bureau who should have no other duties and the full responsibility. The full judicial power should be committed to the courts, and the legislative power should be worked out by a separate tribunal

having no other duties and reporting to Congress, its sole authority.

NO EFFECTIVE REMEDY FOR DISCRIMINATIONS.

Second, the monstrous, menacing evil against which people mostly complain is that of undue favoritism, unfair rebates, discrimination, and advantages to the rich and powerful, as against the weak, humble, and defenseless. The foundation and real basis of them is not reached by this act.

This monstrous evil is caused by undue, illegitimate, unfair competition. The railroads desire more business, and to get business away from a rival will grant rebates to accomplish that end. The shipper desires to increase his business and cut under and out his competitor and makes inducements to the railroad managers to accomplish that result. In both cases is the ever-present desire to overcome a competitor, and both are willing to violate the law whenever they can get that additional business. For many years the only remedies afforded were under the common law, and those injured were compelled to seek redress in the courts through the usual remedies. That method failed, because the injured were not powerful enough to reach the great violators of the law, and there was too little at stake for any one shipper to undertake the expense and chances of a prolonged contest against powerful opponents. The public then sought under the provisions of the interstate-commerce act to fix penalties for violation of the law sufficient to cause such violations to cease. These penalties have been increased and this power to reach the violators is increased. I do not believe this method will be satisfactory or successful, because whenever it will pay the competitor, either shipper or railroad, better to violate than to obey the law, there is always a temptation to violate the law, and the temptation is generally followed by the overt act. This bill can not stop that temptation which leads to the violation.

But the time is coming, Mr. Chairman, when a system should and can be devised by which it will be better for all jointly, railroads and shippers, to comply with the law and assist in maintaining its authority than to violate it, and such a system can be gradually evolved out of this measure after its experiments and experience have disclosed clearly the lines along which such remedial legislation may safely develop.

BENEFITS OF BILL.

This measure will bring about those necessary and beneficial results. First, it will enable a test to be made as to the powers of Congress and the extent of such powers over the interstate commerce and carriers. It gives an opportunity to test the right of Congress to enact this legislation. That right has been doubted in the past. It has been doubted on this floor; it is doubted by many eminent lawyers in the country. This act gives an opportunity to test the constitutionality of such legislation; and then Congress, the public, and the railroads can judge of their respective rights and plan for proper legislation to meet existing situations. Second, it does another thing. It gives to the people an adequate forum where they can go to obtain redress from the wrong of extortion or abuse in the making of rates. One of the main difficulties in the proper settlement of this tremendous question is the fact that the people are prejudiced and, too often, are unwilling to consider conservative and safe methods. It is unfortunate that they are so prejudiced, but this feeling arises because they believe there exists no fair opportunity for redress for them against evils they know exist and against wrongs which they know should be righted. This bill gives that forum and such an opportunity. It gives the people a chance to go to a disinterested tribunal and have the public authorities contest the important questions affecting the public with the great transportation interests of the country. This very fact will prove a safety valve, will tend to remove the prejudices, and the people will be in a frame of mind where they will be glad to receive information and instruction as to these important questions from any source. During the last summer the railroads conducted an extensive and expensive campaign of education in different parts of the country. They caused to be compiled and scattered among the people very many pamphlets, newspapers, articles, and books of great value and authority. But the campaign failed of its intended effect, and did far more harm than good, because the people were not ready to listen to the truth; they were not in a frame of mind to be instructed by the railroad authorities when they did not think the railroads, on their part, were acting fairly and would not consent to before a fair, impartial, and adequate tribunal which could settle all wrongs and disputes.

The railroad authorities seemed to hold themselves somewhat outside of the rules which control other people, and that is always resented by the weaker party.

This naturally suggests the third important benefit of this

bill, in that it assures to the public and notifies the railway managers that the public authority is supreme and that all are subordinate to it, that powerful presidents of railroads are subject to the same regulations and powers as the humblest citizen.

It also in effect notifies these managers of these great public-service corporations of the country that above even their own private interests, in the management of the great railway properties, that they are trustees of the people's rights and privileges, and must always be ready to give an account of their stewardship.

One of the great troubles to-day is that these extremely able and powerful men, with all their genius, with all their influence, have not seemed to realize that they are trustees also of the people's rights; that they have responsibilities for the people's welfare.

This bill notifies them that in cases of injustice or in cases of extortion, and that in the exercise of the public function of collecting tolls for public service, that they come under the provisions of this bill, that they are subject to the people's tribunal. When this full realization comes we can expect a cordial cooperation between the railroads and the public in protecting and advancing all interests. Until such time there must continue to be friction. We believe this bill will hasten the coming of the time when the railroad authorities will be sincerely desirous of cooperating with the public authorities in studying the various phases and elements of this vast and complicated question.

This most important work is needed in the operation of the railroads. It is needed in the enforcement of any laws upon the statute books. It is needed in the settlement of the important controversies which must arise over these most important questions. It is needed in planning for any legislation which may be found necessary in the future.

The greatest and most valuable part of such work can be done by the able, practical men who know the most about it, and their sincere labors can be effective when the people and public authorities all realize and can depend upon it as contributing to the public welfare. This legislation is by no means the final step. It is only a short but important step in advance. Other very important steps must be taken in the future. We have gone as far as possible just now. But under the protection of this legislation it ought to be possible to study carefully and clearly the true and best relations of the railroads and their management, to the public, to their security holders, and to their employees, study the methods and effects of publicity, operation as affecting all interests, and analyze the elements of charges, cost of service, and compensation, and reasonable rates. In the preparation of the present legislation the railway managers have not been as frank and fair in some respects as was due, and when some were frank and fair such qualities did not receive adequate response and commendation. This natural distrust should be dissipated by the enactment of this legislation.

Mr. GILBERT of Kentucky. Can I interrupt the gentleman a moment?

Mr. STEVENS of Minnesota. Certainly.

Mr. GILBERT of Kentucky. On page 13 of this bill, part of section 16, beginning at line 8, provides:

Such suits shall proceed in all respects like other civil suits for damages, except that on the trial of such suits the findings and order of the Commission shall be *prima facie* evidence of the facts therein stated, etc.

That is where a judgment for damages has been awarded by the Commission against the individual shipper and he has appealed to the court for enforcement of the order. I want to know whether or not that language does not give the attorney for the corporation the close of the argument to the jury in every instance?

Mr. STEVENS of Minnesota. Mr. Chairman, I think there may be much to the proposition of the gentleman from Kentucky. I have since seen, I think, some cases that hold that such provision does change the burden of proof. I think the best authorities—and I confess I have not investigated the subject carefully—I think the best authorities are to the effect that this only furnishes the proof necessary to make out a *prima facie* case and does not change the burden of proof. At the same time, I remember reading a case only last week which held that this very sort of a provision did change the burden of proof.

Mr. GILBERT of Kentucky. Wherever the law gives one litigant a *prima facie* case in my State it invariably gives the other litigant the conclusion of the argument.

Mr. STEVENS of Minnesota. It would be held that the practice of the State would control; but as to that, my opinion is not of value. I have seen cases which held that it did change

the burden of proof, and the contention of the gentleman would be true; but at the same time I think that the better authorities are to the effect that this only furnishes the needed evidence to make a case and does not change the burden of proof.

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

Mr. STEVENS of Minnesota. Certainly.

Mr. PEARRE. Is there any specific prohibition against the granting of rebates in this bill or any specific penalty provided for the granting of rebates?

Mr. STEVENS of Minnesota. That is in previous existing legislation. The old interstate-commerce law and the Elkins law covered rebates thoroughly, and this gives additional power to prevent extortions.

Of course, the language of the bill extending the scope of the Commission in the way of including private cars, refrigeration, switches, elevators, and terminals, which are only a convenient way of rebate, are covered in the bill, and in that way the question of rebates is well covered.

Mr. PEARRE. In regard to the matter of rebates, the committee relies entirely on the Elkins law?

Mr. STEVENS of Minnesota. Oh, no.

Mr. PEARRE. Without any specific provision in this bill with regard to that matter at all, except the provision which prohibits the charging of anything but the published rates. Am I right about that?

Mr. STEVENS of Minnesota. That is all that can be done. We provide that the rates shall be fair and reasonable; that the rates shall be published, and make a penalty for departure from those rates, and we try to include in this bill, so they can be controlled, various evasions by which there have been departures from the published rates. That is the object of the extension of this legislation—of preventing departures from the published rates.

Mr. PEARRE. I may say to the gentleman that my observation and experience has been in discussing this bill with citizens throughout the States and country wherever I have been, that common observation and experience is to the effect that what the people want is a prohibition and prevention of rebates and discriminations, especially. Some men, indeed, have written me on this subject—men engaged in large business interests and largely in interstate commerce—that what was needed and what they did not object to was the prohibition and prevention of rebates—that is, discriminations in favor of one shipper as against another. It seems to me from my reading of this bill that there is no specific provision in it which either prohibits rebates or furnishes any penalty for the granting of rebates.

Mr. STEVENS of Minnesota. Mr. Chairman, such provisions as the gentleman demands have been on the statute books for nearly twenty years. The lack of sufficient means for enforcement was the reason for the passage of the Elkins law, and we attempt to extend the provisions of the old statute—the original interstate-commerce law—which made every prohibition desired by the gentleman and his constituents, by including other methods of rebates and unjust discriminations and unfair advantages. That is what this does, specifically, in the first section. It extends existing provisions and prohibitions of law. We have covered it just as fully as we could, have gone just as far as human ingenuity can go by making everything that constitutes a departure from the published rates, everything that grants unjust favoritism, a rebate and unlawful, and it must be read in connection with existing law.

Mr. PEARRE. Then I understand that the gentleman does admit that there is nothing specific in this bill except by reference to previous legislation and by the confirmation and extension of previous legislation.

Mr. STEVENS of Minnesota. Certainly, the gentleman must read sections 2 and 3 of the original interstate-commerce act and he must read the acts passed in 1903—the Elkins law—in connection with this legislation.

Mr. PEARRE. I say this extends and amplifies those.

Mr. STEVENS of Minnesota. Certainly.

Mr. PEARRE. I desire the gentleman to understand that I am heartily in favor of this legislation, but I do not want, while we are passing this legislation, to overlook what appears to be the principal objectionable features in the minds of the public, namely, rebates and discriminations.

Mr. STEVENS of Minnesota. That is the one thing that we have covered as far as we can cover against rebates. Rebates will be made. We can not prevent them. This bill goes as far as we can go. It does the best we can do, and if the gentleman and his constituents will cooperate with the public authorities in the enforcement of this law very many of the evils the

people complain about will be remedied. Mr. Chairman, I yield back the balance of my time. [Applause.]

Mr. GROSVENOR. Mr. Chairman, I regret very much that I am suffering from the effects of a very bad cold. I shall not, therefore, be able to speak with a great deal of force, and I shall probably develop the fact that I am again somewhat inconsistent in my position. The debate which has been running now for a week has been one of the most interesting that I have ever listened to in the course of my service here. It has been marked by extraordinary ability on both sides of the question, and if I should say something on two or more sides of the question in the course of the time which I occupy it will not be a novelty, so far as that is concerned, to a good many Members of the House.

I consider the agitation that has emanated from Congress and has spread itself out over the country as uncalled for and injurious. There never was an issue so feigned and so much a "fake" issue as the issue of an agitation to be called rate agitation. There was no such condition until it was manufactured here. There is no such condition excepting only as it has been planted, nursed, promoted, and propagated from the halls of political debate, and the agitation of a few gentlemen in the country is giving it notoriety by the action which they have taken. I live in a great shipping district. I venture to say there is more interstate-commerce freight shipped out of the district that I have the honor to represent than there is out of one-third each of all the States of this Union. And yet, coming up to this moment, not one letter, not one newspaper editorial, not one suggestion has come to me in regard to this subject, and I venture to say that of the 386 Members of this House 300 of them will testify the same way. That the public have been aroused by the organized cry of outrage against the railroads there is no doubt, and the people have been brought to believe that they have been most seriously imposed upon; but on a close analysis they will discover that it has not been the rates charged, but the manner in which the discriminations have been made that has done the injury to them.

I was alive in the campaign of 1904. The Democratic party injected this idea into the platform of their party. The Republican party treated it then just exactly as it has always treated it—with entire indifference, if not contempt. I participated more or less in the campaign in fifteen States, and I read the great journals—leaders of the thought of the people—published in behalf of the Republican party in all of the States. I read the platform of the party at Chicago, and I read the letter of acceptance and the speech of the President, and there was not one solitary utterance in the whole of it that said one word about this lower tariff of rates in the United States, so I am justified in saying it is a manufactured issue, uncalled for, totally and absolutely unnecessary. But it has come, and when you hear appeals coming from the distinguished gentleman from Michigan [Mr. TOWNSEND] telling us that the wrath of the people has been aroused and punishment is to be meted out and we are threatened with some dire calamity, everybody who even goes slow about this proposition, why, we are awake to the probable consequences of not doing anything.

There are some shippers in various parts of the country from whom these demands come, but I have never read a resolution of a shippers' convention that complains generally of the result of the rates of freight in the United States. That is not what they talk about. I will come directly to what they do talk about, and I will try to make it apparent that the distinguished gentlemen who have reported this bill have absolutely omitted to discuss or legislate upon every question that is of the slightest importance to the shippers of the country. [Laughter.] It has been a noteworthy fact that of all the distinguished gentlemen of the committee who have advocated this bill no two of them have answered the same question in the same way. Notably the distinguished gentleman from Minnesota [Mr. STEVENS], who has just taken his seat, feels grave uncertainty as to whether there is anything at all in the bill in regard to the very thing above all other things that we are so greatly interested in, the question of discrimination, the question of rebates, the question of faulty and extortionate administration of the great question of transportation in the United States, and when they come to be cross-examined on this floor no two of them answer the same question in the same way. Some of them hope there is something satisfactory in the measure; some of them hope that a construction will be given to this bill that will satisfy the cross-examiner; some of them are of the opinion that this is probably not quite definite, that—

Mr. MANN. I suppose the gentleman is willing to admit that there is a remarkable degree of versatility on the part of the committee, at least?

Mr. GROSVENOR. Yes; of versatility and some other—well, there is great versatility, there is no doubt about that. Others hope that that was in the bill. Another one said, "Well, I must confess that is not in the bill." Another one said, "Well, I think it is in the bill;" and when you come to look at it with a spyglass you can not see it. I remember very well that when the Esch-Townsend bill was pending in the last Congress a distinguished gentleman who advocated in a leading position the passage of the bill was called upon to state whether or not there was any provision in the bill that undertook to regulate or affect any way rebates and discriminations, and finally he said he thought there was, and then he pointed out that the Interstate Commerce Commission might hear complaints against these "practices" of the railroad companies, and he said that was the place where rebates were covered; that was the place where all those injurious actions of the railroad companies were going to be met.

Now we have a bill far less definite than that, and at last the gentleman from Minnesota is driven to say that whatever there is in this bill that in anywise affects these great evils that we all recognize and complain of, that if there is anything in the bill that affects them in any way, it is by giving a little more power to the Elkins Act. How long would it take a skillful man to put into the bill something that we could understand—that is, the average of us? Why could not you say in this first section that undertakes to describe what shall be the duty of a railroad company, why not say in plain terms that they shall not do this and that and the other thing, and if they do do it that shall be a violation of the law for which they shall be punished? Why leave it to misconstruction? Why leave it all to be guessed about and to be construed apparently for the purpose of passing this bill?

But this bill is born of the dawn of a political millennium in this House. All the angels that sang together here on the day this bill was reported sang the same tune. [Laughter.] Men who have stood here and denounced the Elkins bill as totally valueless and denounced the interstate-commerce act as faulty come here now and say that while they can not point out that this bill has made any change in the law yet they are all for it. Then, Mr. Chairman, there is a most notable proposition here. While it is true that these eighteen gentlemen, or seventeen, or whatever there may be of them—the very ablest men in this House, I grant that—while it is true that no two of them think alike about the details of this bill, they stand together as a close corporation and say, "We have pledged ourselves that there shall not be any amendment put on this bill." A half a dozen of those gentlemen have told me, "Yes; that is the thing." One of them told me to-day—and he would not object if I named him, I think—"Well, if you fellows get at it, you will destroy it."

So the whole power of the proposition is to be brought to bear to prevent any amendment to this bill. That is the most remarkable proposition. My friend from Arizona [Mr. SMITH] had something to say on a cognate subject a few days ago that had a good deal of force.

Mr. SMITH of Arizona. And I would like to have had the aid of the gentleman from Ohio [Mr. GROSVENOR].

Mr. GROSVENOR. This is not a political question, only as our friends on the other side are trying to make it such. It is a question of business. It is the matter of the administration of the greatest question of American industry to-day, and yet we are told that the absolute perfection of legislation has been reached; that nothing can be added to or subtracted from. It is perfect in all respects, and therefore must not be criticised. In the name of common sense, what are we doing here five or six days at a stretch and now running on into the second week? What are we making speeches about? What are we making speeches for? If we are forbidden to amend this bill, and this close corporation stands armed, as I think it does, with ample power to prevent any change in this bill, what are we here for? Why not go home, and when these gentlemen have placed the matter right before their constituents, by diverse sophistical speeches, come back and register their will, and pass the bill?

Mr. BURKE of South Dakota. Will the gentleman permit an interruption? I do not think I have ever interrupted him before.

Mr. GROSVENOR. Yes.

Mr. BURKE of South Dakota. The gentleman has recollection of a bill coming, a few days ago, from the Committee on Ways and Means, of which the gentleman is a very distinguished member, and that the bill was discussed in the House for many days; and, under a rule that the gentleman was able to give us as a member of the Committee on Rules, no amendments were permitted, notwithstanding there had been debate covering a period of a number of days.

Mr. GROSVENOR. And, Mr. Chairman, before that debate began the House adopted the rule, and made it, therefore, the act of the House itself. Here we have the act of a committee without any indorsement of the House, and we are told without any action whatever on the part of the House we shall not be permitted to make any amendment to the bill. The gentleman is sufficiently acute to see very easily the wide distinction between the two propositions. The Committee on Rules might have been overruled in that case. The Committee on Rules has not anything to do with this case, nor has any Member of this House got anything to do with it, because the edict has gone solemnly forth that no amendment is to be put into it. If we should bring Christ's Sermon on the Mount and offer it here as an additional section to this bill it would be opposed by every man on the committee because of his relation to the bill.

Mr. MANN. That would not be germane to the railroads.

Mr. BURKE of South Dakota. I would like to ask the gentleman if it is not within the power of the House to amend it, and if it was not in the power of the House, under the rule that was adopted on the Philippine tariff bill and the statehood bill, to ever consider amendments?

Mr. GROSVENOR. Certainly. It is in the power of the House. I am not talking about having taken away any power of the House, but it is the declaration of the committee that they have got a perfect measure that I am criticising—a measure so perfect that although it has been born of a compromise with eighteen men it is not to be successfully attacked by the three hundred and seventy-odd Members. That is my point.

Well, then we must vote for this bill or not vote for anything. We must vote for this bill exactly as it comes from the committee or we shall mar and spoil the handiwork that is so absolutely perfect in its character, and yet which is condemned or criticised by more than half of the men who aided in its birth and procurement. Now, I do not believe that this is by any manner of means perfect. I heard the statement of the very able gentleman from Minnesota [Mr. STEVENS] a short time ago, that undertook to say that the first section of this bill strengthened the power of the Elkins bill. Now, my proposition is this: If the Elkins bill has sufficiently described the crimes that are committed against the rights of the people of the country by railroad corporations, then there is not any need of this legislation, and the whole of this argument that has been made here so fairly and so ably about the wrongs that the railroads are perpetrating against the people of the United States comes down to just simply nothing except the question of the reduction of railroad rates as the tariff for the transportation upon the railroads of the country.

There is not one single word or syllable in the first section of this bill that in anywise points out or in anywise elaborates the scope of the Elkins bill. The mere definition of the words covered by the term "railroads," of what is covered by the term "common carriers," and what is covered by the term "transportation" adds nothing to the Elkins bill; for the Elkins bill has a better and more pertinent and more comprehensive and a better understood provision in the description than this bill. You have added nothing whatever.

Now, my proposition is this: We are here trying to legislate against wrongs and injuries done to the American people by the railroad companies. The Elkins bill was a supplement upon the interstate-commerce bill. I voted against the interstate-commerce bill away back yonder. I was one of the twenty-six Members of this House who believed then that the bill was of no possible value, and was nothing but an incumbrance and an obstacle in the way of success in regulating the matter of railroad traffic; and I have been pretty well vindicated. I find that gentlemen are here telling us the wrath of the people is rising. The Interstate Commerce Commission is still there, all its functions are there, all its functions largely added to by the Elkins bill, and yet they say it is totally defective and worthless. One year ago we had the Esch-Townsend bill. Great pains were taken and great efforts were made to bring that bill up to a point that would meet the emergency. How many men here to-day would vote for it if that bill were here? and I was one of them that voted for that bill. They would not vote for it again. So we have gone through these statutes and this interstate-commerce bill, an utter and insignificant failure and absolutely worthless and deterrent by reason of its own defects. Second, the Elkins bill is now condemned as inefficient and worthless. Third, this bill. Has the Elkins bill failed to correct the evils that it aims at? Has it failed to prevent rebates? Will not some gentleman here tell us where there are any rebates going on to-day? It is broadly stated by the leading men of the railroads of the country, that do not advocate this bill, and whom I shall refer to ultimately, that while there were rebates and wrongs in that direction, to-day

there are none. Is not the Elkins bill as strong in its language as the English language can make a measure in condemnation of rebates? Will somebody state what language could be put in that bill to make it stronger? And if some advocate of this bill says that the Elkins bill is not specific enough, not strong enough, not clear enough, and not effective, and has been found to be defective, why not strengthen the Elkins bill by clear and concise and easily understood language in this bill? You have not done so.

And do not tell me that the mere section defining the term "railroad" and defining the term "transportation" has added anything to the statute known as the "Elkins law" as a definition of the criminal act of rebate. So I say that gentlemen are driven to this proposition by the utter inefficiency of this bill to enlarge even the description of rebates and to add anything to the punishment or any definition that makes it in the slightest degree valuable. For they have admitted that they are willing to retire from the business and leave the Elkins bill the sole occupier of the field so far as punishment or definition of rebates is concerned.

Now, I do not believe myself that the Elkins bill has reached the limit, and I had hoped when the language of the statute was restated here we should have something more definite and something more valuable. The great trouble in this country grows out of the consolidation or interweaving of the interests of the producer and the transporter. That is our real trouble. And I speak from personal knowledge of where I live and where I observe and where I know what is going on, and I say that the great evil to-day grows out of the fact that the railroad corporations are permitted to become, through their directors, through their presidents, and through the superintendents, owners of the productive industries along the lines of the railroads. That is the real trouble. Going to the mighty coal fields of Ohio, 40 per cent of the entire production of coal in the State—and Ohio is fourth in the production of soft coal—is mined within my own Congressional district, and the evil we are suffering from, and battling against in the State courts with some success, which we could battle better in the forum of the United States courts, is where the coal mines are owned by the railroads. I could give instances one after the other and I could name an instance in the State of West Virginia where the owners of the railroads are the people owning the most productive coal mines along its lines, and strangling to death the business of other shippers along its lines. There is no provision in this bill that seeks to reach out in the direction of that crowning evil that is so disastrous.

And, Mr. Chairman, although I have been notified that it will not be passed, I shall offer an amendment, if I am present in the House, at the proper time, which, in my humble judgment, will reach and correct the evil.

The CHAIRMAN (Mr. CURRIER). Does the gentleman desire the amendment read at this time?

Mr. GROSVENOR. Yes, Mr. Chairman, as a part of my speech.

The Clerk read as follows:

No president, director, officer, agent, or employee of any railroad or other carrier of freight, and which is engaged in interstate commerce, shall be interested, directly or indirectly, in the furnishing of material or supplies to such company or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company. Upon complaint and satisfactory proof of any violation of this provision such Commission shall order that the offices so held in violation of this act shall issue an order to such corporation to declare the offices or position so forfeited vacant, and to fill the places so vacated as is provided for in the organization and by-laws of such corporation.

Mr. GROSVENOR. Mr. Chairman, there is not anything novel about this; nothing startling. I have copied the exact words of the constitution of the State of Pennsylvania. If that had been in force in the State of Pennsylvania, the enormous coal strike of three years ago would not have happened. If that was in force to-day in the great coal-producing States of the Union, the strike of 600,000 coal miners that now stand menacing the industries of this country would not have been suggested, because there would have been no contest between the opposing interests. This is the law of Pennsylvania to-day in substance and effect. The only difficulty about the constitution of Pennsylvania is that there is a question of the refusal of the State legislature to pass laws to carry into effect this organic act.

There is one section of this article of the constitution which I will read:

Sec. 12. The legislature shall enforce by proper legislation the provision of this article.

But they have never enforced it. There it stands, a monument of the wisdom of the Constitution makers and a monument of the potential influence of the coal operators. [Laughter and applause.]

There is one of the propositions. Is that covered by the Elkins law? What have you done in this bill to carry it into effect if it is not covered by the Elkins law and ought to be adopted?

What right have you to stand and say it shall not be put into this bill? It is a very simple provision? Why, it is said, and my colleague from Ohio after having gracefully yielded to my suggestion as to some of the things he said in a former speech, has finally come down to the conclusion that the most that can be said about the railroad company is that it is an instrumentality of commerce; that while not exactly owned by the State, it is in a position to be dictated to as to its organization and as to its administration.

If that be so, and I agree to it, then what is to hinder the Congress of the United States from saying to this great railroad corporation, "You shall be public servants, and if you want to invest your money in running a railroad, you shall run it under such conditions as shall not challenge your cupidity, and challenge your disposition to commit outrages against the rights of the producing forces along your line. You shall be the agent for the transportation lines." Why, throughout the whole country we make laws in every State of the Union saying what manner of man shall hold office, what manner of man shall administer the legal offices of the country. We say the same thing—we provide that no man shall hold an office that has been created during his term as Congressman until it is ended, and we put all sorts of regulations on the instrumentalities of our administrative branch of the Government. Why not say to this corporation that if it takes the franchise with the right of eminent domain, "You may go into the business of transportation, you may carry coal and iron and steel, farm products and cattle, but you shall not have an interest in the production of it, for the very reason that we will not consent that there shall be such an unfair advantage given to an owner of a railroad company."

There isn't anything new or novel about that. We all understand the power of it. Why wasn't it put into this bill if the Elkins law has failed and is worthless?

Then there is a little matter, a very small matter, that I would like to inquire into. I have not undertaken to exhaust the subject of improvements that might be made to remedy the evils that we complain of and that we have a right to complain of. Why not put it exactly this way:

Any railroad company upon whose line there is a coal mine, or sawmill, or a shipping point of cattle shall furnish to every man on the line the same facilities, the same right of transportation, and every other thing that goes to make this property valuable, and if you do not do it we will suspend your charter and turn you out.

Why, we have got power enough in the State. Some of my friends have forgotten that there are States in this Union. [Laughter.] Not long ago a railroad company in the State of Ohio undertook, in relation to a transaction, to discriminate against the operators that had put down shafts and erected coal tipplers to start in and mine coal.

There is no law in Ohio on the subject. The railroads refused to take on the switch when it was ready, and yet they did take on another switch after that one had been constructed that took in a tremendous output of coal, and which belonged to the officers or stockholders of the railroad company, or in which they had interest. A suit was brought in a State court, and for what? Not for damages, but a proposition to oust the corporation from its legal existence, and that under no law except the common law applicable to all common carriers. The result of it was, when they had quibbled long enough and delayed a little while, they came down very gladly and took on the switch. Those are the evils we are complaining about. I happen to know something about the conditions in the State of West Virginia, and there is another evil there that I desire to instance in this connection.

A great trunk line of railroad had attached onto it a little short line running up a creek, at the upper end of which was a big coal operator, the owner of a few miles of railroad along the line below him, where there was another mine. There was coal mines open, and after a while it was discovered that the upper mine was getting rich and crowding the markets of Cincinnati and Chicago and the lower mine was pining for the want of profits and dying. When they came to look into it they found that they were each charged exactly the same price—they paid the same price from the upper mine that they did from the lower mine. The rate was the same; but what else was done? When the upper mine settled their freight ac-

count at the end of the month they were paid back a rate of freight that made their operation profitable, while it starved the others to death. I could prove that by my friend here from West Virginia if I were to give the location and mention the names. A young man friend of mine who had invested his money in the matter came to me and I told him off-hand to get out of it and save what money he could, and he did. Now, why could not they put into a bill like this, seeking to answer a great demand that is growing, by which we have been threatened by the gentleman from Michigan [Mr. TOWNSEND], the wrath of the people which is going to be hurled at anybody for having even an opinion on one of these amendments—why couldn't they put into this bill, if the Elkins law is not sufficient, something that would make it efficient and sufficient? I maintain there is not one word here that is added to or subtracted from the Elkins law. There is one other little matter that I desire to talk about. There has been some genius in the drawing of this bill. If it has not been studied genius, it has been a wonderful accident that has happened to it. If there is in these United States of America a corporation that is absolutely soulless and absolutely lawless it is the Pullman Palace Car Company. Now listen to me. We are undertaking to regulate now the transportation of passengers in the United States. We are undertaking to see to it that everybody shall have a square deal, as it is said. I do not know anything about a square deal. I know something about a fair deal, but the square deal is something that I don't understand.

Why don't we go after the Pullman Palace Car Company? What have they done that they should be eliminated from all regulation and control? Some of the members of this committee say that those regulations are here, and that the Pullman Palace Car Company is included. I desire to show how ingeniously they are not included. Turn, if you please, to the first section of the bill. Here is a bill that undertakes to be definite and absolutely certain, and I am sorry to say it is. This looks as though it might have been accidental; I hope it was. It is a bill of definitions.

The term "railroad," as used in this act, shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of persons or "property."

Now, watch the word "property," for that is going to become important. After a little they come to the question of what "transportation" is on the third page and what it would be to be a violation of this law, and here they say:

And the term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipments or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration, or icing, storage, and handling of *property* transported.

The very ingenious and unnecessary use of that word "property" at that place excludes the Pullman Palace Car Company from the operation of the law totally and absolutely, and yet some gentlemen on the committee tell me that that is included, and they are sure it ought to have been included and so am I. Why not say so? Why not leave out the word "property" there and then you have it exactly covered by the first subdivision of the section; but suppose they do not want to do that, but put in the words "including especially palace sleeping cars and dining cars?" They have been very elaborate in their description of the other instrumentalities, but they have been very cunning in eliminating or else raising the question as they have all through this bill. So much for that. It is a matter of very small importance, only it shows how little we have got out of this bill at last, notwithstanding how widely the idea has been promulgated that all the ills that flesh is heir to in this country are to be cured by these provisions.

This is called a "rate bill," and yet when the President is approached by a labor organization that represents an overwhelming moral influence in this country he tells us, or tells them and we read and appreciate it, that it is not intended to cut down the income of the railroad, that they need not have any alarm about that, and yesterday or the day before the gentleman from Wisconsin [Mr. ESCHE], who ought to be as well acquainted with the provisions of this bill as anybody else, having been a faithful worker in the interest of it from the beginning, said in his public speech here on the floor of the House, there is not to be any reduction in the revenues of the railroads, that the laboring men need not have any fears, that the profits of the railroads are to be just the same, that there will be no reduction in the revenues whatever.

Mr. Chairman, in the language of a gentleman in one of our

Chicago conventions, "In the name of common sense, what are we here for?" [Laughter.] What are we here for? What are you trying to do? You have no proposition to raise any freight rates, have you? Are you going to raise the freight rates? Is there some shipper somewhere who is to be mulcted in higher rates of freight, or do you not intend that there shall be any instrumentality here put in the form of law that shall cut down the rates of freight anywhere? The income of the railroads is the income that is derived from freight and passenger fares and the carrying of express packages and all the other incidentals, and if you are not going to cut down and circumscribe their income, what are we doing? What is it for? Dare you say that it is the purpose of this bill to increase freight rates in some directions? Dare you? Then, will you not say it is your intention to cut down any freight rates anywhere, for if you cut down any in order to keep you word good that you have pledged, now, to the labor interest of the country, you have got to raise them somewhere. There you are. There is an absolute stultification of the position in which you have placed yourselves.

Mr. Chairman, I do not believe that there is any political power, any political organization on the face of this earth, which can confer the general rate-making power upon that political organization that will not inside of five years so demoralize and break up the harmonious system of to-day that it will carry consternation to the industrial interests of the country. It is not going to affect, it can not affect, the section of the country which I represent considerably, for there is nothing in the bill which reaches our trouble, but when you come to adjusting freight rates you will find that the center of the country will be safe and sound and the extremities of the country will be in a woeful condition. If this bill goes into law, and I hope it may not, I should like to go down into Texas and Alabama two years from now and ask those gentlemen how they are getting along with a uniform system of freight rates. Why, ever since I was old enough to know what a railroad was made for I have always understood that a railroad was fitted to carry commodities, and that the people would be benefited by competition in rival railroad lines.

That has been the cry of the people of this country, and that is why we built the Southern Railroad with the money of Cincinnati—built it for the purpose of having a competing line against the Louisville and Nashville and other railroads, and the competition in freight rates has brought this low standard of freight, less to-day than one-third of some of the great countries of Europe, all of which has been brought about by competition. Now comes a sweeping proposition that every sane man knows is the absolute end of all competition. Let somebody tell me now in the closing days of this debate how you are going to have competition under this law—how you are going to have it. The very moment that line A undertakes to cut the rate line B will enjoin them through the instrumentality of this rate-making power. Why, a few years ago—there are very few Members here now who were here then, and it has been only a short time ago—all the railroads in the country worked out a plan, that seemed to be advisable to me, to permit pooling. It was very simple, except that it put an end to competition. It simply permitted the great lines of railroad running to the Pacific Ocean or anywhere else to join in an agreed tariff of rates.

Then upon that agreement the income was to be parcelled to the members of the pool. A cry went up all over this country quite equal to that which is emanating from this Capitol of the great outrage that was being done to the people of this country in permitting the pooling of freight rates. A distinguished Senator of the United States said it was a great trust that was being formed. Now, I have lived, first, to see that bill defeated, for which I voted, and I have lived to see the time when the whole American public apparently are demanding a bill that in natural operation and effect is nothing more or less than a great national pooling scheme. That is what it is. Competition is forbidden, competition is strangled. All the rates in given directions and from given points to given points are to be uniform. What is that but a system of pooling? And so we are coming to that much-decried and much-abused pooling bill that was cried down.

I had intended to say something about some of the extraneous, outside, ornamental arguments that have been made in favor of this bill. When I was a young lawyer we had a famous judge in our State, Judge Nash, the author of some works on law and other things, and I tried a case in which I was defending a man for a high crime. I had rather of a slim case. After it was over the old gentleman criticised my way of doing business, and said, "You have caught on to some

of the points pretty early. In these ugly cases, where you have nothing else to go on, abuse the prosecuting attorney." It is fashionable nowadays, when you have nothing else to go on, to abuse the Standard Oil Company.

Mr. GAINES of West Virginia. I thought the gentleman was going to say, to abuse the Committee on Interstate and Foreign Commerce.

Mr. GROSVENOR. Oh, no; they are the most ingenious men I ever knew and the ablest men I ever knew. I do not abuse them; I point out how they have hedged us in, and how hopelessly powerless we are to extricate ourselves. That is all. It takes genius to do that in the House of Representatives of the United States, and my friend, if he has had a hand in it, can congratulate himself that he belongs to one of the most successful organizations for the propaganda of his own ideas that ever existed on the face of the earth. [Laughter.]

That is where he stands. There is no trouble about that. The question of trusts has not a great deal to do with the present case, when we find that the bill itself is not aimed at any rebate or anything else except the question of fixing rates, a question that has had no agitation in the country until it emanated from here. It is the offspring of a suggestion that the country is suffering under something that needs reformation, and it has stirred the country up. Yet, as I said in the opening, I have never heard a word from a constituent of mine. I take it as a very high compliment, for I take it as a matter of course that the people of my district are suffering, too, just like all the rest of them, driven almost to frenzy, looking forward to bankruptcy and starvation, and yet complacently depending upon their Member of Congress to do the right thing without any suggestion from them. [Laughter.]

Well, what shall we do with this bill? We are not to be allowed to amend it, and we have either got to vote for it or against it. My opinion is that the quicker it gets out of this House and gets somewhere else, where the ironclad is not quite so binding as it is here, the better it will be for all of us.

And so, having made these few remarks, Mr. Chairman, expressing my opinion of the outline and character of this bill, I will aid to get it out of the House of Representatives just as fast as possible. [Laughter and applause.]

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

Mr. ADAMSON. I yield to the gentleman from Alabama [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, new conditions require new laws. The conditions of to-day demand an effective governmental control of all railway rates.

There was a time in the history of the commerce of this country when the competition of railway companies contending for the transportation of freight and passengers regulated the rates and charges of the contending companies, but that day has passed, the ownership of transportation lines is now concentrated in the hands of a few men, and the rate is charged that the traffic will bear.

The competition of markets continues as long as competitive markets are served by competing carriers, but competition as a regulator of railway rates and as a protector against unreasonable and unjust rates has proven a failure in every country in which railway systems have been developed.

All of the great nations of the earth save two (France and the United States) have adopted some governmental system for the control of railway rates. In the United States the Congress passed a law in 1887 that was intended to give the power to the Interstate Commerce Commission to control rates, and it was so exercised by the Commission for eleven years, when the Supreme Court of the United States, in 1898, declared that the powers granted by Congress were only advisory.

In Great Britain the board of trade has control or regulates within certain limits the railroad rates. In Ross's *British Railways: Their Organization and Management* (London, 1904), this statement is made:

Section 31 of the railway and canal traffic act (1888) provides that if a man thinks a railway is charging him at an unfair or unreasonable rate for the goods he sends by it, or is in any way treating him in an unfair or unreasonable manner, he may complain to the board of trade, and that department, if the complaint seems reasonable, will call upon the railway for an explanation of its action. Further, the railway and canal commissioners, by section 10 of the same act, are empowered to hear and determine any dispute as to the legality of any toll, rate, or charge for merchandise traffic, and to enforce payment of so much as they decide to be legal.

In France the railroads are operated by private companies, which have concessions from the State. The proposition of Government ownership in France has been much debated, but has not resulted in any change of the system. A brief state-

ment of the financial relations between the State and the railroads is given in the British Diplomatic and Consular Reports, annual series, No. 3172, pages 16 to 22.

In Germany the principal railroads are owned and operated by the State. There are some private lines, but they are under Government control.

In Switzerland the railroads have just been taken over by the State in accordance with the law of 1897, which took effect in 1903.

In Italy the railroads have just come under Government ownership and control.

In Austria-Hungary the Government owns and operates most of the railroads. A general survey of the railroad system of Austria-Hungary, with statistical tables showing the operations for a series of years, is given in Diplomatic and Consular Reports of Great Britain, annual series, No. 3343.

In Belgium most of the railroads are owned and operated by the Government. A few lines are owned by private interest, but are under governmental control.

The argument has been advanced by those who are opposed to this legislation, both in the Congress and outside of it, that governmental control of railroad rates by the German Government has paralyzed the railroads and that the railroads have paralyzed the industry of the country; that to get away from the railroad monopoly they had created they were compelled to develop their river and canal system, creating a new monopoly to overthrow the old one. I do not confess this argument, I do not admit that industry is languishing in the German Empire; but I do concede that when they adopted a system of freight rates without limitation as to time or provision for changes to meet changing conditions they made a serious mistake, with the result that the shippers of the country who had been benefited by these rates claim they have made future contracts based on the existing rates, and thereby preventing changes to meet the growing demands of new markets. But this objection can not possibly apply to the terms of the present bill, for it provides that when a rate is fixed by the Commission it shall only last for three years and may be sooner changed by the Commission.

With all the abuse we hear heaped on the German system of fixing railroad rates, I have failed to hear anyone inveigh against the English methods of governmental control, which are very similar to those proposed in the bill now before the House for the control of rate tariffs in this country. In fact, the great railroad systems of Great Britain have been conducted under a system of governmental control of freight and passenger rates for a number of years without harm to either the railroads or the great business and industrial interests of the country. The English railroads have made more money for their stockholders than the American railroads, and yet the complaint is not made that they are run in the interests of monopoly, and the public are guaranteed fair and just freight rates by the Government.

It is beyond dispute by anyone that the railroads in this country are public highways. The history of the organization of railroad companies demonstrates this and the unbroken line of court decisions sustains it. It is true they might have been organized as private corporations, but they were not. There is not a railroad company in the United States that has not accepted its charter on the basis that it intended to build and operate a public highway just in the same way that the old macadamized turnpike was built and operated as a public highway; and as a public highway the owners of railway securities can not deny the proposition that the people through their legislative bodies have a right to control and fix the tolls on these great public highways so long as the rate is not confiscatory.

Let me read to you what the Supreme Court of the United States has decided in the case of *Smyth v. Ames* (169 U. S. Reports, p. 467):

A railroad is a public highway, and none the less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the State. Such a corporation was created for public purposes. It performs a function of the State. Its authority to exercise the right of eminent domain and to charge tolls was given primarily for the benefit of the public. It is, therefore, under governmental control, subject, of course, to the constitutional guarantees for the protection of its property. It may not fix its rates with a view solely to its own interests and ignore the rights of the public; but the rights of the public would be ignored if rates for the transportation of persons or property on a railroad were exacted without reference to the fair value of the property used for the public or of the services rendered, and in order simply that the corporation may meet operating expenses, pay the interest on its obligations, and declare a dividend to stockholders.

In view of the adjudications these principles must be regarded as settled:

1. A railroad corporation is a person within the meaning of the fourteenth amendment, declaring that no State shall deprive any per-

son of property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws.

2. A State enactment, or regulations made under the authority of a State enactment, establishing rates for the transportation of persons or property by railroad that will not admit of the carrier earning such compensation as, under all the circumstances, is just to it and to the public would deprive such carrier of its property without due process of law and deny to it the equal protection of the laws, and would therefore be repugnant to the fourteenth amendment of the Constitution of the United States.

3. While rates for the transportation of persons and property within the limits of a State are primarily for its determination, the question whether they are so unreasonably low as to deprive the carrier of its property without such compensation as the Constitution secures, and therefore without due process of law, can not be so conclusively determined by the legislature of the State, or by regulations adopted under its authority, that the matter may not become the subject of judicial inquiry.

This decision, one of many holding the same principles to be true, not only decides that a railroad is a public highway and subject to governmental control, but it also very clearly states the extent to which that control can effect the earning capacity of the property, and very clearly holds that railroads must be allowed to charge such rates for the transportation of persons and property as will enable them to meet all operating expenses, pay the interest on their obligations, and declare a dividend to their stockholders. What more can a fair and reasonable man ask? No law can be passed that can take away this right, as it is guaranteed by the Constitution. Then how can the wages of employees be affected by rates fixed by a railroad commission when the courts require that those rates must be sufficient to meet operating expenses? How can the owner or stockholder complain when the courts guarantee a dividend to the stockholder? No honest man who wants a fair and just rate for all shippers can be hurt and the dishonest man should be.

Let us, then, consider the question as to how we can best regulate these public highways, doing justice to the owners and for the good of the people. There are three ways in which it can be done. The Government can purchase all the railway systems in the United States and as the owner and operator fix absolutely the rates to be charged. That is one way. Another plan is for the Congress, either itself or by a commission appointed under the authority of its legislation, as an initial proposition to prescribe and define the rates or tolls to be charged for transportation of persons and property over these great railway highways. (In passing let me say in the beginning of railroad building in England the charters of all the original railway companies prescribed the maximum rates that could be charged.) The third system is to allow the railroad companies to fix their own rates and charges in the beginning and then provide a commission that shall have the power and authority to hear all complaints made by the public and determine what is a just and fair rate and then put it in operation and enforce it. That is what the bill now under consideration does—it only interferes in case of a contested rate. Mr. Chairman, as some of the gentlemen who have spoken seem to question this position, let me read from the bill itself:

That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged.

That being the language of the bill, how can any gentleman charge that Congress by this legislation proposes to initiate rate making? The words used are very clear and are not subject to misconstruction. When the railroads prescribe just, reasonable, and fairly remunerative rates in the beginning no one will interfere, and it is only when they do not do so that the Commission will interfere and see that no injustice is done. How can any fair-minded man complain? Is it not fair and right to have a disinterested tribunal, such as the Interstate Commerce Commission, given the power to determine in contested cases what is just between railroad and shipper, what is right between man and man, as the courts of the land have done for centuries past?

The very foundation stones of all civilized governments are the courts; life, property, and human liberty are dependent on them for preservation and protection. The Interstate Commerce Commission is merely a great court, vested with the power to see that the railroad highways of the country are kept open to all citizens alike on just and equal terms; that monopolistic greed

shall not possess them as an instrument to oppress the poor, and that honest industry may freely use them to develop the great resources of our country.

This legislation does not attempt to make railroad rates, but it says to every citizen of the United States if you complain that the rates given you by the railroads for the transportation of your goods, wares, and merchandise are such as to drive you out of the markets you are entitled to reach on equal terms with your competitors, if you are not permitted to build up your business and develop your industry, then it says we have appointed a tribunal before whom you can take your case and justice will be done.

A railroad company is not given the right to make all the money it can as an ordinary private corporation has the right to do. If I am in the shoe business, I have a right to make all the profit I fairly and honestly can. That is not the case with a railroad company. Is there any man on the floor of the House, whether he is in favor of this proposition or against it, who will contend that the owner of an old-time turnpike who has the right to charge toll to each wagon that passes on the road would have the right to make the farmers bringing their produce to town pay exorbitant tolls? Not one. Is there a man here who will deny that the rates charged for driving along the turnpike should be only reasonable and just, and that the owner of the turnpike should have only a fair and reasonable return on his investment? Not one. The railroads stand exactly in that attitude toward the public. They are entitled to a fair and reasonable return on the capital invested. They are entitled to keep up the betterments of the road; they are entitled to pay running expenses, and there is no legislation Congress can pass that can take that right away from them, but they are not entitled to take more.

There is another phase of this question that I wish to call to the attention of the House before I conclude.

Last fall a number of gentlemen claiming to represent the railroad men of America called on the President of the United States and protested against the enactment of the legislation we now have under consideration, claiming that it would have a tendency to reduce the wages of railroad employees in this country. Since that time I have received a number of petitions from railroad employees in my district requesting me to vote against the bill on the ground that it would reduce their wages. These petitions are all in the same language, have the appearance of being all manufactured by the same hand and to come from a source other than that of the employees themselves. Let me read to you a part of one of these petitions:

Whereas of the total number of employees mentioned above, 56,041 were locomotive firemen, whose share of the wages paid amounted to \$37,484,283; and

Whereas in this country, where the rate-making power is in the hands of the railroads, the average daily wage paid firemen in 1903 was \$2.28, while in Belgium, with state railroads, it was but 72 cents, and in Great Britain, with government control of rates, only 91 cents, although our freight rates are the lowest in the world: Therefore, be it

Resolved, That we, the Tombigbee Lodge, No. 426, Brotherhood of Locomotive Firemen, consisting of 170 members, are opposed to the enactment of any legislation which will give to the Interstate Commerce Commission, or to any other body, the power to make the rates for the railroads of this country, thereby controlling their employees, and consequently their ability to pay fair wages to their employees.

Now, Mr. Chairman, the report of the Interstate Commerce Commission for the year 1904 shows that there are 1,312,537 railroad employees in this country, whose annual wages amount to the sum of \$775,321,415. We can not pass the petition of this great number of American citizens by without giving them a most careful consideration. I have studied the question from their standpoint as thoroughly as I could, and have come to the conclusion that railroad rate legislation will not affect them in any way. In the first place, as I have shown by the Supreme Court decision that I have already read, that any railroad rate made by a railroad commission that did not provide sufficient revenue to take care of the operating expenses of the railroad would be confiscatory and enjoined by the courts. No one will believe that a commission acting in the interest of the American people will attempt to reduce the present wage scale of American workmen.

I do not deny that the railway wages of employees in European countries are less than they are in this country, but I do deny that the Government ownership or control in any material way accounts for the low wages in England, Belgium, and other continental countries. I contend that railroad wages are low in Europe because all wages are low in every branch of industry, and that railroad wages in America are high because the American standard of work and wages is high throughout and because the American railroad employees have the strongest and best labor organization in the world. It is organization that has kept up wages in this country.

In bulletin No. 20 of the Department of Labor, on page 8, in discussing the question of wages of European railway employees, the Department says:

The length of the working day and the general conditions of railway employment are also disadvantageously affected by the comparative weakness of railway labor organizations. In several countries, such as Prussia or Belgium, it is not permitted to railway employees to participate in any labor union; in other countries, like Austria, the unions are small, unimportant, and too intimately associated with political parties to have much influence, while even in France the railway labor unions have but little real power. In England, the home of trade unionism, the difficulties in the way of labor organizations among railway men have until recently placed a bar in the way of the attainment of the wishes of the men. The wide dispersion of the men, the special character of much of their work, the great degree of differentiation among the employees, and the innumerable differences in rank render it difficult to establish a general, strong, and permanent organization. It is usually found that the higher classes of employees desire to hold themselves aloof from those less favored, this being especially the case with the locomotive staff. In England and in France these better paid employees usually remain outside of the regular union when they do not actually form another and an antagonistic organization.

The weakness of the continental railroad organizations is shown in this statement.

Let me here call your attention to another pertinent fact why our railroad men receive higher wages than are paid abroad. It is because they do more work and render a greater service than does the foreigner. In the United States in the year 1896 there were employed on an average 454 men for each hundred miles of railroad, or 4½ men per mile. In England in 1895, 465,112 men were employed on 21,174 miles of railroad, or 22 men per mile. In France in 1896, 251,971 persons were employed on 22,895 miles of road, or 11 men per mile. In Belgium in 1896, on the state railroads, 48,415 persons were employed on 5,359 miles of road, or 9 men per mile. In other words, the American railroad man, on an average, does twice as much effective work for his employer as does the employee in Belgium, two and a half times as much as in France, and nearly five times as much as in England. Is he not entitled to the higher wage scale? He earns it.

Now, let me show you that it is not only the railroad wages that are lower in Europe than America, but that all wages are much lower; that the wage scale is low on account of the general condition of the country and not because the railroads are owned or controlled by the government.

The petition that I read a few moments ago stated that in 1903 the wages of a fireman was \$2.28 in the United States, 91 cents in Great Britain, and 72 cents in Belgium for each work day. Taking the American wage of \$2.28 a day as 100,

the daily wage in Great Britain would be 40 per cent, or four-tenths of the American wage, and in Belgium it would be 31 per cent, or less than a third of our wage in this country.

Now, let us compare the fireman's wage. The same comparison can be shown as to the engineer, conductor, and other employees with the general wage scale of Europe. I have compiled a table of the wages of thirteen different trades from the data given in Bulletin No. 54, pages 1023 to 1086, of Bureau of Labor, giving the wages per hour and the hours of work in 1903, which I will now read.

Comparison of American and European wages and hours of labor, 1903.

Class.	Wages per hour.					Hours per week.				
	United States.	Great Britain.	Germany.	France.	Belgium.	United States.	Great Britain.	Germany.	France.	Belgium.
Blacksmiths	\$ 2951	\$ 1740	\$ 1237	\$ 1629	.....	56.00	53.67	59.90	60.19	.....
Boiler makers	2848	1719	1123	1455	\$ 0753	56.24	53.67	60.06	61.50	60.00
Bricklayers	5472	2068	1828	1325	0845	47.84	51.88	58.50	63.00	62.00
Carpenters	3594	2028	1301	1544	0712	49.49	50.17	55.30	60.40	64.73
Compositors	4467	1795	1411	1303	0955	49.81	50.00	51.08	60.00	54.00
Hod carriers	2863	1250	0849	0965	.....	47.98	51.83	59.50	63.91	.....
Iron molders	3036	1774	1310	0692	.....	56.80	53.67	.....	60.00	60.00
Laborers, general	1675	1019	0797	0965	0649	56.39	52.50	56.36	60.00	63.00
Machinists	2707	1677	1310	1326	.....	56.12	53.67	60.00	61.50	.....
House painters	3450	1774	1194	1255	0667	48.88	51.00	58.25	60.00	66.00
Plumbers	4429	2027	1148	1501	0784	48.91	49.17	56.88	54.00	60.00
Stone cutters	4225	1994	1177	1448	0685	48.67	50.17	54.00	60.00	65.00
Stone masons	4579	2078	1328	1448	0845	49.54	50.17	56.50	66.00	62.00

From this table you see that a carpenter receives nearly 36 cents per hour in America, only 20 cents in Great Britain, and 7 cents in Belgium, whereas the American carpenter works only forty-nine and one half hours a week, the Englishman fifty, and the Belgian nearly sixty-five. This great difference is clearly not due to railroad control but to general conditions and labor organizations. Through the whole list of skilled mechanics the same comparison runs in varying degrees.

But let me call your attention to another table comparing the same wages and hours of labor on the per cent basis, taking the American wage at 100 as the standard. I read from Bulletin No. 54 of Bureau of Labor, page 1125:

Level of wages and hours of labor in 1903 in leading occupations in the United States and in Europe.

Country.	Blacksmiths.		Boiler makers.		Bricklayers.		Carpenters.		Compositors.		Hod carriers.		Iron molders.	
	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.
United States	^a 100.0	^a 100.0	100.0	100.0	100.0	100.0	^b 100.0	^b 100.0	^c 100.0	^c 100.0	100.0	100.0	^a 100.0	^a 100.0
Great Britain	59.0	94.9	60.4	95.4	37.7	108.4	56.4	101.4	40.2	100.4	43.7	108.0	58.9	94.5
Germany	41.9	105.9	^d 39.4	^d 106.7	24.3	118.1	36.2	111.8	^e 31.6	^e 102.5	29.7	124.0	(f)	(f)
France	55.2	106.4	51.1	109.4	24.2	131.7	43.0	121.3	29.2	120.5	^g 33.7	^g 133.2	^g 43.1	^g 105.6
Belgium	(f)	(f)	26.4	106.7	15.4	129.6	19.8	130.9	21.4	108.4	(f)	(f)	22.8	105.6
Country.	Laborers, general.		Machinists.		Painters, house.		Plumbers.		Stonecutters.		Stone masons.			
	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.	Wages.	Hours.
United States	^b 100.0	^b 100.0	^a 100.0	^a 100.0	100.0	100.0	100.0	100.0	^h 100.0	^h 100.0	100.0	100.0	100.0	100.0
Great Britain	60.8	93.1	62.0	95.6	51.4	104.3	45.8	100.5	47.2	103.1	45.4	101.3		
Germany	47.6	99.9	^d 48.4	^d 106.9	34.6	115.1	25.9	115.9	^e 27.9	^e 111.0	29.0	114.0		
France	^g 57.6	^g 106.4	49.0	109.6	36.4	122.7	^g 33.9	^g 110.4	34.3	123.8	^g 31.6	^g 133.2		
Belgium	32.8	111.7	(f)	(f)	19.3	135.0	17.7	122.7	16.2	133.6	18.5	125.2		

^a Foundry and machine shop industry only.

^b Building industry only.

^c Newspaper industry only.

^d Berlin only.

^e Nuremberg only.

^f No data obtained.

^g Paris only.

^h Stonecutters, granite, only.

Taking, for example, the occupation of carpenters it is seen that with the average hourly wages for the United States in 1903 represented as 100, the average hourly wages for Great Britain were but 56.4 per cent of that figure, or a little more than half the average wages paid in the United States; the wages for Germany were but 36.2 per cent, or a little more than one-third of those paid in the United States; the wages for France were but 43 per cent, or considerably less than one-half those paid in the United States; and the wages for Belgium were but 19.8 per cent, or less than one-fifth those paid in the United States.

Let us state the case clearly. The English fireman received, in 1903, 40 per cent of the American scale, and the Belgian 31 per cent; the English carpenter 56 per cent, the Belgian 19 per cent; the English compositor 40 per cent, the Belgian 21 per cent; the English plumber 45 per cent, the Belgian 17 per cent;

the English stone mason 45 per cent, the Belgian 18 per cent, and so on through the entire wage scale. Does it not demonstrate beyond a doubt that the low rate of wages paid railroad men on the Continent is due entirely to the general conditions of the labor market there and is not due at all to government control of railroads?

France is the one great European nation that has no form of governmental control of its railroad system, and yet I find from the statistics contained in Bulletin No. 20, of the Department of Labor, that the great bulk of French railroad wages are under 5.26 francs, or \$1.015, per day, 80.54 per cent of the employees receiving less than that sum, while nearly four-fifths of American railroad wages are from \$1 to \$2 per day. In fact, the

American railroad wage is about double the French railroad wage. There are nearly three times as many men employed on the French roads; there is no governmental control, and yet the difference in the wage scale.

Mr. Chairman, it seems to me the only question left in doubt about the matter is whether the persons who prepared the petition I have referred to did so to mislead the railroad employees themselves or to fool the Members of Congress.

Now, Mr. Chairman, let me make a brief review as to present labor conditions of railroad men as compared to railroad conditions.

Let me read you a table showing the daily wages of railroad employees in 1895 and in 1904, showing the percentage of increase:

Statement relating to average daily compensation of railroad employees for the years ending June 30, 1904 and 1895.

Class.	1904.	1895.	Increase, 1904 over 1895.		Weekly earnings per employee.	Weekly earnings of all employees.	Retail prices of food, weighted according to family consumption.	Purchasing power, measured by retail prices of food, of—				
			Amount.	Per cent.								
General officers	\$11.61	\$9.01	\$2.60	28.86								
Other officers	6.07	5.85	.22	.37								
General office clerks	2.22	2.19	.03	1.37								
Station agents	1.93	1.74	.19	10.92								
Other station men	1.60	1.62	.07	4.32								
Engineers	4.10	3.65	.45	12.33								
Firemen	2.35	2.05	.30	14.63								
Conductors	3.50	3.04	.46	15.13								
Other trainmen	2.27	1.90	.37	19.47								
Machinists	2.61	2.22	.39	17.57								
Carpenters	2.26	2.03	.23	11.33								
Other shopmen	1.91	1.70	.21	12.35								
Section foremen	1.78	1.70	.08	4.71								
Other trackmen	1.33	1.17	.16	13.67								
Switch tenders, crossing tenders, and watchmen	1.77	1.75	.02	1.14								
Telegraph operators and dispatchers	2.15	1.98	.17	8.59								
Employees, account floating equipment	2.17	1.91	.26	13.61								
All other employees and laborers	1.82	1.65	.17	10.30								

You will observe that within the time named the salaries of the general officers have increased 28.86 per cent, while that of engineers 12.33 per cent, firemen 14.63 per cent, conductors 15.13 per cent, section foremen 4.71 per cent, and switch tenders, watchmen, etc., only 1.14 per cent.

I find that the gross earnings of the railroads of the United States from operation in 1905 were \$1,075,371,662; in 1904, \$1,975,174,091, a net increase of \$899,802,629, or an increase in nine years of 83.68 per cent; that within that time the operating expenses increased from \$725,720,415 in 1895 to \$1,338,896,253 in 1904, an increase of \$613,175,838, or 84.49 per cent; that the net earnings in 1895 were \$349,651,047 and in 1904 were \$636,277,838, an increase of \$286,626,791, or 81.98 per cent; that the number of miles of road operated on June 30, 1895, was 177,746 miles, and in 1904 was 212,243 miles, an increase of 34,496 miles, or an increase of mileage of 19.41 per cent, which demonstrates that the increased receipts are due to increased business on the old roads mostly, and not to any great extent to increased mileage.

I also find that the number of cars in freight service in 1893 was 1,013,307, in 1904 was 1,692,194, an increase of 678,887, or 67 per cent; that the number of locomotives in freight service in 1893 was 18,599, and in 1904 was 27,029, an increase of 8,430, or 45.32 per cent; that the number of tons of freight carried in 1893 was 745,119,482 tons, and in 1904 was 1,309,890,165 tons, an increase of 564,779,683 tons, or 75.80 per cent; that the number of tons carried for each trainman employed in 1893 was 5,083 tons, in 1904 was 6,800 tons, an increase of 1,715 tons, or 33.73 per cent; that the average number of tons in a train in 1893 was 184 tons, in 1904 was 308, an increase of 124 tons, or 67.39 per cent. All of which clearly demonstrates that the earning capacity of the railroads does not regulate the wages of the employees, for in the last ten years the railroad earnings have increased about 82 per cent, the cost of handling freight has decreased, for the average train now carries 67 per cent more in a load than it did ten years ago, the work of the trainmen has increased, for the number of tons carried to each trainman employed has increased 33 per cent since 1893, and the average increase of wages to trainmen during this period of unexampled prosperity has been less than 15 per cent, not enough to cover the increased cost of living during that period.

I will now read from bulletin No. 59 of the Bureau of Labor, on page 18, a table showing the increase in the retail prices of food from 1890 to 1904 as compared with the general increase in the wage scale in the United States in the same period.

Relative employees, hours per week, wages per hour, weekly earnings per employee and of all employees, retail prices of food, and purchasing power of hourly wages and of weekly earnings per employee, measured by retail prices of food, 1890 to 1904.

[Relative numbers computed on basis of average for 1890-1899=100.0.]

Year.	Em-ployees.	Hours per week.	Wages per hour.	Weekly earnings per employee.	Weekly earnings of all employees.	Retail prices of food, weighted according to family consumption.	Purchasing power, measured by retail prices of food, of—	
						Hourly wages.	Weekly earnings per employee.	
1890	94.8	100.7	100.3	101.0	95.7	102.4	97.9	98.6
1891	97.3	100.5	100.3	100.8	98.1	103.8	96.6	97.1
1892	99.2	100.5	100.8	101.3	100.5	101.9	98.9	99.4
1893	99.4	100.3	100.9	101.2	100.6	104.4	96.6	96.9
1894	04.1	99.8	97.9	97.7	91.9	99.7	98.2	98.0
1895	96.4	100.1	98.3	98.4	94.9	97.8	100.5	100.6
1896	98.6	99.8	99.7	99.5	98.1	95.5	104.4	104.2
1897	100.9	99.6	99.6	99.2	100.1	96.3	103.4	103.0
1898	106.4	99.7	100.2	99.9	106.3	98.7	101.5	101.2
1899	112.1	99.2	102.0	101.2	113.4	99.5	102.5	101.7
1900	115.6	98.7	105.5	104.1	120.3	101.1	104.4	103.0
1901	119.1	98.1	108.0	105.9	126.1	105.2	102.7	100.7
1902	123.6	97.3	112.2	109.2	135.0	110.9	101.2	98.5
1903	126.5	96.6	116.3	112.3	142.1	110.3	105.4	101.8
1904	125.7	95.9	117.0	112.2	141.0	111.7	104.7	100.4

This table shows that in 1904, as compared with the average for the ten years from 1890 to 1899, 25.7 per cent more persons were employed; hours of labor per week had been reduced 4.1 per cent; wages per hour had increased 17 per cent; weekly earnings per employee had increased 12.2 per cent; retail prices of food had increased 11.7 per cent; the wages of one hour would purchase 4.7 per cent more food, and the earnings of a week would purchase 0.4 per cent more food.

The wages per hour of the average workman in the United States since 1895 has increased about 19 per cent. The average of the increase in wages paid trainmen in that period has been less than 15 per cent. In 1895 the purchasing power in the retail price of food of the weekly wages of employees was 100.6 and in 1904 was 100.4, a decrease of 0.2 per cent; and as railroad wages have not increased in that period as much as general wages, it is demonstrated beyond cavil that railroad employees are not receiving as great a wage, measured in the purchasing power of their money to buy food, as they did ten years ago, and yet within that time the railroads have experienced an era of prosperity never before known in the world.

Now, what I contend is this—that the railroad employees, so far as their wages are concerned, will not be affected in any way by this legislation; that the wages of railroad employees in this country are maintained solely by their safe and conservative labor organizations; that the only real interest that railroad men have in the pending legislation is that of the general public in its opposition to present conditions, which allow the great monopolistic corporations of this country special privileges in the way of rebates, private car rental, switch-track pooling, and other devices, through which they receive the benefit of discriminating freights, whereby they are enabled to drive their competitors from the country's markets and absolutely control the prices the public must pay for many of the necessities of life.

Mr. Chairman, I am not in favor of the Government interfering with the business of the country. I believe every man should be allowed freedom to work out his own destiny, but I do believe that the railroad highways of the country are as necessary to the life of commerce as the air we breathe is to the life of the human body. I believe the air should be free to all, and I believe the opportunities of commerce should be free to all. This can be only when every man has equal rights and equal opportunity to seek his markets along the public highways with every other man. That is not the case to-day. This bill seeks to abolish discrimination and injustice. It provides a fair tribunal to see that all men are given an equal chance, that only just and fair rates are charged. The bill is not all I want, but it goes in the right direction and I support it for that reason. It stands for fair play, it stands against monopoly, it stands for the right against the wrong, it stands for the people against the trusts. It means the dawning of a new day in our commercial prosperity, when industry and thrift may march unshackled to the marts of trade. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. GAINES].

Mr. GAINES of Tennessee. Mr. Chairman, in this limited time it would be almost the height of folly for me to undertake to discuss the bill. I am going to read what I propose

to offer as an amendment at the proper time, Mr. Chairman, as part of my remarks now.

Add a new section, as follows, after section 8:

SEC. 9. That section 22 of the act of February 4, 1887, entitled "An act to regulate commerce," be amended by adding thereto the following:

"Any officer or employee of any railroad included within the provisions of this act who shall make, issue, or give any free pass or passage ticket not in good faith intended to be paid for over such railroad, or any railroad connecting therewith, to any person not allowed or authorized to pass free, according to the provisions of this section; or who shall pass free, according to the provisions of this section; or who shall pass, or cause to pass, free over such railroad to any such person; and any person not so allowed or authorized to pass free who shall receive and use any such free pass or free passage ticket, or any evidence thereof, shall be punished by fine, not exceeding \$1,000 for each offense, and it shall be the duty of the several courts having jurisdiction to charge regularly their grand juries to investigate violations of this section.

"No free passes, or evidence thereof, shall be issued by, or in behalf of, any railroad corporation, unless they are signed by some officer of said corporation authorized by vote of the directors to sign the same; and every railroad corporation shall keep a record, showing the date of every free pass, the name of the person to whom it is issued, the points between which the passage is granted, and whether a single trip or time pass, and, if the latter, the time for which it is issued; and this record shall, at all times, be opened to every stockholder in said corporation and to the Interstate Commission; and it shall be the duty of said Commission to cause prosecutions to be instituted on account of the issue of any free passes, or evidence thereof, contrary to law."

Mr. Chairman, I will insert section 22 of the commerce act of 1887 right here so that you can see the old law which I propose to amend:

SEC. 22. *Free or reduced rates—Excursions—Mileage—Commutation rates—Remedies cumulative.*—That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes or to and from expositions for exhibition thereat or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion or to municipal governments for the transportation of indigent persons or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers and of Soldiers and Sailors' Orphan Homes, including those about to enter and those returning home after discharge under arrangements with the boards of managers of said Homes.

Nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act [as amended March 2, 1889]: *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable 5,000-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 or more miles.

But before any common carrier, subject to the provisions of this act, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges, on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section 6 of this act; and all the provisions of said section 6 relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission, as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section 6. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. (Penalties.) The provisions of section 10 of this act shall apply to any violation of the requirements of this proviso. (Added by Laws 1895, chap. 61, approved Feb. 8, 1895.)

Mr. Chairman, this free transportation matter is a very serious one. There has been a great deal said on the subject with nothing recently done to prevent it. We can act now. There has been a great deal of ridicule about not using passes. There has been much sneering about it, but I say to this Congress, that we are doing ourselves an injustice in not prohibiting the issuance of passes to the officers of this Government or the use of them by any of the auxiliary employees of the Government of the United States. The public welfare demands immediate "antipass" legislation.

I think I have the official document before me clearly showing—although I do not make it as a charge—where officers of the Government have been issued passes, and I presume used them and kept their mileage; the Government always pays them when conducting public business.

Such an act is cold-blooded "graft," to say the least, whether so intended or not.

This amendment prohibits and makes unlawful the issuance and use of anything that is a free pass, in words or in effect, and punishes those who commit such acts, but this amendment

does not repeal the exemption set out in section 22 of the act of 1887.

I am the friend of railroads. They are a public necessity. I bear no ill feeling toward them; certainly none against those which obey the law. But I am the uncompromising enemy of the wrongs they do, have done, and can hereafter do, not only to each other, but to the people who created them to serve them as public carriers at a reasonable and just toll. And in addressing myself to this free-pass abuse, I feel that I am doing not only the railroads but the people a great public service, as well as doing my duty as their servant.

I have on my desk the fourth volume of the report of the Industrial Commission, which investigated this subject, having heard a number of witnesses on the free-pass evil, and I think without a single exception they condemned the free-pass system and wanted a national law to stop it, applying alike to all railroads engaged in interstate commerce.

I remember one of the statements of Mr. Paul Morton, late Secretary of the Navy, who said that at a great railroad meeting it was agreed to stop, as far as possible, the issuance of these passes, and a resolution was passed calling for an expression from the various railroad heads of the United States representing over 150,000 out of about 180,000. They replied that they wanted this free-pass evil stopped, or at least reduced to proper grounds.

I will read what Mr. Morton and others said.

Mr. Paul Morton, vice-president of the Topeka and Santa Fe Railroad, November 22, 1899, before the Industrial Commission, said:

Passes are given for many reasons, almost all of which are bad ones. There should be no passes printed. Even railroad officials or employees traveling on other lines than those they work for should be required to pay fare. The chief reason that stimulates a man to ask a railroad company for a free pass is that somebody else has it. Passes are given for personal, political, and commercial reasons, and in exchange for advertising; for services and for various other reasons. I am in favor of the total abolition of railroad passes, and this view is held by a large number of the railroads of the country, as will be seen by the extract, quoted below, from the proceedings of a meeting of executive officers of western, northwestern, and southwestern railroads, held in October last in St. Louis:

"Recommended:

"First. That all free or reduced transportation of every description both State and interstate, with the exception of that to railroad employees, be discontinued.

"Second. That reduced or free transportation to railroad employees be very much restricted.

"Third. That a joint meeting of all the leading American lines be called for the purpose of considering this subject, with the end in view of entirely stopping the pass abuse.

"Fourth. That a copy of these recommendations be submitted to all lines, with the request that they each go on record as to their views, and, if they favor discontinuing the practice of issuing free transportation, state how many railroads they believe should subscribe to the movement in order to make it effective."

The foregoing recommendations were submitted to the executive officers of 265 railroads, representing a mileage of 184,000 miles—practically all of the mileage of the country.

Replies in favor of radical action in either abolishing or restricting the issuance of free transportation have been received from 129 of the railroads thus addressed, representing 150,590 miles.

While this indicates that a large proportion of the railroads want to shut off the free-pass abuse, I doubt if anything ever comes of it until Congress passes a law prohibiting it.

There should be no unjust discriminations in rates of freight or fares in favor of individuals or localities.

Transportation is a public service, and the charges are in the nature of a tax. They should be absolutely fair to all. Almost any kind of legislation that will insure this will be wise.

One great difficulty that the railroads have to contend with is the adjustment of relative rates from competing distributing points. Much money has been wasted in contending for differential rates in favor of this place or that, and there ought to be some tribunal—such as the Interstate Commerce Commission—empowered to settle such disputes. Many of the rate wars of the western country have been caused by such contentions, and the result has generally been a restoration of old conditions, an arbitration, or a slight concession of some kind or another.

Col. John H. Reagan said:

3. The allowance of free passes by the railroad companies is not done as a matter of charity, for they are not, as a rule, given to the poor and needy, but for the most part to public officials and to influential persons. It is one method of unjustly discriminating in freight rates in a way that it is difficult, if not impossible, to prevent, by furnishing free passes to shippers, their families, their agents, etc. And as the revenues of the roads must be kept up, it is the taxing of one part of the people for the benefit of another part of them which violates the commonest rules of right, and it is undoubtedly employed as one of the means of influencing public officials and members of legislative bodies in the performance of their official duties. It is unfair, unjust, and demoralizing, and should be prohibited by Congress and the several legislatures in their respective spheres of authority.

Mr. A. B. Stickney, president of the Chicago Great Western Railroad, in part said:

That is the way with this pass business. If it never had been or if there was some way to get rid of it without raising too much of a disturbance, I should think it was a good thing to get rid of, and I don't know but it is anyway.

Q. As a railroad man, taking your side of it, should you prefer to be rid of it?—A. Oh, Lord, yes: it is like Congressman patronage, which I should think every Congressman would be glad to get rid of.

* * * * *

Q. (By Professor JOHNSON.) Do the members of the judiciary of Minnesota and Illinois hold passes over your road?—A. I don't think they do; I am not certain about that. If any of them ask for transportation, they get it; we don't hesitate to give to men of that class if they ask for passes; we never feel at liberty to refuse.

Q. (By Mr. KENNEDY.) You say that if members of the judiciary ask for a pass they will get it. Is there any reason why a judge of a court who gets a good salary should get a pass—that is to say, is there any greater reason than why John Smith should have a pass?—A. That depends upon what you would call a good reason.

Q. Is there any reason that would not avail so far as the general public is concerned?—A. Twenty-five years ago I had charge of a little bit of a road that was a sort of a subordinate of a larger road. I had occasion to visit the president of the superior road about something, and he said: "Mr. Stickney, I see that the sheriff of this county has a pass over your road. I should like to know on what principle you gave that sheriff a pass?" I said, "I did it on the principle that he was a power, and I was afraid to refuse him." "Well," he said, "I refused him." I said, "You will wish you hadn't before the year is over." Some time afterwards, and during the year, I went into the office to see the superintendent, but he was not in; I went into the general freight agent's office, and he was not in; I went into the general manager's office, and he was not in. So I then went into the office of the president and said, "What kind of a road have you got? Your superintendent is not here, your general freight agent is not here, and your general manager is not here." He hung his head down and said: "Do you remember that conversation we had about that sheriff's pass?" He has got all these men on the jury and has got them stuck for about two weeks."

Q. That answer seems to indicate that railroads would be afraid to refuse for fear of the penalties?—A. I think the railroads find there is a class of men that it is to their interest not to refuse if they ask for passes.

Q. Is it not bad in morals that a judge of a court should get a pass in that way and that a private citizen could not get one?—A. I would rather not assume to be a judge of morals; let other men judge of that for themselves.

Q. Still, you say you would like to be rid of the pass system?—A. Yes.

Q. (By Professor JOHNSON.) Would you like to have Congress prohibit the granting of passes for Interstate traffic?—A. That might help things and it might not. Legislation on such things works an advantage sometimes, and sometimes it does not altogether.

Q. It seems to me that it would be useless to have such laws if you could not enforce them and punish the man who gives passes or the man who receives them.—A. Well, I don't know. I notice in England and on the Continent that they have a great many laws regulating these things, and you will see signs posted stating that such and such things are forbidden under penalty of 10 shillings or 20 shillings, and I notice they enforce these laws. Now, let Congress pass a law forbidding passes and impose a penalty of \$5 or \$15, or some sum like that, and there should be some possibility of enforcing it; but impose a penalty of five years' imprisonment or \$5,000, and I don't think you are going to get the American people to enforce any such penalties.

Mr. Stuyvesant Fish, president of the Illinois Central, says:

Q. (By Professor JOHNSON.) Is not the granting of passes an illegal discrimination when you carry a man across the boundary of a State?—A. I would rather you would prove it by some other witness, gentlemen, to put it in all candor. [Laughter.]

Q. (By Senator MALLORY.) Do you regard it as an evil?—A. Yes. I as so constituted I do not believe in giving something for nothing under any circumstances. I think the evil of the pass situation is, seriously, this: It is the only way of getting value out of the treasury of the railroad company without leaving a voucher. There is no other way known to me.

Q. (By Professor JOHNSON.) Do not the railroad companies give these passes for value to be received?—A. Some of them, but the particular value received is not of record.

Q. It is not of record, but is it not in the form of favors of various kinds?—A. I am giving passes now to persons that are serving the company well, and they are entitled to it. I can defend hundreds of passes. There are reasons; but the same thing would enable me to go right to the treasury of the company and put in a voucher and give these men, say, \$100, just exactly the same. If it is defensible for value received, it can be paid by money.

Q. (By Senator MALLORY.) What do you say about these passes given to members of the legislature and Members of Congress and Senators?—A. I think the whole thing should be stopped.

Q. Do you think there is value received in this case?—A. I have been told there is at times.

Mr. Samuel Spencer, president of the Southern Railroad, said:

Q. Do you not think that the generally recognized violation of any law has a bad moral effect on the community in which that violation is practiced?—A. I think so, undoubtedly. It weakens the moral force of the community at large.

Q. That being so, can you state to the commission to what extent the free-pass system, or free transportation system, is practiced? I will not ask in reference to your railroad, but railroads in general in this country.—A. I will be very glad to have you specify.

Q. Well, your railroad.—A. The policy of the Southern is that its whole business shall be public to one and all. I have no objection to answering generally or specifically if you want it. The pass system has grown to be an abuse throughout the entire country, and it is an abuse on the Southern just as well as it is on other roads, but I hope not to the same extent; but it is an abuse, and one which at the moment we can not throw off.

Q. It is just as much prohibited or more prohibited than the ticket-brokerage system?—A. No. The language of the Interstate-commerce law upon that subject is such that the prohibition of passes is covered by a general clause. There is no specific law in regard to the free-transportation system only in the question of discrimination.

Q. It is included in that?—A. It is included in that, undoubtedly. But you can not put your finger on it with quite the same specificity as you can the other provision.

Q. You say it is generally abused. You mean by that that passes are given without consideration?—A. Without really a proper consideration, yes.

Q. Legitimate consideration?—A. Yes.

Q. And you think it is a general abuse?—A. I do. I think it is widespread all over this country.

Q. Do you not think it would be well, if it is feasible, to have legislation enacted that will prevent it?—A. I would like to see a statute passed that there should not be one issued to anyone.

Prof. E. R. Johnson, president of the University of Pennsylvania, said:

Q. (By Mr. KENNEDY.) Have you anything to say about the practice of giving passes, State laws prohibiting them, etc.?—A. I think it is something that ought to be prohibited by law. I think passes ought without exception to be restricted to actual employees of the railway corporations, and there is no doubt in my mind that the influences of the pass system upon our legislatures and judiciary are altogether bad.

Commissioner Knapp said:

It would be impossible to say to what extent that results in diminished revenue to the carrier. I have heard it claimed—I know nothing about it, and make the statement only on that information—that probably the actual revenues received by all the railroads of the country from their passenger business did not exceed 75 or 80 per cent of what they would be at the published rates multiplied by the journeys actually taken.

Q. If it would be possible to abolish this pass system, which is just as bad a discrimination as the freight, in fact worse, what effect do you think it would have on the cash fare—would it lower the rates of a paying passenger or would not the railroads charge the same, taking the usufruct of the whole for themselves?—A. What would result I can not say.

Q. What would be your opinion, in your Interstate Commerce Commission, about a question of that kind?—A. I should feel warranted in answering your question this way: If we could eliminate the free transportation and bring this public service down to the impartial conditions where every person who uses it pays his proper share, I believe the passenger rates throughout the country could be materially reduced and still the railroads have better returns from that branch of their service than they have at the present time.

Q. Is it possible to amend the Interstate-commerce bill to abolish passes?—A. I think so, surely, and a good many other things that now occur.

Q. (By Mr. RATCHFORD.) Is it not a fact that professional men and ministers of the gospel usually are provided with passes?—A. I am not aware that professional men as a class ordinarily receive any concessions, but clergymen as a rule get half rates.

Q. (By Mr. KENNEDY.) Does the practice extend to Federal and State judiciary and district attorneys?—A. I do not know. I think the practice is diverse. My opinion is that in many sections of the country the judiciary, both Federal and State, have free transportation. In some cases it is not accepted. In some States it is prohibited; in others it is in a way recognized as one of the perquisites and emoluments of the office.

Q. (By Professor JOHNSON.) It was testified before your commission by an officer of the Louisville and Nashville that his railroad gave passes to judicial officers.—A. Yes; but there is no such general practice, I mean to say, as corresponds with the arrangement in which clergymen get half rates. That is quite universal.

Mr. Chairman, in a number of the reports made by the Cooley Commission, and also when Mr. Morrison was chairman, the subject of free passes was discussed and condemned as an unwise and immoral practice, detrimental to the public interests and destructive of the revenues of the railroad.

In one of the reports of the Cooley Commission that tribunal states that by its enforcement the revenues of the railroads had been saved, with a corresponding reduction of the cost of railroad transportation, and particularly out West. In speaking of the enforcement of the commerce act of 1887 (vol. 1, p. 322), the Cooley Commission says:

In some particulars, as we understand has also been the case with similar statutes in some of the States, it has operated directly to increase railroad earnings, especially in the cutting off of free passes on Interstate passenger traffic and in putting an end to rebates, drawbacks, and special rates upon freight business.

The results of the law in these respects are all so eminently satisfactory to the general public, certainly to all who had not been wont to profit by special or personal advantages.

In connection with the abolition of the pass system, there has been some reduction in passenger fares, especially in the charge made for mileage tickets in the Northwest, the section of the country where they are perhaps most employed.

On pages 265 and 266 the Commission, in very vigorous and severe terms, describes "the pass system" and condemns it in no unmistakable terms. In concluding its comment, the Commission says:

Much suspicion of public men resulted, which was sometimes just, but also sometimes unjust and cruel; and some deterioration of the moral sense of the community, traceable to this cause, was unavoidable while the abuse continued. The parties most frequently and most largely favored were those possessing large means and having large business interests.

The demand for free transportation was often in the nature of blackmail, and was yielded to unwillingly and through fear of damaging consequences from a refusal. But the evils were present as much when it was extorted as when it was freely given.

Mr. Chairman, it not only caused people who use passes to be suspected—people, I mean, who do wrong, who give or take them for evil purposes—but it is worse than that.

Mr. Chairman, here is what I mean and want to impress upon this honorable body. There are men who use free passes—indeed, so far as that is concerned, we know that some of our women, and, I may add, some of our sweethearts, use passes. God bless them! Of course the women can do no wrong. But I am talking about the man who is a public officer and who

uses a pass, and yet does right in his official deportment, if there is such a man. He is criticised, nevertheless; he is suspected, nevertheless; and the full measure of that man's influence is lessened. That is a distressing pity. He should quit the practice.

Another thing. Unquestionably—and the Cullom report which I have here on my desk states it—the promiscuous issuance of free passes has caused a "privileged class" to rise up in this country to the detriment of the public welfare and has caused the price of tickets to be higher than it otherwise would be. The Cullom report says:

That a privileged class is created by the granting of passes, and that the cost of the passenger service is largely increased by the extent of this abuse.

This is found in the Commerce Report of 1886, at page 181.

I read an article in the American Law Review not long ago from the pen of Judge Clark, of the supreme court of North Carolina, a very distinguished man, and he said that by reason of the issuance of free passes in that State the people of North Carolina were required to pay on an average about 3½ cents a mile for travel.

In that State in 1897 there was a prosecution against the Southern Railroad and another railroad for issuing and honoring an "annual pass" to a member of the legislature. And our colleague from that State [Mr. Pou] caused that railroad to be indicted. I am glad that he has shown himself to be an upright, law-abiding citizen even when he is at home. He has raised a high standard here in the House, we note with pleasure. He is not without honor at home or abroad. Mr. Chairman, the railroad was convicted and fined, and in that case—reported in 122 North Carolina Reports—I find this remarkable statement in the opinion, delivered by Justice Douglas, the son of Stephen A. Douglas:

It is currently reported that a hundred thousand passes were issued in the State of North Carolina within the year 1897. Of our three leading railroad systems, one reported over 15,000 passes issued, while another reported 30,000. The defendant herein, the largest system of all, and having a direct pecuniary interest of vital importance before the legislature refused to make any report, relying upon its legal exemption from compulsory self-incrimination.

Taking the estimate of 100,000 passes as correct, as it is 397 miles from Raleigh to Murphy, on the west, and still farther to Elizabeth City, on the east, it is fair to assume that each pass would represent at least 100 miles of travel, equal to \$3.25 in fare.

This would represent the equivalent of \$325,000 a year given to somebody, but to whom we do not know and for what purpose we need not inquire. These figures may not be correct, but they are the best obtainable under the circumstances.

It is needless to suppose that transportation of such great pecuniary value would be given without some return, either present or prospective, and in any aspect its continuance would be unjust to the public interest and dangerous to the public welfare.

Free transportation to so large an amount would necessarily place an additional burden upon the traveling public to make up the deficiency, while its irresponsible distribution would be a serious menace to public morality. So far, I fully concur in the opinion of the court.

Judge Douglas agreed with the majority of the court as to the construction given the law, but wrote a personal opinion, stating that he did not agree to affirming the judgment of the lower court, because the railroad stated that it did not intend to violate the law, and had been advised by high authority that in issuing this annual pass, and other passes, it was not violating the law. The facts were undisputed. Judge Douglas dissented because the intent was absent.

In 1897 the railroad mileage in the State of North Carolina was less than 2 per cent of the total mileage of the United States. On this small proportion we find it "currently reported," says Judge Douglas, that "100,000 passes were issued in North Carolina" in 1897, while on two of the roads actual official reports were made of 40,000 passes having been issued, while one railroad, the defendant, the largest, refused to report.

Some of these passes were for trips, I presume, and some were annuals, as the record shows. How many passes do you suppose were issued in 1897 on all the railroads in the United States? How much revenue was lost to the railroads, and how much more money did the people spend for passage as a result of these passes than in good morals they should have been taxed with?

Reading closely the statements before the industrial commission and the Cullom report of 1886 and the opinion of Judge Douglas, are you not surprised the people have stood this free-pass abuse as long as they have? Let Congress come to the rescue of the railroad and the people. The railroads say one railroad can't stop this abuse. Let us help them by passing a national law to reach the evil, and make it easy of enforcement and demand its enforcement and by our example help to enforce it.

Now, there are certain exemptions under section 22. The law does not go far enough, and it is hard to enforce. I have also here, Mr. Chairman, that which will show to you the lack of strength and application in the law.

Here is a case where the Boston Railroad was found guilty by the Interstate Commerce Commission, presided over by Mr. Morrison, for issuing passes, and it is made Senate Document 63, Fifty-fifth Congress, third session. Here are some twenty-eight pages giving a list of the passes issued by that railroad, as shown by exhibits to its answer. The answer classifies them as follows:

Class 1 includes sick, necessitous, or indigent persons; in short, all cases of charity strictly.

Class 2 includes gentlemen like Hon. James W. Bradbury, long eminent in the public service.

Class 3 includes proprietors of summer hotels and large boarding houses, conformably to a practice which has long existed among all the railroads of New England.

Class 4 includes wives of employees and other immediate members of employees' families.

Class 5 includes all agents of ice companies and all milk contractors doing business on the line of the Boston and Maine Railroad, or any part thereof extending between any two States, said agents and contractors traveling on the trains in the conduct of their business.

Class 6 includes the higher officers of State in the States of Maine, New Hampshire, Vermont, and Massachusetts, and certain prominent officers of the United States, like the collector of customs.

Class 7 includes the railroad commissioners of each of the States of Maine, New Hampshire, Vermont, and Massachusetts.

Class 8 includes the members of the railroad committee for the time being of the legislature of each of the States of Maine, New Hampshire, and Massachusetts.

Class 9 includes persons who are trustees under mortgages on the property of the corporation and who are entitled to inspect its property by virtue of the deed or indenture constituting them trustees.

Class 10 (in the schedules annexed called "Complimentary") includes persons whose good will is important to the corporation and who, so long as the general practice of railroads remains what it now is, might justly take offense if in the matter of free transportation they were to receive from the Boston and Maine Railroad different treatment from that received from other railroad corporations.

Ninth. The Boston and Maine Railroad respectfully submits that the foregoing is a full and complete answer and disclosure in respect of all the matters and things inquired of by the Commission in its order of July 14, 1891, and prays that it may be discharged from any further answer or duty in the premises.

BOSTON AND MAINE RAILROAD,
By JAS. T. FURBER, Vice-President.

This railroad was arraigned by the Commission for issuing passes in Federal commerce. These passes, as shown by these exhibits, were all interstate passes. Mr. Richard Olney defended the railroad and Senator Chandler prosecuted. The whole record of the case, including arguments and the opinion of Mr. Morrison, are found in this document. According to the decision in this case, the railroad was found guilty of an illegal discrimination by issuing passes to some and making others pay for the same kind of service—that is, the Commission held that this was an illegal discrimination, and ordered this railroad to cease and desist in so doing. This order was served on every other railroad engaged in Federal commerce in the United States, as this document shows. But the railroads, we know, continue to disobey the law. Here is evidence from the supreme court of North Carolina, and here it is in this Boston case. The railroads pay no attention to this law. It needs this amendment.

Now, gentlemen, here is an opportunity to strengthen this law, and if this provision does not go far enough, then somebody write a better one and pass that.

The railroads want this law. In my own State one member of the legislature got 1,700 passes, common repute said, and went down in Nashville and sold them and put the money in his pocket. He was a citizen who had been a great man in public life, who had been a Member of Congress, I may add. Here is the language of the railroad officials themselves in the testimony before the Industrial Commission, which states in effect that they are afraid not to issue passes. The Cooley Commission said it was a species of blackmail.

I remember something like this in my State: One head of a great convention came down and got about 1,500 passes, and the leader of the other division came to the railroads and said: "You have given that division so many passes, now you have got to give my division the same number." And the railroad company was just blackmailed into issuing the passes.

A leading railroad man in Tennessee, who is well known to my colleague [Mr. Houston], who listens to me to-day, said to an intimate railroad friend of mine that if everybody would pay their passage over his road, "I could pay my taxes and not have any trouble with tax suits with the State of Tennessee," as now and then he does have. In other words, laying aside the immorality of it, in free-pass uses, laying aside its insidious and evil influence, it takes the railroad's legitimate revenue from it, and the railroad, to make up for that loss, makes the man who buys the ticket pay for the ticket and also for the pass used. That is the effect of it.

Now, the average receipts for hauling passengers, according to the official reports, is a little less than 2 cents a mile. I have paid as high as 5 cents this last year for railroad travel. I have paid 3½ cents and also as low as 3 cents on the same day,

for I kept tab when I was riding a distance of about 150 miles. What becomes, then, of the difference between a little less than 2 cents and 3 and $3\frac{1}{2}$ cents and 5 cents? It goes to liquidate the free passage and transportation of these people who ride upon passes.

That is wrong; the common carrier knows it and he is an unwilling party to it. It makes the poorer class of society, Mr. Chairman, pay its way. I remember I was going through a little town near my home, about 40 miles distant, and an old farmer got on the train. I didn't know him. He had chickens on one arm and a bucket of eggs on the other. He pulled out his ticket, gave it to the conductor when he came along; but three distinguished friends and neighbors of mine, all men of means, who got on the train with the old farmer, when the conductor came to them all pulled out passes.

Now, gentlemen, that is enough to make that old man who was struggling to get to town, possibly to get clothes for his wife and children, perhaps to buy medicine—it is enough to make him hate the railroads; it is enough to make him hate the law that we do not enforce and hate us. It breeds bad feeling—one of resentment.

I say, as a matter of friendship to the railroads, that we should remove this incubus. We should take away from it this species of blackmail; we should take it away from the railroads so that they can not appeal to our sense of gratitude when we ride on passes—a thing I do not do, I may add by way of parenthesis, and I do not intend to. I would walk my legs off up to my knees before I would do it. [Applause.]

Now, gentlemen, I am talking on the railroad side of this proposition. I am going to vote for the bill. There ought to be some changes made in it, and if I had the making of it I would make at least a plainer written bill, and probably every other Member in the House may think he can do the same thing.

Mr. Chairman, I expect my time is nearly up, but I want to say that there are no politics in this effort of mine. I know that the railroads want this provision of law. You see that it ought to be passed. The law as it is is worthless, for the Commission can not enforce it. They have tried to do it; they want the railroads to cease issuing passes, and here is the opinion where it was ordered and refused. The morals of the whole country are suffering from this free-pass ulcer. Cure it now. The public morals of the country are trenched upon as well as the revenues of the railroads, which the roads are justly entitled to have. [Applause.]

Opinion in part of Commissioner Morrison in the Boston Railroad case, and the orders, etc., issued therein:

In the third report to Congress, in 1899, the Commission said, in the course of a long discussion of the subject, as follows:

"The statute undoubtedly was framed to prohibit passes or free transportation of persons, as one of the forms of unjust discrimination, favoritism, and misuse of corporate powers that had grown into an abuse of large proportions, and become demoralizing in its influence and detrimental to railroads, both in loss of revenue and in provoking public hostility. * * * The law aims at the correction of the abuses of free transportation, and, in accomplishing this general purpose, some forms of free or reduced transportation that at first view might appear plausible, or even unobjectionable in themselves, have to fall under its general restrictions. * * * The discrimination is equally unjust whether the free transportation be complimentary or to aid some person's business, or for some supposed indirect advantage to the carrier. The correction of the evil, and the equality of right to which all are entitled, required the restrictions to be general and sweeping to furnish any substantial assurance that the abuse should not be continued or new ones devised under cover of any discretion left to the carrier."

And again, after referring to section 22 of the act, the report further says:

"The classes of persons that may have reduced rates or free carriage are thus carefully specified in the statute, and their enumeration necessarily excludes all others. Except as qualified by this section, the issuance and sale of passenger tickets must be in accordance with the general principles of the act."

Other utterances and decisions of the Commission to the same legal effect have been made every year since its organization, and its construction of the act has been indicated by its repeated recommendations to Congress to add other classes of persons to the exceptions (as they were always regarded by the Commission) contained in section 22.

We find not only these views held by the Commission from its organization, but by the Federal courts when the question has arisen.

In *Ex parte Koehler*, 1 Interstate Commerce Report, 317, Judge Deady decided, on the application of the receiver of the Oregon and California Railway Company, asking for instruction as to the granting of free transportation to the families of employees, that the act to regulate commerce prohibited the issuance of passes to such persons, they not being included in what he held to be the excepted classes named in section 22.

Without further citation of authority, the construction we give to section 2 of the act to regulate commerce is that where the service by the carrier subject to the act is "like and contemporaneous" for different passengers, the charge to one of a greater or less compensation than to another constitutes unjust discrimination, and is unlawful, unless the charge of such greater or less compensation is allowed under the exceptions provided in section 22; and that where the traffic is "under substantially similar circumstances and conditions" in other respects, it is not rendered dissimilar within the meaning of the statute by the fact that such passengers hold unlike or, as sometimes termed, unequal official, social, or business positions, or belong to different classes as they ordinarily exist in a community, or are arbitrarily created by the carrier.

Under this construction of the act the practice of the defendant in giving free transportation, such as it concedes was issued to "gentlemen long eminent in the public service," "higher officers of States, and prominent officials of the United States," "members of legislative railroad committees," "persons whose good will is important to the corporation," is unwarranted unless the favored person also comes under some exception specified in section 22 of the act to regulate commerce.

The investigation was instituted, as appears from the original order, for the purpose more especially of making inquiry into the business practice of issuing free passes by the defendant than with reference to any particular case or special infraction of the law.

The inquiry developed, however, that, in addition to the classes of persons last above stated, the defendant has issued other so-called free passes, which were free in name only, for in reality there was some consideration therefor passing from the recipient to the defendant, such as those issued to newspaper proprietors, editors, and reporters in exchange for advertising, to hotel proprietors, to ice dealers and milk dealers, and to some other persons who are claimed to stand on special ground of right.

As to these latter classes of persons, the investigation has thus far brought out some of the facts, but would have to be extended to enable us to pass a satisfactory judgment upon them. To avoid the delay which a proper and full investigation of these classes would occasion, and in view of their minor importance, and yet perhaps greater difficulty of decision, and of the urgency that the defendant should be informed before the close of the present calendar year of our decision, so far as we are able to render it at the present time, we have concluded to hold the case as to the passes issued to the last-mentioned classes for such further investigation as may be necessary to put us in full possession of all the facts before finally passing upon them, and in the meantime to issue an order applicable to the classes first mentioned, in accordance with the construction of the law as above set forth, this being pursuant to practice in other cases.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 29th day of December, A. D. 1891. In the matter of the carriage of persons free or at reduced rates by the Boston and Maine Railroad Company.

Present: Hon. William R. Morrison, Hon. Wheeck G. Veazey, Hon. Martin A. Knapp, Commissioners.

This proceeding having been instituted by an order of the Commission entered on the 16th day of July, 1891, and due hearing and investigation having been had, the Commission did, on the date hereof, to wit, the 29th day of December, 1891, make and file a report and opinion containing its finding of fact and conclusions thereon, which said report and opinion is hereby referred to and made a part of this order; and the Commission having, as appears by said report and opinion, found and decided, among other things, that the defendant, the Boston and Maine Railroad Company, has violated the provisions of the act to regulate commerce by issuing and giving to divers persons described in said report and opinion tickets called and known as "passes," which entitled said persons to be carried as passengers over its line of railroad between points in different States without any charge therefor, and by furnishing such free transportation to said persons on presentation of such passes, while at the same time defendant held in effect over its said line for the transportation of passengers between the same points certain rates of charge, commonly called "fares," and charged and received the same as compensation from other persons for service rendered in transporting them as passengers between said points in different States, which said service was like unto and contemporaneous with the service rendered by it without compensation in the transportation under substantially similar circumstances and conditions of a like kind of traffic, to wit, the carriage of such first-named persons over its said line as passengers between the same points. And it is also found that further investigation and consideration should be had in regard to the issuing of passes and the furnishing of transportation free or at reduced rates by defendant to other classes of persons, also described in said report and opinion of the Commission herein.

It is ordered and adjudged, That the defendant, the Boston and Maine Railroad Company, do wholly and immediately cease and desist from charging, demanding, collecting, or receiving from any person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers between points in different States than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of passengers under substantially similar circumstances and conditions, by issuing without charge to persons not included within the classes of persons described in the twenty-second section of the act to regulate commerce tickets or passes entitling them to transportation as passengers over its line of railroad between points in different States, or by transporting such persons, or others not included in the aforesaid classes described in said twenty-second section, over its line of railroad as passengers between points in different States without the payment by them of any rate, charge, or fare, or upon the payment of a reduced rate, charge, or fare; and in carrying out the provisions of this order said defendant is further hereby directed and required to be governed by the requirements and construction of law laid down in the report and opinion of the Commission herein.

Be it further ordered, That this matter be retained for further investigation and consideration of such questions involved therein as have not been determined by the Commission in said report and opinion.

And it is further ordered, That copies of the report and opinion of the Commission herein and of this order be sent forthwith to all common carriers subject to the provisions of the act to regulate commerce as notice of the requirements and construction of law laid down in said report and opinion in regard to the transportation of passengers, that they may govern themselves accordingly.

INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that the foregoing copies of report and opinion of the Commission and order of the Commission in the proceeding entitled "In the matter of the carriage of persons free or at reduced rates by the Boston and Maine Railroad Company" are true copies of the originals now on file and recorded in the office of this Commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the Commission this 16th day of January, 1892.

[SEAL.] EDW. A. MOSELEY, Secretary.

On October 17, 1898, the following petition was filed by Charles A. Busiel, which, with the accompanying papers, are also submitted in

response to the direction of the Senate, since they refer to the same subject:

Before the Interstate Commerce Commission in the matter of the carriage of persons free or at reduced rates by the Boston and Maine Railroad Company.

Now comes Charles A. Busiel, as petitioner in this proceeding, and respectfully shows:

I. That the petitioner is a resident of Laconia, in the State of New Hampshire, and brings this petition in his own behalf and also in the interest of the people of the State of New Hampshire and all passengers over the lines operated by the above-named railroad company.

II. That in this proceeding, instituted by an order of this Commission on the 16th day of July, 1891, this Commission did, after due hearing and investigation, to wit, on the 29th day of December, 1891, make and file a report and opinion containing its findings of fact and conclusions in said proceeding, and did also on said last-mentioned date issue an order directed to said Boston and Maine Railroad Company, the respondent in said proceeding, notifying and requiring it, the said Boston and Maine Railroad Company, to "wholly and immediately cease and desist from charging, demanding, collecting, or receiving from any person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers between points in different States than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of passengers under substantially similar circumstances and conditions, by issuing without charge to persons not included within the classes of persons described in the twenty-second section of the act to regulate commerce tickets or passes entitling them to transportation as passengers over its line of railroad between points in different States, or by transporting such persons, or others not included in the aforesaid classes described in said twenty-second section, over its line of railroad as passengers between points in different States without the payment by them of any rate, charge, or fare, or upon the payment of a reduced rate, charge, or fare;" and in carrying out the provisions of said order the said respondent railroad company was further therein directed and required to be governed by the requirements and construction of law laid down in said report and opinion of the Commission. And it was further provided in and by said order that such questions involved in this proceeding as had not been determined by the Commission in said report and opinion should be retained for further investigation and consideration, which said questions are stated in said report and opinion of the Commission as follows, to wit:

"The investigation was instituted, as appears from the original order, for the purpose more especially of making inquiry into the business practice of issuing free passes by the defendant than with reference to any particular case or special infraction of the law. The inquiry developed, however, that in addition to the classes of persons last above stated, the defendant has issued other so-called "free passes," which were free in name only, for in reality there was some consideration therefor passing from the recipient to the defendant, such as those issued to newspaper proprietors, editors, and reporters, in exchange for advertising, to hotel proprietors, to ice dealers and milk dealers, and to some other persons who are claimed to stand on special ground of right. As to these latter classes of persons the investigation has thus far brought out some of the facts, but would have to be extended to enable us to pass a satisfactory judgment upon them."

III. That said respondent, whatever it may have done immediately subsequent to the date of said order in compliance with the provisions thereof, did thereafter and does now fail and neglect to obey the requirements thereof; that is to say, the said respondent has been, since the date of said order, and is now, giving and affording free interstate transportation to persons not included within the classes of persons described in section 22 of the act to regulate commerce, approved February 4, 1887, while it has been and is charging, demanding, collecting, and receiving compensation from other persons for like and contemporaneous service rendered by it under substantially similar circumstances and conditions.

IV. That said respondent has, since the date of said order, provided, and is now providing, transportation free or at reduced rates, or in lieu of compensation for real or pretended services to newspaper proprietors, editors, and reporters, hotel proprietors, ice dealers, milk dealers, freight shippers, and others engaged in various trades and professions, while charging, demanding, collecting, and receiving compensation from other persons for like and contemporaneous service performed by said respondent railroad company under substantially similar circumstances and conditions.

V. That the said respondent railroad company, by doing the things alleged and set forth in Paragraphs III and IV hereof, and by failing and neglecting to obey the requirements of said order of the Commission, has been and is violating the provisions of sections 2, 3, and 6 of the said act to regulate commerce. And said respondent company, acting as aforesaid, has been and is thereby burdening passengers who are compelled to pay its regularly established rates of fare, and also shippers paying regular rates of freight over its lines, with the whole or a large part of the cost to it of transporting the above-mentioned favored passengers, which results necessarily in making said established passenger and freight rates unreasonable and unjust, in violation of section 1 of said act.

VI. That petitioner is prepared to prove various instances of the discriminations and preferences alleged in Paragraphs III and IV hereof, but demands as in addition and supplementary thereto, and as warranted by the character and scope of this proceeding, that said respondent be required, upon the filing and service of this petition, to include in its verified answer hereto a statement of the same import and character as was required of it at the time of the institution of this proceeding on July 16, 1891; that is to say, that the said railroad company be required to state and make known in its answer as follows, to wit:

1. Do any persons hold passes from the said Boston and Maine Railroad Company entitling them to free or reduced rates for transportation over its lines or any part thereof; if so, under what arrangement are such passes or tickets issued? In answering this question, the Boston and Maine Railroad Company is required to state the names of the persons holding such passes or tickets, their addresses, so far as known, and, if said passes are confined to a single State, to include the names of such persons, if they hold currently a pass or passes or reduced-rate tickets over its lines effective in any other State than that for which the free carriage is limited to a single State. And if said passes, or any of them, or said reduced-rate tickets are issued under any arrangement or contract with said persons, then the arrangement is to be substantially stated, together with the dates thereof and the amount of transportation therein provided for, and on what account, and for what reason.

2. State the names of all persons, either under contract or otherwise, holding annual passes on December 31, 1897, over the line of the Boston and Maine Railroad or any portion thereof extending between any two of the States in which said railroad is situated, and if any of the said passes are confined to the limits of any one of the said States, then the names of all persons, and their addresses so far as known, holding passes concurrently effective over a portion of its line in any State other than that to which the said annual pass is limited as aforesaid, and not including the names of its own officers and employees immediately engaged in the operation of its own road, nor the names of the principal officers and employees of other railroad companies to whom such passes have been issued in exchange.

3. State the names and addresses, so far as known, of all persons to whom annual, trip, special, or other passes or tickets at a reduced rate of fare have been given during the two years last past, together with the reasons for the issuance thereof, and if any of said passes or reduced-rate tickets have been limited to any one State, include the names of such persons, if they concurrently held other passes or tickets effective over its line or any portion thereof in any other State, not including, however, the names of its own officers and employees immediately engaged in the operation of its own road, nor the names of the principal officers and employees of other railroad companies to whom such passes have been issued in exchange, but not excepting from the answer to this interrogatory the names of any persons to whom such passes or the names of any persons to whom such passes or reduced-rate tickets have been issued pursuant to any contract, agreement, or arrangement between the said Boston and Maine Railroad Company and such persons, ostensibly providing therefor as payment for advertising or retainers or fees as lawyers or other service.

Wherefore petitioner prays that further full and complete investigation be had in this proceeding, to the end that decision and order may be had concerning the questions remaining undetermined herein, and that said act to regulate commerce, as heretofore construed and applied by the Commission in this proceeding and embodied in said order of December 29, 1891, may be enforced.

Dated at Laconia, N. H., October 13, 1898.

CHARLES A. BUSIEL.

STATE OF NEW HAMPSHIRE, Belknap, ss:

OCTOBER 13, 1898.

Then personally appeared Charles A. Busiel, who, being duly sworn, says that he is the petitioner in this proceeding and that the matters set forth in the foregoing petition are true, as he verily believes.

Before me:

[SEAL.]

ORRAN W. TIBBETTS, Notary Public.

EDWIN H. SHANNON,
Attorney for Petitioner.

APPLICATION OF PETITIONER FOR ORDER REQUIRING ANSWER AND FOR HEARING.

LACONIA, N. H., October 14, 1898.

MY DEAR SIR: I herewith file before your honorable Commission petition of Hon Charles A. Busiel, of Laconia, and respectfully request an order citing the Boston and Maine Railroad to appear before said Commission in order that they may furnish such information as is called for by said petition, and desire a full hearing upon all questions embraced therein.

Kindly instruct me when and where we can be heard after answer is filed.

Yours, very respectfully,

HON. EDWARD A. MOSELEY,
Washington, D. C.

MOTION OF RESPONDENT TO DISMISS PETITION OF CHARLES A. BUSIEL.
[Filed November 14, 1898.]

UNITED STATES OF AMERICA.

In the matter of the carriage of persons free or at reduced rates by the Boston and Maine Railroad. Interstate Commerce Commission. No. 308.

Motion of the Boston and Maine Railroad to dismiss the intervening petition of Charles A. Busiel.

And now comes the Boston and Maine Railroad and moves to dismiss the intervening petition of Charles A. Busiel, for the following reasons:

1. Because the petitioner, Charles A. Busiel, has no authority to intervene in this cause undertaken by the Commission itself.
2. Because the petition is indefinite and contains no specifications, without which this respondent can not properly make answer.
3. Because this Commission is not the proper tribunal before which to try any questions of failure to obey its orders.
4. Because this petition is not brought in good faith for the public weal, but because this respondent has refused from time to time the petitioner's requests for free passes over its railroad, as appears by the correspondence on file.

Wherefore, this respondent moves that the petition of Charles A. Busiel be dismissed.

BOSTON AND MAINE RAILROAD.

By its attorney, WM. H. COOLIDGE.

MR. ADAMSON. Mr. Chairman, I now yield to the gentleman from Georgia [Mr. HARDWICK].

MR. HARDWICK. Mr. Chairman, I realize that the question we are now discussing is a very important one; that it affects vast property interests. In fact, we hardly know how vast those interests are until we pause for just a moment to consider that question. According to the census report of 1900, the total wealth of this Republic was \$94,300,000,000, and if the same ratio of increase has been continued from that time to this the total wealth of this Republic to-day is \$110,500,000,000.

According to the report of the railroad commissioners, the total value of the railroad property of the United States in 1904 was a little over \$13,000,000,000, and if the same ratio of increase has been continued from that day to this the value of the railroad property in this Republic now is about \$14,000,000,000. It is therefore just about 13 per cent of the total

wealth of this country, and one dollar out of every eight of the total wealth of this country is represented by railroad valuation.

Now, in 1903, according to the figures given by the Republican campaign book, the total amount of imports into this country from foreign countries was a little over a billion dollars and the total amount of exports to foreign countries was nearly a billion and a half dollars, so that this indicates a total foreign trade of two and one-half billion dollars.

For the year ending June 30, 1904, the railroads earned as compensation from the transportation of freight and passengers \$1,975,000,000 and received as total income from all sources \$2,188,000,000, so that the charges for railway transportation alone are just as much as the total valuation of all the export trade and the import trade of this Republic combined. In addition to that, in 1903, the budget of the United States was, according to the Republican campaign book, \$486,439,306.68. On the basis of 80,000,000 population this is a governmental charge of \$6.08 per capita. The railroads charged a per capita of \$27.25 to every person in the United States for every year. Therefore it is apparent that the people of the United States pay to the railroads of this country four and a half times as much as they pay to the Federal Government itself, directly and indirectly.

Now, Mr. Chairman, there are just one or two observations that I wish to submit on the political phase of this question. The Republicans to-day are supporting this measure, and yet this is a new position for them to take. The Democratic party for ten long years has lifted its voice in its favor, and there was no equivocation about its attitude in the campaign of 1904. We used these words, and I read from the Democratic platform of 1904:

"We demand an enlargement of the powers of the Interstate Commerce Commission to the end that the traveling public and shippers of this country may have prompt and adequate relief from the abuses to which they are subjected in the matter of transportation."

Now, there are two pages of the Republican campaign book of 1904 devoted to a discussion of this regulation of railway rates, and we find that the Republican campaign book, which was a text-book of Republican orators from one end of this Republic to the other, took the position, "Let well enough alone;" that you had laws that, if they were properly enforced, would solve this problem. Let me read you some of the doctrine that you then gave to the people of the United States when you were seeking election at their hands. It speaks of the passage of the Elkins law:

This is a cause for public rejoicing. As everyone knows, the secret advantages heretofore secured by rebates and through forms of favoritism were the dishonest means by which large concerns have been crushing out their smaller rivals. Nothing has so powerfully aided the aggressions of the industrial trusts and nothing connected with these combinations has been so offensive and destructive as private bargains of one sort and another by which they secured lower freight rates than independent dealers were compelled to pay. This was the characteristic and odious evil of railroad methods up to a recent date. Within the last two years this evil has been suppressed to a very great extent—to an extent which justifies the most favorable comment. The whole rebate business has been broken up and is rapidly disappearing. This is perhaps the greatest benefit that could be conferred upon the general business interests of the country. It gives every man the same opportunity and puts the small dealer on a footing of equality with his largest rival so far as transportation charges are concerned. It is difficult to realize the advance that has been made in this regard within a comparatively short time. The salutary provisions of the Elkins law and the resolute and persistent effort of the Attorney-General during the present Administration have practically removed the gravest and greatest of railroad abuses.

In other words, before the campaign of 1904 was fought out the Republican party of this country went to the people on a declaration that they were willing to "stand pat" on existing law in reference to the railroad question, and I say when they now recede from that position that they need not be surprised when their railroad friends, who supported them, plead failure of consideration, total and complete, against them. [Applause on the Democratic side.] Not only that, but I want to challenge any living man in this House or in the White House, or anywhere else, to show me any published utterance of Theodore Roosevelt in favor of railway-rate regulation before the last election. In my hands I hold his letter of acceptance of the Republican party's nomination for the Presidency, and he did not say a word about what he now calls the greatest question before the American people. Gentlemen, the truth about it is that you deceived the railways on this question, and you know it. The Democratic party is consistent. It went to the people on the platform that it would do this thing if it had the power, and you said you were satisfied with existing law. You got the power, and yet you come, adopt our platform, and join hands with us to give the people this much-needed relief. You do not do it with entire good grace, either, because I heard the speech of the distinguished gentleman from Pennsylvania [Mr. SIBLEY]

in opposition to this measure, also the speech of the distinguished gentleman from Massachusetts [Mr. McCALL] against it and of the gentleman from Maine [Mr. LITTLEFIELD], equally distinguished and able, all of whom were cheered to the echo by that side because they opposed the bill. Gentlemen, you can not fool the American people. They are not exactly blind yet, and even if they were, they know that while it is the voice of Jacob from your side—it is the hand of Esau after all. [Applause on the Democratic side.]

Now, Mr. Chairman, in the short time I have at my disposal I desire to take up only one question connected with this bill. If I have the opportunity, when we reach this bill under the five-minute rule there are certain amendments that I wish to offer to it, and what I am going to say in support of these amendments now applies equally to my own side of the Chamber as it does to the other side—to the Democratic members of the committee as well as the Republican members of the committee.

In the report of the committee the distinguished chairman of this committee makes the statement that there are very few people who favor conferring upon the Interstate Commerce Commission the general rate-making power—the power to initiate rates. With that statement I desire here and now to take issue, because here is one Member, however young and inexperienced, who has his own convictions upon the subject and is willing to vote to confer just such power, whether any other man on this side of the Chamber except himself shall vote for it. [Applause.] When we reach section 4 of this bill I shall offer certain amendments which will accomplish that purpose; and now I want to say just a word or two in defense of that general position. I heard the argument of the distinguished gentleman from Maine [Mr. LITTLEFIELD] this morning when he said that the power to originate rates, the power to fix rates generally, was conferred in this bill. I want to say to him that a careful examination of the bill leads me to exactly the opposite conclusion, and if I could agree with him, as a matter of law, from the language of this bill, I should vote for it with a great deal more pleasure than I will be able to feel in voting for this bill. Now, not only that, but I want to call your attention to this fact, that the law that you are now enacting is a departure from the theory of existing law as embraced in the original interstate-commerce act and its amendments. When the law of 1887 went into effect, section 13 of that bill provided that the Commission should exercise whatever power was conferred, or was supposed to be conferred, either when there was complaint by any person, firm, or corporation interested, or from a State railroad commission of any State, or from any State railroad commissioner, or upon its own motion. Whether it had or whether it had not the rate-making power, the fact is undoubtedly true that it had just as much rate-making power on its own motion as it did in a given case, so that when you propose by this bill to withhold from the Interstate Commerce Commission the right to initiate a rate you take a radical departure from existing law, from old standards, and from the accepted ideas on this subject. Gentlemen may contend that there are so many of these rates that it will be impossible for any commission to ever fix them. I do not contend that if this power were given to the Interstate Commerce Commission it ought to exercise it in a minute or necessarily in an hour, or in a day or in a week or in a year, or even in a decade; but it ought to have that power, and surely the General Government is strong enough and great enough and rich enough to exercise it, and to exercise it wisely and well. Can you tell me that the great corporations of this country have so much wealth, so much of the brains of the country employed, that they alone are competent to fix rates? This Government is big enough, it has money enough, and it can hire brains enough to fix rates fairly in the interest of all the people, and I think that is what ought to be done.

I know that in the State of Texas, from which one of the members of this committee on this side comes, the general power to fix rates, on its own motion, is given to the railroad commission, and that that power sprang from the giant brain and lion heart of John H. Reagan. I know that in the State of Georgia, in which I live and from which two members of this committee come, the railroad commission has power, on its own motion, on its own initiative, to fix the rates all through the State, and there the idea originated in the giant brain and in the lion heart of Robert Toombs, and I say to you what these two great States have been able to do in their own jurisdiction, the Federal Government, which is much larger, and much stronger, and much richer, and much greater, can do in its own jurisdiction. Now, not only that, Mr. Chairman, but I want to call your attention to another fact. Under this plan which you have adopted of fixing a rate only in a given case, when there is a complainant; if there

are about a million and a half rates to be fixed, as has been suggested, and you fix a rate from Florida to New York, for instance, in a given case, what is going to happen to all the rest of the country before they can get their cases heard, one by one, and their changed rates enforced? It is going to permit rank favoritism between various localities and individuals—in favor of the person or locality whose case is first heard, and against the person or locality whose case is last heard—that must continue during all the years while these cases are pending before the Commission and in the courts. Besides, what relief is this bill going to give to the people of the United States generally? Do you believe your average constituent, and mine, will find relief from abuses that are perpetrated upon him and extortions from which he suffers, in this complicated matter of freight rates, unless the Government has some agency to look into this business for him and discover the truth? No; they will continue to suffer in ignorance in the future, as they have suffered in ignorance in the past.

The rich shipper, the rich man, the big concern may find out his wrongs, but the poor man, the little shipper, and the little concern will not discover his. Not only that, but let me ask you this; even though they find it out, is the average man going to be able to hire a lawyer to come up here before the Interstate Commerce Commission, and then test his rights there and then through the Supreme Court of the United States? It is utterly absurd. They will not be able to do it. They have not the money to do it, and they are afraid to embark on any such costly enterprise. The truth about it is that the railroads of this country are so big that the little fellows can not fight them, and the only way you can protect the mass of the people from them is to provide a strong governmental agency that will not only inquire into what is right and into what is wrong, but will proceed to enforce the right and condemn the wrong.

Now, just one word more, Mr. Chairman, and then I shall have finished. In this matter, in my humble judgment, the people of the United States are begging you for bread and you are giving them a stone. They ask you for a "square deal" and you give them one that is only part fair. I am going to vote for this bill because it is the best one that has yet been offered in Congress that I have had an opportunity to vote for; but it does not go half far enough. We ought to give the Commission that same power that the Congress of 1887 thought they were giving to them, namely, the right to fix rates when a complaint is made by a person, firm, or corporation interested, or by a State railroad commission, or when the Commission determines on its own motion and after its own investigation, that injustice is being done, wrong is being perpetrated, and right and fairness and justice withheld.

Now, Mr. Chairman, I know that these are the sentiments of the people of the district that I have the honor to represent on this floor. I know that this is what they want, and I believe in my heart of hearts that this is right, fair, and just, and I hope when the bill is on its passage I shall at least be permitted to offer the amendment that would accomplish this most desirable purpose and give the Commission power to protect the weak as well as the strong, the poor as well as the rich. [Loud applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BOUTELL having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bills of the following title:

- H. R. 4223. An act granting an increase of pension to Frederick Shultz;
- H. R. 4226. An act granting an increase of pension to William Painter;
- H. R. 4742. An act granting an increase of pension to Edward Coy;
- H. R. 4744. An act granting an increase of pension to Thomas O'Conner;
- H. R. 9382. An act granting a pension to Mariam T. Shreve;
- H. R. 9130. An act granting an increase of pension to John Brinkley;
- H. R. 7509. An act granting an increase of pension to John N. Stone;
- H. R. 6166. An act granting a pension to Else C. Isachsen;
- H. R. 9757. An act to amend paragraph 34 of section 7 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902; and
- H. R. 5289. An act to provide for the selection of grand and petit jurors for the district courts in the Territory of Oklahoma.

REGULATION OF RAILROAD RATES.

The committee resumed its session.

Mr. MANN. Mr. Chairman, I yield five minutes to the gentleman from Wisconsin [Mr. DAVIDSON].

Mr. DAVIDSON. Mr. Chairman, the country is to be congratulated upon the unanimity with which the bill now under consideration, touching the matter of railway rate legislation, has been reported to this House by the able committee having jurisdiction of the subject and the vote by which this House will approve of the work done by that committee. The subject is one of absorbing interest to the people of the country.

The legislation proposed in the pending measure is demanded by the general public. Its most conspicuous and enthusiastic supporter is the President of the United States. His great popularity makes him a powerful factor in behalf of any measure. In his honesty, sincerity, and fearlessness the public has supreme confidence. Although not the originator of the proposition, he is entitled to much credit for the persistency with which he has advocated action. His public addresses and messages have done much to crystallize public sentiment and direct public opinion. Others equally honest and sincere have for years been advocating similar legislation. The members of the Interstate Commerce Commission have for ten years been knocking at the doors of Congress for strength to carry out the purpose for which the Commission was created. In many of the States similar legislation for the control of State commerce has been enacted.

In Wisconsin this cause has had its earnest advocates. The subject has been before the people for years, and as a result that State has placed upon its statute books one of the most drastic State commission laws of any in the Union.

It is with pleasure, therefore, that I lend my voice and vote in support of this measure, because in so doing I know I correctly interpret the wishes of a very large majority of those whose commission I hold.

Opponents of this measure have tried to make it appear as if we were about to enact legislation revolutionary in character, wrong in principle, and totally destructive of individual and property rights. They have tried to frighten us by asserting that we propose to place in the hands of a political rate-making body the power to make all the rates for all the railroads in all sections of the country. They tell us that there are now in the United States 64,050 railroad stations, that there are 7,174 different articles classified under various schedules upon which rates for transportation are charged, and that under this legislation this Commission would have the right to make 459,694,700 different rates.

To simplify the issue and clear away the fog and mist with which the opponents of this measure have attempted to surround it, let us first find out what it does not propose to do. It does not authorize or direct the Government to adjust on its own initiative the railroad rates of the country. It does not confer upon the Government the right to carry on the business or any part of the business of the railroads. It is not a step in the direction of Government ownership.

The purpose of this bill is to confer more clearly upon a body created by Congress the authority which Congress undoubtedly has of regulating, not only the matter of rate making, but the practices, regulations, and other acts of companies engaged in interstate commerce for the purpose of preventing discriminations.

From the time the occupation of common carriers began—a long time before the railroad was known—it has always been a rule of law that the rates to be charged by such common carriers should not only be just and reasonable, but should be open to all upon equal terms under like conditions. This was the common law of England, and as such it became the law of the several States of this country.

The Constitution confers upon Congress the power to regulate commerce between the States and with foreign nations. There is, therefore, no question but what there resides in the Federal Government a reserved power of supervision and control, a power that the nation must exercise in the interests of equal citizenship.

By the act of 1887 Congress conferred upon the Interstate Commerce Commission the power to regulate and control interstate commerce. The passage of that act was opposed by the common carriers. It was then openly declared that such action would take the control of property out of the hands of its owners and invest it in a political body.

All sorts of predictions were then made as to the disaster which would result. The legislation was enacted, a Commission was appointed, and it undertook the discharge of its duties. One of the duties which it was supposed to have, and which the

courts later held it did not have, and which by this measure it is proposed positively to confer upon this Commission, was the right to say what, in its judgment, should be a reasonable rate in a case where, upon complaint and investigation after a full hearing, it had been found that the rate complained of was unreasonable and unjust. The Commission performed what it supposed was its duty in a number of instances covering a series of years, during which time no disaster came to the railroads or their stockholders. The Supreme Court held, in the Maximum Rate Case, that Congress had not given to the Commission the power to fix future rates, but that its only power was to say whether a rate then in existence was or was not an unreasonable rate. If it found the rate was unreasonable, it could so declare, and could direct that the railroad company should no longer impose such unreasonable rate. It had no power, however, under the court's decision to say what in that particular case would be a reasonable rate or to punish the railroad company if it did not see fit to observe the order of the Commission. This measure gives it that power.

I have never been able to understand the argument made by the opponents of this legislation that the Commission, being sufficiently informed upon the subject to be able to declare what in a particular instance was an unreasonable rate, should be incapable of determining what in that particular case would be a reasonable rate. To find that a given rate is unreasonable the Commission must first know what would be reasonable. We can not say that any particular line of conduct is wrong unless we know what would be right. We must know what is good in order to distinguish the bad.

Why, therefore, should not the Commission, in a case where it has found the rate fixed to be unreasonable and unfair, have the power to say what in that case and under those circumstances would be a reasonable and fair rate?

For my part it seems as if the Commission ought to have that power in order to make its work effective.

This measure does not give to the Commission power to initiate rates, nor does it authorize the Commission on its own volition to engage in a crusade against existing conditions. If it has power under existing law to make investigation without complaint first being made, the record does not show that it ever abused that power or that the interests of the common carriers were ever seriously affected thereby.

There is reserved to the party aggrieved after the Commission has acted the right to have the lawfulness of the Commission's order reviewed by the judiciary. The right to appeal to the courts for a protection of his rights and to prevent illegal interference therewith is reserved alike to the shipper and the carrier.

One of the things which distinguishes the American system from all other systems of government is the power given the judiciary to see that no right secured by the supreme law of the land is impaired or destroyed by legislation. The perpetuity of our institutions and the liberty enjoyed under them depend in a very large degree upon the power of the courts to declare null and void legislation which is repugnant to the Constitution.

Any act of this Commission that will prevent a common carrier from so operating its property as to earn a fair return on its investment would deprive such carrier of its property without due course of law, and deny to it the equal protection of the laws which the Constitution guarantees, and therefore the rights of such carrier can be fully protected by the court.

The courts are always open, ready and willing to discharge the duty which rests upon them, and to these courts the party aggrieved under this legislation can go for relief. There can not possibly be, therefore, any danger that the property of the stockholders will be confiscated or destroyed by any act of the Commission under this legislation.

The need of this legislation does not arise so much from the necessity for the regulation of rates as it does for the regulation of practices and discriminations indulged in by the railroads and which are absolutely destructive to the business interests of persons and communities.

The people of the country are not crying out so loudly against the rates now in force as against the manner of their enforcement. The people do demand that in the transportation of commerce every individual and every community shall enjoy equal opportunity with every other individual or community under similar conditions. The people believe that every individual ought to have not only the opportunity to know what the transportation charge will be upon any article he may wish to send from one part of the country to another, but to know that no other individual shall have a lower rate than he for the same service. In other words, what the people demand now is not lower rates, but equal rates; what they complain of is not excessive rates, but unequal rates.

The gentleman from Maine [Mr. LITTLEFIELD] seems to fear that this "political rate-making body," as he calls the Interstate Commerce Commission, shall, through its decisions, work destruction to not only the railroad interests but to the commercial interests in different sections of the country. I wonder if he, as a lawyer, has ever called the supreme court of his State a "political body" in the sense he now uses that term.

This Commission will be no more a political body than the courts of the country are political courts. Our judges are either appointed by the President, upon the advice and consent of the Senate, or elected by the people. Their term of office continues either for a certain number of years or during good behavior. In any event they owe their selection either to the people or to the appointive power of the President, and yet we have felt that the people's interests were always safe in their hands.

I therefore have no fear that the power given to this Commission will ever be used except in a lawful and proper manner. But what does the gentleman offer in place of the Commission? The peculiar feature of this debate has been that the opponents of this measure criticize it, but offer nothing as a substitute.

The rate-making power of the country, which affects for weal or woe the interests of all the people, is now vested in the hands of not to exceed seven men. I believe the commercial interests of the country will be as safe in the hands of the seven men who will constitute this Commission as they are in the hands of seven men who now practically control the railroad systems of this country.

While there may be many employees engaged in working out the detail of rate making, yet, as a matter of fact, the rates are actually made by the manager of a system under orders from his superiors to so conduct the business that dividends shall be returned to the stockholders.

We know there is no longer any healthy competition between these systems. Free from control or regulations, the railroads have been administered in the interests of the owners and not of the public generally. If it was found either necessary or advisable, from a business standpoint, to favor certain shippers or certain localities, this has been done. Large shippers have dictated the price at which their commodities should be carried. Evidence lately disclosed shows that the meat-packers' combine, instead of paying the schedules published by the railroads, have compelled the carrying of their products at a greatly reduced rate under fear of boycott. The Standard Oil Company has not only dictated the price at which its own commodities should be carried, but has, by reason of its powerful influence, compelled tribute from carriers who transport the product of its competitors. While these special shippers were thus, either voluntarily or otherwise, being favored by lower rates, the small shipper has had to pay whatever the carrier charged. This discrimination has brought bankruptcy to individuals, stagnation to communities, and destruction to competition. As a result, these specially favored have prospered excessively. Their millions have come not so much through honest industry as by reason of sharp practice and skillful manipulation of freight rates.

The Elkins law recently enacted to prevent rebates and discriminations has been of much benefit. Under it the ordinary system of rebates has practically ceased to exist.

In various parts of the country there now exist auxiliary companies known as "private car lines," "terminal lines," "refrigerator lines," and others, all created largely for the purpose of demanding a portion of the transportation charge in return for some slight service rendered, and which, in fact, is only another form of giving rebate to those specially favored.

One of the important features of this proposed legislation is that which defines the word "railroad" and the word "transportation" in a manner to include all these auxiliary companies and all the instrumentalities of a common carrier.

Enact this measure and all the practices and regulations of these auxiliary companies, as well as those of the carriers themselves, will be subject to regulation and control by the Commission.

Under the power granted in this measure the Commission will be better able to acquire evidence for the enforcement of the Elkins law, will be able to give greater publicity to railroad methods, and to protect the interests of the people against those who, through the aid of vicious practices and regulations, have profited at their expense.

In my judgment this measure will go far toward solving the evils complained of by the people. Under this legislation the railroads and the people will alike enjoy a complete remedy against injustice. Each are entitled to this, neither should ask for more, neither should have less.

The House in enacting this legislation responds to the demand of the country for what it believes is right. The people will not

longer submit to a system of control of the public highways of the country which leaves private shippers certain of nothing, but that they are not treated on the same terms as their neighbors, which bankrupts small shippers and enormously increases the wealth of the larger ones, which destroys some communities that it may create others. There is no disposition to unduly harass or annoy the railroad systems. There is, however, a demand that the public shall be protected against injustice, and that corporate bodies shall respond to the reasonable and righteous demand of the people. The time has come when the people will insist that their rights shall be respected; that in the enactment and execution of laws their welfare shall not be overlooked, and that in their desire for greed and gain the public-service corporations shall not override the will of the people, but shall be made to recognize the fact that the servant is not above its master, and that the creature is not more powerful than its creator.

Believing, therefore, that the proposed measure is not only just and fair to the common carriers, but absolutely right and necessary for the public welfare; believing that it correctly represents the view of the President and wishes of the people, I propose to give it my cordial and earnest support, and trust that it may soon be written upon the statute books of our country, and that the people may receive from it the benefit they hope and expect. [Applause.]

Mr. MANN. I now yield to the gentleman from Missouri [Mr. RHODES].

Mr. RHODES. Mr. Chairman, being, in the language of the distinguished gentleman from Mississippi, the minority leader of this body, one of the kids of the House, I can only expect your indulgence for a very short time.

I do not desire to speak in support of this bill because I fear it will not pass this body by almost a unanimous vote; neither do I wish to speak in favor of the bill because I believe anything I might say could influence that branch of the legislative department of our Government occupying the other end of the Capitol. The fact is, I am of the opinion that august body has heard from home—the people of the several States—during the past few months, and now stands ready to hail with delight the opportunity to support the measure that bears the honored name of the distinguished gentleman from the great State of Iowa.

But, Mr. Chairman, I do want to speak in favor of this bill because I want the consciousness of having gone on record in the early part of my experience as a Member of this honorable body favoring this bill, because I believe it to be a measure that is fair, practical, and just. I believe it to be a measure that is equitable both to the shippers and the carriers of the country. Therefore I desire to assign a few good reasons why I favor the bill and why I shall vote for it.

Some gentlemen who have spoken undertook to go into a complete analysis of the bill, but I shall content myself with an examination at this time of its caption.

I observe in the caption of the bill it is recited that it is the object of the measure to amend the act of February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission. Hence I infer a law has been on the statute books of this country for nineteen years the object of which is to clothe the Interstate Commerce Commission with authority to adjust differences and controversies arising between the shippers and the carriers. I also observe from the language of this bill there is not only existing laws on the subject of transportation and rates charged by the carriers engaged in interstate commerce, but the laws which do exist are not far enough reaching in their effect.

I also observe there are certain evils existing regarding rates as fixed by the railroads and transportation companies, and that existing laws ought to be so amended as to afford remedies for existing wrongs.

Is the author of this bill wrong when he assumes that there is pressing necessity for legislation such as this measure contemplates? Was the committee wrong when it voted unanimously to recommend the bill favorably?

Is the record wrong that has been made up from the various hearings before the Interstate Commerce Commission?

Last, but not least, are the people of our country wrong in their almost unanimous appeal to Congress to enact remedial legislation along these lines?

In other words, if those who favor this bill are right, it is high time we get about our business and enact it into law.

It is my opinion there has never been a public question in this country since the days of the Revolutionary war on which there has been such unanimity of opinion among our people as there is to-day of the rate bill.

What does it mean to see this House almost solidly united in

the support of this bill? It means, Mr. Chairman, the people of this country have spoken, and this body merely reflects their opinion. It can truly be said the House of Representatives is the people's branch of the legislative department of our Government.

There can be no doubt that the time has come when legislation affecting the transportation problem in this country is needed. If so, let us rise to the occasion and discharge our whole duty.

I am here reminded of the very able speech of the distinguished gentleman from Pennsylvania [Mr. SIBLEY] a few days ago.

I am also reminded of the very able speech of the distinguished gentleman from Alabama [Mr. HEFLIN].

I feel these gentlemen took the most extreme views of this question—the gentleman from Pennsylvania opposing the bill and the gentleman from Alabama supporting it.

I deem it my duty, as there seems to be a difference of opinion among gentlemen on this question, to here strike a happy medium or golden mean between these two extreme views and settle this question, and settle it right, for all time to come. I feel I ought to do this. I also feel when I shall have finished, my purpose will be accomplished and the matter settled. [Laughter.]

The gentleman from Pennsylvania fears if this bill passes capital will become uneasy and withdraw from investment. He fears this is a step in the direction of anarchy and socialism. He fears this is a step which will ultimately result in Government ownership of railroads. He even fears our whole economic system will be disturbed and the splendid prosperity of our country destroyed.

Why should the gentleman be so alarmed? I assure him there is not a Member of this House but what wants to see every commercial interest of our great country thrive. I for one am opposed to Government ownership of railroads; but I do believe it is the duty of the Government to look well to the matter of the interstate commerce of the country.

The gentleman from Alabama refers to the privileged classes of this country which have been permitted to thrive and fatten under the present system of government while the common people have been oppressed. I do not believe any class of our people has been oppressed; on the contrary, I believe the great mass of our people have been progressing with the rest of the world. I truly believe the laboring people of our country are better clothed, better fed, better educated, and better housed than ever before in our history. In fact, there is no people in the civilized world who enjoy so fully the high degree of the comforts of life as do our people. The fact is our people are better and more generally employed to-day than ever before in our history—not only in our history, but in the world's history. In short, our people are practically happy, satisfied, and contented.

Now, to the point. I favor this bill because I believe it to be a conservative, practical, and equitable measure. I do not favor it because I want to punish railroad companies; neither do I favor it because I believe our people are being downtrodden and greatly oppressed, and that this bill is intended to revolutionize our whole economic system.

However, I do want to caution the gentleman from Pennsylvania [Mr. SIBLEY] and the gentleman from Maine [Mr. LITTLEFIELD] that they ought not accuse those of us who favor this bill as favoring anarchy and socialism.

I rather believe this bill is calculated to bar socialism and anarchy, because it expresses the wishes of the people of our country, and the people can always be trusted. Socialism and anarchy do not thrive under free government like ours.

Hence we should not forget the time-honored and basic principles of our Government.

I desire to say just a word further before beginning the discussion of my subject proper, that I may be fully understood. I do not believe in enacting any law in a spirit of revenge. I am not one who believes it necessary to punish railroads. I rather like the great transcontinental railways of our country for what they have done for civilization. We must not forget the fact that the builders of railroads in the early days were among the honored pioneers of this country. They blazed the way to higher civilization and made it possible for us to enjoy the manifold blessings of the splendid civilization we now enjoy. We must not forget the fact also that in a great majority of instances the pioneer builders of our railroads not only encountered great difficulties, but found themselves the most gigantic financial failures the country ever saw. [Applause.]

That building railroads was a hazardous business in the early days there is no doubt; and because it was a hazardous business the railroads, or, I should say, the builders of railroads,

appealed to the Federal Government to aid them in their undertakings. They also appealed to State governments, county governments, and municipal governments. The basis of their appeal was that the building of railroads was a public necessity, therefore the public ought to contribute of their land and money to the building of the railroads. Federal, State, county, and municipal governments accepted the explanation given by the railroads and contributed liberally.

It is authentically estimated that the Federal Government gave the railroads from time to time enough of its public domain, which, if in a contiguous body, could be converted into five great States equal in area to Illinois, Missouri, Iowa, Ohio, and Indiana. State governments and county governments and municipal governments all gave liberally to the railroads of their money and property. Some of the counties in my own State (Missouri) gave so liberally the people have yet outstanding railroad debts. One county (St. Clair County, Mo.) is required to hold its sessions of the county court in the woods to escape the enforcement of the law on the railroad-bond question. [Laughter.]

It now occurs to me our railroads have forgotten the time in the history of our country when they had to appeal to the Government for aid. Now, when the Government desires to inquire into matters and things relating to railroad affairs, it is claimed the Government is overstepping the constitutional limitations, and the railroads are exceedingly private corporations, while the courts of the country have repeatedly declared the railroads to be common carriers and public highways.

I take it the review of the history of railroad building in this country brings us face to face with the fundamental right of the Government to at least exercise a restraining influence over the railways and transportation companies engaged in the interstate commerce of our country.

It is to this right of the Government to which I now desire to address myself.

To meet and discharge wisely the responsibility of regulating commerce and to bring the railways and other transportation companies engaged in interstate commerce back to their legitimate sphere and have them serve fully the purpose for which they were created, in my opinion, is the greatest question with which the present Congress has to deal.

Gentlemen have argued on the floor of this House during the progress of this debate, and I am sure the railways all argue it, that no substantial reasons exist for the passage of this bill. It is argued it is a step in the direction of anarchy and socialism.

They express the belief such legislation will prove detrimental to the whole commercial system and that it is inconsistent with the principles of free government. They are of the opinion, should this bill become a law, capital will be withdrawn from investment and the whole commercial world suffer.

Gentlemen may be sincere in their contentions, but those who are of this opinion are certainly in the extreme minority as compared with the great bulk of our people, who are of the opposite opinion.

The fact is, we are confronted with a condition from which there is no escape, and as the chosen representatives of the sovereign people we must enact this bill into law. The condition is that the people of this country are demanding legislation calculated to prevent certain unjust discriminations in the matter of freight rates, charges, and rebates as practiced by certain carriers of the country. [Applause.]

If the public is suffering serious wrong; if there are far-reaching abuses in the transportation of our commerce; if the railways are not only carrying the commerce of the country, but controlling the commerce of the country, determining where it shall be massed, where the markets are even located; if they are discriminating in favor of big shippers as against little shippers; if they are creating and fostering monopolies, then there rests upon the Congress the responsibility to act at once, and act with determination and precision.

I say it behoves the Congress of the United States to rise to the occasion and do its patriotic duty by enacting this bill into law. That the president of the United States stands ready to give the Executive approval to the measure there is no doubt, because he has expressed himself at sundry times and on divers occasions as favoring such legislation. I am warranted in making this statement, because he has so expressed himself in his various messages to Congress.

The transportation question is one that lies close to all the people. It affects every individual, every community, and all parts of the country either directly or indirectly. Both capital and labor are mutually dependent upon transportation in the production of wealth, let it either be manufacturing, mining, or agriculture; in fact, all the occupations of men in the civilized world are dependent upon it.

It is not only important that lines of transportation be established, but it is important that after they are established the rates be just and the service be adequate. This proposition then naturally divides itself into two phases: The first is the adequacy of the service; the second is the justice of the charges or rates.

It is to the latter condition to which I shall now invite your attention, because the people are not so much complaining at the service afforded by the carriers as they are complaining of unjust charges and unfair discriminations. The community which is denied the opportunity to move its products to market at fair rates and upon an even footing with a competing community must inevitably suffer great loss. Therefore, the very growth, development, and prosperity of every community, to a very marked degree, depends upon the transportation of the products of the community at large.

The truth is, the founders of our Republic saw at the very outset and in the general order of things it was necessary that lines of transportation be established; and at the same time they saw the necessity of fixing a basis of equality for each community in the transportation of its goods, wares, men, and merchandise, as related to every other community. We have to go to no other source for authority on which to base this argument than the Constitution of the United States, because it is therein ordained that the Congress of the United States shall have power to regulate commerce with foreign nations and among the several States, and that such commerce should be equitably carried on. It was the evident intention of the fathers that the door of opportunity should be open equally wide to each and every community of the thirteen original States. If that was the spirit of the law then, it is the spirit of the law now, because these were the men who builded for the future. In their wisdom they laid and grounded the very corner stones of this Republic upon the eternal and everlasting principles of equality and fairness, thereby making it possible today for us to enjoy the manifold blessings of freedom and independence.

Sirs, in the language of Rudyard Kipling, we can not lose sight of these time-honored and basic principles of free government in this great and strenuous age of commercial activity, "Lest we forget, lest we forget," and I beg of you, let us not forget.

Yet those who oppose the bill fear we are overstepping our constitutional authority. I tell you where the trouble is: We are not suffering so much from our efforts to overstep the bounds of constitutional authority as we suffer from lack of properly exercising our powers under the Constitution.

Tell me our Constitution is so void of equity that it does not clothe the legislative department of our Government with ample authority to correct existing evils and I will tell you, then, ours is no longer a "government by the people, of the people, and for the people," which I do not concede.

It will be remembered, in the outset of my remarks, I called your attention to the fact that the railroads of the country do not occupy the same position with reference to the people that the average private corporation does, for the reason that the Government assisted the railroads by donating land and money in their building.

I here wish to discuss briefly the relation of railroads to State and Federal governments.

To begin with, the railway corporations are creatures purely and simply of the State governments. From the States they get their special powers and special privileges. The State vests in the transportation company the greatest possible powers when it grants the franchise to do business within the State, and even makes it possible for the corporation to take private property without the consent of the owner. I here mean the method by which land is acquired by railway companies under condemnation proceedings in the various States of the Union. Why is it possible that a railway company can do this? Is it because it is the bare intention of State governments to bestow special favors on the carriers? Or is it that they may be the better enabled thereby to discharge their duties to the public? It must be for the latter reason. It could be justified on no other ground. The fact is, the courts of this country have repeatedly held that the State would have no right to divest its citizen of his property except the purpose to which the property is put be a public one.

Hence, taking land for railroad purposes must be taking it for a public purpose. Again, I wish to insist such an act could be justified on no other ground; and the fact that it is taken for a public purpose is the sole justification for taking it at all.

Then tell me that the States have not the right to control State commerce. To prove beyond question of doubt the several States of the Union have the right to at least exercise a

restraining influence over the railways of their respective States, I wish to give briefly the history of State railway legislation.

To begin with, under our form of government—Federal and State—a division of powers and responsibilities with respect to transportation and the protection of the commerce of the country at large is fixed by constitutional limitation. Yet gentlemen fear we are overriding the Constitution. Commerce is either State or interstate commerce. A shipment beginning and ending in a State is State commerce; hence the carrier undertaking the transportation must be subject to the laws of that State, because the General Government can exercise no authority. If the shipper is to be protected in his rights, both as to efficient service (and, as I said before, there is little complaint from that source) and reasonable rates without being discriminated against, he must look to the government of his State. He must do this because such is a transaction that is purely domestic. On the other hand, a shipment consigned in one State to a point in another State is interstate commerce. This is necessarily true from the time it starts to move until it reaches its destination.

With respect to such a shipment, the State has no authority and can afford the public no relief from wrongs at the hands of the carriers. Hence the absolute and imperative necessity that the Federal Government vest sufficient authority in the Interstate Commerce Commission to at least exercise a restraining influence over the transportation companies, which this bill seeks to do and will do if enacted into law. These are, to my mind, some of the fundamental reasons on which the right of the Government to enact such laws rests. These principles were recognized nineteen years ago, when the present interstate-commerce law was enacted, and these are the reasons to-day why this bill, which seeks to amend this law, should be enacted into law.

While it is a known fact that most of the States of the Union have created commissions, the object of which is to exercise a controlling or restraining influence over the railways engaged in State commerce, it is also a fact that the public at large has little definite information concerning the experience of those States in which those commissions have been created and the conditions and circumstances leading up to the enactment of present laws. That I may more fully demonstrate the correctness of my position by alluding to the question of State regulation of common carriers, I submit the following observations: The truth is the States lead off in an effort at regulation of railways and railway rates. The present interstate-commerce law was enacted in 1887, and the States began in 1871, I believe. Minnesota led the States; then came Illinois in 1873 and Iowa and Wisconsin in 1874.

The great central West, or Northwest, was the pioneer in railway-rate regulation, and it is the great West and central West to-day that stand in solid phalanx in support of this measure. It is true other sections of the country are supporting the measure, but it is doubted by some that they are so ardently supporting the measure as is the West.

A gentleman whose name I can not recall at this time made certain references a few days ago in a speech on the floor of this House to the so-called "Granger legislation."

I am here reminded that it might be well to review some of the objections that were urged by the railways at the time the States took up the idea of creating State boards or railroad commissions. It was claimed that railroad construction would cease, and that railroad business would be completely crippled and come to a standstill—harrowing stories, just such as we have heard during this debate coming from those who oppose the bill, that dire and awful consequences would follow the enactment of such laws. Let us now see whether or not these consequences did follow. It will be remembered the people said the railroads were wrong, just as we say they are mistaken to-day.

In the year 1871 there were 12,401 miles of railroad in the four States that enacted this so-called antirailroad legislation from 1871 to 1875, viz., Minnesota, Illinois, Iowa, and Wisconsin. In the same States in 1873 there were 14,627 miles, showing the building of railroads had increased instead of having come to a standstill. In 1875 there were 15,515 miles of road in the same States, again showing the building of railroads had not come to a standstill. This period of time covers the period when these same States were enacting this alleged hostile railroad legislation.

Now, to prove that railroad interests did not suffer in the States enacting this so-called "antirailroad" legislation, I wish to submit the status of railroad building in four States which were about on a par with Minnesota, Illinois, Iowa, and Wisconsin in population and in general development in which no railroad legislation was had during the same period.

The four States selected are Missouri, Nebraska, Indiana, and Michigan. In these States in 1871 there were 9,168 miles of railroad. In 1873 there were 10,932 miles of road, in 1875 there were 11,381 miles.

The figures presented show that Minnesota, Illinois, Iowa, and Wisconsin held their own in railroad construction with the States of Missouri, Nebraska, Indiana, and Michigan. In fact, they did better than Missouri, Nebraska, Indiana, and Michigan. I take it these States with which they have been compared are four States that were about as nearly on the same footing as any four that could have been selected in the whole United States. Hence this is not only a just comparison, but abundant proof that the railroad interests did not suffer as a result of the legislation enacted by the States, which was so much opposed by the railroads. The question might present itself that the railroad business is not shown by these figures to have been in a very prosperous condition at that time. While this is true, the cause is easily traceable to conditions resulting from the general depression which affected the commercial world in all its phases at that time and not to the legislation of the States on the subject of railroad control by State boards.

Now, to the question proper. I want this bill to pass because it is calculated to relieve the people from excessive transportation charges and discriminations and rebates.

There seems to me to be an effort on the part of the transportation companies to have us feel that this is such a complex and intricate subject that it is dangerous to meddle with it. I remember well within a very short time after I was elected to Congress in 1904 I received a letter from a certain shipper in Missouri (not in my district, however, and not a stockholder in a railroad company). The nature of the communication was something like this: The matter of railroad transportation is one that so affects the community at large that it behooves the Congress of the United States to move cautiously along these lines; that, as a shipper, he believed the public at large had little cause to complain at the treatment received at the hands of the transportation companies; that his experience led him to believe, as a rule, all people were fairly treated, and the public was suffering largely from imaginary and not real evils. A little investigation on my part convinced me that as a shipper he was getting rates cheaper to Chicago, Minneapolis, and Omaha than other shippers were who were not half so far away. If it is a fact—and I am fully convinced it is—that favoritism, partiality, and unjust indiscriminations exist, then this bill ought to pass.

These discriminations with respect to communities, individuals, and enterprises ought to be stopped, because they tend to retard a good, healthy development and growth locally in many sections of the country. On the other hand, these discriminations serve as an undue stimulus to certain localities, which produce abnormal commercial conditions and which ought not to exist. Reasonably good service, and at a reasonably fair cost of service, is all the people want. That is all this bill seeks to accomplish.

Gentlemen fail to agree as to what the true scope and power of the Interstate Commerce Commission should be. They philosophize on the ultimate outcome of some abstract proposition or hypothetical case. Why not get down to business and enact this bill into a law? Let the Commission get to work under the operation of the new law; then we will see what the results are. There is too much time, in my opinion, spent in speculation and the discussion of abstract propositions. While I am of the opinion that the Commission under certain conditions ought to be clothed with absolute power to fix schedules, yet because this bill may not go that far, I do say it is an improvement over the present law. It is certainly a step in the right direction.

While I am also of the opinion that the great body of the people who suffer either directly or indirectly from these excessive transportation charges can not appear before the Commission, yet they will be relieved practically by the individual who does appear before the Commission and prosecutes his cause to final issue, just as it is in the courts of the country. Many citizens enjoy benefits under the laws that are tested by those who carry the cases through the courts just as fully as though they were able to carry on litigation themselves. The Commission should be clothed with full power to enforce publicity in respect to all matters pertaining to the public interests, because, invested with this power, the necessity of prosecutions would less frequently arise. But shall I vote against the bill because it may not meet my approval in this regard? No! I shall vote for the bill, not for what of good it does not contain, but for that of the good it does contain.

In my opinion this bill, when enacted into law, will afford relief. The extent to which this relief will be afforded depends, like all other laws, upon the extent of its enforcement; and I here wish to assume that every man who is on the Interstate Commerce Commission to-day and who may be on that Commission in the future is and will be such type of American citizen that his purpose will be at all times to equitably enforce the law. I have a right to assume this because no man has a right to go on such a commission except he be the highest type of American citizen, except he be well seasoned in statesmanship, well tried in public service, and his patriotism, integrity, and ability beyond question. The selection of the Commission, therefore, becomes a question of importance, and, in my judgment, the bill has wisely provided that the selection be by appointment rather than by election. I favor this method because it sometimes occurs that in the heat of contest for place political parties do not take into account all these essential qualifications the candidate should possess; consequently public officers do not always measure up fully to every requirement. Hence I favor the method provided for in this bill, viz., that the Commission should be appointed by the Executive.

Gentlemen argue against this bill because they say they are against public ownership of railroads. I am also against government ownership of railroads. The author of this bill, I assure you, is against government ownership of railroads; and I also assure you a majority of the committee from which the bill comes are against government ownership of railroads. I take it this particular objection gentlemen have urged has no application to this measure.

While the Government does not seek ownership of railroads, and while I should oppose any such effort on the part of the Government, yet I do say the Government has a duty to perform in the regulation of the railway transportation business of this country, because the service is a public service, which makes it, in a sense, essentially a function of Government. What is the nature of a railroad company in its capacity? It should be public, while the truth is it is more often a monopoly, because it shuts out all other competition. By a "monopoly" I understand it is meant that which takes unto itself all, or the whole thing. This may not be Webster, but this is the way I think of the word at this time and in the sense in which I have used it. Why is a railroad company a monopoly? Because all the people, as a rule, who live near it, or tributary to it, market their products and receive their supplies over it. They have no other alternative.

The State in which they live may have permitted the railroad company to take the land on which it has laid its tracks and built its switches from the individual, yet he is dependent upon the company. The people must accept the service offered, cart their produce away, haul in their supplies, or walk. The fact is, the corporation, which is a creature of the State and the recipient of public gifts and favors, in many cases is permitted to tyrannize over the people. I shall vote for this bill because it seeks to protect the people against these wrongs and injustices at the hands of the corporations, the creatures of the States, I shall vote for this bill because I say it is the plain duty of the Government to protect its citizens against unjust discriminations.

One of our ablest Supreme Court judges once said:

The superintending power over the highways and the charges imposed upon the public for their use has always been in the Government.

That such is not only right, but necessary to protect the people against extortion, there can be no kind of doubt. The same duty the State owes its citizens in the protection of their rights under State laws the Government owes its citizens in the protection of their rights under Federal laws.

The act of 1887 provides for a Commission of five men, to be appointed by the President, with the consent of the Senate. The act also provides that all transportation charges shall be reasonable and just and that every unreasonable and unjust charge shall be unlawful. It further provides that the Commission is required to execute and enforce all provisions of the act; that it shall investigate and inquire into all complaints of violations of the law, and that it shall execute the law by petition to the court, and the court shall enforce all lawful orders made by the Commission.

At the time Congress enacted the present law it was thought the Commission was vested with ample authority to supervise rates and to issue orders and decrees with respect to what rates should be. As a result of the various legal controversies between shippers and carriers in the courts the authority of the Commission has been narrowed down until to-day it is powerless to afford relief.

In other words, by judicial decision the Commission has prac-

tically been deprived of the powers it was originally thought to possess.

In the annual report of the Commission in 1897 it is stated:

As construed by the Supreme Court, the carrier is given the right to establish and charge rates independent of the judgment of the Commission and independent of the action of any court or tribunal. The right to establish, charge, and receive unreasonable and unjust charges is not prohibited, and in respect to charges which may be demanded and received for any transportation service, the carriers are made the judges in their own cases as to what is reasonable and just.

This is the statement of the Commission. The Commission was evidently led to make this statement as a result of its ten years of fruitless endeavors to enforce the law. Hence we are warranted at this time in assuming that all the people and the Commission believed had been secured by the act of 1887 has been swept away by court decisions. If this is true, there is but one thing for Congress to do now, and that is to pass this bill.

The Commission from year to year since 1897 in its annual reports to Congress has made it clear that it was practically shorn of its power.

We ought either to pass this rate bill or abolish the Interstate Commerce Commission, and no longer keep up the present empty pretense. Again, in 1902, the Commission in its report, in speaking of the defect in the law, said:

That this imperfection is curable is conceded. The fullest power of correction is vested in Congress, and the exercise of that power is demanded in the interest of the public welfare. The sense of the wrongs and injustice which can not be prevented in the present state of the law, as well as the duty enjoined by the act itself, impels the Commission to reaffirm its recommendations for the reasons so often and so fully set forth in previous reports and before the Congressional committees. Moreover, in view of the rapid disappearance of railway competition and the maintenance of rates fixed by combination, attended as they are by substantial advances in the charges on many articles of household necessity, the Commission regards this matter as increasingly grave, and desires to emphasize its conviction that the safeguards required for the protection of the public will not be provided until the regulating statute is thoroughly revised.

What does such a report mean? Is it possible these men of whom this great Commission is composed are mistaken in what they so appealingly urge in their reports to Congress? I can not believe they are mistaken. I now wish to discuss briefly the situation that is referred to in this last report, wherein it is stated: "Moreover, in view of the rapid disappearance of railway competition," etc., What! Does the Commission say that competition is rapidly disappearing in transportation? I say it so states, and I further say there is no longer practically any competition among the railroads of this country, the contentions of the gentleman from Pennsylvania [Mr. SIBLEY], the distinguished gentleman from Maine [Mr. LITTLEFIELD], and the distinguished gentleman from Ohio [Mr. GROSVENOR] to the contrary notwithstanding.

I here wish to remind you of the contentions of these gentlemen who so eloquently declared that competition among railroads was the just and proper means by which this rate controversy should be determined. How, in the name of common sense and human reason, can competition correct evils if there is practically no competition, as is contended by the Commission in its report in 1902?

That my contention may be more fully explained, that there is no longer competition among railroads, I beg to submit the following table, which shows that almost the entire railroads of the United States are controlled by six sets of financiers. Then talk about competition in the railroad business!

Table showing number of roads embraced, mileage, and capitalization of each of the six great systems.

Classification.	Number of roads.	Mileage.	Capitalization.
Vanderbilt	132	21,888	\$1,169,196,132
Pennsylvania	230	19,300	1,822,402,235
Morgan-Hill	225	47,206	2,265,116,359
Harriman-Kuhn-Loeb	85	22,943	1,381,243,711
Morse-Leeds	9	25,092	1,059,250,939
Gould-Rockefeller	109	28,157	1,968,877,540

What do these figures mean? They mean that at least 90 per cent of all the railways—which are public highways—over which the commerce of the country is carried, are controlled by six financial boards or agencies. This, to me, looks more like one gigantic community of interests than a condition of competitive, legitimate business enterprise, about which we have heard so much from distinguished gentlemen who oppose this bill.

The truth is, railway companies have been working for years to eliminate competition, and they have about succeeded. Now that they have succeeded, and there is no more of competition among the carriers of the country, it is eminently proper that the Government take a hand in this matter.

The railway managers were quick to see that railroads are monopolies, and that competition between them differed from competition in other lines of business. The advantage of maintaining rates was seen. Hence the roads at once began to arrange among themselves to divide the traffic, which has been very effectively and equitably done. But when the roads did this, what about your competition? This consolidation of interests was called "pooling," and in the act of 1887 "pooling" was prohibited. Since that time some very famous prosecutions have been made by the Government and, I desire to say, with a reasonable degree of success.

But this table shows six boards with identical interests control practically the transportation business of the country; yet gentlemen talk about competition in the railroad business.

Not only do we find six great financial agencies in control of the railroads of the country, but we find that between the six companies there is a mutual understanding as to rates and which places the entire commerce of the country practically under one common source of control. Then need we marvel that present rates are high and constantly subject to advance and being advanced? There is but one logical conclusion at which we can arrive, and that is the railway business has become a monopoly and needs to be restrained in some of its practices. It was contended that by the consolidation of these interests expenses would be reduced; consequently better rates would follow.

It was further contended this was the only purpose of the consolidation. Was this true?

Consider what those in control of the railroads have done. By consolidation 922 lines of road (I mean different roads) and nearly 50 different systems have been merged into 6 great systems. They now reach out into every nook and corner of the United States, and, with a common interest, determine what rates shall be charged the people of the different communities for transporting their commodities. Is it to be wondered at that unjust discriminations exist? Is it to be wondered at that rebates are granted favored shippers? Is it to be wondered at that people for short hauls pay more than others do for long hauls?

Then, is it to be wondered at that President Roosevelt in his last message to Congress said, "In order to insure a healthy social and industrial life, every big corporation should be held responsible by, and be accountable to, some sovereign strong enough to control its conduct?" This declaration from the President of the United States comes well enough recommended to me to cause me to support the pending bill.

As an abstract economic proposition it might be true that increased profits in the hands of a few shippers may allow greater development than where the business is divided, but it is certainly harmful to any community in its practical application. Wealth may be more rapidly accumulated when an individual or a number of individuals get a monopoly on any business, but the thrift and prosperity of the community at large depend upon a general distribution of opportunities and accumulated wealth. These large railroad corporations have come to look upon the small shipper with a degree of contempt. In their big way of doing things and in their way of looking at big things they only look with favor upon the big shippers of the country. This is why there is such a thing as a system of secret rebates practiced and unjust discriminations made. Hence the railroad companies encourage centralization in business.

We must not forget that one of the objects set out in the preamble to the Constitution of the United States is, "To promote the general welfare." I take it this bill seeks to promote the general welfare of all our people, consequently I shall vote for it. As I said in the outset, I shall vote for this bill because it is reasonable, practical, and equitable. [Loud applause.]

Mr. ADAMSON. I now yield to the gentleman from North Carolina [Mr. Pou].

Mr. POU. Mr. Chairman, there are just one or two observations I care to make respecting the pending bill. I very much fear it will not benefit those who most need protection by law. Now, Mr. Chairman, every railroad in its very nature is a monopoly. If one road passes through a community the people of that community are forced to ship over that road or else not ship at all. If there are two or more roads serving any particular town or community we all know it is not very long before they adjust all their differences and the shipper finds the same rate given him by each and every one of the roads over which he can possibly ship his goods. It has been stated on this floor in this debate—and, so far as I know, the statement had not been challenged—that all the railroads of this country are practically owned or controlled by six corporations. Now, speaking for myself alone, I hold that wherever a shipper is forced to deal with a monopoly he should

have the guaranty by law that he is being dealt with fairly; that the rate of freight he is forced to pay is fair and just and reasonable, and I hold, Mr. Chairman, that every person who ships should have that guaranty, should have that protection without being forced to go into court and ask for it. Now, you can call this what you please. You can call it "government ownership" if you want to; I do not care what you call it if it is right. As a matter of fact it is not government ownership; it is simply the enforcement of a section which you have already put in your bill. I find in the bill a paragraph which declares that all rates charged for the transportation of freight or passengers shall be just and reasonable and that all unreasonable rates shall be unlawful. Now, how can you enforce this law? It can only be enforced upon demand of the aggrieved party, who must expend a considerable sum of money in having his rights protected.

Mr. Chairman, I am glad my brilliant young friend from Georgia [Mr. HARDWICK] took the position he did in the speech he has just delivered. If we are going to pass a bill, let it be a bill that will accomplish what it is intended to accomplish. Let us not pass a bill which will protect the wealthy shipper and leave the small shipper practically without protection. Every person who ships a bale of cotton, every person who ships a bushel of wheat should have the guaranty that freight paid by him for the transportation of that bale of cotton or bushel of wheat is fair and just and reasonable, and he should not be forced to go in court to have such rate declared fair, just, and reasonable. Dealing as he is with a monopoly (and I do not use the word monopoly with any offensive intent), he should have the satisfaction of knowing that there is some agency whose duty it is to see that even justice is done between the shippers on the one side and the railroad company on the other. Gentlemen, let me inquire from whom come the most vigorous protests against the passage of this bill? Do these protests which we have all been receiving come from the large shipper or the small ones? So far as I know almost every protest against the passage of this bill comes from the great shipper. Why? Because they are the ones who have been enjoying the unlawful benefit of rebates and discriminations. The large shipper needs, it seems, but little protection. The man who needs the benefit of your bill most of all is the man whose business is so small that he can not afford to go into court, and I hold that some agency somewhere, of some kind, should be vested with the power and charged with the duty of seeing that every shipper, large and small, is fairly and justly dealt with, whether he asks for it or not. No monopoly should object to this supervision.

For the State to surrender part of its sovereignty and leave the humblest individual in the land at the mercy of the very agency to which that sovereignty is surrendered is perfectly indefensible in morals. [Applause.]

Here is a giant on the one side engaged in business with a pygmy on the other. The law should establish and preserve an equation of justice and square dealing between the two. This bill, Mr. Chairman, is very good as far as it goes. The Democratic party was demanding the enactment of such a law years ago, even before Col. Theodore Roosevelt was thought of as a Presidential possibility. I say there are good features in this bill. Let us hope they will not be eliminated when the bill goes to the President for his signature. I hazard the statement here and now that the President himself would despair of the passage of this bill but for the Democratic support which he knows he can count on and which will be practically solid. [Applause on the Democratic side.] Let us all hope that his influence with his own party is such that this Democratic measure adopted by a Republican President will not fail to pass. [Loud applause on the Democratic side.]

Mr. WEBBER. Mr. Chairman, I listened with close attention to the distinguished gentleman from Maine [Mr. LITTLEFIELD], for I remember that in the Fifty-eighth Congress he started right and he voted right. He has told the House that he then voted for the railroad rate bill, but somewhere along the way he has seen a ghost—the ghost of railroad preferentials—and his attitude now reminds me of the story in the schoolbook of the boy who was traveling along the road at night and saw come out of the darkness what appeared to him to be an actual living ghost. In his fright he turned and ran, but as he ran he began to think over the things of his youth, and while he remembered that his grandfather and grandmother said there were ghosts he remembered, also, that his father and mother said there are no ghosts. So concluding that the grandfather and grandmother were wrong, and believing the father and mother, he plucked up courage and turned back in the direction from which he had come. When he got up to the supposed ghost, it turned out to be nothing but a great white friendly guideboard, and not only that, it was pointing just the way he wanted to go. So if the

distinguished gentleman from Maine [Mr. LITTLEFIELD], for whom I have the highest regard, had kept on and not been deterred by the hobgoblin story which has been poured into his ears somewhere between the Fifty-eighth and the Fifty-ninth Congress, in my humble judgment he would be with us to-day. There is also that other story that I am reminded of, which went the rounds as a cartoon, that illustrates his position, taking into account his earnest appeal to-day and his apparent troubled condition of mind. I refer to the man with the wheelbarrow that was heavily loaded with articles labeled "Cares, duties, and responsibilities of to-morrow." His back was bending in trundling the load, his face was distorted, perspiration was dripping from his forehead, but out of his pocket protruded a bundle, giving him no trouble, labeled "Cares, duties, and responsibilities of to-day." It is the hobgoblin of something that is to come that troubles some of the Members of the House who oppose this measure.

Mr. Chairman, as I understand the situation, the rights of the railway companies and the rights of the people, in brief, are these: Not one rod of the 210,000 miles of railway in this country was constructed except by laying it across private property, and to that end the property owner, even though it took from him the old home with all of its sentiment, had to surrender under the principle "the greatest good to the greatest number." But along with that right not only went the rights of the railway company to forever send its cars over the steel track, but that other great right of franchise to the great traveling and shipping public; and it is because of that franchise to the public guaranteed to every American citizen and the stranger within our gates who may desire to use these railways at all times and under all circumstances, to ship his commodity over them on equal terms with all others at a reasonable rate, that these companies had the right to lay one foot of such track. Any shift or device to evade that vested right of the great traveling and shipping public is in contravention of the Constitution. It makes no difference whether it is a contract entered into between the railroad company and a shipper or is a law passed by Congress or a finding by the Interstate Commerce Commission or an act by the legislature of a State. If it takes away that vested right in the great shipping and traveling public, it is absolutely void. The Interstate Commerce Commission is not clothed with power to lay down any new rule as to rates. That is a part of the franchises that belong to the railroad companies and the public, fixed by the common law, that the rates must be reasonable and all served alike. The Commission simply hears the evidence on complaint and follows this rule.

What is it? It is that the rate must not be discriminatory and shall be reasonable. What the Interstate Commerce Commission can do, and all that the promoters of this bill and those who have been so faithful, having it in charge, claim, is that the Commission shall hear the testimony on complaint made to see whether or not the rate is reasonable; if unreasonable, fix a maximum reasonable one; if discriminatory, correct that, and that is all. Beyond that the Interstate Commerce Commission can not go.

There are three great arteries of transportation in this country—the waterways, the dirt highways, and the steel highways. I remember reading not many years ago an interesting case reported in one of the United States Supreme Court reports. It seems that Fulton and Robertson as a company were granted a charter by the State of New York, by the terms of which they were given the right forever to navigate by steam power all the navigable streams of the State of New York against the world, and, strange as it may seem to us of this day and generation, that legislation was sustained by every intermediate court until it reached the Supreme Court of the United States, when John Marshall, that greatest of all elucidators of the Constitution, delivered an opinion that forever swept away such a doctrine, in which he stated that such a privilege is in contravention of interstate commerce and therefore could not be the law. To-day we have these great steel highways, and by reason of the character of the track we can not pass over them with our private vehicles, and so the Government has given to individuals and companies the right to construct these highways over private property by paying only its actual value to aid the public. If I read the decisions aright, that right carries but two exclusive privileges to the promoters or companies—that is, to carry over the roads passengers and the commodities of the people. They have no right under the Constitution to engage in any other business in conjunction with the roads, though it is true in many instances they are doing it in violation of law. The roads have no right to make profits in any way out of anything save and except in transporting the commodities of the public and carrying passengers

over the roads. I acquiesce fully in the claim made by the distinguished gentleman from Ohio [Mr. GROSVENOR]. I believe he is absolutely right in his contention, and the agitation and legislation must go on until the railways of this country have surrendered all interest in outside enterprises. I never could figure out how any private car company has a right as against the public to send its cars over these tracks by contract with the railroad companies. I do not believe that it is either the spirit or letter of the Constitution to permit it. The spirit and letter of the Constitution is that you may send your commodity over these tracks. The company must receive your commodity; it must send it on equal and reasonable terms with everybody else; it must give all equal facilities; it has no right to say to a company or an individual owning private cars, "We will take your car or cars and for a stated amount send them with your commodities and passengers over these tracks." For all these railroad tracks on the rights of way, in the broad sense, belong to the public—absolutely to the public. And until these private infringements are gotten rid of and we come back to the constitutional rights of the people this contention will go on.

Look at the situation. A young man with ability and limited means undertakes to start in business on one of these railway tracks; if he is in the field of endeavor of those who have pooled their issues and put up a plant, he is at their mercy, for he finds them accorded rates by the railroad companies not given him. The gentleman from Maine said, in substance, if he had his way he would do away with the Interstate Commerce Commission. I was startled by the statement he made—that the wronged shipper should resort to common law for redress. I will admit that a wronged shipper has at common law a remedy, so far as the law itself is concerned, but the difficulty is in working it out. It may be fine in theory, but impracticable in practice, and it was because of that fact that this Interstate Commerce Commission was organized. No man can take his complaint of unjust rates and discrimination into a common-law court of justice and try to work the problem out under the rules of common law in these days against these corporations doing an interstate business and secure justice, and it is because men wiser than myself saw this impractical situation for the shipper that the Interstate Commerce Commission was organized. There they can at once bring their complaints to the Commission. The gentleman from Maine says, How can this Commission tell what is a just rate? He says there is no scientific rule by which it can be determined. There is no scientific rule by which it can be determined anywhere; human judgment, under the evidence and rules of common law, finally determines. Suppose the Congress were to give to the Interstate Commerce Commission the name of "interstate judges." Would such legislation make them any wiser? Suppose the same evidence is brought before the common-law court. Will the judges composing such tribunal be any wiser than the men who make up the Commission? It is a man's judgment when you get through with it. You have to lodge the power somewhere, somebody has to hear the evidence. When the gentleman says, Away with the Commission and leave the people to common law, he is twenty years behind the progress of events. That was tried for years and brought no results. The process was too slow.

This bill does not contain what those most deeply interested in it—those who drafted it and the committee who reported it—would like to have in it. Like everything else in legislation, it is a compromise measure; but let us stand for the bill, and as we move along in the course of events, and more testimony is gathered, and its workings are put to the test, and we find wherein the weakness lies, more legislation can follow to remedy the mistakes. But to do away with the Interstate Commerce Commission after all the effort that has been put forth would be a sad blow to the shipper. I know there are a large number of people who wanted to have the investigations of the Interstate Commerce Commission done away with a long time ago, for they suffered the penalties of law as results of the evidence given before that Commission against them. Arrayed against this Commission is this immense capital, back of which are the trained brains of the railway men of this country. I do not understand that the distinguished gentleman from Ohio [Mr. GROSVENOR] desires to have the Commission done away with; he says that he does not think the bill goes far enough. I agree with him. But the bill in its present form is in the right direction and should pass. If it can be made broader at this time, I shall be glad.

Mr. HILL of Connecticut. Does not the gentleman think that this Congress ought to be as solicitous for persons as they are for hogs, and put the Pullman Car Company under the provisions of the bill as well as the Armour Company?

Mr. WEBBER. I most assuredly do. If I had my way about it, this bill would be broad enough and explicit enough to put every Pullman car under its ban.

Mr. GROSVENOR. What is to hinder the striking out of one word, and putting the Pullman cars into the bill?

Mr. WEBBER. If the gentleman will give me a chance, I will vote for such an amendment.

Mr. GROSVENOR. Is there any sacredness about a Pullman car that takes it out of the domain of regulation?

Mr. WEBBER. None whatever.

Mr. GROSVENOR. Does the gentleman figure it would weaken the bill to put it in there?

Mr. WEBBER. Not the slightest.

Mr. GROSVENOR. What does the gentleman suppose is the reason it is not in?

Mr. WEBBER. I do not know.

Mr. MAHON. Does not the gentleman believe that the express companies should go in?

Mr. WEBBER. The express companies should go in as well.

Mr. MAHON. They rob the people as well as the railroads, even more so.

Mr. WEBBER. In fact, any shift or device that in any way takes away from the people the rights that are given to them by the construction in the railways should be lodged in the bill. There is no question about that. Whether or not they shall be placed in there by this Congress, the time is coming when they must be placed in some rate bill. There was no particular trouble raised in this country about rates until large aggregations of capital got together. When you bring together millions and billions, and along with the millions and billions, men of trained minds to manipulate them, while the great mass of people are about their business, in the humble walks of life, the result is that wrongs are perpetrated—that men to-day, worth their thousands, sit behind closed doors and within a few days will be worth their millions, through railroad rate manipulation. There is not a man in this House who would do away with a mile of railway. We would build more. The railways in the broad sense belong to the people. If people desire to organize companies and construct these roads and make out of them a fair profit, it is all well and good; but when a man starts in as a railway lawyer, or railway director, and within the space of five or ten years becomes a man worth millions, there is something wrong going on. If the Interstate Commerce Commission, with all the powers with which it is clothed, and will be under this bill, can not correct that wrong, then let us get up a bill that will do it. And I am not an anarchist. Talk about the ghost of Populism which the gentleman from Maine ran onto, by the way! Go out into the States of Kansas and Nebraska to-day and charge a man with being a Populist, and he will thrash you on the spot. They are dead and gone; you can not find one of them. This Government is going to live in spite of unjust railroad rates. It is not going back. We are not going to be handed over to the anarchists. [Applause.]

Mr. MANN. Mr. Chairman, I now yield to my colleague so much time as he may desire.

Mr. RIVES. Mr. Chairman, believing it to be a duty I owe to the people of my section of the country, I rise to support this bill. I support it because I believe it to be an honest measure designed to promote the general welfare of the majority of the American people, and when legislators in their effort to serve the people they represent legislate in the interest of the majority, then their duty has been discharged and one of the fundamental rules of a republican form of government has been observed, namely, the will of the majority shall be the will of the whole.

Mr. Chairman, this bill will not satisfy everybody. To satisfy everybody is an impossibility. This bill no doubt has many imperfections, but it is just as possible to provide for every contingency that might arise in the future as it is to satisfy everybody in the first instance.

A great deal has been said about the rights of the railroads in connection with this question. We hear it said but for the railroads our country would not be developed as it is to-day; that they have opened up new territory for settlement and development, and in doing this they have made great sacrifices.

This is all true to a certain extent, but we must remember that this was not accomplished by the railroads alone, but that the people who followed the railroads and inhabited these new territories, made just as many sacrifices, endured just as many hardships, and are entitled to just as much credit for the development of the country as are the railroads.

We hear it said that the interests of the railroads are great, representing millions of dollars in investment, and therefore

they should not be unjustly interfered with in the management of their property. I agree with this statement unqualifiedly.

It is also true that the interests of the people of this country of ours are great, and should not be unjustly interfered with.

But, Mr. Chairman, I fear their interests and their rights have been unjustly interfered with, and the fact that this great wave of agitation is now sweeping over this fair land of ours from the Atlantic to the Pacific is very good evidence that this is true.

Mr. Chairman, I do not want to unjustly interfere with any man, or any thing, and especially with a great institution that is as valuable, as necessary, and has done as much for our country as has the railroad. I do want to interfere with the man or the railroad or the common carrier or any other person who, by reason of having received certain concessions from the public, becomes a public servant, owing certain duties and obligations to the public, and continually persists in violating these duties and obligations.

A public servant of this character should not be a respecter of persons, should not grant special privileges to special persons, should not be guilty of unfair discrimination in any manner whatever. Every citizen doing business with it should pay the same reasonable charge for the service rendered.

This, as I understand it, is what the bill in the main seeks to accomplish. It seeks to compel railroads and other common carriers to deal fairly and justly with all shippers, to charge reasonable rates, and, upon their failure to do this, invests the Interstate Commerce Commission with the power to see that they do. In other words, section 4 of the bill provides as follows:

That the Commission is authorized and empowered, and it shall be its duty, whenever * * * upon complaint * * * it shall be of the opinion that any of the rates or charges whatsoever, demanded, charged, or collected by any common carrier * * * or that any regulation or practice whatsoever of such carrier or carriers, affecting such rates are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged, and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed.

Grave fears have been expressed on the floor of this House by the gentleman from Maine [Mr. LITTLEFIELD] about giving the Interstate Commerce Commission the powers this bill proposes to give; grave fears that the high type of manhood now in the Executive office will not always be selected by the people to preside over their affairs. I agree with the gentleman that it may be possible that we will not at all times be blessed with an Executive as fair and fearless as the one the people have so overwhelmingly selected at this time; but, Mr. Chairman, it seems to me this is a bridge we have not reached at present, and one that should be crossed when reached, and I would suggest to the gentleman that if we desire to avoid crossing such a bridge altogether, all that is necessary to do is to keep the Republicans in power. [Laughter and applause.]

I do not believe we should allow existing evils to go without adjustment because of the possibility that something uncertain might happen in the future. We might as well say that no law should exist providing for the punishment of the burglar or the robber or the murderer because of the possibility that some corrupt prosecuting officer might be elected or appointed in the future.

This objection should not be allowed to interfere with the passage of this bill.

We must trust to the honesty of men chosen as public officials, because in the majority of cases under our system of government this is the only alternative open to us.

What assurance have the people who sent the Members of this House here to represent them that they would do so in an honest manner, other than their faith in our integrity and manhood? None whatever.

I am sorry to say officials are sometimes corrupt and can not be trusted, but I believe in the majority of cases honesty prevails. If this were not true we could not maintain a republican form of government.

The gentleman from Maine says he would not like to see certain men occupy the Executive office with the power to appoint this Commission. I would not like to see the type of man he no doubt refers to hold this responsible position. But I would suggest to the gentleman that if such a catastrophe should happen the people will be responsible for it and not this Congress, and in that event they should not be heard to complain of their own folly.

Mr. Chairman, in the hearings before the Senate Committee on Interstate and Foreign Commerce last year one of the principal objections to this legislation presented by the representa-

tives of the railroads was to that feature giving the Commission the power to fix rates. They objected to it because they were afraid the Commission would arbitrarily fix every rate in the United States and then there would not be the flexibility that is necessary in the transaction of the business of the railroads. An attempt coming from some source was made to educate the people that this was what was being sought by the Esch-Townsend bill, and if that measure passed great calamity would befall the railroads, the railroad employees, and the people of the nation in general.

If a law giving the Commission the power to fix rates in the manner in which they thought that bill would be passed I, too, would have grave doubts as to the results; but, Mr. Chairman, I do not believe any such legislation was proposed in that bill, and I am sure it is not the intention of this bill, and if not, some new objection, of which I have not heard, will have to be advanced before I will be convinced this bill should not become a law.

If any rates are fixed by the Commission under this bill it will be the fault of the railroads and no one else, and conceding the Commission would fix an unfair rate when called upon, no person should be heard to complain of his own wrong.

Something has been said about the effect this bill will have on the railroad employees. An officer of one of their unions has said:

The regulation of the earnings are so closely related to the expenditures that the law, if made effective, practically controls both. Anything that benefits the companies benefits the employees, so in this legislation we feel our interests are mutual.

All of this, I have no doubt, is true, and if the Commission were given the power to fix rates in the arbitrary way this officer has been led to believe it will, the employees would probably be affected, but if they are affected under the operation of this law, as I think I understand it, it will be the fault of the employer, as I have before suggested, violating the law and seeking to receive an unreasonable recompence for his services.

I would not willingly vote for any measure that would have a tendency to reduce the wages of railroad employees or in any manner be detrimental to them. Neither would I vote for a measure I thought would be harmful to the railroads. I do not want to harm any man. I prefer to protect all men.

Section 1 of the bill defines the term "railroad" and the term "transportation," and, as I understand it, the object of the committee in doing this was to cover the use of switches, cars owned by shippers, and refrigerator cars, with the view of doing away with the evils heretofore existing in the use of these facilities of transportation.

The time is certainly at hand for legislation along this line. Recent developments have disclosed a disgraceful condition of affairs existing in the United States, especially in the use of the refrigerator and private car, and, if the reports are true, certain shippers are actually being robbed without any recourse in law. And if further reports are true the railroads in this case are being imposed upon and are at the mercy of the people owning these private cars.

Some doubt has been expressed as to whether or not express cars are included in the definition of the term "transportation." I can only hope that they are, not that I have any special grievance against the express companies, but on the broad principle that if one is regulated all should be regulated.

Section 7 contains an all-important feature of the bill, and that is the publicity feature. It provides, among other things, for annual reports showing the amount of capital stock issued, the dividends paid, the funded and floating debts, the number of employees, the number of accidents, and a complete exhibit of the financial operations of the carrier each year, and further provides a penalty for refusing to make these reports.

If it is right to regulate the charges and other practices of common carriers, then it is right to let it be known how the business is being conducted.

We are told in the Bible that certain men loved darkness rather than light, because their deeds were evil. The object of this section of the bill is to let the light shine in on the transactions of these great corporations, in order to find out whether they are to be compared with the men of biblical times.

And now, Mr. Chairman, one of the strongest reasons in favor of the merits of this bill, and the last I will mention, is the fact that all of the Members of this House, with few exceptions, are for it, Democrats as well as Republicans. The committee, consisting of twelve Republicans and six Democrats, have made a unanimous report on it, after long hearings and laborious investigation. This, to my mind, is evidence that the people have been heard from and are demanding that the great evils this bill seeks to remedy should be stopped.

Ordinarily a great deal of the time of the House is taken up

in making political capital out of measures that are being considered by the House. On this occasion we are not confronted with anything of this kind, but we are confronted with the pleasing spectacle of honest servants of the people seeking to give the people the legislation they are asking for and seeking to give it to them as quickly as possible. Let us hope our efforts will not be futile and that the same prompt action will be taken in the other Chamber of the Capitol. [Applause.]

Mr. MANN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. VREELAND, 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. 12987, and had come to no resolution thereon.

FORTIFICATION APPROPRIATION BILL.

Mr. SMITH of Iowa, from the Committee on Appropriations, reported the bill (H. R. 14171) making appropriations for fortifications and other works of defense, for the armament thereof, and for the procurement of heavy ordnance for trial and service, and for other purposes, which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with accompanying report and views of the minority, ordered to be printed.

Mr. FITZGERALD. Mr. Speaker, I desire to reserve all points of order on the bill.

Mr. LEVER. Mr. Speaker, I ask unanimous consent for a reprint of the bill (H. R. 12612) to further promote the dairy industry of the United States.

There was no objection, and it was so ordered.

ALLEGED COMBINATION BETWEEN PENNSYLVANIA AND OTHER RAILROADS.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on Interstate and Foreign Commerce, and, with accompanying papers, ordered to be printed:

To the House of Representatives:

In response to the resolution of the House of Representatives of the 29th ultimo, requesting the President, "if not incompatible with the public interests, to report to the House of Representatives, for its information, all the facts within the knowledge of the Interstate Commerce Commission which shows or tends to show that there exists at this time, or heretofore within the last twelve months, has existed, a combination or arrangement between the Pennsylvania Railroad Company, the Pennsylvania Company, the Norfolk and Western Railway Company, the Baltimore and Ohio Railroad Company, the Philadelphia, Baltimore and Washington Railroad Company, the Northern Central Railway Company, and the Chesapeake and Ohio Railway Company, or any two or more of said railroad companies, in violation of the act passed July 2, 1890, and entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' or acts amendatory thereof," I transmit herewith a report by the Interstate Commerce Commission on the subject.

THEODORE ROOSEVELT.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 90. An act providing for the deposit of a model of any vessel of war in the United States Navy bearing the name of a State of the United States in the capitol building of said State—to the Committee on Naval Affairs.

S. 2871. An act granting an increase of pension to Joseph Brunnell—to the Committee on Invalid Pensions.

S. 136. An act granting an increase of pension to Sebastian Laudner—to the Committee on Invalid Pensions.

S. 2526. An act granting an increase of pension to Thomas Welch—to the Committee on Invalid Pensions.

S. 2839. An act granting an increase of pension to Rachael A. Foulk—to the Committee on Invalid Pensions.

S. 476. An act granting an increase of pension to Emily Peterson—to the Committee on Invalid Pensions.

S. 2459. An act granting an increase of pension to Alexander M. Scott—to the Committee on Invalid Pensions.

S. 1463. An act granting an increase of pension to Anna Z. Potter—to the Committee on Invalid Pensions.

S. 213. An act granting an increase of pension to John M. Doersch—to the Committee on Invalid Pensions.

S. 208. An act granting an increase of pension to Daniel J. Smith—to the Committee on Invalid Pensions.

S. 2098. An act authorizing the extension of Second street NW, north to Trumbull street and W street westward to Second street NW—to the Committee on the District of Columbia.

S. 1736. An act granting a pension to Lena S. Fenn—to the Committee on Invalid Pensions.

S. 3286. An act granting an increase of pension to Mary J. McGehee—to the Committee on Pensions.

S. 121. An act granting an increase of pension to John Cook—to the Committee on Invalid Pensions.

S. 3184. An act granting an increase of pension to Alfred T. Hawk—to the Committee on Invalid Pensions.

S. 506. An act granting an increase of pension to James Wilson—to the Committee on Invalid Pensions.

S. 127. An act granting an increase of pension to Anthony H. Crawford—to the Committee on Invalid Pensions.

S. 587. An act granting a pension to Mary J. Chenoweth—to the Committee on Invalid Pensions.

S. 3307. An act granting an increase of pension to Phillip W. Cornman—to the Committee on Pensions.

S. 1518. An act granting an increase of pension to Phineas F. Lull—to the Committee on Invalid Pensions.

S. 3311. An act granting a pension to Bernhard Schoffner—to the Committee on Invalid Pensions.

S. 970. An act granting an increase of pension to William Crome—to the Committee on Invalid Pensions.

S. 2557. An act granting an increase of pension to Charles F. Longfellow—to the Committee on Invalid Pensions.

S. 1268. An act granting an increase of pension to William Lownsberry—to the Committee on Invalid Pensions.

S. 994. An act granting a pension to Henry Weston—to the Committee on Pensions.

S. 2556. An act granting an increase of pension to George B. Hunter—to the Committee on Invalid Pensions.

S. 2778. An act granting an increase of pension to John W. Langford—to the Committee on Invalid Pensions.

S. 56. An act authorizing the extension of Rhode Island avenue NE.—to the Committee on the District of Columbia.

S. 566. An act granting an increase of pension to George Wiley—to the Committee on Invalid Pensions.

S. 3285. An act granting an increase of pension to Mary M. Hull—to the Committee on Invalid Pensions.

S. 2089. An act granting an increase of pension to John P. Campbell—to the Committee on Invalid Pensions.

S. 1821. An act granting an increase of pension to Samuel L. Andrews—to the Committee on Invalid Pensions.

S. 1037. An act granting an increase of pension to Adolphus L. Oxton—to the Committee on Invalid Pensions.

S. 1840. An act granting an increase of pension to James Pretzman—to the Committee on Invalid Pensions.

S. 624. An act granting an increase of pension to Abbie C. Moore—to the Committee on Invalid Pensions.

S. 639. An act granting an increase of pension to George M. Bradley—to the Committee on Invalid Pensions.

S. 619. An act granting an increase of pension to James F. Prater—to the Committee on Invalid Pensions.

S. 2183. An act granting an increase of pension to George P. Trobridge—to the Committee on Invalid Pensions.

S. 724. An act granting an increase of pension to George A. Parker—to the Committee on Invalid Pensions.

S. 1017. An act granting an increase of pension to Mary Ryan—to the Committee on Invalid Pensions.

S. 2421. An act granting an increase of pension to Herrick Hodges—to the Committee on Invalid Pensions.

S. 2411. An act granting an increase of pension to Carrie B. Findley—to the Committee on Invalid Pensions.

S. 3508. An act granting a pension to Mary J. Visscher—to the Committee on Invalid Pensions.

S. 1417. An act granting an increase of pension to Henry A. Tilton—to the Committee on Invalid Pensions.

S. 1010. An act granting an increase of pension to Joel M. Sawyer—to the Committee on Invalid Pensions.

S. 703. An act granting an increase of pension to Edward T. Connally, alias John Marks—to the Committee on Invalid Pensions.

S. 181. An act granting an increase of pension to Francis E. Stevens—to the Committee on Invalid Pensions.

S. 77. An act granting an increase of pension to Granville P. Mason—to the Committee on Invalid Pensions.

S. 79. An act granting an increase of pension to James F. Tilton—to the Committee on Invalid Pensions.

S. 75. An act granting an increase of pension to Uriel J. Streeter—to the Committee on Invalid Pensions.

S. 78. An act granting an increase of pension to Mary R. Blethen—to the Committee on Invalid Pensions.

S. 702. An act granting an increase of pension to Richard Dearborn—to the Committee on Invalid Pensions.

S. 909. An act granting an increase of pension to Harvey M. D. Hopkins—to the Committee on Invalid Pensions.

S. 573. An act granting an increase of pension to Henry T. Braman—to the Committee on Invalid Pensions.

S. 1536. An act granting an increase of pension to William H. Brown—to the Committee on Invalid Pensions.

S. 2996. An act to authorize the Secretary of the Interior to purchase 80 acres of land, more or less, from Karl A. Torgerson and Charles E. Heyn for the benefit of certain allottees of the Grande Ronde Indian Reservation—to the Committee on Indian Affairs.

S. 584. An act for the relief of David H. Moffat—to the Committee on Military Affairs.

S. 2172. An act to amend an act entitled "An act authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army"—to the Committee on Military Affairs.

S. 2626. An act to correct the military record of Isaac Thompson—to the Committee on Military Affairs.

S. 1690. An act for the relief of Theodore F. Northrop—to the Committee on Military Affairs.

S. 3045. An act to incorporate the American Cross of Honor within the District of Columbia—to the Committee on the District of Columbia.

S. 2582. An act to authorize the American National Bank, of Graham, Va., to change its location and name—to the Committee on Banking and Currency.

S. 2452. An act creating an additional land office in the State of North Dakota—to the Committee on Public Lands.

S. 1942. An act to correct the military record of George A. Winslow—to the Committee on Military Affairs.

S. 733. An act granting an honorable discharge to Jacob Niebels—to the Committee on Military Affairs.

S. 1862. An act for the relief of Joshua T. Reynolds—to the Committee on Military Affairs.

S. 2325. An act for the relief of James D. Vernay—to the Committee on Military Affairs.

S. 832. An act to correct the military record of Asa Niles—to the Committee on Military Affairs.

S. 1951. An act to correct the military record of Talton T. Davis—to the Committee on Military Affairs.

S. 497. An act to authorize the President to revoke the order dismissing William T. Goodwin, late first lieutenant, Tenth Infantry, United States Army, and to place the said William T. Goodwin on the retired list with the rank of first lieutenant—to the Committee on Military Affairs.

S. 3338. An act for the relief of John L. O'Meara—to the Committee on Invalid Pensions.

S. 2273. An act to establish at Cape Mendocino, California, quarters for the light keeper—to the Committee on Interstate and Foreign Commerce.

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. 9092. An act granting a pension to Lucy Walke;
 H. R. 4177. An act granting a pension to Susan H. Chadsey;
 H. R. 6116. An act granting a pension to John Gainsback;
 H. R. 10365. An act granting a pension to Emeline S. Hayner;
 H. R. 8689. An act granting a pension to Frank P. Haas;
 H. R. 8832. An act granting a pension to William I. Heed;
 H. R. 7206. An act granting a pension to Nannie Frazier;
 H. R. 10573. An act granting a pension to Mariah Baughman;
 H. R. 5208. An act granting a pension to Susan J. Rounds;
 H. R. 8071. An act granting a pension to Mary Mitchell;
 H. R. 7423. An act granting a pension to Rachel A. Dailey;
 H. R. 5779. An act granting a pension to Hannah W. Green;
 H. R. 7735. An act granting an increase of pension to James Hartzel;
 H. R. 7237. An act granting an increase of pension to Philip Bacon;
 H. R. 3295. An act granting an increase of pension to George W. Knapp;
 H. R. 5158. An act granting an increase of pension to Ephraim N. R. Ohl;
 H. R. 8799. An act granting an increase of pension to Bartholomew Moriarty;
 H. R. 5642. An act granting an increase of pension to John W. Bancroft;
 H. R. 9059. An act granting an increase of pension to Abram V. Smith;
 H. R. 4991. An act granting an increase of pension to William R. Glisan;
 H. R. 7758. An act granting an increase of pension to John L. Whitman;
 H. R. 5182. An act granting an increase of pension to Robert S. Williams;

H. R. 5845. An act granting an increase of pension to Robert T. Knox;
 H. R. 6186. An act granting an increase of pension to William Harvey;
 H. R. 8659. An act granting an increase of pension to James Powers;
 H. R. 7673. An act granting an increase of pension to Homer A. Barrows;
 H. R. 10352. An act granting an increase of pension to Sarah A. Boush;
 H. R. 4392. An act granting an increase of pension to Joseph Miller;
 H. R. 6183. An act granting an increase of pension to Amanciel Russell;
 H. R. 8409. An act granting an increase of pension to George H. Stowits;
 H. R. 4706. An act granting an increase of pension to Anna M. Gardner;
 H. R. 7888. An act granting an increase of pension to Charles W. Sutherlin;
 H. R. 5236. An act granting an increase of pension to Mary Greene;
 H. R. 6983. An act granting an increase of pension to Chalkley Petitt;
 H. R. 8403. An act granting an increase of pension to James L. Rector;
 H. R. 8532. An act granting an increase of pension to Retta M. Fairbanks;
 H. R. 6447. An act granting an increase of pension to Mary E. Davenport;
 H. R. 8181. An act granting an increase of pension to Martin B. Noyes;
 H. R. 6544. An act granting an increase of pension to Buford P. Moss;
 H. R. 4740. An act granting an increase of pension to Ransom L. Logan;
 H. R. 7889. An act granting an increase of pension to Aaron Noble;
 H. R. 10572. An act granting an increase of pension to Mary A. Hackley;
 H. R. 5237. An act granting an increase of pension to Rebecca Garland;
 H. R. 7755. An act granting an increase of pension to Adam Wenzel;
 H. R. 4643. An act granting an increase of pension to Orlena F. Seaver;
 H. R. 8374. An act granting an increase of pension to Ellen R. Graham;
 H. R. 8404. An act granting an increase of pension to John H. Ferguson;
 H. R. 9984. An act granting an increase of pension to Samuel McKinney;
 H. R. 7878. An act granting an increase of pension to Ann Betts;
 H. R. 7662. An act granting an increase of pension to Barney Schultz;
 H. R. 749. An act granting an increase of pension to Elkanah M. Wynn;
 H. R. 5631. An act granting an increase of pension to Leonard F. Simmons;
 H. R. 4393. An act granting an increase of pension to Henry Allen;
 H. R. 5831. An act granting an increase of pension to Julius Zuehlke;
 H. R. 4682. An act granting an increase of pension to James Whiteman;
 H. R. 7230. An act granting an increase of pension to John M. Wells;
 H. R. 10218. An act granting an increase of pension to Melissa Chase;
 H. R. 6191. An act granting an increase of pension to Martin V. B. Bachman;
 H. R. 4747. An act granting an increase of pension to Joseph C. Robinson;
 H. R. 519. An act granting an increase of pension to William C. Stewart;
 H. R. 7952. An act granting an increase of pension to Detrick Nortrup;
 H. R. 1434. An act granting an increase of pension to Eleazar A. Patterson;
 H. R. 6917. An act granting an increase of pension to Edmund R. Strang;
 H. R. 2262. An act granting an increase of pension to John Seymour;

H. R. 4731. An act granting an increase of pension to Robert McMullen;
 H. R. 1810. An act granting an increase of pension to James E. Post;
 H. R. 6916. An act granting an increase of pension to Jacob Meier;
 H. R. 5643. An act granting an increase of pension to Wells Briggs;
 H. R. 2800. An act granting an increase of pension to Thomas Manahan;
 H. R. 5939. An act granting an increase of pension to James Brody;
 H. R. 4733. An act granting an increase of pension to John L. Files;
 H. R. 5653. An act granting an increase of pension to Henry W. Wells;
 H. R. 5546. An act granting an increase of pension to James Eastwood;
 H. R. 7572. An act granting an increase of pension to Gilbert F. Capron;
 H. R. 8237. An act granting an increase of pension to Noah Palmer;
 H. R. 10389. An act granting an increase of pension to John W. Ellsworth;
 H. R. 1435. An act granting an increase of pension to Jason Robbins;
 H. R. 1548. An act granting an increase of pension to Emma Leviness;
 H. R. 2266. An act granting an increase of pension to George H. Hodges;
 H. R. 2959. An act granting an increase of pension to Amos H. Tenant;
 H. R. 6113. An act granting an increase of pension to Moses Schoonmaker;
 H. R. 5253. An act granting an increase of pension to Greenberry Suddarth;
 H. R. 7950. An act granting an increase of pension to Emma M. Heath;
 H. R. 1971. An act granting an increase of pension to Melville A. Smith;
 H. R. 6172. An act granting an increase of pension to Abraham K. Vantine;
 H. R. 10142. An act granting an increase of pension to Thomas Bush;
 H. R. 6446. An act granting an increase of pension to Silas N. Bradshaw;
 H. R. 1972. An act granting an increase of pension to Stephen Gillen;
 H. R. 5654. An act granting a pension to Moses Eggleston;
 H. R. 7509. An act granting an increase of pension to John N. Stone;
 H. R. 9382. An act granting a pension to Mariam T. Shreve;
 H. R. 9130. An act granting an increase of pension to John Brinkley;
 H. R. 9757. An act to amend paragraph 34 of section 7 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902;
 H. R. 6166. An act granting a pension to Else C. Isachsen;
 H. R. 4226. An act granting an increase of pension to William Painter;
 H. R. 4744. An act granting an increase of pension to Thomas O'Connor;
 H. R. 4742. An act granting an increase of pension to Edward Coy;
 H. R. 4223. An act granting an increase of pension to Frederick Schultz; and
 H. R. 520. An act granting an increase of pension to Henry C. Stern.

CHANGE OF REFERENCE.

By unanimous consent, the reference of the bill (H. R. 11267) to revive and amend "An act to provide for the collection of abandoned property and the prevention of frauds in insurrectionary districts within the United States," and acts amendatory thereof, was changed from the Committee on Claims to the Committee on War Claims.

Mr. HEPBURN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 23 minutes p. m.) the House adjourned until to-morrow at 11 o'clock a. m.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the Secretary of State, recommending that permission be granted to Prof. Simon Newcomb, United States Navy, retired, to accept a decoration conferred by the German Emperor—to the Committee on Foreign Affairs, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. CRUMPACKER, from the Committee on the Census, to which was referred the bill of the House (H. R. 12064) to amend section 7 of an act entitled "An act to provide for a permanent Census Office," approved March 6, 1902, reported the same with amendment, accompanied by a report (No. 925); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 1007) to repeal section 4136 of the Revised Statutes, relating to the admission to registry of repaired foreign wrecks, reported the same without amendment, accompanied by a report (No. 926); which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. McDERMOTT: A bill (H. R. 14003) to authorize the appointment of boards of investigation and arbitration, and to define their powers and duties—to the Committee on Labor.

By Mr. STEPHENS of Texas: A bill (H. R. 14004) to amend section 4386 of the Revised Statutes of the United States, relating to the shipping of live stock—to the Committee on Interstate and Foreign Commerce.

By Mr. BIRDSALL: A bill (H. R. 14005) providing for the erection of a public building in the city of Iowa Falls, Iowa—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 14006) providing for the erection of a public building at Manchester, Iowa—to the Committee on Public Buildings and Grounds.

By Mr. JONES of Washington: A bill (H. R. 14007) authorizing the Secretary of Agriculture to investigate systems of farm management, making appropriation therefor, and for other purposes—to the Committee on Agriculture.

By Mr. MCKINLAY of California: A bill (H. R. 14008) authorizing the Board of Managers of the National Home for Disabled Volunteer Soldiers to accept conveyance of property of the Veterans' Home of California—to the Committee on Military Affairs.

By Mr. LACEY: A bill (H. R. 14009) making an appropriation for the appraisement and sale of the town sites of Heyburn, Rupert, and Scherrer, Idaho—to the Committee on Appropriations.

Also, a bill (H. R. 14010) to repeal an act entitled "An act to amend section 2455 of the Revised Statutes of the United States," approved February 26, 1895, and to provide for the disposal of isolated tracts of public lands—to the Committee on the Public Lands.

Also, a bill (H. R. 14011) to amend section 2372 of the Revised Statutes of the United States—to the Committee on the Public Lands.

By Mr. LEVER: A bill (H. R. 14012) to increase the efficiency of the Medical Department of the United States Army—to the Committee on Military Affairs.

By Mr. ADAMS of Wisconsin: A bill (H. R. 14013) to erect a public building at Watertown, Wis.—to the Committee on Public Buildings and Grounds.

By Mr. HALE: A bill (H. R. 14014) repealing an act entitled "An act to extend the time for presenting claims for additional bounties"—to the Committee on War Claims.

By Mr. KALANIANAOLE: A bill (H. R. 14015) to establish a fund for public works in the Territory of Hawaii, and for other purposes—to the Committee on the Territories.

Also, a bill (H. R. 14016) for continuing the improvement of Honolulu Harbor, in the Territory of Hawaii, under authoriza-

tion of the river and harbor act of March 3, 1905, and for other purposes—to the Committee on the Territories.

By Mr. WALLACE: A bill (H. R. 14017) to preserve and maintain the channel in Red River, Arkansas—to the Committee on Rivers and Harbors.

By Mr. FOWLER: A bill (H. R. 14018) for the current deposit of public moneys, for the issue and redemption of national bank notes, and for the gradual conversion of the United States notes into gold certificates—to the Committee on Banking and Currency.

By Mr. HAMILTON: A bill (H. R. 14019) to provide for the taxation of railroad property in the Territories of Arizona and New Mexico—to the Committee on the Territories.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 14020) to increase the limit of cost of the public building for Winston-Salem, N. C.—to the Committee on Public Buildings and Grounds.

By Mr. MUDD: A bill (H. R. 14021) to construct a bridge across the Eastern Branch of the Potomac River—to the Committee on the District of Columbia.

By Mr. FOWLER: A bill (H. R. 14022) to provide clean currency—to the Committee on Banking and Currency.

By Mr. McGUIRE: A bill (H. R. 14023) for the establishment of an additional recording district in Indian Territory, and for other purposes—to the Committee on Indian Affairs.

By Mr. HINSHAW: A bill (H. R. 14024) for the purchase of an additional site and the erection thereon of an addition to the United States building at Beatrice, Nebr.—to the Committee on Public Buildings and Grounds.

By Mr. BEDE: A bill (H. R. 14025) to further regulate commerce among the States and with foreign nations—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Iowa, from the Committee on Appropriations: A bill (H. R. 14171) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes—to the Union Calendar.

By Mr. HAMILTON: A resolution (H. Res. 210) for the appointment of an assistant clerk to the Committee on the Territories—to the Committee on Accounts.

By Mr. WACHTER: A resolution (H. Res. 211) authorizing a clerk to the Committee on Enrolled Bills—to the Committee on Accounts.

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. ADAMS of Pennsylvania: A bill (H. R. 14026) granting a pension to William H. Rogers—to the Committee on Invalid Pensions.

By Mr. BENNETT of Kentucky: A bill (H. R. 14027) granting an increase of pension to William Wright—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14028) for the relief of William G. Gardner—to the Committee on Military Affairs.

Also, a bill (H. R. 14029) for the relief of Thomas H. Jones, administrator of William D. Jones—to the Committee on War Claims.

Also, a bill (H. R. 14030) for the relief of Robert Ross—to the Committee on Military Affairs.

Also, a bill (H. R. 14031) for the relief of W. S. Adams—to the Committee on Claims.

Also, a bill (H. R. 14032) for the relief of Overton Turner—to the Committee on Military Affairs.

Also, a bill (H. R. 14033) for the relief of John A. Gribble—to the Committee on Military Affairs.

Also, a bill (H. R. 14034) for the relief of Nimrod Pratt—to the Committee on War Claims.

Also, a bill (H. R. 14035) for the relief of Isaac Musser—to the Committee on Military Affairs.

Also, a bill (H. R. 14036) for the relief of James Black—to the Committee on Military Affairs.

Also, a bill (H. R. 14037) for the relief of Annetta Callihan—to the Committee on Military Affairs.

Also, a bill (H. R. 14038) for the relief of Robert Galbreath—to the Committee on Naval Affairs.

Also, a bill (H. R. 14039) granting a pension to Reuben Reynolds—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14040) granting a pension to Sarah F. Butler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14041) granting a pension to Rachel Ewing—to the Committee on Pensions.

Also, a bill (H. R. 14042) granting a pension to Augustine Bell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14043) granting a pension to James W. Wallace—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14044) granting a pension to Susan Tabor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14045) granting a pension to Sallie Stammer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14046) granting a pension to Jimison F. Skeens—to the Committee on Pensions.

Also, a bill (H. R. 14047) granting a pension to George B. Kennard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14048) granting a pension to Nancy Englund—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14049) granting a pension to Harvey Gribble—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14050) granting an increase of pension to Mary F. Scott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14051) granting a pension to Preston Petit—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14052) granting a pension to Jasper Staton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14053) granting a pension to Rosa A. Turner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14054) granting a pension to Mary Elizabeth Alfrey and others—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14055) granting a pension to Penelope Morton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14056) granting a pension to William Prater—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14057) granting a pension to Edward Dearfield and others—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14058) granting a pension to Lewis McKinney—to the Committee on Pensions.

Also, a bill (H. R. 14059) granting an increase of pension to John W. Boyer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14060) granting an increase of pension to Andrew J. Bow—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14061) granting an increase of pension to Isaac N. Dysard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14062) granting an increase of pension to Cornelia Weaver—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14063) granting an increase of pension to James Vandivort—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14064) granting an increase of pension to John Q. A. Boner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14065) granting an increase of pension to Sarah Farrow, alias Goodpaster—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14066) granting an increase of pension to John Pruett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14067) granting an increase of pension to John Hopkins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14068) granting an increase of pension to Hezekiah Barker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14069) granting an increase of pension to George W. Hensley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14070) granting an increase of pension to Henderson Medley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14071) granting an increase of pension to William Hall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14072) granting an increase of pension to George W. Reeder—to the Committee on Invalid Pensions.

By Mr. BIRDSALL: A bill (H. R. 14073) granting an increase of pension to Alfred J. Skinner—to the Committee on Invalid Pensions.

By Mr. BRUNDIDGE: A bill (H. R. 14074) granting a pension to Miles B. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14075) granting an increase of pension to Frederick Hagg—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14076) granting an increase of pension to William Sanders—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14077) granting an increase of pension to George W. Chesebro—to the Committee on Invalid Pensions.

By Mr. BROWNLAW: A bill (H. R. 14078) granting a pension to Nathaniel Sumners—to the Committee on Invalid Pensions.

By Mr. BUCKMAN: A bill (H. R. 14079) granting a pension to Barbara Custer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14080) granting an increase of pension to Jonathan Harding—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14081) granting an increase of pension to Smith M. Todd—to the Committee on Invalid Pensions.

By Mr. BURTON of Delaware: A bill (H. R. 14082) granting an increase of pension to John C. Short—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14083) to refund legacy taxes illegally col-

lected from the estate of Johanna S. Stoeckle, late of Wilmington, Newcastle County, Del.—to the Committee on Claims.

By Mr. BUTLER of Tennessee: A bill (H. R. 14084) granting a pension to William H. Bush—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14085) granting a pension to William R. Chaffin—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: A bill (H. R. 14086) granting a pension to Daniel Pence—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14087) granting a pension to Sarah Elizabeth Robenalt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14088) granting a pension to Mary A. Hawkins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14089) granting an increase of pension to Martin Harter—to the Committee on Invalid Pensions.

By Mr. CASSEL: A bill (H. R. 14090) for the relief of S. K. Yundt—to the Committee on Claims.

By Mr. CLARK of Florida: A bill (H. R. 14091) for the relief of the heirs of Andrew E. Hodges, deceased, late of Florida—to the Committee on Claims.

By Mr. COLE: A bill (H. R. 14092) granting a pension to Frances Coyer—to the Committee on Invalid Pensions.

By Mr. DRISCOLL: A bill (H. R. 14093) to remove the charge of desertion from the record of Lucien H. Robertson—to the Committee on Military Affairs.

By Mr. EDWARDS: A bill (H. R. 14094) for the relief of Francis Williams—to the Committee on Military Affairs.

Also, a bill (H. R. 14095) granting a pension to Hizil Potter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14096) granting a pension to Margaret Nelson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14097) granting a pension to Isham D. Scott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14098) granting a pension to Mary Winfrey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14099) granting a pension to Ellen M. Evans—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14100) granting a pension to Mary Howard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14101) granting a pension to John W. Hays—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14102) granting an increase of pension to Samuel L. Brammer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14103) granting an increase of pension to Stephen A. Harper—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14104) granting an increase of pension to Milton Brown—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14105) granting an increase of pension to Turner Bartley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14106) granting an increase of pension to John S. Melton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14107) granting an increase of pension to Isaac Maines—to the Committee on Invalid Pensions.

By Mr. ELLIS: A bill (H. R. 14108) for the relief of George W. Buxton—to the Committee on Claims.

By Mr. FLACK: A bill (H. R. 14109) granting an increase of pension to Bernhard Winters—to the Committee on Pensions.

By Mr. FORDNEY: A bill (H. R. 14110) granting a pension to Ella Winas—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 14111) granting a pension to Regina Albert—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14112) granting an increase of pension to Andrew J. Baker—to the Committee on Pensions.

By Mr. GARRETT: A bill (H. R. 14113) granting an increase of pension to Isaac N. Perry—to the Committee on Pensions.

By Mr. GILBERT of Indiana: A bill (H. R. 14114) granting an increase of pension to Wells Jones—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14115) granting an increase of pension to Frederick Guebard—to the Committee on Invalid Pensions.

By Mr. GILLETT of California: A bill (H. R. 14116) granting an increase of pension to John P. Rains—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14117) granting an increase of pension to William H. H. Fellows—to the Committee on Invalid Pensions.

Also, a bill (S. R. 14118) granting an increase of pension to Edward Delaney—to the Committee on Invalid Pensions.

By Mr. GROSVENOR: A bill (H. R. 14119) granting an honorable discharge to Lieutenant Anderson—to the Committee on Military Affairs.

Also, a bill (H. R. 14120) granting an increase of pension to H. D. Lefavor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14121) correcting the military record of Elphas Coakley—to the Committee on Military Affairs.

By Mr. HALE: A bill (H. R. 14122) for the relief of John T. Brown—to the Committee on War Claims.

By Mr. HENRY of Connecticut: A bill (H. R. 14123) granting an increase of pension to Gottlieb Spitzer—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 14124) for the relief of Christopher Clary—to the Committee on War Claims.

Also, a bill (H. R. 14125) for the relief of The Nebraska Mutual Life Insurance Company, of Stromsburg, Nebr.—to the Committee on Claims.

Also, a bill (H. R. 14126) granting an increase of pension to William H. Staley—to the Committee on Invalid Pensions.

By Mr. HITT: A bill (H. R. 14127) granting a pension to Elizabeth H. Nicholls—to the Committee on Invalid Pensions.

By Mr. HULL: A bill (H. R. 14128) granting an increase of pension to Joseph T. Walker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14129) granting an increase of pension to James M. Hobson—to the Committee on Invalid Pensions.

By Mr. HUMPHREYS of Mississippi: A bill (H. R. 14130) for the relief of the heirs of Peter Anderson, late of Philadelphia, Pa.—to the Committee on War Claims.

By Mr. HUMPHREY of Washington: A bill (H. R. 14131) granting an increase of pension to Francis M. Simpson—to the Committee on Invalid Pensions.

By Mr. KELIHER: A bill (H. R. 14132) to remove the charge of desertion against Robert Downing—to the Committee on Naval Affairs.

By Mr. LOUDENSLAGER: A bill (H. R. 14133) for the relief of William Peacock—to the Committee on Military Affairs.

By Mr. LITTLE: A bill (H. R. 14134) granting an increase of pension to Thomas McIntyre—to the Committee on Pensions.

By Mr. McCARTHY: A bill (H. R. 14135) for the relief of Jennie S. Sherman—to the Committee on Claims.

Also, a bill (H. R. 14136) granting an increase of pension to Jason Kester—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14137) granting an increase of pension to John Dineen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14138) granting an increase of pension to James P. Freeman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14139) granting an increase of pension to Edgar V. Harris—to the Committee on Invalid Pensions.

By Mr. McLAIN: A bill (H. R. 14140) granting an increase of pension to J. M. Cage—to the Committee on Pensions.

By Mr. MADDEN: A bill (H. R. 14141) granting a pension to Charles M. S. Ronsholdt—to the Committee on Pensions.

By Mr. MONDELL: A bill (H. R. 14142) granting an increase of pension to James A. Scrutfield—to the Committee on Invalid Pensions.

By Mr. PATTERSON of Pennsylvania: A bill (H. R. 14143) granting an increase of pension to Zacur P. Pott—to the Committee on Invalid Pensions.

By Mr. PATTERSON of Tennessee: A bill (H. R. 14144) granting a pension to Allen M. Cameron—to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 14145) granting an increase of pension to James Bowley—to the Committee on Invalid Pensions.

By Mr. RAINES: A bill (H. R. 14146) granting an increase of pension to W. G. Duckworth—to the Committee on Invalid Pensions.

By Mr. ROBINSON of Arkansas: A bill (H. R. 14147) for the relief of the heirs of Mary Edwards, deceased—to the Committee on War Claims.

By Mr. SHARTEL: A bill (H. R. 14148) to remove the charge of desertion from James Dunn—to the Committee on Military Affairs.

By Mr. SMITH of Iowa: A bill (H. R. 14149) granting an increase of pension to Mary Healy—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 14150) granting a pension to Eliza A. Burton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14151) granting a pension to William J. Ashby—to the Committee on Invalid Pensions.

By Mr. SMITH of Pennsylvania: A bill (H. R. 14152) to correct the military record of Samuel M. Crosby and grant him an honorable discharge—to the Committee on Military Affairs.

By Mr. SULLIVAN of New York: A bill (H. R. 14153) granting a pension to Ferdinand Spies—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14154) granting a pension to Michael H. Dunn—to the Committee on Pensions.

Also, a bill (H. R. 14155) granting a pension to George A. Green—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14156) granting an increase of pension to David M. Kittle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14157) granting an increase of pension to David S. Rickhow—to the Committee on Invalid Pensions.

By Mr. SULZER: A bill (H. R. 14158) granting an increase of pension to William McGovern—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 14159) granting an increase of pension to Zachariah Heed—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14160) granting an increase of pension to Louisa Anna Wilson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14161) granting an increase of pension to Sarah A. Kumler—to the Committee on Invalid Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 14162) granting an increase of pension to William W. Lichy—to the Committee on Invalid Pensions.

By Mr. WACHTER: A bill (H. R. 14163) granting an increase of pension to Jerome Lang—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 14164) granting a pension to Mary S. Prather—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14165) granting a pension to Gevert Schutte—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14166) granting a pension to George W. Drake—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14167) granting a pension to Marion Vest—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14168) granting a pension to James W. Scott—to the Committee on Invalid Pensions.

By Mr. WACHTER: A bill (H. R. 14169) granting an increase of pension to Bettie Stern—to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 14170) for the relief of U. S. Davis and Mrs. A. D. Foote—to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Francis Heimbach et al., and the Carney-Johnson Company, of Cleveland, Ohio, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Spokane Chamber of Commerce, relative to money for the Reclamation Service—to the Committee on Irrigation of Arid Lands.

Also, petition of the Lake Seamen's Union, for bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Pueblo Business Men's Association, for a reservation for Mesa Verde National Park—to the Committee on the Public Lands.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against an amendment to live stock transportation law—to the Committee on the Judiciary.

By Mr. ACHESON: Petition of the American Society for the Prevention of Cruelty to Animals, against an amendment to live stock transportation law—to the Committee on Interstate and Foreign Commerce.

By Mr. ADAMS of Pennsylvania: Petition of the Pennsylvania Dairy Union, favoring bill H. R. 345—to the Committee on Agriculture.

Also, petition of Quaker City Lodge, No. 149, Brotherhood of Railway Trainmen, for bill H. R. 239—to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of New York, favoring bill H. R. 12973—to the Committee on Foreign Affairs.

By Mr. ALLEN of Maine: Petitions of the Transcript and the Brunswick Record, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BEALL of Texas: Petitions of the Meridian Tribune and the Texas Mesquiter, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BELL of Georgia: Paper to accompany bill for relief of G. A. Anderson—to the Committee on Pensions.

Also, paper to accompany bill for relief of Andrew J. Sanders—to the Committee on Pensions.

Also, paper to accompany bill for relief of Samuel Garner—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of Mary A. M. Pettyjohn—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: Petition of Oliver Miller et al., relative to the Kentucky militia and the pension roll—to the Committee on Invalid Pensions.

Also, petition of Trinity Council, Junior Order United Ameri-

can Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BISHOP: Petition of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. BONYNGE: Petition of citizens of Colorado, favoring the adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. BOUTELL: Petition of citizens of Chicago and vicinity, favoring the adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. BRADLEY: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. BUCKMAN: Paper to accompany bill for relief of Smith M. Todd—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of David P. Marshall—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Orin W. Jones—to the Committee on Invalid Pensions.

By Mr. BURTON of Delaware: Petition of Maydell Council, No. 6, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. BURTON of Ohio: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the National Board of Trade, for a more liberal appropriation for rivers and harbors—to the Committee on Rivers and Harbors.

Also, petition of Ebe T. Lynch, for improvement of the harbor of refuge, Delaware Bay, Delaware—to the Committee on Rivers and Harbors.

By Mr. CLARK of Florida: Paper to accompany bill for relief of Andrew E. Hodges—to the Committee on Claims.

By Mr. COLE: Petition of citizens of the Eighth Congressional district of Ohio, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of the Eighth Congressional district of Ohio, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. CROMER: Petition of Fidelity Lodge, No. 109, Brotherhood of Railway Firemen, of Logansport, Ind., for the Bates-Penrose bill—to the Committee on the Judiciary.

By Mr. DAWSON: Petition of the Scott County Humane Society, against any amendment of the stock-transportation law—to the Committee on Interstate and Foreign Commerce.

By Mr. DEEMER: Petition of Grange No. 874, of Pennsylvania, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. DIXON of Montana: Petition of Rives Lodge, No. 450, of Great Falls, Mont., for the passage of bill H. R. 239—to the Committee on the Judiciary.

By Mr. DRAPER: Petition of the American Society for the Prevention of Cruelty to Animals, against amendment of the transportation live stock law—to the Committee on Interstate and Foreign Commerce.

By Mr. DRISCOLL: Petition of Central City Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the American Protective Tariff League, against bill H. R. 3—to the Committee on Ways and Means.

Also, petition of the Association for the Protection of Commerce, for deepening Coney Island channel—to the Committee on Rivers and Harbors.

Also, petitions of Gilbert M. Tucker and of the State Agricultural Society of New York, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Society of Medical Jurisprudence of New York, for reform in the Medical Department of the Army—to the Committee on Military Affairs.

Also, petition of the Maritime Association of New York, for deepening Coney Island channel—to the Committee on Rivers and Harbors.

Also, petition of the Minerva Club, of New York, for increase of the President's salary—to the Committee on Appropriations.

Also, petition of the New York State Grange, Patrons of Husbandry, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. FITZGERALD: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. FOSTER: Petition of the Stamford Chemical Com-

pany, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. FULLER: Paper to accompany bill for relief of Regina Albert—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Clark A. Winans—to the Committee on Invalid Pensions.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against amendment of the live stock transportation law—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of Andrew J. Baker—to the Committee on Pensions.

By Mr. GARDNER of Michigan: Petitions of the Daily Chronicle, the Marshall Statesman, the Cereal, the Mirror, the Register Weekly, the Medical Missionary, the Leader, the Albion College, and the Dog Fancier, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. GARRETT: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, paper to accompany bill for relief of Isaac N. Perry—to the Committee on Invalid Pensions.

By Mr. GILLETT of California: Petition of citizens of California, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. GOEBEL: Petition of Stephen T. Broding et al. and Price Hill Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Addystone Council, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. GRANGER: Petitions of Lulia Hatch Rhodes, representing 50 families, of Pawtucket; the Friends' Church of Woonsocket, R. I.; the Broadway Baptist Church, and the Methodist Episcopal Church of Middleton, R. I.—to the Committee on Alcoholic Liquor Traffic.

By Mr. GROSVENOR: Petition of the Ohio Vicksburg Battlefield Commission, for the enactment of the Parker bill—to the Committee on Military Affairs.

Also, petition of the grangers of Meigs County, for a parcels-postal law—to the Committee on the Post-Office and Post-Roads.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of citizens of Ohio, for a service-pension bill for \$12 per month to all Union soldier survivors of the war—to the Committee on Invalid Pensions.

By Mr. HAMILTON: Petition of L. W. Ruth, for a parcels-post law—to the Committee on Agriculture.

Also, petition of citizens of Corey, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAUGEN: Petition of the Interstate Contractors et al., of Mason City, Iowa, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Paper to accompany bill for relief of William H. Franklin—to the Committee on Invalid Pensions.

Also, petition of the Merchants' Association, for an appropriation for Yosemite Valley, California—to the Committee on Agriculture.

Also, petition of the Sailors' Union of San Francisco, against passage of bill S. 27, relating to crews of vessels—to the Committee on the Merchant Marine and Fisheries.

By Mr. HEDGE: Petition of the Ministerial Association of Louisa and Des Moines counties, Iowa, for the Hepburn-Dolliver bill—to the Committee on Alcoholic Liquor Traffic.

By Mr. HENRY of Connecticut: Petition of the American Enterprise, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. HIGGINS: Petition of citizens of Norwich, Conn., protesting against affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. HILL of Connecticut: Petition of Colonel Kellogg Council, No. 55, Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HINSHAW: Paper to accompany bill for relief of the Nebraska Mutual Life Insurance Company, of Stromsburg, Nebr.—to the Committee on Claims.

Also, paper to accompany bill for relief of B. P. Munns—to the Committee on Invalid Pensions.

Also, petition of J. H. Marsh et al., about affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. HITT: Petition of the American Society for the Prevention of Cruelty to Animals, against an amendment to live stock transportation law—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of New York, favoring bill H. R. 12973—to the Committee on Foreign Affairs.

Also, petition of the Lake Seamen's Union, favoring bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

By Mr. HUBBARD: Petition of Sioux City Division, Order of Railway Conductors, for the Bates-Penrose bill—to the Committee on the Judiciary.

By Mr. KAHN: Petition of the counties committee of the California Promotion Commission, relative to Federal control of irrigation, forest reservation, etc.—to the Committee on Agriculture.

Also, petition of Franklin A. Little, for bill H. R. 8988, for the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of Golden Gate Harbor, No. 40, American Association of Masters, Mates, and Pilots, of San Francisco, for an appropriation for the light-house board of the twelfth district—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the San Francisco Medical Society, for reform of the Medical Department of the Army—to the Committee on Military Affairs.

Also, petition of the Merchants' Association of San Francisco, for an appropriation for the Yosemite Valley—to the Committee on Agriculture.

Also, petition of the Silver Union of the Pacific, for the bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Chamber of Commerce of San Francisco, Cal., relative to the customs of Hawaii—to the Committee on the Territories.

By Mr. KEIFER: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of H. Kampf, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. KELIHER: Petition of Mrs. Robert G. Shaw et al., favoring passage of bills S. 2327 and H. R. 5065—to the Committee on Agriculture.

By Mr. KITCHIN: Petition of E. N. Dickerson, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. KNAPP: Paper to accompany bill for relief of O. J. Jennings—to the Committee on Claims.

Also, petition of Central Square Grange, No. 583, and Watertown Grange, No. 7, of New York, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LILLEY of Pennsylvania: Petition of citizens of Towanda, Pa., for preservation of Niagara Falls—to the Committee on Foreign Affairs.

Also, petition of Grange No. 204, and Reid Verguson, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of the Evening News, the Pennsylvania Medical Journal, and the Examiner, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. LLOYD: Petition of the Missouri State News, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. LOUDENSLAGER: Petition of Harrisonville (N. J.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of Camden County (N. J.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of W. G. Nelson, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MCKINNEY: Petition of the Lake Seamen's Union, favoring bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

By Mr. McNARY: Petition of citizens of Massachusetts, favoring the adoption of the metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. MADDEN: Paper to accompany bill for relief of Charles M. S. Ronsholdt—to the Committee on Pensions.

By Mr. MAHON: Petition of the Society for the Prevention of Cruelty to Animals, of Pennsylvania, against an amendment to the stock transportation law—to the Committee on Interstate and Foreign Commerce.

By Mr. MANN: Petition of the American Bee Journal, the

Opthalmologist, and the International Auctioneer, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. MARSHALL: Petitions of the North Dakota Farmer, the Weekly Student, the Siftings, the News, the Tribune, the Mistletoe, the Sentinel, the Journal, the Tribune Rugby, the North Dakota Eagle, the Rotary, the Palladium, and the Westland Educator, against the tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of citizens of North Dakota, relative to a law to promote commerce with foreign markets—to the Committee on Ways and Means.

Also, petition of citizens of North Dakota, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. OTJEN: Petition of the American Turnzeitung, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. PATTERSON of Pennsylvania: Paper to accompany bill for relief of Zaeur P. Pott—to the Committee on Invalid Pensions.

Also, petitions of the Tribune, A. M. Milukas, the Evening Herald, and the Call, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. PAYNE: Petition of citizens of Auburn, N. Y., for repeal of the duty on hides—to the Committee on Ways and Means.

By Mr. POLLARD: Petition of the State Farmers' Institute Association of Lincoln, Nebr., for bill H. R. 345—to the Committee on Agriculture.

By Mr. PRINCE: Petitions of the Lewiston Record, publishers of the Republican Register, and the Times, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. RAINY: Petition of M. O. Atterberry et al., against any and all parcels-post laws—to the Committee on the Post-Office and Post-Roads.

By Mr. ROBINSON of Arkansas: Petition of citizens of Arkansas, against the tariff on hides—to the Committee on Ways and Means.

By Mr. RYAN: Petition of the Lake Seamen's Union, for passage of bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

By Mr. SHARTEL: Petition of citizens of Missouri, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SHERMAN: Petitions of Painters, Decorators, and Paper Hangers' Union No. 69, of Utica, N. Y., and L. C. Williams, of Utica, N. Y., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of George Stewart—to the Committee on Invalid Pensions.

By Mr. SPERRY: Petitions of the Commercial Record and the Progress, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Petition of the president and faculty of Texas University, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. STEVENS of Minnesota: Petition of the Stark Creamery Company, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SULLIVAN of New York: Petition of the People's Bank of St. Louis, relative to the "fraud order" of the Postmaster-General—to the Committee on the Post-Office and Post-Roads.

Also, petition of the National Association of Manufacturers, relative to reform in the land laws, etc.—to the Committee on Agriculture.

Also, petition of the refrigerator car lines committee of the National League of Commission Merchants of the United States, relative to refrigerator car rates, etc.—to the Committee on Interstate and Foreign Commerce.

Also, petition of the transportation committee of the Chamber of Commerce of Buffalo, N. Y., for the Interstate Commerce Commission to control railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of A. E. Yoell and the Japanese and Korean Exclusion League, favoring strict enforcement of the Chinese-exclusion law—to the Committee on Foreign Affairs.

Also, petition of the American Reciprocal Tariff League, favoring reciprocal commercial relations with foreign countries—to the Committee on Ways and Means.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of Thomas E. Lannen, of Chicago, Ill., against the Heyburn and Hepburn bills—to the Committee on Agriculture.

By Mr. TALBOTT: Petition of George W. Belt et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. TAYLOR of Ohio: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. THOMAS: Petition of the Germania, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. TIRRELL: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. WACHTER: Paper to accompany bill for relief of Jerome Lang—to the Committee on Invalid Pensions.

By Mr. WALLACE: Petition of the board of directors of Red River Levee District, No. 1, for improvement of Red River—to the Committee on Rivers and Harbors.

By Mr. WEBB: Petition of the North Carolina Library Association, against amendment to the copyright law—to the Committee on Patents.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against amendment to the live-stock transportation law—to the Committee on Interstate and Foreign Commerce.

By Mr. WEEMS: Paper to accompany bill for relief of Jessie S. Sherman—to the Committee on Claims.

Also, petitions of Maynard and Kirkwood councils, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, paper to accompany bill for relief of Martin Dayhuff—to the Committee on Invalid Pensions.

Also, petitions of the Chronicle and the Independent, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. WILSON: Petition of the Lake Seamen's Union, relative to efficiency of crews on steamers—to the Committee on the Merchant Marine and Fisheries.

By Mr. WEISSE: Paper to accompany bill for relief of Albert Butler—to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: Petition of the First Baptist Church of Hughestown, N. J., against bill H. R. 7043—to the Committee on Military Affairs.

SENATE.

TUESDAY, February 6, 1906.

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

The Journal of yesterday's proceedings was read and approved.

MEDICAL DEPARTMENT OF ARMY AND ARMY DENTAL SURGEONS.

Mr. HALE. Mr. President, I have been detained from the Senate for the last three weeks by illness, and the doctors have just let me out. Yesterday, in my absence, two bills were passed by unanimous consent, upon which I had relied on objection being made until I could be present. I will give the titles of the bills and simply ask that the votes passing them be reconsidered and that they be restored to the Calendar in order that I may have the opportunity of objecting; and that a message be sent to the House in accordance therewith. They are the bill (S. 1539) to increase the efficiency of the Medical Department of the United States Army, and the bill (S. 2355) to regulate the corps of dental surgeons attached to the Medical Department of the Army.

The VICE-PRESIDENT. The Senator from Maine enters a motion to reconsider.

Mr. HALE. No; I do not. I ask consent that the votes be reconsidered and that the bills go to the Calendar.

Mr. LODGE. I suggest to the Senator from Maine that the chairman of the committee, the Senator from Wyoming [Mr. WARREN], and the Senator from Alabama [Mr. PETTUS], who took great interest in the dental surgeons' bill, are not present. I think we could hardly grant unanimous consent in the absence of those Senators.

Mr. HALE. I should like to have the matter disposed of now.

Mr. MONEY. No one on this side could hear anything that was said by the Senator from Maine. We only understand that a motion has been made to restore a bill to the Calendar. We do not know what the bill is, nor what objection is made by the Senator from Massachusetts. We should be very glad to know.

Mr. HALE. Two bills were reported from the Committee on Military Affairs to increase the expenses of two different

branches of the War Department. I am opposed to increasing the expenses of any part of the War Department, but I do not propose to argue that question now. As I was absent on account of illness and was depending upon another Senator to make objection, who did not understand that I expected it, I simply ask that the votes passing the bills be reconsidered and that they be restored to the Calendar, so that I may have the same opportunity I would have had if I had been here yesterday.

I will say further I desire very much that it should be done now, because I do not expect to remain long in the Senate today. I will say further that I do not expect to do anything about these bills except that they shall be brought to the attention of the Senate and properly discussed when they are reached upon the Calendar. But there has been no opportunity for that, and in my absence they were passed, as they certainly would not have been passed, because my single objection would have kept them on the Calendar.

I simply ask that the votes be reconsidered, and that the bills be restored to the Calendar.

Mr. SCOTT. Mr. President, I ask the Senator from Maine if he will not withhold his motion until the Senator from Alabama [Mr. PETTUS] is here. The dental surgeons bill was referred to him as a special committee by the Committee on Military Affairs at two different sessions of Congress, and the Senator from Alabama is very much interested in it. After a thorough investigation he reported favorably on the bill, and I think it is only due to him, as it is due to the Senator from Maine, that he should be given an opportunity to be present in the Chamber when unanimous consent is given.

Mr. WARREN entered the Chamber.

Mr. SCOTT. The Senator from Wyoming, who is chairman of the committee, is now here. Possibly he can speak for the Senator from Alabama.

Mr. HALE. Does the Senator from Wyoming understand the request I have made?

Mr. WARREN. I just came into the Chamber this moment.

Mr. HALE. I will state it again. I have been detained by illness, as the Senator, perhaps, knows. It is the first time I have been here. I will say for the information of the Senator from Wyoming, the chairman of the committee, that in my absence yesterday two bills increasing the expenses of two branches of the Army, to which I am opposed, were passed by unanimous consent, I depending upon a Senator to object for me, and he not understanding and not making the objection.

Mr. WARREN. May I ask the Senator to what bills he refers?

Mr. HALE. The bill covering the medical corps and the dental surgeons bill. All I ask is that the votes be reconsidered and the bills restored to the Calendar and the House notified, so that I may have the same privilege which I would have had and exercised yesterday had I been able to be present.

Mr. WARREN. As far as I am concerned, I have not the slightest objection to the course which the Senator pursues, for I am sure if the bills can not stand on their merits they ought not to be passed, and I would not be one to take any advantage, as I know the Senator will believe that no advantage was sought to be taken in his absence.

Mr. HALE. I understand that entirely.

Mr. WARREN. I would not be willing to have it even seem that we would take that advantage. So I trust the course may be pursued which the Senator suggests.

The VICE-PRESIDENT. The Chair will state that the bills have not gone to the House.

Mr. HALE. Then I simply ask unanimous consent that the votes be reconsidered.

The VICE-PRESIDENT. The Senator from Maine asks unanimous consent that the votes by which Senate bill 1539 and Senate bill 2355 were ordered to a third reading, and passed, be reconsidered. Is there objection? The Chair hears none, and it is so ordered. The bills will be restored to the Calendar.

ACCEPTANCE OF DECORATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, requesting that Prof. Simon Newcomb, United States Navy, retired, be authorized to accept a decoration of the order "Pour le Mérite, für Wissenschaften und Kunste," conferred upon him by the German Emperor, and that the Department of State may be permitted to deliver the decoration to Professor Newcomb; which, with the accompanying paper, was referred to the Committee on Foreign Relations, and ordered to be printed.

LANDS IN FOREST RESERVES.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting letters