SENATE.

FRIDAY, *June 22, 1906.*

Prayer by Rev. JOHN VAN SCHAICK, Jr., of the city of Washington.

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

The VICE-PRESIDENT. The Journal stands approved.

LANDS AT MENA, ARK.

Mr. BERRY. Mr. President, there is a House bill on the table that I should be glad to have passed. I ask the Chair to lay it before the Senate.

The bill (H. R. 18529) to authorize the sale of certain lands to the city of Mena, in the county of Polk, in the State of Arkansas, was read the first time by its title, and the second time at length, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to sell to the city of Mena, in the county of Polk, in the State of Arkansas, at and for the sum of $2.50 per acre, the following-described lands, to wit: The fractional northwest quarter of the northwest quarter of section 6, township No. 2 south, range 30 west of the fifth principal meridian. And upon the payment of said sum the said Secretary is authorized to issue patent for said lands to said city.

Mr. BERRY. I will state that a precise copy of the bill has already passed the Senate, but a House bill was passed at the other end of the Capitol, and I ask unanimous consent for its present consideration.

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

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

Mr. HALE. I ask for the regular order.

The VICE-PRESIDENT. Petitions and memorials are in order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 16785. An act giving preference right to actual settlers on pasture reserve No. 3 to purchase land leased to them for agricultural purposes in Comanche County, Okla.;

H. R. 19682. An act authorizing the Commissioners of the District of Columbia to permit the extension and construction of railroad sidings in the District of Columbia, and for other purposes; and

H. R. 20210. An act to authorize the city of St. Louis, a corporation organized under the laws of the State of Missouri, to construct a bridge across the Mississippi River.

ENROLLED BILLS SIGNED.

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

S. 1540. An act to increase the efficiency of the Ordnance Department of the United States Army;

S. 1697. An act confirming to certain claimants thereto portions of lands known as Fort Clinch Reservation, in the State of Florida;

S. 2948. An act to amend section 1 of the act approved March 3, 1905, providing for an additional associate justice of the supreme court of Arizona, and for other purposes;

S. 3044. An act to promote the efficiency of the Revenue-Cutter Service;

S. 3743. An act to confirm the right of way of railroads now constructed and in operation in the Territories of Oklahoma and Arizona;

S. 4190. An act to amend an act entitled "An act to amend section 2455 of the Revised Statutes of the United States," approved February 26, 1895;

S. 4954. An act authorizing Capt. Ejnar Mikkelsen to act as master of an American vessel;

S. 6243. An act to amend an act approved March 2, 1903, entitled "An act to establish a standard of value and provide for a coinage system in the Philippine Islands;"

S. 6333. An act authorizing the Secretary of War to acquire, for fortification purposes, certain tracts of land on Deer Island, in Boston Harbor, Massachusetts;

S. 6462. An act granting lands to the State of Wisconsin for forestry purposes; and

S. R. 52. Joint resolution authorizing the Secretary of War to donate to the board of trustees of Vincennes University, Vincennes, Ind., such obsolete arms and other military equipment now in possession of said university, to be used in military instruction.

PETITIONS AND MEMORIALS.

Mr. BURNHAM presented petitions of sundry citizens of Keene, Alton Bay, Manchester, and Belmont, all in the State of New Hampshire, praying for the adoption of a certain amendment to the sundry civil appropriation bill excluding alcoholic beverages from Soldiers' Homes; which were ordered to lie on the table.

Mr. DANIEL presented the petition of P. M. Jones and sundry other citizens of Buckingham County, Va., praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

He also presented a memorial of Local Division No. 456, Brotherhood of Locomotive Engineers, of Norfolk, Va., remonstrating against the passage of the so-called "antipilotage bill;" which was referred to the Committee on Commerce.

Mr. PETTUS presented a paper to accompany the bill (S. 3100) for the relief of the St. Louis, Iron Mountain and Southern Railway Company; which was referred to the Committee on Claims.

He also presented a paper to accompany the bill (S. 3101) for the relief of the Northern Pacific Railway Company; which was referred to the Committee on Claims.

Mr. HOPKINS presented a memorial of Clark Mills Carr Camp, No. 26, United Spanish War Veterans, Department of Illinois, of Galesburg, Ill., remonstrating against the enactment of legislation authorizing the distribution of medals of honor to such officers and men now serving in the Regular Army, who saw service during the Spanish-American war, the Philippine insurrection, and the relief expedition in China; which was referred to the Committee on Military Affairs.

HISTORY OF THE DELAWARE INDIANS.

Mr. CLAPP. I present a memorial of the Delaware Indians, giving a brief history of their origin. It is a matter of interest and contains a good deal of legislative history. I move that the memorial be printed as a document.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. PERKINS, from the Committee on Commerce, to whom was referred the bill (H. R. 7099) to amend section 2871 of the Revised Statutes, reported it with amendments.

Mr. NELSON, from the Committee on Commerce, to whom was referred the bill (H. R. 12080) granting to the Siletz Power and Manufacturing Company a right of way for a water ditch or canal through the Siletz Indian Reservation, in Oregon, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. WARREN, from the Committee on Military Affairs, to whom were referred the following bills, submitted adverse reports thereon; which were agreed to, and the bills were postponed indefinitely:

A bill (S. 6125) for the relief of Gustav A. Hesselberger; and

A bill (S. 1507) for the relief of Herman C. Funk.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 11030) to authorize the counties of Yazoo and Holmes to construct a bridge across Yazoo River, Mississippi, reported it without amendment.

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

A bill (H. R. 7871) granting an increase of pension to Jerome L. Brown;

A bill (H. R. 7652) granting an increase of pension to Charles W. Timms;

A bill (H. R. 11888) granting an increase of pension to Heman A. Harris;

A bill (H. R. 8215) granting an increase of pension to Ira Palmer; and

A bill (H. R. 19604) granting an increase of pension to Beverly McK. Lacey.

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

A bill (H. R. 15506) authorizing the patenting of certain lands to school district No. 57, Nez Perces County, Idaho; and

A bill (H. R. 17186) granting to the Territory of Oklahoma, for the use and benefit of the University Preparatory School of the Territory of Oklahoma, section 33, in township No. 26 north, of range No. 1 west of the Indian meridian, in Kay County, Okla.

JOHN E. PHELPS.

Mr. WARNER. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 3535) to authorize

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the President to appoint John E. Phelps, late brigadier-general of volunteers, first lieutenant in the United States Army, and place him on the retired list, to report it favorably with amendments. I call the attention of the Senator from Washington [Mr. PILES] to the bill.

Mr. PILES. I ask for the present consideration of the bill.

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

The first amendment of the Committee on Military Affairs was, in line 5, to strike out the words "brigadier-general of volunteers" and insert "colonel Second Arkansas Cavalry Volunteers;" so as to read:

Be it enacted, etc., That the President be, and he is hereby, authorized to appoint, with the advice and consent of the Senate, John E. Phelps, late colonel Second Arkansas Cavalry Volunteers, first lieutenant in the United States Army, and place him on the retired list with the rank and pay of a first lieutenant.

The amendment was agreed to.

The SECRETARY. The next amendment is, at the end of the bill, to change the period to a semicolon, and insert:

And the retired list is hereby increased by one for the said purpose: *Provided*, That no pay, allowances, bounty, or other emoluments shall become due or payable to the said John E. Phelps for any period prior to the passage of this act.

Mr. HALE. Mr. President, I call for the regular order.

The VICE-PRESIDENT. Objection is made, and the bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. NELSON introduced a bill (S. 6512) granting an increase of pension to Melende H. R. Smith; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CRANE introduced a bill (S. 6513) to promote the circulation of reading matter among the blind; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Post-Offices and Post-Roads.

He also introduced a bill (S. 6514) granting an increase of pension to Alfred Augustus Stocker; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6515) authorizing the President to appoint William Woolsey Johnson to be a professor of mathematics on the retired list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

AMENDMENT TO PUBLIC BUILDINGS BILL.

Mr. NELSON submitted an amendment intended to be proposed by him to the public buildings bill; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SYMPATHY FOR HEBREWS IN RUSSIA.

Mr. McLAURIN. I introduce a joint resolution and ask for its immediate consideration.

The joint resolution (S. R. 68) expressing the sympathy of the people of the United States with the Hebrews on account of the massacres of members of their race in Russia, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That the people of the United States are horrified by the report of the massacre of Hebrews in Russia on account of their race and religion, and that those bereaved thereby have the hearty sympathy of the people of this country.

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

Mr. KEAN. Let it be again read.

The Secretary again read the joint resolution.

Mr. LODGE. That is a pretty important resolution. I think it had better go over.

The VICE-PRESIDENT. Objection is made, and the joint resolution goes over.

Mr. LODGE subsequently said: The joint resolution which was introduced and which I asked might go over I have examined, and it seems to me there is no objection to it.

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

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

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

STATISTICS RELATIVE TO LIVE STOCK.

Mr. WARREN submitted the following resolution, which was read:

Resolved by the Senate, That the Secretary of the Department of Commerce and Labor cause to be made by the Bureau of the Census, and to present the same to the Senate, a statement compiled from the most recent census returns, showing the number and value of cattle, sheep, horses, and swine in the United States; the number and value exported; the number and value imported; the number of persons employed in the slaughtering of live stock and the preparation of meat products and the amount of wages paid them; the amount of duty collected from imports of live stock for the most recent year for which such statistics have been collected.

Also a statement of the statistics of hides and leather tanned, curried, and finished; the number and value of boots and shoes manufactured in the United States; the number and value exported; the number and value imported; the number of persons employed in the manufacture of leather products, including boots and shoes, and the amount of wages paid them; the amount of duty collected from imports of leather products, including boots and shoes, and the value of hides and leather admitted free of duty, and the value of hides and leather admitted upon which duty is paid, and the amount of the same for the most recent year for which statistics have been collected.

Mr. WARREN. I ask that the resolution may lie upon the table, as I wish to submit some remarks upon it at a later date and before the close of the session.

The VICE-PRESIDENT. The resolution will lie on the table.

COMMERCIAL ORGANIZATIONS AND AGRICULTURAL ASSOCIATIONS.

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

Resolved, That the Interstate Commerce Commission is hereby directed to furnish to the Senate a list of national, State, and local commercial organizations, also national, State, and local agricultural associations of the United States, to such extent as may be practicable, report to be made to the Senate during the month of December next, and that 1,500 copies be printed for the use of the Senate.

POST-OFFICE APPROPRIATION BILL.

Mr. PENROSE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16953) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1907, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 13, 27, 28, 39, 40, 41, 49, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 67, 68, 70, 71, 72, 73, 76, 77, 79, and 80.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 11, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 44, 45, 46, 47, 48, 66, 69, 74, 75, and 82; and agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: Strike out the word "thirty-five" and insert the word "seventy-two;" and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: Strike out "five hundred and fifty-four thousand seven hundred and fifty" and insert "five hundred and ninety-nine thousand one hundred and fifty;" and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: Strike out the word "ninety-four" and insert the words "one hundred and forty-seven;" and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: Strike out the words "one hundred and five" and insert the word "ninety-five;" and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: Strike out the word "eight" and insert the word "six;" and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows: Strike out the words "three hundred and seventy" and insert the words "two hundred and fifty;" and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows: Strike out the words "eight hundred and thirty" and insert the words "eight hundred;" and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"That the Postmaster-General shall require all railroads carrying the mails under contract to comply with the terms of said contract as to time of arrival and departure of said mails, and it shall be his duty to impose and collect reasonable fines for

delay when such delay is not caused by unavoidable accidents or conditions."

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"For pay of freight or expressage on postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the postal service, except postage stamps, two hundred and fifty thousand dollars. And the Postmaster-General shall require, when in freightable lots and whenever practicable, the withdrawal from the mails of all postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the postal service, except postage stamps, in the respective weighing divisions of the country immediately preceding the weighing period in said divisions, and such postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment and other supplies for the postal service, except postage stamps, shall be transmitted by either freight or express."

And the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment as follows: Strike out the words "thirty thousand" and insert the words "twenty-seven thousand five hundred;" and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: Strike out the words "thirty-two thousand five hundred" and insert the words "thirty thousand;" and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: Strike out the words "seven hundred and ninety-three thousand six hundred" and insert the words "eight hundred and seventy thousand;" and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows: Strike out of the amendment "exclusive of holidays and Sundays," and substitute for the proviso the following: "That in the discretion of the Postmaster-General the pay of any rural carrier on a water route who furnishes his own power boat and is employed during the summer months may be fixed at an amount not exceeding seven hundred and twenty dollars in any one calendar year;" and the Senate agree to the same.

Amendment numbered 81: That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment as follows: In lieu of the matter stricken out by said amendment insert the following: "That hereafter no article, package, or other matter, except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps, shall be admitted to the mails under a penalty privilege, unless such article, package, or other matter, except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps, would be entitled to admission to the mails under laws requiring payment of postage;" and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows: Strike out the word "Committee" wherever it appears and insert in lieu thereof the word "Commission;" and add at the end of said amendment the words "out of any money in the Treasury not otherwise appropriated, to be paid out on the order of the chairman of the Joint Commission;" and the Senate agree to the same.

BOIES PENROSE,
A. S. CLAY,
J. P. DOLLIVER,
Managers on the part of the Senate.
JESSE OVERSTREET,
J. J. GARDNER,
JOHN A. MOON,
Managers on the part of the House.

Mr. PENROSE. I ask that the report may lie upon the table until I can have an opportunity of calling it up after the pending appropriation bill shall have been disposed of.

Mr. GALLINGER. Let it be printed.

Mr. PENROSE. Yes; let it be printed.

The VICE-PRESIDENT. The report will be printed, and lie on the table.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HALE. I move to take up the sundry civil appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19844) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes.

The VICE-PRESIDENT. The pending question is on agreeing to the amendment reported by the Committee on Appropriations, on page 102, after line 9, to insert a proviso relative to the traveling expenses of the President.

Mr. McCUMBER. Mr. President, I can not believe that the President of the United States will concur in this amendment proposed by the committee. Ever since the President has held his exalted position he more than any other man in the United States has promulgated the doctrine of equal rights to all and special privileges to none in the matter of transportation. The railroad rate bill which we have been considering for more than three months at the present session is the result of the persistent effort of the Executive of the United States for equal rights for the traveling public. Following his example and his strong inclination to remedy any wrong whereby any citizen should have any right that would be denied to any other citizen of the United States the Senate and House have passed an act which will undoubtedly become a law, which absolutely prevents any one of the Members of Congress or of the Executive Departments or the judiciary from accepting any special privileges from any transportation company. Now, this amendment seeks to make the author of this legislation an exception. I can not believe that the President who has so strenuously insisted upon equality of treatment will concur in a proposition that he himself is not to be considered as subject to the law which he has advocated for three years.

Those who propose this amendment seek to place it upon the ground that the President as the Commander in Chief of the Army and Navy is compelled to travel about the United States in the performance of his official duties. But, Mr. President, the law now provides for the payment of all the expenses of members of the Army or the Navy in their travels, and if in performing the functions of Commander of the Army or of the Navy the President travels from one place to another there is provision for paying his expenses.

This, Mr. President, does not pertain to a great fundamental doctrine that is established by the Constitution, that the Congress of the United States shall not increase the salary or compensation, nor shall the Congress or any State give any emolument to the Executive that has not been fixed prior to the time of his entry into that official position. It seems to me that this proposition can not be gainsaid.

In the nearly two hours in which I spoke yesterday I felt that I was speaking practically in the time of the Senator from Mississippi [Mr. McLAURIN], who undoubtedly desires to go on now with the discussion, and the Senator from Georgia [Mr. BACON], for whom I requested yesterday a delay, is now present, and I hope he will have an opportunity to discuss this matter.

Mr. HALE. Mr. President, the Senator from North Dakota for some reason appears to want to delay this matter. I trust that Senators who desire to debate it, who have the right to debate it, will bear in mind that it is very important that the pending bill shall be disposed of to-day as early as possible and sent to the House. I ask Senators who are discussing this matter and who are as much interested as I am in the business of the Senate to bear in mind the importance of getting the bill out of the Senate and over to the House and into conference.

Mr. McCUMBER. Mr. President, I can scarcely rest under the statement of the Senator from Maine that I evidently desire to delay the consideration of this bill. I stated yesterday to the Senator from Maine that nothing was farther from my mind than any intent to delay it. I also stated to him last evening that I would not speak more than ten minutes on the matter this morning. I have reduced that ten minutes to less than three minutes. That being the case, I do not feel that the Senator does either justice to himself or to me in assuming that I am attempting in the slightest degree to delay the consideration of this matter. I presume it will go to a vote in a very short time.

Mr. McLAURIN. Mr. President, I wish to say, so far as I am concerned, that I have taken up about as little time of the Senate in presenting my views before the Senate as any Senator on the floor. There have been frequently occasions when I have felt like presenting my views on matters, but I have refrained from doing so because I did not want to consume the time of the Senate.

I am as anxious to expedite the business of the Senate so that

we may get an early adjournment as the Senator from Maine or any other Senator in the Chamber, and I would not now say anything further upon this amendment, but rest it upon what I have already said, except for the fact that it might appear I had complained of the allowance to the President of horses and carriages and the yacht which have been used, as I understand, by him, and by his family, for that matter. I make no complaint of that. The fact is that I do not think anyone makes any objection to it. I have not heard anyone make any objection to it. The objection I have made is to singling out the President and making an appropriation to pay his expenses and the expenses of his attendants and of his invited guests, the money to be expended and disbursed according to his discretion, upon any trip that he sees proper to take.

I make an objection to that, not so much on account of $25,000 involved in it, although I do not believe that it is in the rightful province of Congress to expend any money, however small the sum may be, except for the purposes of government, but I make the objection to it because there is a principle in it which draws a distinction between classes in this country. If you start, as I have said before, with the highest officer in the country and give him a preference and discrimination in his favor, after a while it will reach down to the lower offices and officers and on down, until there will be a class between the officers of the country and the private citizen and a discrimination made against private citizens. Against that I protest. Against the principle I protest. No man is required to associate with me who does not desire to do so. A man may select his own associates; but when it comes to the law, I have the same opportunity before the law that any other man has, and I want every other man to have the same opportunity before the law that I have. I therefore do not want any principle established that will make any discrimination or any distinction.

I want to read the syllabus here of a case on the constitutional feature of this amendment, and I shall have very little to say after that. The constitutional question was raised by the Senator from North Dakota [Mr. McCUMBER], and I think very properly raised, and I think the constitutional proposition he makes is a correct one from a legal point of view. That is ridiculed by the Senator from Indiana [Mr. HEMENWAY], who says that no matter can come up here unless somebody interposes an objection to its constitutionality and that its constitutionality must be questioned and investigated.

Now, will any Senator say candidly that any question ought to be passed by Congress about which there is any constitutional question that should not first be carefully scrutinized to see whether it measures up to the constitutional requirements, whether it squares with the Constitution or not? What Senator would say that the Constitution makes no difference? True it is that I have been sworn to obey the laws and Constitution of the country; true it is that my oath and obligation to my Maker, to my country, to my State, and to myself requires that I should investigate constitutional questions, because I am compelled by that obligation to square my official conduct and legislative enactments by the Constitution, yet any question of constitutionality must be turned out as being ridiculous in the eyes of some Senators.

In the case to which I referred the Senator from North Dakota yesterday, The Queen *v.* Postmaster-General (3 Queen's Bench Division, 428), a case that was appealed from the Queen's bench division to the court of appeals of England, it was held that traveling expenses are emoluments. This is one of the cases where I do not think it was necessary to have a judicial ascertainment of that question or a judicial decision of it, but inasmuch as Senators question it now, inasmuch as it is in the book, I propose to read it. It is on page 1205 of the tenth volume of the second edition of the American and English Encyclopedia of Law:

Traveling expenses.—The English telegraph act of 31 and 32 Victoria, chapter 110, enables the postmaster-general to purchase the undertakings of telegraph companies. By section 8, subsection 7, every officer and clerk of any company, the undertaking of which may be so purchased, who has been a certain time in the service of the company, and who is in receipt of a certain salary, is entitled, if he receive no offer of an appointment by the postmaster-general in the telegraphic department, to receive an annuity, which, under certain circumstances, shall be equal to two-thirds of the "annual emolument" derived by him from his office on a certain date. Under this act, S., an officer of a telegraph company that had been purchased, claimed as a part of his "annual emolument" the traveling expenses allowed him by the company, by reason of which he saved a large part of the money which he would otherwise have expended at home for board and lodging. It was held by the court of appeal, affirming the judgment of the Queen's bench division, that anything which S.'s allowance enabled him to save from his ordinary expenses was an emolument, and therefore a subject for compensation. Brett, L. J., said: "That annual emolument is the value of his appointment. If a person only receives a salary, what is the value of his appointment? If there is nothing to be added to the salary or deducted from it, the value of the appointment is the salary; but if the salary is subject to his finding certain materials, it would be impossible to say that the salary is the proper measure of the value of the appointment or of his emolument. The emolument would be the amount of the salary, less the cost of the materials he had to supply. Then, if he receives a salary and something additional by way of remuneration, the value of the appointment or of the emolument must be the salary, and anything which he gains by the remuneration." Reg. *v.* Postmaster-General, 3 Q. B. D., 428. (American and English Encyclopedia of Law, vol. 10, p. 1205. Documents of Title to Emoluments.)

Now, if that is authority in this country, and I believe the English decisions have been held to be authority, as a rule, there can be no question that traveling expenses have been decided to be emoluments. Then, if they are emoluments, the Constitution is so plain that any effort to give these emoluments is unconstitutional.

Even the Senator from Maine says that the salary of the present President of the United States can not be increased—that is to say, it can not be increased by direct legislation; and this seems to me to be indirect legislation to do that which can not be directly done.

Now, I will read from the Federalist, on page 488, what Alexander Hamilton said with reference to the increase or decrease of the emoluments of the office of the President of the United States. I am indebted to my friend the senior Senator from Florida [Mr. MALLORY] for this reference to the Federalist, which I take pleasure in acknowledging:

To the people of the State of New York:

The third ingredient toward constituting the vigor of the Executive authority is an adequate provision for its support. It is evident that without proper attention to this article, the separation of the executive from the legislative department would be merely nominal and nugatory. The legislature, with a discretionary power over the salary and emoluments of the Chief Magistrate, could render him as obsequious as their will, as they might think proper to make him. They might, in most cases, either reduce him by famine or tempt him by largesses to surrender at discretion his judgment to their inclinations. These expressions, taken in all the latitude of the terms, would no doubt convey more than is intended. There are men who could neither be distressed nor won into a sacrifice of their duty, but this stern virtue is the growth of few soils; and in the main it will be found that a power over a man's support is a power over his will. If it were necessary to confirm so plain a truth by facts, examples would not be wanting, even in this country, of the intimidation or seduction of the Executive by the terrors or allurements of the pecuniary arrangements of the legislative body.

And, then, by a note there is a reference to a case where the governor of the State of Pennsylvania was intimidated into doing that which he had promised before his election he would not do.

It is not easy, therefore, to commend too highly the judicious attention which has been paid to this subject in the proposed Constitution. It is there provided that "the President of the United States shall at stated times receive for his service a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them." It is impossible to imagine any provision which would have been more eligible than this. The legislature, on the appointment of a President, is once for all to declare what shall be the compensation for his services during the time for which he shall have been elected. This done, they will have no power to alter it, either by increase or diminution, till a new period of service by a new election commences. He can neither weaken his fortitude by operating upon his necessities nor corrupt his integrity by appealing to his avarice. Neither the Union nor any of its members will be at liberty to give, nor will he be at liberty to receive any other emolument than that which may have been determined by the first act. He can, of course, have no pecuniary inducement to renounce or desert the independence intended for him by the Constitution.

Mr. President, it was said on yesterday that the President of the United States ought to take newspaper correspondents along with him, that the people may know what he is doing; that the people desire to know this. I deny this proposition. A few curious people and people who have curiosity to gratify may like to read, and a good many toadies may like to read what the President is doing, what time of morning he got up, what time of evening he retired, what he ate for breakfast and for dinner and for supper, but the vast mass of the people regard the President as a human being. They do not care anything about the diet of the President or the drinking of the President, so he does not drink to intoxication, nor do they think about the President, except that he shall perform the duties that they elected him to perform.

But it has been said that the people desire that the President shall go among them and see them. Why, sir, if the President were to take up all his time in visiting among the people, not one out of one thousand would have an opportunity to see the President. If he performs the duties of the office confided to him and spends the balance of the time in traveling over the country that the people may have an opportunity to see him, as if he were some show, I doubt, sir, if one man in ten thousand people would have an opportunity to see him. I doubt, sir, whether a great many of the people would have more curiosity to see the President of the United States than they would to see Aguinaldo. The people of the United States elect a man not because they think he is better than anybody else, but because they want somebody and they are compelled to have somebody, according to the form of government that we have, to

perform the duties of the office of the President of the United States. They have respect for him. They honor him. They honor the office. It is proper that the people should honor the President and honor the office. But when it comes to a curiosity to see him, they have no more curiosity to see him than any other man of note or distinction. As many men would have gone to see Gladstone as to have seen the President of the United States. It is on account of the great name that has gone out among the people in the newspapers and about whom the people have read, and it does not make any difference particularly whether he is the President of the United States or any other man of great distinction.

Mr. President, there are a great many more things I should like to say about this matter, but I am admonished by the Senator from Maine that we must cut this debate short, and I can understand his anxiety to get through with the bill that is in his charge. I desire to assist him in expediting it as much as I can, and therefore I propose to refrain from saying but a very few more words with reference to the amendment.

There is one question that I should like to have answered. Does the President desire this? Knowing him as I do, I do not believe that the President does desire it. I believe that if this question were put to the President of the United States alone he would veto a bill of this kind. I do not believe that the President, who has taught us to understand that there should be fair play and a square deal, would want anything else than a square deal with respect to himself. I know that the President, with all his intelligence and learning, must know that this would not be a square deal with all the rest of the people of the United States, unless he thinks that he should be put above them.

It is not any part of the duty of the President of the United States to mold public opinion. If that were so and he were to perform that duty, there would be never any change of political parties in the country, because when the President got in the office he would mold the opinion to suit his party and there would never be but one party. It may be that an opportunity of this kind might give him an opportunity to electioneer for the doctrines of the party to which he belonged; and then in the next term, when Mr. Bryan shall be President of the United States, it would give him an opportunity to do the same thing if he were disposed to do it.

But, Mr. President, it is the business of the President of the United States to execute and administer the will of the people as expressed by their public opinion. He is not expected to be the master who makes public opinion for them. He is to get public opinion from them—not they from him.

Why, sir, where they talk about and advocate and teach and hold to the doctrine of the divine right of kings the monarch gives public opinion to his subjects. He molds public opinion for them; he makes public opinion for them. They get their opinion from him. But in this country every man is a sovereign. The divine right of sovereignty comes to every American citizen equally with every other, and it does not make any difference what his walk in life be; he may eat his bread in the sweat of his face, he may make the money that furnishes him bread by mental effort, he may be a ditcher or a farmer or a merchant or a lawyer or a doctor or a laborer, or in any other condition in life—he is a sovereign, nevertheless, before the laws of this country, equal to every other man. He has a right to form his own opinion. It is not only his right to form and mold his own opinion, but it is his duty to do so; and he owes that duty to the country when he becomes one of the great electorate of this great country. He owes it to himself and to the country to mold an opinion for himself, to study questions of politics and policies and statecraft, so that he may have a voice in the government of the country, if not in a legislative body, or in an executive body, that he may have a voice through his representatives, whether they be executive, legislative, or judicial. It is not for the President to mold the public opinion of this country. It is the duty of the Executive (and if he attends to his duty it will take all his time) to administer the law in obedience to the public opinion that has been formed by all the people of this country by honest, earnest, assiduous study and effort. The wisdom of all the people is to be taken as superior to that of any man. The will of all the people should not be overridden by any one man.

I tell you, Mr. President, that I like a man who is a manly man. A man may be in humble circumstances, but I like that old saying of Robert Burns:

A man's a man for a' that.

It has been an inspiration to many boys in humble position and in humble condition in this country.

Give fools their dress and knaves their wine,
A man's a man for a' that.

Under our form of government the humble boy of obscure origin can make himself a man. Sir, I have more admiration for the boy who ran through flood and flame to rescue his father some nights ago from at least supposed danger, the boy Wilber Coleman, whose name ought to go down in the records of the country—I have more respect for him and he is more of a man, when he is measured by the yardstick of Jehovah and not by the rule of precedence at a banquet, than the sordid individual whose selfish greed feeds upon nothing but money, though he may have accumulated an empire of commerce or peopled the ocean with his yachts. He is more of a man and is worth more to his country.

I say, Mr. President, that this amendment ought not to be adopted. The American people ought not to embark upon an emprise of this kind. Let every man dispossess himself and divest himself of Executive influence and walk up to this question and vote on it as an American citizen who does not desire to see American ideals sacrificed.

What conscience dictates to be done,
Or warns me not to do,
This teach me more than hell to shun,
That more than heaven pursue.

The VICE-PRESIDENT. The question is on the amendment reported by the Committee on Appropriations.

Mr. BACON. Mr. President, I did not rise promptly, because I had hoped that some other Senator would have something to say on this subject. I was necessarily absent from the session yesterday, and was not present at the beginning of the debate on this question and am consequently somewhat at a disadvantage in my ability to address what I shall say more directly to what has been already said, and possibly to avoid repetition of some things which have been said by other Senators. It is not my purpose to address the Senate at any length on this subject or to make any elaborate argument. I have glanced over the colloquy which was had yesterday between the Senator from North Dakota [Mr. McCUMBER] and the Senator from Maine [Mr. HALE] relative to the subject of my desiring to be heard upon this amendment. The Senator from North Dakota drew his conclusion very properly as to my desire to be heard upon the bill from a private conversation with him, in which I expressed myself very emphatically in opposition to this amendment. While I may not realize the expectation which that Senator held forth that I should address the Senate at length upon it, I am very greatly obliged to him for considering it worth while to afford me an opportunity to enter my most earnest protest against this proposed legislation, and to give some few of the reasons why I think it should not be enacted.

In the first place, Mr. President, I am utterly at a loss, so far as I have any ability to judge of a legal proposition, to understand how any Senator, especially any Senator who is a lawyer, can claim that this proposition is constitutional. It is to my mind so plain that it is really beyond the domain of discussion further than a simple statement of the proposition. I presume that every Senator will recognize as a fundamental proposition that we have no right to appropriate money, except in obedience to some authority given to us to appropriate it. When we come to appropriate money for the President of the United States we must do so under authority given us by the Constitution. The authority under which we are to appropriate money for the benefit of the President of the United States is very explicitly given in the second article of the Constitution of the United States, which provides:

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

I hope I may have the attention of the Senator from Maine, because I have very great confidence in his judgment, and I want to address myself particularly to him. As he is the Senator in charge of this bill, I hope he may remove from my mind, if he can do so, the constitutional objections which I make to the adoption of this amendment. If it is not constitutional, Mr. President, of course neither the Senator from Maine nor any other Senator will recognize for a moment that we can for any consideration or under any influence adopt it.

Mr. HALE. Mr. President——

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

Mr. BACON. I do, with pleasure.

Mr. HALE. I think, as I said yesterday, Mr. President, that I can understand that Senators may have a doubt whether this in the last resort will be determined to be a constitutional provision or a provision justified by the Constitution. I have seen enough of the literature cited to believe that that is a doubtful

question. Some Senators and some authorities set it clearly out that a provision of this kind is an emolument, and would be unconstitutional, while other authorities and other citations as given state just the reverse.

Now, every Senator must vote on this proposition as his judgment is with reference to this point. But the Senator from Georgia knows that in many cases legislation has been put into appropriation bills and has passed in distinct, separate measures, as to which Senators have had doubts, and it is finally settled by the court. Whether this proposition, if adopted, will get by the Comptroller of the Treasury, is a question; the committee having it in charge, seeing the necessity for it and not being clear that it was subject to constitutional objection, incorporated it in the bill as an amendment.

I shall vote for the proposition on the ground that I am willing that it shall take its chance with the Comptroller and finally with the courts. I am not certain about the point, I will say to the Senator. Some Senators are very certain, and I feel they will not vote for the amendment, while other Senators believe and cite authorities showing that it is not an emolument which is going to the President. But what I have stated is the attitude of the committee which has reported the amendment. I repeat, it will have to take its chance.

Mr. BACON. Mr. President, the learned Senator from Maine has done me the very great favor to answer my argument before I presented it. Nevertheless, I will take the liberty of presenting it, although I greatly regret that the Senator has announced, in advance of hearing it, that he will be not influenced by anything I say, and that he will vote for the amendment.

Mr. HALE. Mr. President, nobody will present the constitutional argument as clearly and as attractively as the Senator from Georgia will undoubtedly present it; but still he will allow me to say that the point he is making is not in any way a new one; it has been already pretty fairly discussed and presented to the Senate, not as well as the Senator can do it, but so that we all have it in mind. Therefore I do not feel that my decision as to how I shall vote on this matter is in any way a reflection on the Senator. I have not heard him, but I have heard the propositions presented, and I have told the Senator what my views are about them.

Mr. BACON. Mr. President, I have very great admiration for the Senator from Maine, and for nothing connected with the Senator from Maine have I greater admiration than for his mental capacity; but to the various reasons which I have had heretofore—good reasons—upon which to base that admiration I now have the additional reason of his power of prescience—his ability to know beforehand what one intends to say. I have not had an opportunity to present to the learned Senator the grounds upon which I base the suggestion that the constitutional point is so plain that I can not possibly see room for much argument upon it, and also the expression of the hope that the Senator from Maine, in charge of the bill, would take the point which I am going to present to him and remove the difficulties, because if we are to follow the lead of the Senator from Maine of course he ought to be able to show us, if we have difficulties interfering with our supporting the measure which he advocates, how those difficulties are not difficulties which should deter us, but difficulties which exist not in good foundation and which should be disregarded.

As I was about to say at the time the Senator interrupted me, the appropriation must rest upon some constitutional authority; and the appropriation for anything connected with money paid to the President of the United States, either directly or indirectly, must rest upon the clause of the Constiution which I have read, and which I will again read in order that I may make direct application of it, far removed as it is now by the colloquy which has been had between the Senator from Maine and myself. The sole clause in the Constitution which justifies any appropriation of money to be paid to the President of the United States, either directly or indirectly, is in these words:

> The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Mr. President, here is a proposition to put $25,000 at the disposition of the President for his expenditure, absolutely within his own discretion, and subject to his own dictation and will. I would ask is that compensation? Senators will say, "No; it is not compensation." If it is compensation, it is undoubtedly unconstitutional to make that appropriation applicable to the President of the United States during his present term of office; and therefore, for the benefit of those supporting this amendment, we may exclude that, and say that it is not additional compensation. We concede that it is not additional compensation, or rather we concede that, if it is additional compensation, it is unconstitutional. Then what is it? Is it an emolument? Is it a perquisite? If so, it is also excluded.

Now, what I want, and I hope the Senator from Maine will give me his answer to it, if he can, and I hope I may have the attention of the Senator, because I desire the Senator's reply, if possible. If this is neither compensation nor——

Mr. SPOONER. Will the Senator repeat his question? I was called out of the Chamber, and I should like to hear it.

Mr. BACON. I am sorry that the Senator has asked me to repeat it, because on account of interruptions I have twice stated it; but I will try to do so again.

Mr. SPOONER. The Senator need not mind.

Mr. BACON. My proposition is that if it is compensation it is unconstitutional. Senators will all admit that. If it is a perquisite or an emolument, it is none the less unconstitutional. I want to know, then, if it is neither a compensation nor a perquisite nor an emolument, what is it? How would Senators who favor this appropriation designate it, and under what head would they classify it when they make the appropriation?

Mr. SPOONER. Will the Senator allow me to answer?

Mr. BACON. With the greatest pleasure.

Mr. SPOONER. What is the money which is appropriated to pay the expenses of any officer of the Government—compensation?

Mr. BACON. For expenses?

Mr. SPOONER. Yes; traveling expenses. Is it compensation or is it emolument?

Mr. BACON. No; that is a part of the expenses of the Government; but this appropriation does not profess to be for the payment of expenses.

Mr. SPOONER. That is what it says.

Mr. BACON. No; I beg the Senator's pardon. It does not profess to be for his expenses. If it were, it would be limited to expenses, and there would be vouchers for it and an accounting, and it would be paid the same as in the case of other expenses.

Mr. SPOONER. It is for traveling expenses.

Mr. BACON. Yes; but this is an amount to be paid to the President of the United States, without regard to any accounting, and not limited to his personal expenses.

Mr. SPOONER. I should like to ask the Senator a question.

Mr. BACON. I will hear it with pleasure, because I am in very much trouble about this, and would like to have the explanation of this constitutional difficulty.

Mr. SPOONER. If the President expended $1,000 of this amount, leaving $24,000, would that $24,000 belong to him or to the Government?

Mr. BACON. Undoubtedly the phraseology of the provision indicates that he shall have only so much of it as he expends.

Mr. SPOONER. Would a dollar of it go into his pocket as compensation?

Mr. BACON. Nobody would suggest that for a minute. That is absolutely without possibility of entertainment for a second. Nobody means to suggest anything of that kind.

Mr. SPOONER. The Senator thinks the word "emolument," as used in this connection, does not mean some financial advantage to the President, the officer, whoever he may be?

Mr. BACON. Whatever "emolument" does or does not involve, the Senator will concede that this is not an emolument.

Mr. SPOONER. I do not think it is an emolument.

Mr. BACON. That is what I say those who support this amendment must necessarily contend. Therefore, it is not necessary for us to discuss as to what is included in "emolument" and what is not, because all agree that if it is intended as emolument, it is an unconstitutional provision, and consequently it is not an emolument, according to the contention of those who favor this appropriation, and it is not a compensation according to those who favor the appropriation. They must contend that it is neither a compensation nor an emolument.

Mr. SPOONER. The Senator agrees——

Mr. BACON. Pardon me a second. I will yield with pleasure in a moment. Then, I want to know, if it is neither an emolument nor a compensation, what it is?

Mr. SPOONER. I should like to ask the Senator, if it is neither compensation nor emolument, how does it violate the provision of the Constitution, to which the Senator has referred?

Mr. BACON. My proposition is that it must be one of the two. I will come to that. I base my argument upon that; that it is one of the two, and Senators all agree that, if it is either, it is unconstitutional——

Mr. SPOONER rose.

Mr. BACON. Pardon me a second. Therefore, I say, contending as I do, that it is compensation or emolument, Senators

must concede that, if it is either, it is unconstitutional. When they say it is neither compensation nor emolument, what is it?

Mr. SPOONER. Traveling expenses.

Mr. BACON. Well, Mr. President, I reply to that, in the first place, that it is not traveling expenses, because if it were traveling expenses, it would be the exact amount spent as expenses by the President, whereas this does not profess to be that. This is an amount to be paid at the discretion of the President and to be spent at his will, not only for his personal expenses, but for the expenses of such other people as he may choose to have share with him the benefit of this appropriation. It is an emolument; it is a perquisite; it is an additional amount of money given for his enjoyment, to be dispensed according as he may prefer that it shall be expended.

If it were the simple matter of the exact expenses of the President of the United States, it would have to be limited to the occasions when he was upon official business. But I would not draw any narrow line on that, because it might be said that the President of the United States whenever he is going about through the country is in a degree looking after public business, although it has frequently happened when a President has been an aspirant for election to a second term that he has "swung the circle" upon a purely personal political tour. This appropriation, however, does not profess to be strictly for the traveling expenses of the President of the United States, and there is no provision under which there can be any distinction drawn in the expenditure of this money between that part of it which goes to the payment of the expenses of the President of the United States and the payment of those whom he may invite to accompany him.

I will ask Senators—and they can reply now or at any other time they see fit—if they understand that the payment of the traveling expenses of those whom the President may see fit to invite to go with him is a payment of part of the personal expenses of the President of the United States? Can any man possibly contend that it is so, and, if he does so contend, is there any man who can give a sound argument upon which to base such a contention?

I want to say further in that regard that the provision of the Constitution to which I have referred was framed in much wisdom. It had a double purpose in saying that the President's compensation should be neither increased nor diminished during the incumbency of a President of the United States. There was a design, in the first place, that the President of the United States should be put beyond and above the possibility of Congress being able to coerce him or constrain him in any way, by having control of the amount of money which he should receive for his compensation. That was a great and a wise purpose. There was none the less a great and wise purpose, and as experience shows, in the growing power of the Executive, indeed a greater and wiser purpose, that he should not have the power, by reason of the influence of his office, to secure from Congress an increase of his salary during his incumbency, or that he should have the power by the exercise of such influence to secure from Congress any emolument in addition to his salary.

Mr. PERKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from California?

Mr. BACON. With much pleasure.

Mr. PERKINS. I should like to ask my friend from Georgia how he can reconcile his action in voting for the item in the legislative appropriation bill for the support and care of carriages, horses, furniture, flowers, music, and other luxuries and comforts for the President and occupants of the White House and not call them emoluments, and say that this item for traveling expenses, which the President must pay out in traveling by reason of the action of Congress in not permitting him to travel upon a pass—how does the Senator differentiate between those two purposes?

Mr. BACON. It is perhaps as well that the honorable Senator has called my attention to that, and I will come to it before I conclude, not only as to the President, but as to some of these other gentlemen in the Executive Departments. As the Senator has so pointedly directed our attention to that subject, it is not to be evaded, and I propose to express my opinion on it without hesitation or qualification.

But, Mr. President, before reaching that I will pursue what I was saying, that this provision of the Constitution is one framed in much wisdom. In the first place, by the prohibition against the decreasing of the salary of the President, there was thrown around the President this safeguard against any effort on the part of Congress to coerce or embarrass the Executive, and, in the second place, by providing that his compensation should not be increased it was designed to prevent the possibility that the Executive, with his great office and his great influence, should have the power or the opportunity to get from Congress an increase of salary beyond that fixed by law, or any emolument in addition thereto. Mr. President, if Senators will pardon me and not take it offensively, and no Senator take it personally, I think the very fact of this proposed appropriation and the probability that it will be made is an illustration of the wisdom of that provision of the Constitution. I think that Senators, without being conscious of it—not all of them, because I recognize the fact that there are differences of opinion as to the propriety of this provision which would control Senators outside of any influence—but I have not a doubt in the world that there are Senators who unconsciously are influenced in this matter by the fact that it is the desire of the Executive, and by their desire to conform in supporting it to what is generally understood to be the personal wish of the President.

But, Mr. President, I have a much graver reason for opposing this amendment than the unconstitutional feature of the proposed appropriation. Of course, if the feature of unconstitutionality related to the appropriation in the future as well as to this particular time, I could have no graver reason than that suggestion of unconstitutionality; but if this item is unconstitutional, it is unconstitutional simply as regards the next three years, and is not unconstitutional so far as it would relate to other subsequent incumbents of the Presidential office. So I repeat that the unconstitutionality of the proposed appropriation is a much less grave consideration, to my mind, limited as it would be to three years in its operation, than is the general policy which is involved in this matter and as it will affect future administrations.

If the salary fixed by law for the compensation of the President is insufficient we should change the law and make it sufficient. So long as we do not change the law and increase the salary we are practically saying that, in our judgment, the salary is sufficient. And when to a sufficient salary, as we pronounce it to be, we add an emolument of $25,000 a year, we are bestowing a favor upon him, we are exalting him after the manner of other countries, where classes and rank are recognized in the adulatory bestowal of favors and privileges upon them which are denied to others.

Mr. President, if the salary of the President of the United States is not sufficient there is no undue exaltation of the President of the United States in adding to his salary such an amount as will make it sufficient, and no one could be criticised for his desire so to do. But when you say that a certain amount of salary is sufficient for the President, and that is said in fixing his salary at a given amount, and when you segregate him and separate him, not only from all the people of the United States, but from all the officials in and of the United States, and set him up with an unlimited and unqualified power over an expenditure of money, not only for his own transportation, but for the transportation of such people as he may choose to surround himself with on his trips of business or pleasure, you unduly exalt the man who for the time holds the office of President. And when I say the man who for the time holds that office, I am not speaking of this time only, but of any future time as well. There is an exaltation of the officer; there is the setting apart of him; there is an approaching to those things which pertain to and peculiarly characterize royalty, which are inconsistent and inharmonious with the spirit of our laws and the genius of our Government; and for one I will not consent to it.

Mr. President, I am not in favor of exalting any man above his fellows, except so far as his merits may exalt him, or except so far as the dignity of the office in itself may exalt him. When you seek to surround that office with the trappings of royalty, and with the air and assumptions of royalty, and with the methods and practices of royalty, I make my protest against it.

It is not to the interest of those who are in these high offices that they should have around them these trappings, these emblems and privileges and recognitions of superiority, and these unusual favors. As I have had occasion to say before in this Senate, we are in a season of unrest, not only in America, but in other countries. That unrest may be unreasonable, and in many instances it is unreasonable, but in many others it is well founded; and in my humble judgment there is nothing that contributes so much to that unrest, there is nothing which dissatisfies and disturbs the people both in this country and in other countries to such an extent, as the visual evidence that they have in such matters of privilege and display, of the favoritism which throws around some men trappings and attributes of superiority and of power and of special privileges that are denied to other men. These things are irritating and disturbing to men in this country of equality of right and equality of privilege. I say, and I wish to press it home to Senators, that

it is not to the interest of those in high places that the public should have their feelings in this regard and by such distinctions more and more irritated and ruffled and disturbed, and that they should have through such measures greater and greater cause for dissatisfaction and unrest. Everything that savors of royal distinction, everything that smacks of the special privilege of official rank and class, is justly distasteful to our people.

Mr. President, there are different ways in which the power exercised and wielded by high officials has been obtained; there are different sources from which it flows; and this country, above all others, is the one that stands out most distinctly where the source of power is from the people, in contradistinction to other countries, where the power had its origin with the ruler, where the liberties and privileges of the people are dispensations from those in authority that have been granted to the people by the rulers.

This Government was not formed for the purpose of exalting the official. We have no rulers, and the title is a gross misnomer, whether assumed by the official or conferred on him by others. In other countries the official or the ruler first had the power. He had the arbitrary power gathered first in small communities, and then assumed by one who took control of all the communities, and it was with the absolute power in his possession that little by little parts of that power were distributed to the people and enjoyed by them with its privileges as a matter of grace. But in this country the exact reverse of that was the method by which the officials became clothed with power. The power was all with the people. They formed the Government and created the offices and provided for the officials; and whatever of power and emoluments and whatever of attributes and of trappings the official has, came from the people by power given and privilege and advantages of all kinds which they enjoy given by the people to the official.

Senators can not too fully realize the fact that no office was ever created in this country for the benefit of giving power and dignity either to the office or to the man who should fill it. The office was created not to give honor and power to the officer who should fill it, but because the office was necessary to the people. Necessarily it carried power with it. I think the most dignified and powerful office in all the world is the office of the President of the United States, and it is not necessary for the President of the United States to go outside of his legitimate functions or to have bestowed upon him any of the favoritism and privileges and distinctions of a royal class in order that he may still be and remain the occupant of the most dignified and powerful office of all the earth. I would say no word in depreciation of it. On the contrary, within its legitimate functions I honor and magnify it.

It is not necessary in order that this office shall have its full meed of dignity and power that we shall clothe it with any of those things with which those who wear crowns assume it their right to be clothed. The legislative department—that department in which is designed in the Constitution to be the principal department, the most influential department, the most powerful department; that which should be the most direct representative in the one branch of the people and in the other branch of the States, and that which should be clothed with almost all the powers, almost all the royal powers—is the branch which has control of these matters.

In this connection I must allude to the matter called to my attention by the honorable Senator from California [Mr. PERKINS], that we sit here session after session and not only vote salaries to these officials of the Executive Departments in excess of those which we vote to ourselves, but that we give them carriages and horses and flowers and other things named by him. I did not know that flowers were provided for in the apropriation bill, but I take the word of the Senator from California to that effect. He is a member of the Committee on Appropriations. I desire to say to the Senator from California that never since I have been in the Senate have I ever voted for any one of the particular things the Senator has mentioned, except in so far as I was compelled to vote for them after they were included in the appropriation bill in voting for the bill in general.

Mr. PERKINS. I desire to say to my friend that during the thirteen years I have been here those items have been enumerated in the Book of Estimates made up and presented every year to your committee, and we have considered them.

Mr. BACON. Undoubtedly, I presume, that is true.

Mr. PERKINS. And I have never heard my friend the Senator from Georgia protest against them.

Mr. BACON. I think there has been something said in the past about executive officers having carriages and horses. I have the highest regard personally for the occupants of the executive offices, and a feeling warmer than regard for some of them. I have high regard for the President of the United States, and would utter no word of disrespect of him or them; and nothing that I say here is personal to him or to any other executive officer. Everything I say relates to these officers, past and future, as well as present. But I am unable to see why it is that we in making appropriations shall be giving carriages and horses to the heads of Departments. Do they need carriages and horses any more than Senators need them? Do they need them half as much? They sit in their offices and have people come to see them. We have to parade this whole town to attend to business, and yet who thinks of an appropriation for the purpose of giving carriages and horses to Senators?

Do not let me be misunderstood, Mr. President. I do not favor the giving of carriages and horses to Senators. But I say there is no reason why in the absence of the one there should be the other. The heads of Departments are the creatures of Congress. They are not the creatures of the Constitution.

We call them, by courtesy, "Cabinet officers," and we are glad to show them this merited courtesy. They are not known to the law as such. They are subject to our will. We can abolish every Cabinet office, every head of a Department, and substitute another for it whenever we see proper to do so. There is no expectation that we will do so, because the system has been framed in wisdom and is satisfactory. But I am simply calling attention to a fact in response to the suggestion of the Senator from California. I do not know that I would have mentioned it, out of delicacy, if he had not called my attention to it. But when he asks me pointedly how I reconcile the appropriation of money for flowers and carriages and horses, I answer him that I do not approve it, but that I condemn it. Whenever the Senator, as a member of the Committee on Appropriations, will bring that question before the Senate and make an issue of it and give those of us in the minority an opportunity to be heard, he will find my vote cast in the negative. I repeat, whatever may be my personal feelings to these officials, I am not in favor of special privileges or undue exaltation for any official.

Mr. President, I was not here yesterday. I do not know what was done. But I wish to call the attention of the Senator from Maine to the rule. However, before I conclude what I have to say on the main merits of this question, I again call upon Senators who say this is neither a part of the compensation of the President nor a part of the emoluments to the President, in neither of which case would it be constitutional, to tell us what it is if it is not either additional compensation or an emolument or a perquisite. When they tell me it is a part of the expenses, I say, in the first place, that if it is a part of the personal expenses of the President of the United States it would be unconstitutional, because it would be a part necessarily either of the compensation or the emoluments.

Of course, if you make it a part of the expense of the Government in the payment of the railroad fare of the President of the United States, you might say that that was not either a perquisite or an increased compensation. When you put in his hands $25,000, to pay the expenses of himself $1,000, and $24,000 to pay the expenses of twenty-four others, I want Senators to tell me whether, when you give the President the power to invite twenty-four gentlemen to go with him and share his hospitality, the expense to be paid by the Treasury of the United States, it is not giving him an emolument; whether it is not a personal perquisite to him. Can it be other than an emolument when, because he is President, he is given $25,000 a year with which to entertain personal friends whom he may invite to accompany him on his tours?

But passing from that and concluding, I repeat I was not here yesterday, and I do not know what was said with regard to the point of order. But I wish to ask the attention of the Senator from Maine to Rule XVI, which I need not read over to him except so far as the specification of exceptions is concerned, with respect to amendments to an appropriation bill. I wish the Senator from Maine to tell me under which of these exceptions this particular appropriation falls:

No amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless—

Now here are the exceptions—

it be made to carry out the provisions of some existing law—

It is certainly not included in this—

or treaty stipulation—

It is not included in that—

or act—

It is not included in that—

or resolution previously passed by the Senate during that session—

It is not included in that—

or unless the same be moved by direction of a standing or select committee of the Senate——

Mr. HALE. Mr. President——

Mr. BACON. One moment, if you please. It is not included in that.

Mr. HALE. Yes, it is.

Mr. BACON. The Senator will pardon me.

Mr. LODGE. That is exactly where it is included.

Mr. BACON (reading)—

or proposed in pursuance of an estimate of the head of some one of the Departments.

Mr. HALE. The Senator has passed the exception which makes it in order.

Mr. BACON. I understand; but I was entitled to read it through. Now, I will hear the Senator with much pleasure.

Mr. HALE. The amendment is in order, because it is moved by direction of the Committee on Appropriations.

Mr. BACON. Of course, the Senator's superior familiarity with such matters must go against mine, but I understand that to mean a committee outside of the Committee on Appropriations.

Mr. HALE. That has been ruled upon repeatedly.

Mr. LODGE. Over and over again.

Mr. HALE. An amendment may be offered by any committee of the Senate. If an amendment is put in the bill by direction of the Committee on Appropriations that is the action of a standing committee.

Mr. BACON. Very well, I will accept——

Mr. HALE. That has been ruled upon again and again.

Mr. BACON. As the Senator from Maine has so kindly given me the information I desired on that point, of course if he has the information on other points I have asked him about he will be equally kind and give it. Therefore, I hope when I have concluded the Senator from Maine will answer the constitutional question I have propounded: If it is not an increased compensation and if it is not an emolument or a perquisite, what is it? Of course I can not expect the Senator from Maine to answer the question when he did not listen to it while I was propounding it. But I will ask the Senator one other question.

Mr. HALE. I will ask other Senators, inasmuch as the Senator from Georgia is continually appealing to me, not to take my attention from the Senator from Georgia.

Mr. BACON. I hope the Senator's request in that respect will be regarded. I was propounding a direct question to the Senator from Maine.

Now, I will take the liberty of asking the Senator from Maine another question, and that is upon what information does the Senator from Maine or the Committee on Appropriations, which he represents here, base the estimate of $25,000? Is it a guess or has the Senator information as to this being the particular amount; and if so, from whom was it obtained? I hope I may have that information from the Senator.

Mr. HALE. Like a great many other appropriations, it has never been figured with a lead pencil, by adding the different items, that it will amount to just this sum. The House put this proposition on after examination, and it was struck out on a point of order. When it came to the Committee on Appropriations here, the committee moved it and inserted it in the bill. It is believed that $25,000 is ample for this purpose.

Mr. BACON. Upon what does the Senator base that belief?

Mr. HALE. On the expenses of all these trips, the movements of the President, which he has a right to make and which the people want him to make. The committee believes that $25,000 will cover it. It may not. If it is not all spent, it will be returned to the Treasury.

Mr. BACON. If the Senator will pardon me, is it not true that that at last depends upon the number of men whom the President may see fit to invite to accompany him?

Mr. HALE. Undoubtedly. The committee did not think it worth the while to say to the President that he could invite twelve men and could not invite the unfortunate number of thirteen. That is all there is in the provision about the President's discretion. The President never fingers this money.

Mr. BACON. There is no suggestion of that kind.

Mr. HALE. It is in his discretion, when he will take these trips, how many people he will invite. That is left, as it properly must be, to his descretion. The Senate can vote this proposition down, but nobody can with reason ask the committee to say it will be just $25,000 in one year. We can not say that, and do not pretend to.

Mr. BACON. Has the committee any information upon which to base this sum, or is it guided solely by a guess?

Mr. HALE. It is the judgment of the committee.

Mr. BACON. Without any information?

Mr. HALE. I would not say without any information.

Mr. BACON. I hope the Senator will give us the information, in order that we may judge whether or not the appropriation is in proper proportion.

Mr. HALE. If the Senate thinks it too much, it can cut it down.

Mr. BACON. We can not do that unless the Senator gives us the information on which to base our judgment.

Mr. President, everyone recognizes the right——

Mr. FORAKER. Mr. President——

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

Mr. BACON. Yes.

Mr. FORAKER. I desire to ask the Senator from Maine, while he is on the floor, whether or not there is a bill making this same provision on the Senate desk now, having passed the House?

Mr. HALE. Undoubtedly. It passed the House after this discussion came up, but it has not become a law. The House of Representatives submitted this proposition, but that does not furnish the information of every sixpence that is going to be spent, for which the Senator from Georgia asks.

Mr. BACON. I do not ask for that. I am asking for some information——

Mr. FORAKER. I had an entirely different thought in my mind. It must be evident—if the Senator from Georgia will bear with me for a moment—that there is serious doubt in the minds of Senators—and many Senators—as to whether this is not an emolument within the meaning of the Constitution. I have that doubt. I do not know whether the President has any doubt about it or not. Lawyers may very well differ about the question, and I think it would be a great deal better—better for the President, for I am sure, if I know the man—and I think I do—he would not want us to unconstitutionally provide a dollar for his use in this or in any other way—I believe it would be a great deal better for us to pass a separate bill rather than to make this provision an item of the appropriation bill.

Mr. BACON. I think so, too.

Mr. FORAKER. If we make it an item in the appropriation bill, the President can not veto it. He can not take anybody's opinion about it before signing the bill. If, on the other hand, we pass the separate bill, the President, in view of the doubt about it, may take the opinion of the Attorney-General upon the subject, and we may have an authoritative determination of the question whether or not this is an emolument within the Constitution.

I am not speaking in my own time, but if I may be indulged further, I have been looking up this question a little in the very short time I have had at my disposal, and I find that, upon authority, this is certainly a very serious question. My own personal belief is that this would probably be held to be an emolument within the meaning of the Constitution, and unless I were entirely free from doubt on that subject I could not vote for the amendment; for I do not think any Senator has a right to vote for a measure which he believes is unconstitutional. I recognize that other Senators do not share that belief. I do not know whether the President has given this question any consideration. But now that the question has been raised, I am sure he would not want to expend this money unless he were sure that it was a constitutional provision of which he had a right to avail himself, and that we shall best serve him by passing a separate bill upon which he can take the advice of the Attorney-General.

The Senator from Massachusetts [Mr. LODGE] says to me that the bill will never pass. The bill has already passed the House, and it may pass here. I do not believe there would be any serious discussion of the measure. Senators might want to register their dissent to the proposition by voting against it.

It is suggested to me that we have an agreement to vote on that measure. I do not know that we could reach such an agreement. I do not know how the Senator from Georgia would view it. He would, perhaps, in view of what he has said, be satisfied, if this item went out of the bill, to join in a unanimous-consent agreement that the bill which has passed the House be passed by the Senate. Then the responsibility would be devolved upon the proper officers of the Government to determine the constitutional question.

Mr. BACON. I would not interpose any factious opposition. Of course I would not agree myself to vote for it.

Mr. FORAKER. I understand that.

Mr. BACON. But I would not attempt to defeat it by delay. If the Senator from Ohio has concluded——

Mr. FORAKER. I want to say another word before I conclude. I wish to make a request for unanimous consent——

Mr. BACON. The Senator will wait until I conclude?

Mr. FORAKER. Certainly. I will not make it without the Senator's permission.

Mr. BACON. The Senator can make it as soon as I finish, which will be in five minutes.

Mr. President, I do not wish in anything I say to suggest that I consider that there is any impropriety in the President of the United States visiting different sections of the country. On the contrary, I think that upon occasions it is a very proper thing for the President of the United States to do. It is an example which was given by Washington himself. Washington, during his incumbency of the office, visited different parts of the country. He came to my own State, and within the past two days I have seen a memento of the visit which he made to Georgia, where he presented to the Chatham Artillery, a military organization which still exists in the city of Savannah, a couple of cannon which had been captured at Yorktown. Those are very highly treasured mementoes and the tradition of that visit is very highly treasured; and with that illustrious example, of course the suggestion of an impropriety is not in my mind at all.

But Washington paid his own expenses, and every other President of the United States from that day to this, who has traveled through the country, has paid his own expenses. There is not, in the case of the present incumbent or of any other probable incumbent, such a want of pecuniary means, either of his own or in his salary, as would debar him from the convenient payment of his expenses.

Mr. LODGE. Does the Senator from Georgia mean to say that when President Cleveland and President Harrison and President McKinley made journeys throughout the United States they paid for their trains?

Mr. BACON. I did not say so.

Mr. LODGE. I understood the Senator to say that precise thing.

Mr. BACON. I simply said they paid their expenses.

Mr. LODGE. It is well known they did not.

Mr. BACON. I said they paid their expenses, meaning by that that there were none paid by the Government. That is what I mean.

Mr. LODGE. They were paid by the railroads.

Mr. BACON. No; they were not paid by the railroads.

Mr. LODGE. The railroads furnished the trains for nothing, and have for years, to all Presidents.

Mr. BACON. The compensation to the railroads——

Mr. LODGE. The railroads will not carry the President in any other way, because the risk is too great.

Mr. BACON. After the passage of this bill they will not carry free the President or any other person.

Mr. LODGE. After the passage of this bill?

Mr. BACON. After the passage of the rate law, I mean, they will not carry the President or anybody else free.

Mr. LODGE. Precisely.

Mr. BACON. That is my view about that. I do not think the President any more than the humblest citizen of the United States ought to have his expenses paid out of the Treasury of the United States.

Mr. LODGE. The humblest citizen is not obliged to pay for a special train.

Mr. BACON. I do not know that there is a necessity for the President to pay for a special train. But if there is, it is not such an absolutely exorbitant amount as to prevent his doing it. He may have a special car without any very great expense, and there is no reason why the President of the United States may not travel in a special car upon a regular train, and it would not involve any such expense as a special train. But this is not limited to the question of paying the expenses of the President. It is giving to the President this large emolument, a fund, with which he can gather around him his friends, and take them through the country at the expense of the Government of the United States. If that is not an emolument, I do not know how to class it.

An emolument is something of value given, something which attaches to the office, that is outside of the regular salary—some advantage, some benefit, something of good. Does any Senator pretend to say, when you say to the President of the United States that in addition to his salary he shall have the privilege and the opportunity, when he seeks to travel through the country, to gather around him his special friends and take them upon a train, and that he shall not be burdened with the expense of the entertainment of his friends, but that the Government of the United States will pay it, that that is no emolument, that that is no advantage? Is that no increased benefit or good attached to the office of the President of the United States? That is what an emolument is. It is some additional good, some additional benefit, some privilege, if you please, some additional advantage, not the salary of the office or the direct compensation of the office, but a good, a benefit, or an advantage which inures by reason of possession of the office. That is an emolument. You might as well say it would be no favor to a private individual or to a Senator if a like advantage were given to him, and that he would receive no additional benefit. But I will not pursue that.

I hope that some of the learned Senators, and especially the lawyers, will answer the question, If this is neither an emolument nor additional compensation, what is it; at least so far as it refers to the expenses of persons other than the President of the United States?

Now, Mr. President, I repeat, I do not wish to suggest any impropriety on the part of the President either of the present or any other time in visiting different sections remote and near; but when he does go, I do not wish, when the train passes through the country along by the toilers in the field and by the laborers in the workshop and at the desk and in the office and behind the counters, that they shall look upon a class of favored people, the guests of the President of the United States, traveling through the country at the expense of the Government of the United States, paid out of money contributed out of the fruit of their toil and their labor.

Mr. HALE. Mr. President, I ask unanimous consent that the House bill upon this subject, which is upon the Secretary's table, may be taken up, and that without debate the Senate vote upon it.

Mr. BACON. If the Senator will omit that part of his request about excluding debate, I will certainly agree to it.

Mr. HALE. Of course that is all there is in it.

Mr. LODGE. That is the only object.

Mr. HALE. It is the only object, because otherwise the debate will be transferred to that bill and would not close on this bill.

Mr. BACON. I would not expect to say another word, so far as I am concerned, but other Senators may want to debate it.

Mr. MORGAN. I wish to inquire of the Senator from Maine what bill he refers to?

Mr. FORAKER. I wish to make a suggestion.

Mr. MORGAN. The bill the Senator refers to is not on the Calendar. What bill does the Senator refer to?

Mr. HALE. The bill which has come from the House of Representatives and is on the Secretary's desk.

Mr. MORGAN. Suppose it be reported, so that we can hear it read.

Mr. HALE. I ask unanimous consent that it may be laid before the Senate, and that a vote be taken upon it without debate.

Mr. MORGAN. Oh, no.

Mr. HALE. Does the Senator object to that?

Mr. MORGAN. I object.

Mr. HALE. Then I have another request that I wish to make.

Mr. BERRY. We do not know what the bill is. It has never been read.

Mr. HALE. The Senator from Alabama has objected. Now, I have another proposition——

Mr. FORAKER. Let me suggest to the Senator from Maine that Senators are objecting because they do not know what the bill is. They tell me they do not know whether it is the same provision, and that is a reasonable ground on which to sustain an objection.

Mr. HALE. Unless some one objects to its being read, I ask that the bill be read.

The VICE-PRESIDENT. The Secretary, without objection, will read the bill.

The bill (H. R. 20321) to provide for the traveling expenses of the President of the United States was read the first time by its title, and the second time at length, as follows:

Be it enacted, etc., That hereafter there may be expended, for or on account of the traveling expenses of the President of the United States, such sum as Congress may from time to time appropriate, not exceeding $25,000 per annum, such sum when appropriated to be expended in the discretion of the President and accounted for on his certificate solely.

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes authorized by this act for the fiscal year 1907, the sum of $25,000.

Mr. HALE. I ask unanimous consent that that House bill be laid before the Senate, and that a vote be taken upon it without debate.

Mr. MORGAN. I object.

Mr. BACON. That a vote be taken now?

Mr. HALE. Now.

The VICE-PRESIDENT. Objection is made by the Senator from Alabama.

Mr. HALE. If any Senator objects, that ends it.

Mr. CARMACK. Will the Senator permit me to suggest that there will be no more debate on that bill than there will be on this provision in the pending bill, and I do not think there will be as much?

Mr. HALE. I must submit my request, and if the Senator objects, then——

Mr. BACON. The Senator will pardon me a moment. With all deference to the Senator, of course his object, under the suggestion made by the Senator from Ohio, is to have a vote upon this separate bill rather than to have a vote on the amendment. There is not the slightest disposition or intention, so far as I can learn, on the part of anyone to factiously debate the bill or in a manner not consistent with due consideration and action on that bill, nor is there the slightest reason to suppose that there will be any extended debate upon it. There are Senators here who desire to be heard on the amendment if it should still remain before the Senate.

It seems to me that the Senator, looking to the practical accomplishment of a purpose, would be satisfied with the assurance given that there will be no factious opposition and no intentional delay.

Mr. HALE. I can not consent to set aside this most important appropriation bill, in which we are all interested and which will arrest adjournment, to take up a matter simply upon the statement that there will be no factious opposition to it. I have made the proposition. I do not ask Senators to agree to it.

Mr. BACON. Let me make another suggestion to the Senator. It is this, that the Senator ask unanimous consent that when the debate is concluded on this amendment a vote shall then be taken without debate on the bill.

Mr. HALE. If objection is made to my proposition, then I have another proposition, that all debate upon the pending amendment to the appropriation bill now under consideration and any amendment thereto shall close in one hour.

Mr. MORGAN. I object to that.

The VICE-PRESIDENT. Objection is made.

Mr. HALE. Mr. President, I am trying to bring the Senate to a vote, but I can not consent that the appropriation bill shall be displaced and the House bill be brought up with no arrangement about the termination of debate upon it. Therefore I have proposed that all debate upon the pending amendment to the appropriation bill and amendments thereto shall cease in one hour from the present time.

Mr. CARMACK. Will the Senator permit me to make another suggestion? It is that he make that proposition with reference to the House bill, that debate on that bill shall close in one hour.

Mr. HALE. Well, Mr. President, I will ask that the House bill be laid before the Senate, and that after an hour's debate the Senate shall vote upon it.

Mr. McLAURIN. Mr. President, I do not see any necessity for urgency in the passage of this House bill. I do not believe it has been considered by any committee.

Mr. HALE. I am only proposing it to help us out of delay upon the appropriation bill.

Mr. McLAURIN. I am as utterly opposed to the bill that came in from the House as I am to this amendment. All the objections that I have to the amendment obtain equally to the House bill.

Mr. HALE. Undoubtedly.

Mr. McLAURIN. If the position that I hold is correct—that is, the position that was first advanced by the junior Senator from North Dakota [Mr. McCUMBER], that this legislation is unconstitutional—then that unconstitutionality will just as much apply to the bill that the House passed as it applies to this amendment. I do not think the Senator from Maine can expect the Senate to consider the House bill that has just been laid before the Senate——

Mr. HALE. All the Senator has to do is to object. Does he object to my proposition?

Mr. McLAURIN. I certainly do.

The VICE-PRESIDENT. Objection is made.

Mr. HALE. Now, of course, the debate is to go on.

Mr. MORGAN. Mr. President, I wish to say a word——

Mr. HALE. Let me finish the proposition.

Mr. MORGAN. Certainly.

Mr. HALE. I have tried to relieve the Senate from the delay upon this most important bill by two propositions, both of which have been objected to. I am powerless. I only say that the debate will proceed as Senators choose, and I shall ask the Senate to take a recess from 6 o'clock to 8, not with an agreement that no other matters shall be taken up, but I will expect a quorum of the Senate to be present, and I shall ask when we get into that session, if the Senate grants it, that every Senator shall be here. Otherwise this debate will run on the wide waters of Senatorial talk and it will not be got through for days. If I can, I am going to get this bill out of the way, so that we can adjourn next Thursday or Friday; but if I do not get it out of the way, I notify Senators that we will run into the heats of July. I shall do everything in my power to get it through, and I shall ask the Senate later to take a recess from 6 o'clock, so that we may have a genuine night session with every Senator present.

Mr. McLAURIN. I want to say that at the request of several Senators I withdraw the objection I made to the proposition of the Senator from Maine, but I do not withdraw my opposition to this amendment nor my opposition to the bill from the House. My opposition is as vigorous to the bill and to the amendment as it has been at any other time. I withdraw the objection. If any other Senator desires to make an objection, let him do it.

Mr. HALE. I ask that the House bill be laid before the Senate for consideration and that without debate, at 3 o'clock, a vote be taken upon it.

Mr. MORGAN. Mr. President, it has been my conviction of duty to object to all propositions that have been made about limiting debate upon a bill that has not yet been before a committee of the Senate. The rules of the Senate require that a bill coming over from the House shall be referred to a committee before it is considered by this body and reported upon. I want the Senators on the committee who have to deal with that bill to be responsible for it.

Mr. HALE. I was asking for what waives all rules, and that is unanimous consent. Of course, if the Senator objects that ends it.

Mr. MORGAN. I am stating the ground of my objection. I want a committee of the Senate to be responsible for that bill, with leave of the minority, if there is a minority, to make a report against it. The Senator says he wants to get this bill out of the way. Out of whose way does he want to get it?

Mr. HALE. Out of the Senator's way.

Mr. MORGAN. My way?

Mr. HALE. Of all Senators. Everybody wants to have this bill passed.

Mr. MORGAN. Not out of my way. I have never had a higher duty to perform in the world than to vote upon a sundry civil appropriation bill which carries $125,000,000.

Mr. HALE. Not quite as much as that.

Mr. MORGAN. How much is it?

Mr. HALE. About $100,000,000.

Mr. MORGAN. About $100,000,000. In considering a measure of that kind I am put to the top of my sphere, so far as my sense of duty is concerned, to try to see that the appropriations which are made out of the Treasury of the United States, which have to be collected out of the taxation of the people, should be understood, to say the least of it, and the heats of July are not distressing me any more than they have distressed me for nearly the last thirty years. I have sat even with the Senator from Maine until October and November passing upon measures.

Mr. HALE. So often that I got very tired of it.

Mr. MORGAN. That Senator may have retired; I do not know, but I still stood here at my post, and I am none the worse for it. No man ever wore himself out in the performance of an honest and a sincere duty. It is when they try to shirk it and try to get through that they get fragmentary, get broken up, get unhappy and uneasy, and run through their duty and are distressed.

Mr. HALE. I give way to the Senator. I withdraw my proposition,

Mr. MORGAN. Well, I want the floor.

Mr. President, entirely against my desire, wish, or expectation the coming over of this bill from the House under the peculiar circumstances that have attended its presentation here, this very remarkable proceeding in the Senate requires me, I think, to make some little running commentary upon this proposed legislation, which is entirely new, so far as I have heard, in the history of the United States.

It is peculiar. It is the only one of its kind. There is some emotion or commotion or pressure somewhere that forces this bill to the front, in spite of all the rules that we have adopted, and which puts it as the prime proposition before the Senate and the American people that we must pause and give our attention to it.

First of all, this bill originated in the House as a rider on the sundry civil appropriation bill. So far as I remember, it bore exactly the same language that it bears in the language of the amendment proposed by the Committee on Appropriations of the Senate. A point of order was made against it in the House, and it was sustained. Exactly what that point of order is I have not had the opportunity to ascertain. Whether it was

the constitutional question which the Senator from North Dakota [Mr. McCumber] so forcibly presented on yesterday, or whether it was because there was no estimate for it, or whether it was because it was new legislation of a general character upon an appropriation bill, I do not know.

Mr. GALLINGER. The latter was the point.

Mr. MORGAN. New legislation?

Mr. GALLINGER. New legislation.

Mr. MORGAN. Very good. If the legislation was new in the House it is new in the Senate, and we have a rule that prohibits us from putting new legislation on an appropriation bill of any kind. Why does not that rule stand against this bill? Why should we be compelled day after day to debate a question when our rules condemn it, and when the House has enforced the very same rule to condemn it as a proposition of parliamentary law?

Now, there is some pressure about it. Where does it come from? There is no estimate here, we are told. There is no recommendation from the President or from any head of a Department. Then it is a proposition that must originate in one body or the other, among the members of that body or this, on the suggestion of some Member of the House or some member of the Senate.

There is, Mr. President, no pressing public necessity for the existence of this law. The President has not made the excursions or the circuits around the country that are proposed to be paid for in this bill. If it was to compensate the President for losses that he has heretofore sustained or expenditure he has made, or been compelled to make in consequence of his personal popularity, or in consequence of his distinction, of his high office, and the desire of the people to see him, I would not oppose the remuneration of the President after he had expended the money. But we are looking ahead now. We are looking to excursions that are to be made, to trips that are to be performed. What are they? Well, I do not wish to be unkind about anything, but to my mind it is suggested naturally that there will be a great hunt gotten up in the United States, to be conducted in the mountains and on the prairies of the West, and that the scions of royal blood from Europe would be invited over here as guests to see the performance that American sportsmen should engage in and their wonderful success in competition with the emperors and kings of Europe.

I noticed the other day that a shipment had been made from Germany to Spain of certain trophies which had been captured by the King of Spain when he was a visitor to William, amounting to a large number, that were sent for the purpose of complimenting him on the occasion of his wedding.

Well, Mr. President, among the expeditions and travel around the circuit that may take place during the coming summer or winter or next summer—for this $25,000 appropriation is limited to a year, I believe—what are we to have? What are we to expect? What do we know about that? Some gentlemen have been unkind enough to suppose or to suggest that perhaps it is intended for political expeditions. If the President of the United States wanted to get up a company of spellbinders, pay their expenses and their compensation, if necessary, in going around to enlighten the people of the United States upon matters that they know a great deal better than the spellbinders know, as a rule, I think the money would be thrown away in such an expedition as that. But that is entirely within the reach of the appropriation. So is the great hunt, which would be attended, no doubt, by retainers in velveteens red or black or blue, in caps red, black, or white, feathered or otherwise, made to fashion, trophies and fanfaronade of this kind that would lead the great procession out, with the President of the United States at the head of it, and the man appointed to office after his last hunt because he could catch a live wolf and choke him to death with his hands would be there to perform again. He would have that performance going on here, I suppose. At all events it is within the purview of the bill.

There is no great public necessity for that that I can see. The people of the United States have not been educated by object lessons of that kind heretofore, and I do not think the necessity is just now arising for such a kindergarten performance as that in the way of hunting expeditions.

Now, Mr. President, I am treating this subject seriously. I do not say that the President of the United States would take the money of the people, take the labor of 25,000 men one day to earn this money, to be thrown away in an expenditure for journeys and trips that are not necessary for the public welfare.

Why, the President's family is not provided for in this bill. He could not take his wife and children with him. They must be his invited guests, and they could not go along unless he wrote them an invitation to go with him and made them his guests in that way.

Evidently it is not for the purpose of assisting the President in meeting those social duties which are so happily performed by him and have been by all our other Presidents. There is some movement in it outside of the performance of mere social duty. It is either political or else it is a hippodrome that we are providing for—one of the two. It is a hunt or it is a political excursion of some kind. Otherwise the people of the United States could not possibly have any personal interest in it, not to say a national interest in such a performance.

Why was this bill passed through the House after it was ruled out on a question of order? Well, the House saw good reason, no doubt, for passing this bill and appropriating $25,000 for the present fiscal year to provide for such expenditures as the President may choose to incur—not such as he has been obliged to incur or will be obliged to incur, but such as he may choose to incur.

Then the bill comes over from the House, handed in here by the proper officer of the House as having been passed by that body, and is not reported to the Senate, even as is the appropriation bill under examination. It is withheld, and it is only upon the call of a Senator that the provisions of this bill have been made known to the Senate at all. I suppose I will be criticised severely as a sort of barbarian because I insist that under the rules of the Senate that bill shall go to a committee and some committee shall be responsible for reporting it here affirmatively or negatively.

Now, Mr. President, the heat of July does not frighten me into such an abuse as that of the rules of the Senate and of all propriety. This bill would not be popping up on every occasion and in every imaginable form unless there was some pressure behind it that Senators feel is irresistible. Yet nobody avows it. Not a man in this Government has made an estimate for it. The President has not made an estimate for it. The President has not intimated, so far as I know, to any person in the Senate or in the House that he thinks it is necessary for the public good or for his personal advantage or protection that we should vote him $25,000 a year as an emolument in addition to his fixed compensation.

Mr. President, I wish to say a word upon that subject. Both the Senator from North Dakota [Mr. McCumber] and the Senator from Georgia [Mr. Bacon] have handled it with remarkable power and skill, and they have produced conviction upon my mind that I think nothing in the world could remove. But the Senator from Wisconsin [Mr. Spooner] yesterday seemed to have some difficulty about what was included within the word "emolument." I take up the Constitution of the United States and read it from end to end and treat it as a progressive work, a work in which stone by stone the great temple was built. In examining each of these I find its relation to the other, to the binding stuff that holds the temple together and to the finish put on it by the architect.

In reading this Constitution, I come across first this provision, on page 197 of the Constitution as printed in the Manual of the Senate:

> No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

The framers of the Constitution first took in the kings and princes or foreign states, and excluded them from the opportunity of granting presents, emoluments, office, or title of any kind whatever, to any person holding office under the United States. They disposed of that subject conclusively, and they used several words for the purpose of indicating what they meant by what they were saying in this Constitution. They used the word "present," to "accept of any present, emolument, office, or title of any kind whatever." They intended to exclude the officeholders of the United States from any participation in the favors and compliments and honors and titles that foreign governments might bestow upon them.

After they had gotten through with that branch of the subject, they came to the President of the United States, and they became a little more stringent in their provisions. Having already included presents, offices, and titles of any kind whatever, in respect of those who might accept them from foreign countries, they came to the President of the United States.

> The President shall, at stated times, receive for his services a compensation—

Compensation. That means full payment. There can not be compensation in respect of any debt or duty that is not a full payment. He shall receive—

> A compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not

receive within that period any other emolument from the United States, or any of them.

Compensation covered the whole of the legislation in regard to the President, so far as Congress is concerned. Congress can not add to his compensation and he can not receive it from Congress. It would not be going too far to say that if Congress should vote $25,000 additional compensation to the President of the United States, and the bill should become a law by his signature, Congress would patently violate the Constitution in adding to his compensation, and the President would be liable to impeachment for a high misdemeanor if he should receive it. The Constitution intended to shut off everything from the President but compensation.

Now, what is compensation? It is that allowance which is made by law for the payment of an officer for the duties that he performs. Whether you call it "salary," or whether you call it "emolument," or whatever you call it, it must still be and is compensation and nothing but compensation. So that the President can not receive an addition to his compensation by the consent of Congress as these other officers may receive titles, emoluments, presents, and gifts from foreign countries with the consent of Congress. Congress must give its consent before they can receive them at all.

Suppose I should propose to put upon this bill a proposition to reward some of our great soldiers or our great scientists by conferring upon them some of those many insignia of proper reward that have been conferred upon them by foreign potentates? Why, Mr. President, the table of the Committee on Foreign Relations almost groans with bills now offered in this body for the purpose of enabling our distinguished and notable people to receive these honors and emoluments and insignia, etc., of the good will and pleasure of foreign countries. Suppose I should go into that committee room and pick up one of those bills and bring it into the Senate and ask, in consideration of the great services performed by the party in question, that the Congress of the United States should put a privilege upon that bill for that man to receive that reward, there is not a Senator on this floor who would not object on the ground that it was out of order, that it was not germane to the subject, that it would be new legislation, that it had not been called for by any estimate, and that no officer of this Government had passed it in review. So it would go out of the bill instantly.

Mr. BACON. If the Senator will pardon me a minute——

Mr. MORGAN. Certainly.

Mr. BACON. I understood the Senator from Maine [Mr. HALE] to insist that during the consideration of this bill there should be a quorum present. There is not now a quorum present, and, in view of the absence of the Senator from Maine, I make the suggestion.

The PRESIDING OFFICER (Mr. WARNER in the chair). The Senator from Georgia having suggested the absence of a quorum, the Secretary will call the roll.

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

Allee	Clay	Heyburn	Patterson
Ankeny	Crane	Kean	Penrose
Bacon	Daniel	Kittredge	Perkins
Bailey	Dick	La Follette	Piles
Benson	Dillingham	Latimer	Proctor
Berry	Dolliver	Lodge	Scott
Beveridge	Elkins	Long	Simmons
Blackburn	Flint	McCreary	Smoot
Brandegee	Foraker	McCumber	Spooner
Bulkeley	Frazier	McEnery	Stone
Burkett	Fulton	McLaurin	Sutherland
Burnham	Gallinger	Mallory	Taliaferro
Burrows	Gamble	Martin	Warner
Carmack	Hale	Morgan	Warren
Carter	Hansbrough	Nelson	Wetmore
Clapp	Hemenway	Overman	Whyte

The VICE-PRESIDENT. Sixty-four Senators have answered to their names. A quorum is present.

Mr. MORGAN. Mr. President, I should like to say, in the absence of the Senator from Maine [Mr. HALE], who was in the Chamber a moment since—he has the matter in charge, and of course I suppose he will be here to maintain his own proposition—I should like to say that if the Senator from Maine was willing to take the responsibility of asking the Senate by unanimous consent to lay aside its rule and take up the bill that has come over from the other House, consider it without reference to a committee, and without having the responsibility of a committee interposed between the Senators who oppose the bill and Senators who vote for it, I will not make that objection. He can go ahead and take the responsibility, but I want to shoulder the responsibility of this upon somebody who is willing to take it. I do not want to shoulder it upon the Committee on Appropriations, who have presented this amendment here in the form in which it stands. We do not know and the country does not know who to call in question for this amendment proposed on an appropriation bill. Who is the author of it? Who brought it forward? Who takes the responsibility of trying to defend the proposition that this bill is within the rules of this Senate, when it is amenable to three objections, one of which was stated yesterday with the clearness of light by the Senator from North Dakota [Mr. MCCUMBER]—the constitutional question—and the other two that it is new legislation and that it has not been estimated for? It is traveling through the Senate, and it appears to have traveled through the other House, without anybody being willing to stand godfather for it. Let us know who is sponsor for it. Because some Senator has not espoused and avowed this as his proposition, the world will say that the President of the United States has been doing it, and doing it secretly and in an underhanded way. That is what they will say about it. I do not want to see the onus of this matter upon the President. Let some Senator take it or some committee take it, and let us answer to the American people as men ought to answer for their conduct on this floor.

I do not like the way in which this bill was originated. I do not like the way it has been handled in the other House, where it was first voted off an appropriation bill on a question of order and then pressed through the House and sent here, and when it got here it was not laid before the Senate, but was detained, in the hope that the vote would be taken on this amendment before we knew, officially at least, that the House had acted on the bill.

Now it appears here, and propositions are based upon it, propositions to take it up and act upon it without debate. Of course I would not consent to that, not that I want to speak upon it, but I do not propose to be one consenting to the absolute destruction of the privileges of the Senate to debate within the boundaries of reason any question that comes here. We are asked to pass upon it without debate, and that because it is expected July will be a hot month. It may be colder than June for aught we know.

Mr. President, I was discussing the proposition to show how this measure had passed through the minds of the men who framed the Constitution of the United States, and how they first took up all the officers holding offices of trust or profit under the United States and forbade them from receiving any presents, gifts, honors, titles, or emoluments of any kind whatsoever, says the Constitution, from any foreign potentate or prince or power. Did we suspect that the men who were going to enter into the service of the Government these men were then forming would be misled or influenced improperly by gifts and honors and titles of nobility, and such as that, conferred upon them by foreign people? We then, Mr. President, had very good reason for being very jealous of the power of the British Government and the British people and the British nobility over the people of the United States. There was then a large body of people in this country who were called "Tories," who were the friends of the British Crown and who adhered to it. Many of them fought us in the war of the Revolution and others escaped by going to Canada. After the war was over there was a great collection of those people in Canada. They were high-blooded people, educated people, people of strong convictions, and they preferred the British Government to the new proposition or enterprise that was entered upon, under the leadership of General Washington, by the Army and by the associated or confederated States. They preferred the British Government.

When we came to form a government, our fathers said no man who holds office of trust or profit under the Government of the United States shall ever receive from any foreign prince, power, potentate, or ruler—I do not quote the exact words—any office or emolument or gift or title of any kind whatsoever without the consent of Congress.

In the process of their reasoning they went further, and they found a man who should fill the Presidency of the United States possibly still more amenable to the weakness of human nature, of false pride, and of temptation that might be held out to him by foreign governments, or by even the States, or by the party that he might head in the Government. Thereupon they put an absolute restriction in the Constitution, so that Congress could not relieve against it and Congress could not permit him to receive anything but compensation—compensation for what he engaged to serve the Government for at the time he entered on the office, which should not be changed—either increased or diminished—during his term of office.

They went still further, and they provided as to the compensation of the President that it—

shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

They cut the States out; so that Congress could not permit him to receive, for instance, from the great Empire State of

New York, of which he is a native citizen, some great emolument, some great benefit. Suppose the State of New York should vote him a great palace during the time that his Presidency continues, to be occupied by him officially, whereby the summer capital of the United States would be transferred to New York City. The Congress of the United States would never permit him to enter it, because it had not consented and could not consent to his receiving any such emolument as that from the government of his own State of New York.

Already, Mr. President, we have two capitals in this country; but we are not making any objection about that. One is at Oyster Bay in the summer, and the other is Washington in the winter and during the sessions of Congress. While there is great inconvenience, and perhaps sometimes extreme difficulty in conducting properly the affairs of the Government because the President finds it necessary for the health and comfort of his family to reside at an old homestead at Oyster Bay, where he goes and transacts the public business, nobody complains and nobody challenges his right to do it at all. But still Oyster Bay is the summer capital of the United States unquestionably.

That is as far as we can go. If the Congress of the United States should pass a law for the delectation or for the convenience or for the comfort of the President, that the capital of the United States should be at Washington in the winter and Oyster Bay in the summer, that law would be unconstitutional, because you say that it is for the accommodation of the President and that the emoluments of his office do not reach the proposition that he could go there and establish himself for the summer.

We are traveling upon dangerous ground here, and we are doing it without any necessity. If it could be pointed out that there was any necessity for it; that the Government would in any sense be bettered by it; that it would be anything more than a gratification to the President and his invited friends or to the people who might wish to look upon the pageant that would pass through the country, paid for by an appropriation of Congress—if it were anything more than that; if there were anything in it connected with the Government or its administration in any form whatever, there might be some excuse for the enactment of this provision. But there is none; it is a pure donation for excursion purposes; that is all; there is nothing else to it. It is an appropriation for excursions hereafter to be undertaken and conducted by the President and his invited friends. We can not say that the President should invite all his friends, or that he should invite any of his enemies, if he has any, or that he should invite all the spellbinders of a certain political party and keep the others out, or that he should attend conventions in certain doubtful States and need not attend them anywhere else. It is proposed to give him the discretion to go where he pleases, to spend as much money as he pleases in these outings, provided he limits himself to the invitation of such guests as he may find agreeable. That, Mr. President, has less to do with the future destiny and the conduct of the Government of the United States than anything I can think of connected with one of the great offices of this country.

Suppose we should extend this privilege to the overworked and overtaxed judges of the Supreme Court of the United States; suppose we should provide that they should have $25,000 apiece for going off and recreating themselves and should have the privilege of taking their friends with them when they went. Are they not as much entitled to it as the President? Do they not work as hard as he does? Have they not as much responsibility to God and the people as he has? Do they not take the acts and laws that he may have approved and pass on them and sometimess declare them void and of no avail and of no effect? They stand above him in power when we come to weigh the matter correctly. They do more work than he does. Any one of the nine does more work than the President of the United States. They labor in silence and in quietude and in retirement where their physical energies are drawn upon to the extent of prostration many times. Many of those noble men have gone to early graves simply because they killed themselves working for the people of the Untied States. If they had had this $25,000 a year to go out with their friends, and banquet and attend those great hunts or go to the watering places, it would be very natural to suppose that many of them would be living yet.

When we break over this line, when we commence authorizing the President of the United States, who is absolutely forbidden to receive such gifts or donations or rewards or emoluments, or whatever you please to call them—whenever we transgress this line, then, Mr. President, we will have the States coming here with invitations to the President of the United States saying, "Congress pays your expenses; come to us; we need you; we want you; come to us, enlighten our people; bring your spellbinders along, and in the next Congressional election in November we will roll up a handsome majority for you and your party, or in the next Presidential election we will give you a third term. Come to us." Would anybody expect me as a member of the Senate to offer a bill that the next President of the United States after the present incumbent, if he should be a Democrat, should have his expenses paid at the rate of $25,000 a year to visit Alabama and gratify our people there? Would there be any necessity for that or any propriety in it? Would it not disgust the Senate if I should offer such a proposition as that? And yet it is quite as legitimate as the proposition that is offered here to-day. To my mind, Mr. President, it is all so perfectly plain upon constitutional grounds, upon grounds of public policy, and upon the action that has been taken in regard to this very bill, which seems to have been furtive, at least, in both Houses, satisfies me that it is my duty to vote against the amendment.

Mr. HALE. Now, Mr. President, to see if we can make some progress, I renew my request for unanimous consent that the House bill be laid before the Senate, and that at 4 o'clock, without further debate, a vote be taken upon it. If it carries, Mr. President, I shall on behalf of the Committee on Appropriations withdraw the amendment now pending and we will be able to proceed with other matters. I will say that I do this because it has been suggested to me that in my absence the Senator from Alabama indicated that he would withdraw his opposition to the proposition.

Mr. MORGAN. I will be willing to withdraw my opposition to the proposition, but I want the Senator from Maine to withdraw something, too. I want him to withdraw this amendment.

Mr. HALE. I have stated that at the moment the bill is disposed of I will withdraw the amendment.

Mr. MORGAN. But why not withdraw it now?

Mr. HALE. I will withdraw it now.

Mr. MORGAN. If we are going to vote upon the bill as a proposition of new law, why not say that the amendment is not proper here? If the amendment is withdrawn, I will consent that we take up the original bill.

Mr. HALE. I see the force of the Senator's proposition. I will withdraw the amendment now.

Mr. MORGAN. Very good; if you will do that, I will consent to do almost anything you want to do.

The VICE-PRESIDENT. The amendment is withdrawn.

Mr. McLAURIN. Is that amendment withdrawn without reference to whether or not there is consent to take up the other bill? I know the amendment is withdrawn now.

Mr. HALE. Of course if consent is not given to the other proposition to which the Senator from Alabama has agreed, I shall have to renew the amendment.

Mr. McLAURIN. Then it is a withdrawal with a string to it.

Mr. HALE. But I trust to the good sense of the Senate with reference to that. I do not think anybody believes that we will gain anything by the prolongation of this debate. Nobody can suggest anything new about it; and I think we all want to pass this bill and send it over to the House. I am willing to leave that to the good sense of the Senate. I will withdraw the amendment.

Mr. McLAURIN. I wish to say, so far as all of us wanting to pass this bill is concerned, that I for one do not want to pass it, and I will vote against it. I understand the amendment is withdrawn.

Mr. HALE. The amendment is withdrawn. Now, Mr. President, I make my proposition——

Mr. MORGAN. I want to make a suggestion to the Senator from Maine in regard to the amendment I suggested to him today. If that goes in, I do not know of any objection.

Mr. HALE. I shall return, then, to the bill, and it will be open to any amendment after that. I shall ask that the bill be passed.

The VICE-PRESIDENT. Will the Senator from Maine complete his request?

Mr. MORGAN. Then I understand, if I gather it correctly—I do not hear very well—that the Senator from Maine withdraws this amendment?

Mr. HALE. I withdraw the amendment and I make the proposition that, in its stead, the House bill on the same subject be laid before the Senate for its consideration, and that at 4 o'clock, without further debate, a vote be taken upon it.

Mr. MORGAN. That is to say, that after the Senator has withdrawn the pending amendment the appropriation bill shall be temporarily laid aside and the House bill taken up?

Mr. HALE. Undoubtedly.

Mr. MORGAN. Debate to close upon it at 4 o'clock?

Mr. HALE. The bill will be open to amendment afterwards.

Mr. MORGAN. Debate to close at 4 o'clock?

Mr. HALE. Yes; undoubtedly.

Mr. MORGAN. I have no objection to that.

Mr. McLAURIN. Let me make a suggestion to the Senator from Maine. The amendment is withdrawn, and I believe there is only one other amendment to the sundry civil bill. It will take very little time, I think, to dispose of it.

Mr. MORGAN. Two.

Mr. McLAURIN. Two amendments. They will take very little time.

Mr. HALE. Very little time. There are no controversies.

Mr. McLAURIN. Why not go on with the sundry civil bill and dispose of it, and let the Senator's request be that we vote upon the other bill immediately after the disposition of this bill? I want to look at the other bill a little while. I do not desire—at least, I do not think I will desire—to say anything. If the Senator asks that there shall be no debate on it, I will consent to that. But I would prefer to have an opportunity to read the bill. I have never seen it. I heard it read. I do not suppose it has been printed. If it has been printed and laid on the desks of Senators, I have not seen it. I should like to examine it a little while, at least. I may want to offer some amendments to it.

Mr. HALE. Then, we will proceed with the consideration of the bill.

Mr. SPOONER. What is the understanding?

Mr. McLAURIN. What objection can there be to that course?

The VICE-PRESIDENT. The Senator from Maine requests that the House bill be now laid before the Senate, and that at 4 o'clock the Senate proceed to vote upon the bill without further debate. Is there objection?

Mr. MALLORY. I object.

Mr. McLAURIN. Why not go on with the sundry civil bill, with the amendment withdrawn, and then, by unanimous consent, vote on the other bill as soon as this bill shall have been disposed of? Can there be any objection to that course? It would give Senators an opportunity to examine the House bill. Surely there can not be any disposition to have it rushed through and to have a vote upon it without an opportunity to examine it.

Mr. SPOONER. The Senators who are opposed to it have had an opportunity to present their observations quite fully, and no one who wishes to reply will have any opportunity whatever.

Mr. McLAURIN. That is the proposition of the Senator from Maine.

Mr. SPOONER. I do not care to take any time.

Mr. McLAURIN. It is the proposition of the Senator from Maine to do that. I do not desire to cut off debate.

Mr. SPOONER. The proposition of the Senator from Maine is to take up the bill now, laying aside the sundry civil bill, as I understand, to discuss it until 4 o'clock, and then to vote on it.

Mr. HALE. Yes.

Mr. McLAURIN. That would give an hour and a quarter. Then suppose you give an hour and a quarter for debate at the termination of the consideration of the bill we now have before the Senate. What would be the difference?

Mr. HALE. There is no objection to that.

Mr. SPOONER. That is all right.

Mr. MORGAN. Mr. President——

The VICE-PRESIDENT. Will the Senator from Maine kindly restate his request?

Mr. MORGAN. Is the amendment withdrawn?

Mr. HALE. The amendment is withdrawn.

Mr. CARMACK. Do I understand that the amendment is withdrawn?

Mr. HALE. The amendment is withdrawn, and we are to proceed with the House bill until 4 o'clock, when a vote will be taken, and after that I shall insist that the appropriation bill be brought to a final vote, with one hour and a half more for debate if Senators want it.

Mr. McLAURIN. That is not my proposition. My proposition was to take up the House bill at the conclusion of the consideration of this bill.

Mr. MARTIN. The sundry civil bill.

Mr. McLAURIN. The Senator from Wisconsin objected, because, he said, it would give no opportunity to Senators in favor of the proposition to be heard. If the proposition made by the Senator from Maine were accepted, it would give only one hour and a quarter to Senators who want to speak on the bill. I say give an hour and a quarter for that purpose after the disposition of the sundry civil bill.

Mr. HALE. Very well. I ask, then, that all debate on the sundry civil bill shall cease at 4 o'clock, and then I will ask the Senate to take up the House bill and vote upon it at half past 5, or not later than half past 5.

Mr. McLAURIN. What is the objection of the Senator to finishing the bill we have before us—the appropriation bill?

Mr. HALE. I am afraid I can not finish it. That is the trouble.

Mr. McLAURIN. It can be finished just afterwards. If, by unanimous consent, the Senate can immediately take it up and limit debate to a particular time——

Mr. HALE. That can be done only by unanimous consent.

Mr. McLAURIN. Why would not that proposition be better? It would certainly give an opportunity to Senators to examine the House bill, which we have not had a chance to do; at least I have not.

Mr. HALE. Is there any objection to my proposition, that debate upon the pending appropriation bill shall cease at 4 o'clock? Then—not that the bill is disposed of—I will ask the Senate to take up the House bill, and at half past 5, another hour and a half, a vote be taken upon it, and after that I shall ask the Senate to pass this bill. There is no reason why it could not be passed then.

Mr. McLAURIN. The Senator does not seem to understand that nobody has had an opportunity to consider or examine the House bill.

Mr. HALE. It will give two hours and a half to that very purpose. I am giving an hour and a half of debate on the bill generally. Then take up the House bill and have another hour and a half on it.

Mr. McLAURIN. The House bill has not been printed.

Mr. HALE. It has been printed and read.

Mr. McLAURIN. I know it has been read. I heard it read. But I have not seen it.

Mr. HALE. The Senator can examine it under my proposition. Otherwise, unless I can have that consent, the debate must proceed, and I shall ask the Senate to come here to-night and settle the whole matter.

Mr. McLAURIN. All right.

Mr. MORGAN. I offered an amendment——

Mr. SPOONER. Is that agreed to?

Mr. HALE. No.

Mr. MORGAN. I offered an amendment on page 176——

Mr. McLAURIN. I did not object to it.

Mr. HALE. I understood——

The VICE-PRESIDENT. Will the Senator from Maine kindly restate his request for unanimous consent?

Mr. McLAURIN. I will state that I was merely trying to get an agreement which would be satisfactory to all of us, but if the Senator from Maine will not accept anything of that kind——

Mr. PETTUS. I think it will be agreed to as the Senator from Maine stated it.

Mr. HALE. I propose that the debate upon the pending bill and amendments shall close at 4 o'clock.

Mr. CLAY. The Senator from Maine says "pending amendments." As the Senator from Maine knows, I have three small amendments which I desire to offer to the bill, and there are three or four letters from the War Department which I wish to have read in support of them. I do not think the amendments will consume more than ten minutes. Now, the Senator's proposition will cut off amendments and cut off any remarks——

Mr. HALE. No.

Mr. CLAY. On amendments not now pending.

Mr. HALE. Of course I must have some limitation. My proposition applies not only to amendments now offered, but to be offered and pending at 4 o'clock. Then I shall ask that this bill be laid aside and the House bill upon this subject be taken up and considered until half past 5, and that then a vote be taken upon it. By that time we will be in such condition that while debate will be shut off, we can consider all other amendments and dispose of this bill before 6 or half past 6, so that I will not be obliged to ask the Senate to have an evening session. My proposition covers not only amendments offered now, but amendments which may be offered before that time.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Maine?

Mr. BACON. Let me understand the Senator from Maine.

Mr. MORGAN. I am obliged to say to the Senator from Maine that I shall ask consideration of the amendment I suggested to him to-day, which I will read.

Mr. HALE. That will come up naturally as an amendment.

Mr. MORGAN. In the event that the amendment meets with any contest at all, there will necessarily be a much longer debate than two hours. The bill reads as follows:

To be used as an advance to the Panama Railroad Company, to continue the reequipment of the railroad of said company, $1,000,000.

I propose to amend it by striking out the words "as an advance to the Panama Railroad Company;" so that it will read:

To be used to continue the reequipment of the railroad of said company, $1,000,000.

Mr. HALE. I shall not object to the amendment. I am in favor of it.

Mr. MORGAN. Let the amendment go in, and I will make no objection to the request for unanimous consent.

Mr. HALE. Let the Senator move it now.

Mr. MORGAN. I move it.

The VICE-PRESIDENT. The Senator from Alabama proposes an amendment, which will be stated by the Secretary.

The SECRETARY. In line 12, page 176, strike out the words "as an advance to the Panama Railroad Company;" so that the clause will read:

To be used to continue the reequipment of the railroad of said company, $1,000,000.

The amendment was agreed to.

Mr. MORGAN. Now I have no objection to the agreement.

Mr. NELSON. Mr. President——

Mr. HALE. Will the Senator let me get my agreement through, and then the bill will be open to all amendments?

Mr. NELSON. All right.

Mr. HALE. My proposition does not cut off any amendments whatever.

Mr. BAILEY. What would the Senator from Maine say to the suggestion that the appropriation bill be temporarily laid aside, and that the Senate now proceed to the consideration of the House bill respecting the traveling expenses of the President, and consider it until 5 o'clock—that would be two hours—and then take a vote on it, the time to be equally divided?

Mr. HALE. We have never resorted to the proceeding of dividing time in the Senate. There never is any question in the Senate. We trust to the courtesy of the Chair in that regard.

Mr. BAILEY. And the confidence and courtesy of the Senate have never been misplaced. I have never seen any Senator take advantage of it. Perhaps that is a habit I brought with me from the other side of the Capitol. I will withdraw that suggestion and rely——

Mr. MALLORY. The Senate has at times applied the rule of fixing the time to which each Senator shall be confined in the discussion; and inasmuch as it is possible for a Senator to consume the major portion of the time, inadvertently, perhaps, I think it would be very well to limit the time which each Senator shall have to discuss the question in the two hours, if we are to have two hours.

Mr. HALE. What does the Senator from Texas think of that?

Mr. BAILEY. That would be entirely satisfactory. I will say that I prefer myself the House practice. You divide the time equally, and then a Senator on each side yields as he sees fit. But I have no desire myself to introduce in the Senate the methods of the House, though I think it would improve the Senate in some particulars.

Mr. HALE. We have always left that to the presiding officer and his fairness.

Mr. BAILEY. Certainly; but the trouble is——

Mr. HALE. I think the suggestion of the Senator from Florida is a good one.

Mr. BAILEY. I think the suggestion of the Senator from Florida obviates that difficulty. The trouble is if one Senator, without any limitation on the time, gets the floor and becomes engaged in a colloquy—a running debate—he might unconsciously consume more time than he otherwise would.

Mr. MALLORY. I suggest ten minutes.

Mr. GALLINGER. Let the Senator put the time for a vote as not later than 5 o'clock, instead of 5 o'clock definitely.

Mr. BAILEY. Then, I suggest that the appropriation bill be temporarily laid aside; that the House bill be taken up for discussion, and that the debate proceed under the ten-minute rule.

Mr. HALE. That is right.

Mr. BAILEY. And that the vote shall be taken not later than 5 o'clock.

Mr. HALE. That is right.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

Mr. HALE. I ask that the appropriation bill be temporarily laid aside.

The VICE-PRESIDENT. It is so ordered.

TRAVELING EXPENSES OF THE PRESIDENT.

The VICE-PRESIDENT laid before the Senate the bill (H. R. 20321) to provide for the traveling expenses of the President of the United States, which was read, as follows:

Be it enacted, etc., That hereafter there may be expended for or on account of the traveling expenses of the President of the United States such sum as Congress may from time to time appropriate, not exceeding $25,000 per annum, such sum when appropriated to be expended in the discretion of the President and accounted for on his certificate solely.

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes authorized by this act for the fiscal year 1907, the sum of $25,000.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HALE. I hope the Senate understands just what has been done. The appropriation bill is temporarily laid aside, and the House bill is before the Senate and is to be debated under the ten-minute rule and voted upon not later than 5 o'clock. It is now open to debate under the ten-minute rule.

The VICE-PRESIDENT. That is correct.

Mr. CARMACK. Mr. President, this matter has been so fully debated that I have only a very few words to say. I simply wish to state my own view and position.

My objection to the appropriation is that it is for no public purpose whatever. It does not facilitate, and is not intended to facilitate, the performance of any public function or any public duty whatever. No case has been stated where the President has ever needed to travel over the country or to leave the capital for the purpose of performing any public duty. Cases have been imagined by Senators where the President might travel about or leave the capital and go to some point or other for the performance of some public duty, but no Senator has been able to state any case where the President ever has been called upon to leave the capital or to travel from one point to another in order more perfectly or correctly to perform his public duty.

Some positions have been stated here, Mr. President, that are remarkable to me. It has been asserted here, as an example and as an illustration of the benefits to be derived from this proposed law and this appropriation, that President McKinley, when he left the capital and went to the city of Buffalo to attend an exposition there and to deliver an address, was engaged in the performance of his official duties. I cheerfully admit, Mr. President, that when Mr. McKinley went to Buffalo and made a speech protesting against the exclusive tariff policy of the Republican party he was engaged in the performance of a duty, of a very high and patriotic duty, but it was not an official duty. It was not a duty performed by him as the Chief Executive of this country.

The speech which he made upon that occasion was not a public document, and his act was not an official or an executive act. You might as well say that any Senator when he is called upon to go back to his home or to any point in this country to deliver a public address is engaged in the performance of an official duty as to say that the President of the United States when he goes to deliver a college address or to make a political speech in any part of the country is engaged in the performance of his official duties.

The Senator from Indiana [Mr. HEMENWAY] stated what I think is the true purpose of this measure when he told us how it was necessary to provide the President with special trains and to have him surrounded by an army of newspaper men and attendants in order that his addresses to the people may be properly reported, and that he may travel about over the country and give the people an opportunity to see him and to come in contact with the Chief Executive of the nation. In other words, we are to pay out of the Treasury in order to give the people of the United States a free show, and I have no doubt that at the next session of Congress the Senator from Indiana will be demanding that, in addition to providing champagne and flowers for the President and his invited guests, we shall provide roasted peanuts and pink lemonade for the people. We have just as much right to do the one as we have the other.

The only official acts of the President of the United States are those which are cast upon him by the Constitution and by the laws of the United States, and we might as well make a direct appropriation of so much money to increase the salary of the present incumbent of the office of President of the United States as to pass a law to diminish the personal expenses of the President when he is voluntarily traveling about over the United States. It seems to me that it is in plain violation of the Constitution. It is giving an additional emolument to the President and practically increasing his compensation during his term of office.

I wish to offer an amendment. I move to strike out lines 8, 9, 10, and 11 of the bill.

The VICE-PRESIDENT. The Senator from Tennessee proposes an amendment, which will be stated by the Secretary.

The SECRETARY. It is proposed to strike out in the blue print lines 9, 10, 11, and 12, as follows:

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes authorized by this act for the fiscal year 1907, the sum of $25,000.

Mr. CARMACK. My reason for offering the amendment is this: On a casual view of it that will remove what I conceive to be the constitutional objection to the bill.

Mr. HALE. If no Senator desires to debate the proposition, let us have a vote upon it.

Mr. SPOONER. What is to be stricken out? I ask that the bill be read.

Mr. HALE. The appropriation is to be stricken out.

The VICE-PRESIDENT. The bill will be read.

The Secretary again read the bill.

The VICE-PRESIDENT. The amendment will again be stated.

The SECRETARY. It is proposed to strike out lines 9, 10, 11, and 12, in the following words:

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes authorized by this act for the fiscal year 1907, the sum of $25,000.

Mr. McCUMBER. I wish the Secretary would again read the first paragraph. It does not conform with the copy of the bill we have.

The VICE-PRESIDENT. It is not the same print.

Mr. BAILEY. I ask the attention of the Senator from Tennessee to one point. I think the amendment as he sent it to the desk was originally drawn to be offered to the item in the appropriation bill, and I suggest that he examine it with a view to conforming it to the bill now before the Senate.

The VICE-PRESIDENT. The Senator from Tennessee proposes an amendment, which will be stated.

The SECRETARY. It is proposed to strike out lines 9, 10, 11, and 12 of the blue print in the following words:

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes authorized by this act for the fiscal year 1907, the sum of $25,000.

Mr. HEYBURN. The word "authorized" is not in the printed bill.

Mr. HALE. Let us have a vote upon it.

Mr. McCUMBER. I ask the Secretary to read the first paragraph of the blue print, as it does not appear to be the same as the copy I have, and most Senators are presuming that this printed bill is the bill under consideration.

Mr. GALLINGER. That is the bill as introduced in the House.

The VICE-PRESIDENT. Does the Senator from North Dakota ask that the first paragraph of the bill be read?

Mr. McCUMBER. The first paragraph.

The VICE-PRESIDENT. As it reads in the House bill?

Mr. McCUMBER. As it reads in the House bill.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

That hereafter there may be expended for or on account of the traveling expenses of the President of the United States such sum as Congress may from time to time appropriate, not exceeding $25,000 per annum, such sum when appropriated to be expended in the discretion of the President and accounted for on his certificate solely.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Tennessee [Mr. CARMACK].

Mr. FORAKER. What is the amendment?

Mr. HALE. To strike out the appropriation.

Mr. FORAKER. What is left?

Mr. HALE. We will vote it down.

Mr. FORAKER. But what if it is not voted down?

Mr. GALLINGER. But we will.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Tennessee [Mr. CARMACK]. [Putting the question.] The noes appear to have it.

Mr. CARMACK. I ask for the yeas and nays, Mr. President.

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

Mr. LONG (when his name was called). I have a general pair with the senior Senator from Idaho [Mr. DUBOIS]. I transfer my pair to the junior Senator from Michigan [Mr. ALGER], and will vote. I vote "nay."

Mr. McCUMBER (when his name was called). I have a general pair with the junior Senator from Louisiana [Mr. FOSTER]. He being absent, I withhold my vote.

Mr. NELSON (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. BERRY]. I believe he has not voted. I transfer my pair to the senior Senator from Maine [Mr. FRYE], and will vote. I vote "nay."

Mr. PILES (when his name was called). I understood yesterday that my pair with the junior Senator from Arkansas [Mr. CLARKE] had been transferred to the Senator from Minnesota [Mr. CLAPP], who was absent. That was not the case. The Senator from Minnesota is paired with the Senator from North Carolina [Mr. SIMMONS]. Therefore I withhold my vote. Otherwise I would vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY]. So I withhold my vote.

Mr. KEAN. I suggest to the Senator from Wyoming that he transfer the pair to my colleague.

Mr. WARREN. Very well. Upon the suggestion of the senior Senator from New Jersey, I make the transfer of the pair, and the Senator from Mississippi [Mr. MONEY] will stand paired with the Senator from New Jersey [Mr. DRYDEN], and I will vote. I vote "nay."

The roll call was concluded.

Mr. PETTUS. The senior Senator from Alabama [Mr. MORGAN] is paired with the senior Senator from Iowa [Mr. ALLISON].

Mr. DILLINGHAM. The senior Senator from South Carolina [Mr. TILLMAN], with whom I have a general pair, is absent this afternoon necessarily, and I withhold my vote. Were he present, I should vote "nay."

Mr. GAMBLE. I voted "nay." I observe that the senior Senator from Nevada [Mr. NEWLANDS] did not vote. I have a general pair with that Senator. I transfer the pair, however, to the junior Senator from Nevada [Mr. NIXON], and will allow my vote to stand.

Mr. OVERMAN (after having voted in the affirmative). Has the senior Senator from California [Mr. PERKINS] voted?

The VICE-PRESIDENT. He has not voted.

Mr. OVERMAN. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. FULTON. I again announce my pair with my colleague [Mr. GEARIN]. In his absence I withhold my vote. If he were present, I should vote "nay."

Mr. KITTREDGE (after having voted in the negative). I observe that the junior Senator from Colorado [Mr. PATTERSON] has not voted. With him I have a general pair. I therefore withdraw my vote.

Mr. CULBERSON (after having voted in the affirmative). Listening to the reading of the names, it appears that the Senator from California [Mr. FLINT] has not voted. I desire to ask if he did, in fact, vote.

The VICE-PRESIDENT. He did not vote.

Mr. CULBERSON. I withdraw my vote, as I have a general pair with that Senator.

Mr. PETTUS (after having voted in the affirmative). I desire to know whether the junior Senator from Massachusetts [Mr. CRANE] has voted.

The VICE-PRESIDENT. He has not voted.

Mr. PETTUS. I withdraw my vote.

Mr. McLAURIN. My colleague [Mr. MONEY] is paired with the Senator from Wyoming [Mr. WARREN]. If my colleague were present, he would vote "yea."

Mr. MALLORY. The junior Senator from Colorado [Mr. PATTERSON] requested me to state that he was called from the Senate; that he desired to vote on this question, and that if he were here, he would vote against the amendment in the sundry civil bill.

The result was announced—yeas 17, nays 35, as follows:

YEAS—17.

Bacon	Clay	McLaurin	Taliaferro
Bailey	Daniel	Mallory	Whyte
Berry	Frazier	Martin	
Blackburn	Latimer	Rayner	
Carmack	McCreary	Simmons	

NAYS—35.

Allee	Clapp	Hansbrough	Nelson
Benson	Cullom	Hemenway	Penrose
Beveridge	Dick	Heyburn	Proctor
Brandegee	Dolliver	Hopkins	Smoot
Bulkeley	Elkins	Kean	Spooner
Burkett	Foraker	La Follette	Sutherland
Burnham	Gallinger	Lodge	Warner
Burrows	Gamble	Long	Warren
Carter	Hale	Millard	

NOT VOTING—37.

Aldrich	Dillingham	McCumber	Piles
Alger	Dryden	McEnery	Platt
Allison	Dubois	Money	Scott
Ankeny	Flint	Morgan	Stone
Clark, Mont.	Foster	Newlands	Teller
Clark, Wyo.	Frye	Nixon	Tillman
Clarke, Ark.	Fulton	Overman	Wetmore
Crane	Gearin	Patterson	
Culberson	Kittredge	Perkins	
Depew	Knox	Pettus	

So Mr. CARMACK's amendment was rejected.

Mr. CULBERSON. I move to amend the bill by adding after the word "expenses," in line 4, the words "when traveling on

official business," and upon that amendment I ask for the yeas and nays.

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

Mr. DILLINGHAM (when his name was called). Again I announce my pair with the senior Senator from South Carolina [Mr. TILLMAN], and I withhold my vote.

Mr. FULTON (when his name was called). I have a general pair with my colleague [Mr. GEARIN] who is absent. If he were present, I should vote "nay."

Mr. PETTUS (when Mr. MORGAN's name was called). My colleague [Mr. MORGAN] is paired with the Senator from Iowa [Mr. ALLISON].

Mr. OVERMAN (when his name was called). I am paired with the senior Senator from California [Mr. PERKINS]. If he were present, I should vote "yea."

Mr. PILES (when his name was called). I am paired with the junior Senator from Arkansas [Mr. CLARKE]. I transfer that pair to the junior Senator from New York [Mr. PLATT], and I will vote. I vote "nay."

Mr. WARREN (when his name was called). Under the same arrangement of pairs before stated I will vote. I vote "nay."

The roll call having been concluded, the result was announced—yeas 23, nays 35, as follows:

YEAS—23.

Bacon	Culberson	McCumber	Rayner
Bailey	Daniel	McLaurin	Simmons
Berry	Frazier	Mallory	Stone
Blackburn	La Follette	Martin	Taliaferro
Carmack	Latimer	Patterson	Whyte
Clay	McCreary	Pettus	

NAYS—35.

Allee	Crane	Hansbrough	Nelson
Benson	Cullom	Hemenway	Piles
Brandegee	Dick	Heyburn	Proctor
Bulkeley	Dolliver	Hopkins	Smoot
Burkett	Elkins	Kean	Spooner
Burnham	Foraker	Kittredge	Sutherland
Burrows	Gallinger	Lodge	Warner
Carter	Gamble	Long	Warren
Clapp	Hale	Millard	

NOT VOTING—31.

Aldrich	Depew	Gearin	Penrose
Alger	Dillingam	Knox	Perkins
Allison	Dryden	McEnery	Platt
Ankeny	Dubois	Money	Scott
Beveridge	Flint	Morgan	Teller
Clark, Mont.	Foster	Newlands	Tillman
Clark, Wyo.	Frye	Nixon	Wetmore
Clarke, Ark.	Fulton	Overman	

So Mr. CULBERSON's amendment was rejected.

Mr. McCUMBER. Mr. President, a very objectionable feature is eliminated from this bill which was contained in the amendment in the appropriation bill. The amendment in the appropriation bill provided, among other things, that not only was the President himself exempted from the operation of the general law prohibiting free traveling in the United States, but he could also exempt any number of persons whom he saw fit to exempt from the operation of that law. He could name one or he could name twenty or he could name a hundred. That makes this bill far preferable to the law which was proposed in the amendment itself.

Nevertheless, Mr. President, the bill is still open, in my candid judgment, to the same constitutional objection and the same objection on principle. I would, if I could, vote to increase the salary of the Executive of the United States. I have great admiration for the President of the United States and great respect for him. But I have equal admiration and equal respect for the American people and the average American citizen, and I would not, by my vote, willingly grant an exemption or a right to the Executive that I would deny to any American citizen. For that reason, on principle, I am necessarily opposed to this bill even as it now stands.

In addition to that there is still the constitutional inhibition against the increase of the compensation of the Execuive during his term of office. In my candid judgment, this provision is not only against the clear letter of the Constitution, but it is also against the spirit of the Constitution and the reasons which guided the framers of that instrument in prohibiting us from changing this compensation during the period of incumbency of the office.

For that reason, on the final passage of the bill, I shall feel that I can not under my obligation to support the Constitution conscientiously vote for the bill.

Mr. SPOONER. Mr. President, I shall vote for this bill. I am as much attached to the Constitution of the United States, as I understand it, as any Senator here. I do not believe this appropriation to constitute an emolument within the meaning of the Constitution. The provision in the Constitution was intended to make Congress independent of the Executive and the Executive independent of the Congress:

> The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any *other*—

They mean something by every word in the Constitution—

> any other emolument from the United States or any of them.

The great object was that the President should not use his patronage to influence the Congress to increase his compensation and that the Congress should not use its prejudice and its power over the purse to starve the President into an agreement with it upon some public policy.

This last clause, in my opinion, Mr. President, was simply inserted by the framers of the Constitution to prevent an evasion of the prohibition upon an increase of compensation during the period for which the President was elected. You have to strike that word "other" out of that sentence, or else, Mr. President, it means inevitably, as a matter of logic and constitutional construction, I think, what I claim it to mean.

Moreover, Mr. President, if the contention of the Senators who oppose this bill be correct, every President of the United States from the beginning has violated the Constitution when he has approved an appropriation bill which allowed anything for the White House outside of the mere *office* accommodations. There is nothing in the Constitution about a White House; there is nothing in the Constitution about an Executive Mansion; there is nothing in the Constitution, construed as Senators construe it, which makes it constitutional to afford a residence for the President's family. That is a financial gain to him, for if it were not provided by the Congress he would be obliged to rent a house or to purchase one for his family. The judges have not houses in which to live, nor have the Cabinet officers, nor the Members of Congress, afforded by law. So the President directly gains financially by having a place of *residence*, as contradistinguished from *office*, for himself and his family.

Mr. HALE. Nobody has ever contended that he should not have it.

Mr. SPOONER. Nobody has ever contended that from the beginning. Since the White House was constructed it has been the home not simply of the President, it has not been simply an office, but an official home for the President and a home for his family. That is a perquisite, that is an emolument, that is a profit derived from the office, if there is any solidity in the construction which is sought to be placed upon this provision of the Constitution.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Mississippi?

Mr. SPOONER. No; I can not. I have only ten minutes.

The VICE-PRESIDENT. The Senator declines to yield.

Mr. SPOONER. I do not mean to be impolite.

Mr. President, the Constitution is violated if the President without paying rent for it puts his horses in a stable the property of the United States. Upon what theory do we buy furniture for the White House other than office furniture if this construction of the Constitution be a correct one? Upon what theory do we furnish coal for the White House except simply enough for the office if this construction be a correct one?

That constitutional provision was intended to prevent any appropriation or allowance or fee to be made by the Congress to the President or permitted which should operate to *increase his compensation*. It means inevitably to my mind *profit*. It means income. It does not mean a governmental expense. It is violated by having a flower garden for affording flowers. It was expected that the President of the United States, the Chief Magistrate of this country, must have social duties to discharge, not personally for himself, but as a representative of the Government. It was expected, Mr. President, that he would receive and entertain foreign ministers. That is a part of the diplomacy of the country.

It never was expected when the Constitution was framed and created the office of Chief Magistrate, the exaltation not by Congress but by the people of an American citizen to the highest position in the Government, that he should not live as the executive head of this Government in a manner in harmony with his station. It is in the public interest that he should do so. And so, Mr. President, from the beginning that word has received from Washington down the construction practically in legislation for which I contend.

How many minutes have I, Mr. President?

The VICE-PRESIDENT. Three minutes more.

Mr. SPOONER. The long-continued and unbroken legislative and executive exposition of the word "emolument," as used in

this connection in the Constitution, has the force of judicial construction. Moreover, it is in harmony with the good sense of the American people who are not willing that the President should be treated in a narrow and parsimonious way, absolutely inconsistent with the status of this country internationally. I call attention again to the fact that the Supreme Court, in United States *v.* Hoyt (10 Howard), construed the word "emolument" as I am construing it. They defined it:

Embracing every species of *compensation* or *pecuniary profit* derived from a *discharge of the duties of the office.*

Now, Mr. President, that is neither compensation nor emolument, in my opinion, within the meaning of that clause of the Constitution, the result of which is not to add *one penny* to the *compensation* of the President. If any remains unexpended for traveling expenses, it is not his. It is an unexpended balance, which belongs to the Government.

I have no time to discuss the question of what are his duties, but I am not ready to believe, Mr. President, that the men who framed this Constitution, who were of world-wide knowledge, intended that the hands of Congress should be tied and that the President of a Republic, elected by the people and the servant of the people, should remain a hermit confined to the White House, unless he were a man of fortune and able to travel at his own expense.

It is to be assumed that no political trips will be taken by the President. It is to be assumed by this branch of the Government that the other branches will conduct themselves with due sense of propriety and will not do those things which would obviously shock the sense of propriety of all thoughtful men. I have no constitutional difficulty in voting for this bill.

Mr. McLAURIN. Mr. President, I did not intend to say anything, and I only rise now because I was not permitted to ask a question which I think would answer everything that has been said by the Senator from Wisconsin in reference to the mansion that is provided by the Government for the President. That is about as hollow as I ever heard from the Senator from Wisconsin, and more hollow than I ever expected to hear from him. There is nothing in the Constitution which prohibits the Congress of the United States from saying what the compensation is, provided Congress declares beforehand what shall be the compensation. It may be a salary of $50,000, and in addition to that a residence for the Chief Executive of the United States, for himself and for his family, and offices for himself and for all of his official family.

That may be done in advance, and is done in advance; but there is not anything in the world in that that is an answer to the proposition that if it had not been done, and it is done afterwards, it is an advantage to the President of the United States.

When the present President of the United States was elected and inducted into office, there was a provision for his compensation that he should have $50,000 per annum, and that he should have a residence, which is called "the White House." It is not necessary that the words "White House" should be in the Constitution, but the word "compensation" includes every advantage, every benefit, every help to the President of the United States or any officer who receives compensation. So the White House was included in the compensation that was fixed for him. The people of the United States did prepare a residence for the President; they did prepare offices for him and offices for his official family; but that has nothing to do with the providing by law against the Constitution for emolument to the President in addition to the compensation that was provided when he was elected and inducted into office.

This is not a bounty, the Senator from Wisconsin said yesterday. It is either compensation or emolument or it is a bounty. Now he denies that it is a bounty. Then it must be an emolument. Suppose the President starts out on a bear hunt to the Mississippi swamps or starts out West to hunt buffalo, and the Government of the United States pays his expenses, is that a gain to him? He would otherwise have to pay them out of his own pocket, out of the salary fixed, out of the compensation fixed for him at the beginning.

The White House has nothing to do with it. It is a question what benefit, what gain, what advantage it is to him. Nobody can deny that it is an advantage. I believe the senior Senator from Ohio stated that he was convinced it was an emolument. If it is an emolument, it can not be voted by this Congress constitutionally. Of course, every Senator has to vote upon his own judgment about the matter; but when a Senator comes to the conclusion that it is an emolument, and when the Constitution says there shall be no additional emolument, how is that Senator going to vote for this provision?

I should not have risen, Mr. President, had it not been for the shallow argument—the shallow pretense of an argument—that because compensation is fixed in the beginning of the term of the President by a salary of $50,000 and by a residence in which to live during the incumbency of the office, thereby there is an increase in the emolument if he is permitted to retain that compensation. I think, Mr. President, that can hardly rise to the dignity of an argument.

Mr. CARTER. Mr. President, the Chief of Staff of the Army may travel at Government expense wheresoever he may desire throughout the United States. Almost every chief officer of the respective Executive Departments is provided with an appropriation regularly passed by Congress from which traveling expenses may be paid. Many minor officials are likewise provided with proper appropriations for traveling throughout the country. I have no doubt whatever that if this item should read "$25,000 for contingent expenses of the executive offices, to be disbursed in the discretion of the President," it would not be subject to the objections urged upon constitutional grounds. I have no doubt that as a contingent fund for the executive offices, Senators would refrain from such objection upon the assumption that the item constituted an increase of compensation for the Chief Executive. I believe there is now a certain contingent fund for the executive offices of the President which might be increased to $25,000. This particular item, in specifying traveling expenses, and in that alone, becomes the subject of the criticisms which have been made.

It is not pretended that in any manner, shape, or form would the President of the United States profit to the extent of one farthing by the expenditure of any part or portion of this proposed appropriation.

With reference to restricting its disbursement to strictly official trips, some question has been raised, and that was put in precise language by the Senator from Texas [Mr. CULBERSON] in his amendment, which was disagreed to. I venture to say, in the absence of that amendment, in the face of its rejection by the Senate, that every dollar of the appropriation will be spent in connection with the official business of the United States. I am of the opinion that no greater affliction can come to this country than the election of a man to the Presidency who is not familiar with the country and is not disposed to make himself familiar with it.

I put that view further. It seems to me that every representative of a State in this Chamber and every Representative of a Congressional district in the other Chamber should, as a prerequisite, be fairly conversant with all parts of the United States. If not conversant with the country when elected, either the Senator, the Representative, or the Chief Executive should certainly endeavor as promptly as possible to become familiar with the country whose destiny, in a legislative or executive sense, is in some measure committed to his care.

This great country of ours—speaking not of possessions beyond the seas—extends from ocean to ocean. It has an enormous interstate commerce. It has people engaged in the raising of semitropical crops in the South and persons cultivating fields far to the North. It has every conceivable variety of industrial activities, and these activities are of special character in different sections of the country. We have had many Presidents who have not been familiar with the country and who have not thought proper to familiarize themselves with it by personal observation. Speaking for the section of the country far to the west, I feel that, without any reflection from a partisan point of view, I can justly say that the western portion of the United States has suffered immeasurably by the lack of intimate knowledge on the part of the Chief Executive at one time or another concerning the mighty resources of the country, the character of the people, and their fields of endeavor. We of the West should like to have every Senator, every Representative, and the Chief Magistrate as well, together with members of his Cabinet, visit that mighty region to the west of the Mississippi River.

It it important likewise that we from west of that river should become familiar with the industries and the conditions existing in New England and in the great productive South. Ignorance is but a poor basis upon which to build intelligent statesmanship, and information concerning this country gleaned from books and common report is infirm and unsatisfactory.

I believe that this item which is proposed by the pending bill may be more properly denominated a "contingent fund," to be disbursed upon the order of the President of the United States. The visits of the President to the several sections of the country are not primrose journeys. Those visits involve sleepless nights and tireless effort, and yet the visit of the President to a State or a city or a section is of infinite value to that city, State, or section. He is welcomed there by an outburst of patriotism of refreshing value to the whole country.

Mr. President, we are in the midst of times requiring that confidence in Government and public officials should be fostered

and nurtured by more intimate relations between the people and their public servants, whether in the executive or the legislative branches of the Government. Confidence in the men who administer the law is often inspired by looking officials in the face and hearing their statements of public policy.

The fervid debate on this particular item brings back many old times of excitement over small matters. If anyone will take the pains to read John Bach MacMaster's History of the American People, he will be refreshed and instructed by this class of discussion, replete with ponderous arguments over small items, which has been going on from the foundation of the Government.

The VICE-PRESIDENT. The Senator's time has expired.

Mr. PATTERSON. Mr. President, I do not think the construction given to the paragraph of section 1, Article II, of the Constitution, read a while ago by the Senator from Wisconsin [Mr. SPOONER], is at all logical. He places all of his stress on the two words "any other" that precede the word "emolument." As I understand the Senator, he urges that their use in connection with the word "emolument" means that the word "emolument" is used in the section as meaning "compensation." I think a little reflection will convince him that that is an erroneous view. I agree with him that no body of men ever used the English language more concisely and with a more perfect knowledge of every shade of meaning of every word used in the Constitution than did the framers of the Constitution. I think I will convince—and I think I ought to convince—the Senator from Wisconsin that the words "any other," in connection with "emolument," mean precisely the opposite from that which he contends for. The word "compensation" is the narrower word in its meaning. The word "emolument" has the wider meaning. "Compensation," I suppose, means the money that is paid to an official for his services. "Compensation" means the amount of money paid, and the framers of the Constitution having declared that the compensation to be given the President should "neither be increased nor diminished during the period for which he shall have been elected," then, intending a wider prohibition, used the words "or any other emolument."

Mr. President, compensation is an emolument. It is paid for the services of the office. It is compensation and it is also an emolument of office. When the word "compensation" is read in that sense, then there can be no doubt as to what is meant by the words "any other emolument." The Constitution says the President shall be allowed "a compensation"—the emolument or compensation would be a fair, honest construction of the language—and then he shall be allowed "no other emolument;" which means that the "emolument or compensation" shall be given to him and that he shall receive no other emolument in whatever shape or form an emolument might take.

Mr. President, I would not say a word about this bill were it not that men do not like to be considered mean or parsimonious in dealing with the executive head of this nation, and I am inclined to think that if this were a bill to increase the compensation of the President of the United States, as a matter of course commencing with the successor of the present incumbent of the office, I should vote for it. I do not believe the people of the United States would consider that $75,000 a year would be too much, and, were it not for the constitutional impediment, I believe I would be willing to vote $25,000 additional to the salary of the present President. But we ought not to do things by indirection that we can not do under the Constitution directly, and when it is proposed to allow $25,000 to the present incumbent of the Presidential office—and I refer to the present incumbent in an impersonal way; whoever might happen to occupy the office would be referred to in the same terms—when it is proposed to allow by act of Congress $25,000 additional to be expended by or on account of the President for traveling expenses, without reference to the purpose for which the traveling shall be undertaken, clearly giving the right to the President to travel wherever he will, upon whatever mission, and for whatever purpose, either with or without reference to his official duties, such provision as that, to my mind, is undeniably an emolument that is added to the office of President, and that is attempted by this act to be given to the present incumbent, as I believe, in violation of the express provision of the Constitution.

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

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

Mr. PATTERSON. With pleasure.

Mr. McCUMBER. Should not the words "any other" be construed the same as though it read "additional?"

Mr. PATTERSON. I think it means precisely what I suggested. "Compensation" is an emolument of the office, and when they used the term "any other emolument" instead of "any other compensation" it is clear to my mind that the framers of the Constitution intended to prohibit anything additional being given to the President by virtue of the office he held, whether in the shape of compensation or benefits of any other kind or character.

When a law is enacted that states that the President may travel at will on his own pleasure or his own business or on official business, and $25,000 is appropriated to defray his traveling expenses, that is, in my opinion, undeniably an emolument that is attached permanently to the office of the President, and that is intended to immediately benefit the incumbent of the office.

The bill would not be unconstitutional, Mr. President, as to succeeding incumbents of the office, and therein lies a complete answer to everything that was said by the Senator from Wisconsin when he suggested that the use of the White House was an emolument, that money for furnishing the White House was an emolument, if this is an emolument; and yet he triumphantly explains they would be unconstitutional if that which is proposed in this bill is unconstitutional. Mr. President, the present President has a right to those things, because they were emoluments, if we call them emoluments, that attached to the office at the time he was elected, that attached to the office at the time his predecessors were elected, and that will be attached to the office when his successor shall be elected.

Mr. SPOONER. An emolument can not attach to an office in violation of the Constitution.

Mr. PATTERSON. But, Mr. President, the unconstitutional feature of this is not that you vote an emolument to the office of the President, but that you vote an emolument to the present incumbent in addition to the emoluments that he was to receive under the law at the time he was elected. For a succeeding President it would not be unconstitutional. It is unconstitutional because in the teeth of the Constitution it is made applicable to the present incumbent of the office.

Mr. SPOONER. How was it when President Washington occupied the White House with his family when these appropriations began to be made?

Mr. PATTERSON. I do not know, and neither does the Senator from Wisconsin know, the circumstances and conditions under which the first President of the United States went into possession of the White House, but clearly it is an emolument, within the meaning of the Constitution, so far as the present incumbent is concerned.

Mr. DANIEL. Mr. President, a very few words will suffice to indicate the tenor of my mind on this subject. At this stage of the debate I shall attempt no more. I feel constrained by my sense of the meaning and the spirit of the Constitution of the United States to vote against this bill.

I would not deal narrowly with the President or with any of the great officers of our Government. Considering the magnitude of our country, the great responsibility of the office, with the many demands which come to the men who fill them which can not be enumerated in bills against the Government, I do not think that the salaries they now receive are sufficient. I would therefore vote with pleasure and with faith that it would meet the approbation of the American people to increase the salaries paid the President and the Vice-President of the United States. I do not think we can discover in the nature of our people, however critical of public men and public measures some of them may be at times, any sense of indisposition to pay value for what they get. On the contrary, I think their disposition is to reward generously those who assume great tasks and who help them in extending the hand of this nation to foreign nations and administering their own immense affairs. If this were a bill to increase their salary, I would take particular pleasure in voting for it.

If I felt that we could fitly pass this allowance for the traveling expenses of the President of the United States, I would also vote for it; but I have listened carefully to the debate, and I have been convinced, both by the doubts expressed by some who advocate it and by the strong arguments used by those who oppose it, that it is not in line with the thought of the Constitution or the policy therein impressed in clear language, which was intended to embrace and confine the rewards of the President of the United States to the stated salary to be paid at fixed periods. The arguments have been too clear and full on this subject to call for any repetition from me.

I believe travel, Mr. President, to be the most enlightening of all forms of education. In the case of the President of the United States and those who may be, like him, in charge of the great affairs of this nation, the lack of travel is the greatest of all impediments to the broad and comprehensive discharge of

their manifold duties. I wish that the President of the United States could go into every State and city and county of this Union and meet the people. He would learn what can not be learned from books, what can not be learned second-hand by hearsay. "Things seen," says the great poet of England, "are greater than things heard." And to see and know the country and people of the United States is the highest form of education that any of our officials could obtain.

The travels of high officers like the President of the United States are in a measure imposed upon them and not of their own seeking. Whether they would or no, the people desire to see them, and they are overcrowded with invitations from all parts of the domain of this great nation, soliciting them to come and accept the hospitalities of the people and give the people some opportunity to meet and for a time enjoy such sociability with them as circumstances may admit.

When we impose such great duties upon the President of the United States, and when the people spontaneously call for their performance by him, it is a disappointment and pain to me that I do not feel that I can conscientiously vote for this measure, and it is solely in response to my sincere thought as to the meaning of our Constitution that I do not vote for it.

Mr. HEYBURN. Mr. President, it seems to me the word "emolument" applies only to something tangible in the way of a gift or profit flowing to a party. It seems to me the provisions of this bill merely constitute the President a disbursing officer to disburse the money expended by him, for what? For something of a tangible nature that passes to him by which he may profit; that he may keep? No. The thing that passes to the President is the pleasure that he may derive from traveling, if he derives any pleasure from it. He derives no profit whatever through the expenditure of this money.

The word "expense" is a word of limitation in this proposed act, and the word "expended" where it is used of course implies that the President is to receive only so much of the appropriation, whatever it may be, as he expends; that is, as he pays out. Not one cent of it remains with him. He pays it out. It passes through his hands or through the hands of his disbursing officer.

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

Mr. HEYBURN. Certainly.

Mr. PATTERSON. Suppose the statute provided that the President should have $50,000 a year for his services and, in addition, that he might have a trip once a year to the Rocky Mountains, the expense of the trip to be paid by the Government. Would not the latter clause grant an emolument of office?

Mr. HEYBURN. It would depend upon the purpose of the trip. But, then, why imagine such a thing? We have always had Presidents in whose honor we could trust. We have not had any man of any political party in that office who would misapply a statute or the benefits to be derived under a statute running in his interest, and we may safely trust him.

This bill merely provides:

That hereafter there may be allowed to and expended by or on account of the President of the United States for traveling expenses—

"Expense" means something that has passed out, something that has been paid out by the President. I see nowhere the element of an emolument, except only such slight pleasure as the President might derive from traveling. An emolument, as contemplated by the makers of the Constitution, was something of a tangible nature that would be a profit to the party receiving it. That is the general acceptation of the term "emolument." What passes to the President under this bill except the privilege of disbursing moneys of the United States? We might provide here that the Treasurer of the United States should pay out this money, or the Comptroller, on account of the expenses of the President. But for the convenience, because of the peculiar circumstances that surround the expenditure of this money, the bill provides that the President shall, upon his certificate, have the payment made.

Does not that answer the constitutional objection that this is an emolument? Is there anything tangible about that which passes to the President that you can term "an emolument," unless it is the mere pleasure, if it be a pleasure, of traveling? Will we for a moment suppose that the President would take advantage of the privileges under this act for the purpose of going on a hunting tour?

The President is acting in an executive capacity every day and every hour of his life. He is acting in an official capacity every hour of his life. There is no moment when he is not President of the United States and acting as such, and it is safe to say that no man will ever occupy that place who would abuse the privileges of the proposed law by charging the expenses of a pleasure trip to the Government of the United States.

Therefore it seems to me the objection I urged against the amendment to the sundry civil bill can not be urged against this bill. Nor can the constitutional objection be urged against it. I should have voted against the amendment to the sundry civil bill, because it permitted the President to invite and take with him others. It is fresh in my mind that on one of the tours of a President of the United States there was in his train a car which was devoted entirely to the members of the press, who traveled at the expense of whoever paid the expenses of the trip. I would not approve of that. I would not approve of granting the privilege to the President of the United States to extend the right of free transportation to any person, except as they travel officially with him. I think the objections I had to the amendment to the sundry civil bill are entirely met by the House bill in this case.

Mr. DOLLIVER. Mr. President, it has struck me as a little unfortunate that the question raised by the amendment to the sundry civil bill and by the pending bill should be magnified into an issue of public policy of a large kind as well as an issue of constitutional government. I am one of those who have regarded the travels of the President as one of the very important services of the Executive office. Our form of government is peculiar in the fact that everybody is concerned in its administration. And one of its weaknesses is the difficulty of bringing to the mass of the people a real sense of the Government of the United States. For the first half of the century of our national life that was exceedingly more difficult on account of local prejudices and sectional conditions. I think the progress of our institutions in the last forty years has been very greatly accelerated by the contact which the public at large has had with the administration of our national affairs; and to that nothing has contributed so much as the appearance among the people of the Chief Magistrate of the Republic.

I have had opportunity during the past twenty years to see the practical value of these excursions into the country of several Presidents of the United States, and we would, I think, do a very serious wrong to ourselves and especially to our children if anything were done to discourage the familiar intercourse of the Chief Magistrate with the people of the United States. There is hardly a community in our country in which the oldest inhabitant does not entertain a friend by telling of his seeing early Presidents of the United States, and I believe patriotism, in a larger sense than we are possibly aware of, has been stimulated by this personal contact of the Chief Magistrate with the people of the United States.

Now, then, that would warrant the expenditure, if it can be made properly, and I do not intend to embark in a discussion of the law of the case. I agree thoroughly with the interpretation given by the honorable Senator from Wisconsin [Mr. SPOONER], and yet I think the Senator from Montana [Mr. CARTER] has placed this appropriation upon its proper ground. I regard it as a contingent expense of the Executive Office. It certainly makes no profit to the President, and in that sense the Senator from Idaho [Mr. HEYBURN] is correct in saying that it is not a compensation or in any sense an emolument personal to the President. It is, however, an expense of the Executive Office. Both Houses of Congress have already passed an appropriation—

For contingent expenses of the Executive Office, including stationery therefor, as well as record books, telegrams, telephones, books for library, furniture and carpets for offices, care of office carriages, horses, and harness, and miscellaneous items, to be expended in the discretion of the President, $20,000.

Will any man say that that list can not be increased next year without encountering the bar of the Constitution of the United States? I think obviously not. I regard this appropriation therefore as a contingent expense of the Executive office, to be disbursed by the President simply because, being in charge of the transaction, he is in a better position than anybody else to disburse it. I should be very glad to see the appropriation promptly made, because everybody knows that it will not be abused either by the present Chief Magistrate or by anybody else likely to become President of the United States.

Mr. MALLORY. Mr. President, I think the attitude occupied, respectively, by the two sides of the Chamber is illustrative of the attitude of the parties on questions of this kind. The Republican party, with its latitudinous construction of the Constitution, is always willing to appropriate money from the Treasury for purposes that may be public or that may in some instances not be public, notably in such measures as the ship-subsidy bill and the high protective tariff and measures of that kind, which indicates a very wide and broad view of the Constitution, whereas on this side we are disposed always to regard it from a very narrow and strict point of view. That is aside from the constitutional question involved in this.

But, Mr. President, the constitutional question is one which has presented the greatest stumbling-block to me in the way of support of this measure. I was at first disposed to vote for it, but after investigating that phase of the subject I came to the conclusion that I could not consistently, with my duty as a Senator, vote for this appropriation. The Constitution prohibits us from increasing the emoluments of the present President, and if this is an emolument, we are necessarily precluded from voting for it. I am perfectly willing—and I have no hesitation in saying so—to admit that, in my judgment, the President's salary is far too small. I would be willing to vote today, if I could do so consistently with the Constitution, to double the present salary of the President. I for one am opposed to sending a President back to private life to do as some Presidents have had to do, enter into the very scuffle of life for a living. The office is too exalted for one who has held it to be compelled to rub shoulders against men in the struggle for a livelihood. It is possible we may have Presidents elected so young that at the expiration of their term of office, if they have not adequate fortunes, it will be necessary for them to go to work at whatever profession they may have followed before they were elected to that high office.

But, Mr. President, to come to the point which has given me the most trouble in this matter, the language of the bill is—

> That hereafter there may be allowed to and expended by or on account of the President of the United States for traveling expenses not exceeding $25,000 per annum, to be expended in the discretion of the President and accounted for on his certificate solely.

The constitutional inhibition to which reference has been made is in the following language:

> The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Mr. President, the whole question turns upon the meaning of the word "emolument." The Senator from Wisconsin [Mr. SPOONER] has given us a citation from a Supreme Court decision which defines the meaning of the word "emolument." That definition, I find, is in accord with the definition laid down by Webster and the Standard Dictionary.

I will refer to the case from which the Senator quoted. It is the case of Hoyt *v.* The United States (51 U. S.), decided in 1850. In that case the question came up as to the meaning of the word "emolument" used in a statute, and at the risk of boring the Senate I will read a portion of it embodied in the decision of the court:

> By an amendment of this act, April 30, 1802 (2 Stat. L., 172, sec. 3), it was provided that whenever the annual emoluments of any collector, after deducting the expenses incident to the office, shall amount to more than $5,000, the excess shall be accounted for and paid into the Treasury. The act was not to extend to fines, forfeitures, and penalties, a share of which the collector was entitled to, under the twentieth section of the act of 2d March, 1799 (1 Stat. L., 697).

In discussing this the court say:

> At the date of the act of 1802 the compensation of the collector was derived from three sources, (1) fees allowed for the services already referred to; (2) commissions on the duties received, and (3) a share of the fines, penalties, and forfeitures. The emoluments of the office were dependent upon the receipts from these sources—

Mark the expression—

> The emoluments of the office were dependent upon the receipts from these sources; and the officer was entitled to apply to his own use the whole amount derived from them.
>
> The provision in this act, therefore, that whenever the annual emoluments, after deducting the expenses, exceeded the amount of $5,000, the excess should be accounted for, necessarily embraces in the limitation the fees as well as commissions belonging to the office, and would have embraced also the fines and forfeitures had it not been for the proviso to the act taking them out of the limitation.
>
> The argument would be quite as strong in favor of excluding the commissions as in the case of fees, as the one can in no more appropriate sense be regarded as emoluments of office than the other, and thus the limitation would become a nullity.
>
> These terms denote a compensation for a particular kind of service to be performed by the officer, and are distinguishable from each other, and are so used and understood by Congress in the several compensation acts; they are also distinguishable from the term "emoluments," that being more comprehensive and embracing every species of compensation or pecuniary profit derived from a discharge of the duties of the office; and such is the obvious import of it in these acts.

I suggest that a careful reading of the decision will sustain the contention of those who claim that the word "emolument" means every profit or gain that can be given to the President during his term.

It is said that this is not a profit or gain to the President. The Senator from Idaho [Mr. HEYBURN] a while ago said that the President made no profit out of it; that is was nothing to him. But as a matter of fact this $25,000 a year, if expended, would be a saving of $25,000 a year to the President. It would be a profit to that extent. The fact that the money does not go into his pocket does not alter the fact that he receives the benefit of it. It strikes me as a mere quibble to say that this is not such a benefit or profit as is contemplated by the Constitution in the language of the clause here in controversy.

Therefore, Mr. President, in view of the plain language of the Constitution, in view also of the action of the framers of the Constitution, and contemporaneous interpretations of that action as read here this morning by the Senator from Mississippi [Mr. MCLAURIN] from the Federalist, in one of Mr. Hamilton's articles, by following the history of this clause through the Constitutional Convention, when it was introduced by the State of New Jersey as a provision of the Constitution, in which introduction it contained a provision inhibiting——

The VICE-PRESIDENT. The time of the Senator from Florida has expired.

Mr. MALLORY. I am sorry, Mr. President, I was not allowed to enlighten the Senate on that point.

Mr. DICK. Mr. President, the discussion of this bill is related somewhat to the discussion of the pass amendment to the rate bill, which occupied so much time in the Senate during the present session. It is not my purpose to attempt to settle the controversy with what I have to offer, which is merely in the line of information for the Senate, showing how these matters are handled by other governments. I have on my desk books which confer railway transportation upon certain officials in the government of Canada. This one [exhibiting] is railway transportation issued to members of the House of Commons of Canada. Another [exhibiting] is issued to senators of Canada, and like transportation is issued to other officials, presumably the Governor-General, the premier and his cabinet, and others. It is a part of their law which grants this right. An extract from the railway act of 1903, chapter 58, provides:

> The company—

Referring to the railroad companies—

> shall furnish free transportation upon any of its trains for members of the Senate and House of Commons of Canada, with their baggage.

And the same provision is made for other officials. Provision is made for its restoration in case of loss, and the list of those to whom the privilege is extended is printed in the book itself. With the permission of the Senate and for its information, these can be furnished to the Reporters and printed in the RECORD.

It does in a sense carry out the suggestion which was made by the Senator from Montana [Mr. CARTER], that because of certain favors which the Government grants these transportation lines favors of this character may be rightfully issued to Government officers.

In time, if not by the legislation now pending, provision will be made either by an appropriation or by an issue of this character from the carrier to public officials as a right for free transportation. It was stated, and I assume with approximate correctness, that we are paying more than $50,000,000 annually in mail contracts to these carriers, admittedly rich and profitable contracts, and we grant them certain privileges and grants and ample protection. We transport our supplies and our troops over their lines at an immense if not an enormous cost. In return it may be considered, and I have no doubt some day will be considered, as but a fair return that this sort of transportation shall be issued to certain Federal Government officials. In a degree it is carried on now, I believe, with certain post-office officials, post-office inspectors being among the number.

I will say in conclusion that in my judgment it would not be an unfair exaction, where we make these generous contracts with carriers, that transportation of this character might reasonably be issued as a matter of right to public officials, from the President down, as might by careful legislation be stipulated.

The matter submitted by Mr. DICK is as follows:

Railway transportation. Members of the House of Commons, Canada, 1905. Names of members of the House of Commons, alphabetically arranged, with number of certificate set opposite each name, in connection with their railway transportation under the railway act, 1903.

FORM OF CERTIFICATE.

[Obverse side.]

No. ——

HOUSE OF COMMONS,
Canada, ——— ———, *1905.*

——— ——— is a member of the House of Commons of Canada, and is entitled by law to free transportation, with his baggage, upon all railway trains in Canada. Railway act, 1903.

Attest:

THOS. B. FLINT,
Clerk of the House of Commons.

Not transferable.

[Reverse side.]

This certificate expires December 31, 1905, when a new certificate will be issued in its place.

——— ———.
(Signature of member.)

NOTE.—In case of resignation or death of a member, notice will be given, so that his name may be scored out and that of his successor entered next to the last one on the list.

Should a member lose his certificate, another one bearing the same

number will be issued to him with the word "Duplicate" written in red ink across its face; the railway companies in each case, being notified accordingly.

[Extract from the Railway act, 1903, chapter 58.]

* * * * * * *

Subsection 5 of section 275: "5. The company shall furnish free transportation upon any of its trains, for members of the Senate and House of Commons of Canada * * * with their baggage."

* * * * * * *

MONDAY, *June 12, 1905.*

Order of the House of Commons, "That the clerk of the house do sign and furnish to members of the House of Commons certificates of identification for transportation on railways in Canada."

Names of members, with numbers of certificates.

	Certificate No.
Adamson, A. J., Northwest Territories	01
Alcorn, George Oscar, Ontario	02
Ames, Herbert B., Province of Quebec	03
Archambault, Joseph Eloi, Province of Quebec	04
Armstrong, Joseph E., Ontario	05
Avery, Melzar, Ontario	06
Barker, Samuel, Ontario	07
Barr, John, Ontario	08
Beauparlant, Aime M., Province of Quebec	09
Beland, Henri Severin, Province of Quebec	010
Belcourt, Hon. Napoleon Ant., Ontario	011
Bennett, William H., Ontario	012
Bergeron, Joseph G. H., Province of Quebec	013
Bickerdike, Robert, Province of Quebec	014
Black, Judson Burpee, Nova Scotia	015
Blain, Richard, Ontario	016
Bland, Leonard T., Ontario	017
Bole, David Wesley, Manitoba	018
Borden, Hon. Sir F. W., K. C. M. G., Nova Scotia	019
Borden, Robert Laird, Ontario	020
Bourassa, Henri, Province of Quebec	021
Bourbonnais, Augustin, Province of Quebec	022
Boyce, Arthur Cyril, Ontario	023
Boyer, Gustave, Province of Quebec	024
Brabazon, Gerald H., Province of Quebec	025
Broder, Andrew, Ontario	026
Brodeur, Hon. Louis Philippe, Province of Quebec	027
Brown, James P., Province of Quebec	028
Bruneau, Arthur Aime, Province of Quebec	029
Bureau, Jacques, Province of Quebec	030
Burrows, Theodore Arthur, Manitoba	031
Caldwell, Thomas Boyd, Ontario	032
Calvert, William Samuel, Ontario	033
Campbell, Archibald, Ontario	034
Carney, Michael, Nova Scotia	035
Carrier, Louis Auguste, Province of Quebec	036
Carvell, Frank Broadstreet, New Brunswick	037
Cash, E. L., Northwest Territories	038
Chisholm, Thomas, Ontario	039
Christie, Peter, Ontario	040
Clare, George A., Ontario	041
Clarke, Alfred H., Ontario	042
Clements, Herbert S., Ontario	043
Cochrane, Edward, Ontario	044
Cockshutt, William F., Ontario	045
Conmee, James, Ontario	046
Copp, Albert J. S., Nova Scotia	047
Costigan, Hon. John, New Brunswick	048
Crawford, John, Manitoba	049
Crocket, Oswald S., New Brunswick	050
Cyr, Joseph Ernest, Manitoba	051
Daniel, John Waterhouse, New Brunswick	052
Delisle, Michel Simeon, Province of Quebec	053
Demers, L. Philippe, Province of Quebec	054
Devlin, E. B., Province of Quebec	055
Derbyshire, Daniel, Ontario	056
Desjardins, Samuel, Province of Quebec	057
Dubeau, Joseph Adelard, Province of Quebec	058
Dugas, Francois O., Province of Quebec	059
Dyment, Albert Edward, Ontario	060
Elson, Peter, Ontario	061
Emmerson, Hon. Henry R., New Brunswick	062
Ethier, Joseph Arthur C., Province of Quebec	063
Fielding, Hon. William Stevens, Nova Scotia	064
Finlay, John, Ontario	065
Finlayson, Duncan, Nova Scotia	066
Fisher, Hon. Sydney Arthur, Province of Quebec	067
Fitzpatrick, Hon. Charles, Province of Quebec	068
Forget, Rodolphe, Province of Quebec	069
Fortier, Edmond, Province of Quebec	070
Foster, Hon. George Eulas, Ontario	071
Fowler, George W., New Brunswick	072
Gallery, Daniel, Province of Quebec	073
Galliher, William Alfred, British Columbia	074
Ganong, Gilbert W., New Brunswick	075
Gauvreau, Charles Arthur, Province of Quebec	076
Geoffrion, Victor, Province of Quebec	077
German, William Manly, Ontario	078
Gervais, Honore, Province of Quebec	079
Girard, Joseph, Province of Quebec	080
Gladu, Joseph E. O., Province of Quebec	081
Gordon, David Alexander, Ontario	082
Grant, George D., Ontario	083
Greenway, Thomas, Manitoba	084
Gunn, Benjamin B., Ontario	085
Guthrie, Hugh., Ontario	086
Haggart, Hon. John Graham, Ontario	087
Hall, R. R., Ontario	088
Harty, William, Ontario	089
Henderson, David, Ontario	090
Herron, John, Northwest Territories	091
Hughes, James J., Prince Edward Island	092
Hughes, Samuel, Ontario	093
Hunt, Aylmer Byron, Province of Quebec	094
Hyman, Hon. Charles S., Ontario	095
Ingram, Andrew B., Ontario	096
Jackson, Samuel Jacob, Manitoba	097
Jackson, William, Ontario	098
Johnston, Alexander, Nova Scotia	099
Johnston, Thomas George, Ontario	0100
Kemp, Albert E., Ontario	0101
Kennedy, James Buckham, British Columbia	0102
Lachance, Arthur, Province of Quebec	0103
Lake, Richard Stuart, Northwest Territories	0104
Lalor, Francis Ramsay, Ontario	0105
Lamont, John Henderson, Northwest Territories	0106
Lancaster, Edward A., Ontario	0107
Lanctot, Roch, Province of Quebec	0108
Lapointe, Ernest, Province of Quebec	0109
Laurence, Frederick A., Nova Scotia	0110
Laurier, R. Charlemagne, Province of Quebec	0111
Laurier, Rt. Hon. Sir Wilfrid, G. C. M. G., Province of Quebec	0112
Lavergne, Armand, Province of Quebec	0113
Lavergne, Louis, Province of Quebec	0114
Law, Bowman Brown, Nova Scotia	0115
Le Blanc, Olivier J., New Brunswick	0116
Lefurgey, Alfred A., Prince Edward Island	0117
Lemieux, Hon. Rodolphe, Province of Quebec	0118
Lennox, Haughton, Ontario	0119
Leonard, J. E. Emile, Province of Quebec	0120
Lewis, Edward Norman, Ontario	0121
Logan, Hance J., Nova Scotia	0122
Loggie, William Stewart, New Brunswick	0123
Lovell, Henry, Province of Quebec	0124
Macdonald, Edward M., Nova Scotia	0125
Macdonald, Angus Claude, Ontario	0126
MacLaren, Alexander F., Ontario	0127
Maclean, Alexander K., Nova Scotia	0128
Maclean, William F., Ontario	0129
Macpherson, Robert George, British Columbia	0130
McCarthy, Leighton Goldie, Ontario	0131
McCarthy, Maitland Stewart, Northwest Territories	0132
McColl, John B., Ontario	0133
McCool, Charles Arthur, Ontario	0134
McIntyre, Gilbert H., Ontario	0135
McIsaac, Colin F., Nova Scotia	0136
McKenzie, Daniel D., Nova Scotia	0137
McKenzie, Peter H., Ontario	0138
McLean, Angus A., Prince Edward Island	0139
McLennan, Angus, Nova Scotia	0140
March, Charles, Province of Quebec	0141
Marcile, Joseph Edmund, Province of Quebec	0142
Martin, Alexander, Prince Edward Island	0143
Martin, Thomas, Ontario	0144
Mayrand, Hormisdas, Province of Quebec	0145
Meigs, Daniel Bishop, Province of Quebec	0146
Miller, Henry Horton, Ontario	0147
Monk, Frederick D., Province of Quebec	0148
Morin, Jean Baptiste, Province of Quebec	0149
Mulock, Hon. Sir William, K. C. M. G., Ontario	0150
Northrup, William Barton, Ontario	0151
Oliver, Hon. Frank, Northwest Territories	0152
Osler, Edmund Boyd, Ontario	0153
Parmelee, Charles H., Province of Quebec	0154
Paterson, Hon. William, Ontario	0155
Paquet, Eugene, Province of Quebec	0156
Parent, George, Province of Quebec	0157
Perley, George H., Province of Quebec	0158
Piche, Camille, Province of Quebec	0159
Pickup, Samuel W. W., Nova Scotia	0160
Porter, Edward Gus, Ontario	0161
Power, William, Province of Quebec	0162
Prefontaine, Hon. J. Raymond, Province of Quebec	0163
Pringle, Robert A., Ontario	0164
Proulx, Edmond, Ontario	0165
Ratz, Valentine, Ontario	0166
Reid, James, New Brunswick	0167
Reid, John D., Ontario	0168
Riley, George, British Columbia	0169
Rivet, Louis Alfred Adhemar, Province of Quebec	0170
Roche, William, Nova Scotia	0171
Roche, William J., Manitoba	0172
Ross, Duncan, British Columbia	0173
Ross, Jean Auguste, Province of Quebec	0174
Rousseau, Jeffrey Alexandre, Province of Quebec	0175
Savoie, Francois Theodore, Province of Quebec	0176
Schaffner, Frederick Laurence, Manitoba	0177
Schell, Jacob T., Ontario	0178
Schell, Malcolm S., Ontario	0179
Scott, Walter, Northwest Territories	0180
Seagram, Joseph E., Ontario	0181
Sifton, Hon. Clifford, Manitoba	0182
Sinclair, John H., Nova Scotia	0183
Sloan, William, British Columbia	0184
Smith, Ernest D., Ontario	0185
Smith, George, Ontario	0186
Smith, Ralph, British Columbia	0187
Sproule, Thomas S., Ontario	0188
Staples, William D., Manitoba	0189
Stewart, Robert, Ontario	0190
Stockton, Alfred Augustus, New Brunswick	0191
Sutherland, Hon. Robert F., Ontario	0192
Talbot, Onesiphore Ernest, Province of Quebec	0193
Talbot, Peter, Northwest Territories	0194
Taylor, George, Ontario	0195
Telford, William Patteson, Ontario	0196
Thompson, Alfred, Yukon Territory	0197
Tisdale, Hon. David, Ontario	0198
Tobin, Edmund William, Province of Quebec	0199
Turgeon, Onesiphore, New Brunswick	0200
Turriff, John G., Northwest Territories	0201
Walsh, Robert Nelson, Province of Quebec	0202
Ward, Henry Alfred, Ontario	0203
Watson, Robert James, Ontario	0204
White, Hon. Peter, Ontario	0205

	Certificate No.
Wilmot, Robert D., New Brunswick	0206
Wilson, Norman Frank, Ontario	0207
Wilson, Uriah, Ontario	0208
Worthington, Arthur Norreys, Province of Quebec	0209
Wright, Aaron Abel, Ontario	0210
Wright, William, Ontario	0211
Zimmerman, Adam, Ontario	0212
Bristol, Edmund, Ontario	0213

CERTIFICATE (CARD).

[Obverse side.]

No. ——. HOUSE OF COMMONS,
Canada, ——— ——, *1905.*

——— ——— is a member of the House of Commons of Canada, and is entitled by law to free transportation, with his baggage, upon all railway trains in Canada. Railway act, 1903.

Attest:

THOS. B. FLINT,
Clerk of the House of Commons.

Not transferable.

[Reverse side.]

This certificate expires December 31, 1905, when a new certificate will be issued in its place.

——— ———.
(Signature of member.)

NOTICE OF ISSUANCE OF TRANSPORTATION TO TAKE PLACE OF LOST CARD.

HOUSE OF COMMONS,
Ottawa, September 1, 1905.

DEAR SIR: In the absence of the clerk of the House, I beg to state, for the information of your company, that Mr. Louis A. Rivet, M. P., has lost his transportation identification card, No. 0170, and that another one, 0214, has been issued to him in its place.

I am, dear sir, yours, truly,
R. P. KING.
(For clerk of the Commons.)

G. B. COLLINS, Esq.,
Central Ontario Railway Company, Trenton.

Railway transportation. Senators of Canada. 1905. Names of senators alphabetically arranged, with number of certificate set opposite each name, in connection with their railway transportation under the railway act, 1903.

NOTE.—In case of resignation or death of a senator, notice will be given, so that his name may be scored out and that of his successor entered next to the last one on the list.

Should a senator lose his certificate, another one bearing the same number will be issued to him with the word "duplicate" written in red ink across its face, the railway companies, in each case, being notified accordingly.

[Extract from the railway act, 1903, chapter 58.]

* * * * * * *

Subsection 5 of section 275: "5. The company shall furnish free transportation upon any of its trains for members of the Senate of Canada * * * with their baggage."

* * * * * * *

[Extract from the minutes of proceedings of the Senate of May 18, 1905.]

* * * * * * *

With leave of the Senate,

The Hon. Mr. Young moved, seconded by the Hon. Mr. Beique,

That the clerk of the Senate do sign and furnish to members of the Senate certificates of identification for transportation on railways in Canada.

The question of concurrence being put thereon, it was resolved in the affirmative, and

Ordered accordingly.

* * * * * * *

FORM OF CERTIFICATE.

[Obverse side.]

No. 1——. THE SENATE, *Canada,* ——— ——, *1905.*

The Hon. ——— ——— is a member of the Senate of Canada, and entitled by law to free transportation, with his baggage, upon all railway trains in Canada.

Attest:

———,
Clerk of the Senate.

Not transferable.

[Reverse side.]

This certificate will expire on the 31st December, 1905, when another certificate will be issued in its place.

———, *Senator.*
(Signature of the senator.)

Names of Senators with numbers of certificates.

	Certificate No.
Baird, Hon. G. T., New Brunswick	1
Baker, Hon. G. B., Province of Quebec	2
Beique, Hon. F. L., Province of Quebec	3
Bernier, Hon. T. A., Manitoba	4
Bolduc, Hon. J., Province of Quebec	6
Bostock, Hon. H., British Columbia	7
Boucherville, Hon. C. E. De, Province of Quebec	8
Bowell, Hon. Sir Mackenzie, Ontario	9
Carling, Hon. Sir John, Ontario	10
Cartwright, Hon. Sir Richard, Ontario	11
Casgrain, Hon. J. P. B., Province of Quebec	12
Casgrain, Hon. C. E., Ontario	13
Choquette, Hon. P. A., Province of Quebec	14
Church, Hon. C. E., Nova Scotia	15
Cloran, Hon. H. J., Province of Quebec	16
Coffey, Hon. T., Ontario	17
Cox, Hon. G. A., Ontario	18
Dandurand, Hon. R., Province of Quebec	19
David, Hon. L. O., Province of Quebec	20
Davis, Hon. T. O., Northwest Territories	21
Dobson, Hon. J., Ontario	22
Domville, Hon. J., New Brunswick	23
Drummond, Hon. Sir G. A., Province of Quebec	24
Edwards, Hon. W. C., Ontario	25
Ellis, Hon. J. V., New Brunswick	26
Ferguson, Hon. D., Prince Edward Island	27
Fiset, Hon. J. B. R., Province of Quebec	28
Forget, Hon. L. J., Province of Quebec	29
Frost, Hon. F. T., Ontario	30
Gibson, Hon. W., Ontario	32
Godbout, Hon. J., Province of Quebec	33
Gowan, Hon. J. R., Ontario	34
Hingston, Hon. Sir William, Province of Quebec	35
Jones, Hon. L. Melvin, Ontario	36
Kerr, Hon. W., Ontario	37
Kerr, Hon. J. K., Ontario	38
King, Hon. G. G., New Brunswick	39
Kirchhoffer, Hon. J. N., Manitoba	40
Landry, Hon. A. C. P., Province of Quebec	41
Legris, Hon. J. H., Province of Quebec	42
Lougheed, Hon. J. A., Northwest Territories	43
Lovitt, Hon. J., Nova Scotia	44
Macdonald, Hon. A. A., Prince Edward Island	45
Macdonald, Hon. W. J., British Columbia	46
Mackay, Hon. R., Province of Quebec	47
MacKeen, Hon. D., Nova Scotia	48
McDonald, Hon. W., Nova Scotia	49
McGregor, Hon. J. D., Nova Scotia	50
McHugh, Hon. G., Ontario	51
McKay, Hon. T., Nova Scotia	52
McLaren, Hon. P., Ontario	53
McMillan, Hon. D., Ontario	54
McMullen, Hon. J., Ontario	55
McSweeney, Hon. P., New Brunswick	56
Merner, Hon. S., Ontario	57
Miller, Hon. W., Nova Scotia	58
Mitchell, Hon. W., Province of Quebec	59
Montplaisir, Hon. H., Province of Quebec	60
Owens, Hon. W., Province of Quebec	61
Perley, Hon. W. D., Northwest Territories	62
Poirier, Hon. P., New Brunswick	63
Power, Hon. L. G., Nova Scotia	64
Robertson, Hon. J. E., Prince Edward Island	65
Ross, Hon. J. H., Northwest Territories	66
Scott, Hon. R. W., Ontario	67
Shehyn, Hon. J., Province of Quebec	68
Sullivan, Hon. M., Ontario	69
Templeman, Hon. W., British Columbia	70
Tessier, Hon. Jules, Province of Quebec	71
Thibaudeau, Hon. A. A., Province of Quebec	72
Thibaudeau, Hon. J. R., Province of Quebec	73
Thompson, Hon F. P., New Brunswick	74
Vidal, Hon. A., Ontario	75
Watson, Hon. R., Manitoba	77
Wilson, Hon. J. H., Ontario	78
Wood, Hon. J., New Brunswick	79
Yeo, Hon. J., Prince Edward Island	80
Young, Hon. F. M., Manitoba	81
Ross, Hon. Wm., Nova Scotia	82

CERTIFICATE (CARD).

[Obverse side.]

No. ——. THE SENATE, *Canada,* ——— ———, *1905.*

The Hon. ——— ——— is a member of the Senate of Canada, and is entitled by law to free transportation, with his baggage, upon all railway trains in Canada.

Attest:

———,
Clerk of the Senate.

Not transferable.

[Reverse side.]

This certificate expires December 31, 1905, when a new certificate will be issued in its place.

——— ———.
(Signature of Senator.)

The bill was reported to the Senate without amendment.

Mr. McLAURIN. Mr. President, I believe I will offer an amendment to the bill. I do not desire a yea-and-nay vote on it, however.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "solely," in line 7, add the following:

No part of such sum shall be expended for the traveling expenses of any person except the President, members of his family, attendants in the regular service of the Government necessary for his protection, and officials necessary for the President's transaction of official business of the Government on the occasion of such traveling.

The VICE-PRESIDENT. The question is on agreeing to the amendment just read.

The amendment was rejected.

The bill was ordered to a third reading, and was read the third time.

The VICE-PRESIDENT. The question is, Shall the bill pass?

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

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

Mr. DILLINGHAM (when his name was called). I am paired with the senior Senator from South Carolina [Mr. TILLMAN]. If he were present, I should vote "yea."

Mr. KEAN (when Mr. DRYDEN's name was called). My colleague [Mr. DRYDEN] is paired with the Senator from Mississippi [Mr. MONEY]. If my colleague were present, he would vote "yea."

Mr. FULTON (when his name was called). I have a general pair with my colleague [Mr. GEARIN], who is absent. I, therefore, withhold my vote. If I were permitted to vote, I should vote "yea."

Mr. LONG (when his name was called). I again announce the transfer of my general pair with the senior Senator from Idaho [Mr. DUBOIS] to the junior Senator from Michigan [Mr. ALGER], and I will vote. I vote "yea."

Mr. MORGAN (when his name was called). I am paired with the Senator from Iowa [Mr. ALLISON]. If he were present, I should vote "nay."

Mr. BLACKBURN (when Mr. RAYNER's name was called). The senior Senator from Maryland [Mr. RAYNER] is necessarily absent from the city. He is paired with the junior Senator from Maine [Mr. FRYE]. If the senior Senator from Maryland were present, he would vote "nay."

Mr. STONE (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CLARK]. I have arranged to transfer my pair to the junior Senator from Maryland [Mr. WHYTE]. I vote "nay."

The roll call was concluded.

Mr. BLACKBURN. The pair of the junior Senator from Maryland [Mr. WHYTE] has just been announced by the Senator from Missouri [Mr. STONE]. I am requested to state that if the absent junior Senator from Maryland were here, he would vote "nay."

Mr. GAMBLE. I have a general pair with the senior Senator from Nevada [Mr. NEWLANDS]. I will transfer that pair to the junior Senator from Nevada [Mr. NIXON], and vote. I vote "yea."

Mr. BEVERIDGE. I have a general pair with the senior Senator from Montana [Mr. CLARK]. I transfer that pair to the junior Senator from Pennsylvania [Mr. KNOX], and vote. I vote "yea."

Mr. McLAURIN. I wish to state that my colleague [Mr. MONEY] has a general pair with the Senator from Wyoming [Mr. WARREN]. If my colleague were present, he would vote "nay" on this bill.

Mr. DILLINGHAM. I will transfer my pair with the senior Senator from South Carolina [Mr. TILLMAN] to the junior Senator from California [Mr. FLINT], and vote. I vote "yea."

Mr. WARREN. Under the transfer of pairs which has been arranged, by which the Senator from Mississippi [Mr. MONEY] stands paired with the Senator from New Jersey [Mr. DRYDEN]. I will vote. I vote "yea."

The result was announced—yeas 42, nays 20, as follows:

YEAS—42.

Allee	Crane	Hemenway	Perkins
Ankeny	Cullom	Heyburn	Piles
Benson	Dick	Hopkins	Proctor
Beveridge	Dillingham	Kean	Smoot
Brandegee	Dolliver	Kittredge	Spooner
Bulkeley	Elkins	La Follette	Sutherland
Burkett	Foraker	Lodge	Warner
Burnham	Gallinger	Long	Warren
Burrows	Gamble	Millard	Wetmore
Carter	Hale	Nelson	
Clapp	Hansbrough	Penrose	

NAYS—20.

Bacon	Clay	McCumber	Patterson
Bailey	Daniel	McLaurin	Pettus
Berry	Frazier	Mallory	Simmons
Blackburn	Latimer	Martin	Stone
Carmack	McCreary	Overman	Taliaferro

NOT VOTING—27.

Aldrich	Depew	Gearin	Platt
Alger	Dryden	Knox	Rayner
Allison	Dubois	McEnery	Scott
Clark, Mont.	Flint	Money	Teller
Clark, Wyo.	Foster	Morgan	Tillman
Clarke, Ark.	Frye	Newlands	Whyte
Culberson	Fulton	Nixon	

So the bill was passed.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HALE. Under the arrangement, the appropriation bill is now before the Senate.

The VICE-PRESIDENT. It is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19844) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes.

Mr. HALE. I have two or three formal amendments to offer. Has the amendment on page 157 been agreed to?

The VICE-PRESIDENT. It has been agreed to.

Mr. HALE. Then I ask a reconsideration of that vote, because I wish to perfect the amendment.

The VICE-PRESIDENT. Without objection, the vote by which the amendment was agreed to will be reconsidered, and the amendment is open to amendment.

Mr. HALE. On page 157, line 13, after the word "capacity," I move to strike out the word "whether."

The amendment to the amendment was agreed to.

Mr. HALE. In line 14, I move to strike out the words "or otherwise" after the words "United States."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. HALE. In line 22 of the same page, and line 6 of the next page, I ask to reconsider the vote by which the word "October" was adopted, so as to restore the word "December."

The VICE-PRESIDENT. Without objection, the vote will be reconsidered. The Secretary will report the amendment.

The SECRETARY. On page 157, line 22, the word "December" was stricken out and the word "October" was inserted, and also in line 6, page 158.

Mr. HALE. That has been reconsidered, and if the amendment is rejected, "December" remains.

The SECRETARY. It will then read "on and after December 15, 1906," in the first place, and "on or before said December 15, 1906," in the second.

The VICE-PRESIDENT. Without objection, the amendment inserting "October" in lieu of "December" is disagreed to.

Mr. FULTON. Mr. President, on the amendment which has just been reconsidered, if this change is to be made from October to December, I wish to say a word, if the Senator will permit me.

Mr. HALE. Certainly.

Mr. FULTON. I shall not resist the change, but I think I ought to explain briefly why I asked the amendment to be made in the first instance, and why I believe it ought to be retained.

The bill as it stands at the present time requires the Commission to Revise and Codify the Criminal and Penal Laws of the United States to report by the 15th day of December, 1906. That Commission has had this work in charge for something like eight or nine years. It has been promising, so I am informed by Members of the other House who have been constantly looking after the work, to report year after year. It promised to make a report by December, 1905, and it failed to do so.

Now it is proposed to appoint a joint committee—the resolution has passed the House and come to the Senate—to verify the work that this Commission has done. If that Commission shall conclude its work so as to bring it before the next session of Congress and have the revision acted on at that time, in my judgment, it is absolutely necessary that the committee shall sit in vacation and shall have at least one month prior to the meeting of Congress to devote to an inspection of the work of the Commission.

Therefore I suggested the amendment that the Commission be required to make its report by the 15th day of October, 1906. Then the committee could take it up, put in a month or such a matter before Congress convened, and would be in a position to report to Congress, and Congress could go over it and take up the measure and adopt the report at the next session. Otherwise, it seems to me, that the work will necessarily go over beyond the next session, because any person who has any comprehension of the vast volume of work the committee will have to perform and the importance of the work will understand that it is work which can not be done during the session of Congress. It will have to be done in vacation if done at all. The members who are on other committees can not devote the necessary time during the session to a verification, examination, and inspection of the work of the Commission.

With that explanation, I shall not oppose the restoration of the word if the Senator from Maine thinks it is proper. I felt that I was called upon to give this explanation, because I offered the amendment at the suggestion of Members of the other House who have given it very careful investigation.

Mr. HALE. I think it is better that the House proposition remain, Mr. President.

The VICE-PRESIDENT. The amendment is disagreed to.

Mr. BACON. Mr. President, with the permission of the Senator from Maine, and, as I understand it, with the approval of the committee, I offer an amendment on page 128, after line 14. There are two amendments that I send to the desk.

The VICE-PRESIDENT. The amendment of the Senator from Georgia will be stated.

The SECRETARY. On page 128, after line 14, insert:

For a reenforced concrete bridge over Pea Vine Creek, Georgia, on the road from Reed's bridge to Ringgold, $4,500.

Mr. BACON. I will simply state that both these amendments are recommended by the Secretary of War.

Mr. HALE. Yes; and they are all right

The amendment was agreed to.

Mr. BACON. The second amendment follows the one just agreed to.

The VICE-PRESIDENT. The amendment will be stated.

The Secretary read as follows:

For the partial reconstruction of the Alexandria Bridge over the Chickamauga River on the eastern boundary of the Chickamauga Park, $1,500.

The amendment was agreed to.

Mr. BACON. Both amendments relate to Government roads. I ask permission to have letters from the Secretary of War and the chairman of the Chickamauga and Chattanooga National Park Commission printed in the RECORD, without being read.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WAR DEPARTMENT, *Washington, June 18, 1906.*

MY DEAR SENATOR: I take the liberty of inclosing for your consideration a copy of a letter addressed by the Secretary of War to the President of the Senate, and also a copy of a letter from the chairman of the Chickamauga and Chattanooga National Park Commission, recommending an appropriation of $6,000 for the reconstruction of two bridges, one being within the approaches to and the other on the eastern boundary of the park. In view of the urgent necessity for this work, as set forth in this correspondence, it has occurred to me that you might take a personal interest in the consideration of this matter by the Senate.

Very truly, yours, ROBERT SHAW OLIVER,
Assistant Secretary of War.

Hon. AUGUSTUS O. BACON, *United States Senate.*

WAR DEPARTMENT, *Washington, June 18, 1906.*

SIR: I have the honor to submit, for the consideration of the Senate, the accompanying letter from the chairman of the Chickamauga and Chattanooga National Park Commission, setting forth the necessity for the immediate reconstruction of two bridges, one being within the approaches to and the other on the eastern boundary of the park, involving an increase of $6,000 in the appropriation contained in the pending sundry civil bill for the maintenance of the park during the ensuing fiscal year.

The chairman submits the following clauses of proposed legislation to accomplish these objects, and, in view of his earnest representations as to the necessity for this work, I beg to heartily recommend this additional appropriation, viz:

For a reenforced concrete bridge over Pea Vine Creek, Georgia, on the road from Reeds Bridge to Ringgold, $4,500.

For the partial reconstruction of the Alexander Bridge, over the Chickamauga River, on the eastern boundary of the Chickamauga Park, $1,500.

Very respectfully, WM. H. TAFT,
Secretary of War.

THE PRESIDENT UNITED STATES SENATE.

WAR DEPARTMENT,
CHICKAMAUGA AND CHATTANOOGA NATIONAL PARK COMMISSION,
Washington, June 7, 1906.

SIR: Your attention is respectfully called to the fact that the Pea Vine Creek Bridge, over Pea Vine Creek, and on the road from Reeds Bridge, on the Chickamauga, to Ringgold, is in immediate need of reconstruction. This bridge is on the road made one of the park approaches by act of Congress approved August 19, 1890. It is a very old wooden structure, in the last stages of decay, and we propose to replace it by a reenforced concrete bridge.

There is also in need of immediate partial reconstruction what is known as the Alexander Bridge, over the Chickamauga River, on the eastern boundary of the park.

Our estimate of the cost of proper bridges is $4,500 for the Pea Vine Creek Bridge and $1,500 for the Alexander Bridge. We have not the necessary funds to reconstruct these bridges, nor are they provided for in the sundry civil bill, as reported by the Committee on Appropriations of the House of Representatives for the coming fiscal year, and therefore suggest a proper amendment to the sundry civil bill to be presented in the Senate.

Very respectfully, E. A. CARMAN,
Chairman of Commission.

The honorable the SECRETARY OF WAR.

Mr. HALE. The only amendment reserved is on page 144.

Mr. KEAN. Will the Senator from Maine correct the provision on page 27?

Mr. HALE. There is a correction to be made on page 27.

Mr. KEAN. In line 2.

Mr. HALE. On page 27, line 2, let it read, instead of "two laborers," "one skilled laborer."

The SECRETARY. On page 27, line 2, strike out the words "two laborers" and insert "one skilled laborer."

The amendment was agreed to.

Mr. CARTER. With the permission of the Senator from Maine, I desire to offer a small amendment on pages 148 and 149.

Mr. HALE. On page 148, line 23, after the word "erection," the words "or purchase" should be inserted.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 148, line 23, after the words "for the erection," insert "or purchase;" so as to read:

Court-house and jails in Alaska: For the erection or purchase of a jail, repairs to the court-house, and construction of fireproof vaults for the records of the clerk of the court, all at Nome, Alaska, $10,000.

The amendment was agreed to.

Mr. HALE. Now, the only other amendment is on page 144.

The VICE-PRESIDENT. The Senator from Montana proposes an amendment, which will be read.

Mr. HALE. I think the amendment I have just offered covers the point.

Mr. CARTER. The amendment offered by the Senator covers one of the points, but I should like to have the amendment stated. The amendment of the Senator from Maine covers the first point.

The VICE-PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 149, after the word "used," in line 6, insert:

But if the jail building and equipment now being used at Nome can be purchased for less than the cost of remodeling and completely furnishing and equipping said marine-hospital building for jail purposes, such purchase shall be made.

Mr. HALE. I can not agree to that. I think the Senator ought to be content.

Mr. CARTER. I will strike out the word "shall" and put in the word "may."

Mr. HALE. I think the Senator ought to be content with the amendment that I have proposed in line 23.

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

The amendment was rejected.

Mr. HALE. Now, the only remaining amendment to be offered is on page 144.

Mr. NELSON. I move to strike out the following proviso on page 144, beginning in line 7:

Provided, That this appropriation shall be available only under the condition that no bar or canteen shall be maintained at said Homes for the sale of beer, wine, or other intoxicating liquors.

Mr. President, I do not intend to take up the time of the Senate at this late moment in a lengthy discussion of this matter. As an old soldier I feel an interest in the welfare of these veterans. Many of them, as a result of service in the Army and of subsequent life, have to a greater or less extent acquired the habit of occasionally taking a little beer or other stimulant.

In this matter, Mr. President, we are confronted with a condition rather than a theory. I recognize the fact that the good people who are opposed to the canteen in the Army do it for a very good purpose. Their idea is that they can make these old veterans strictly temperate and prohibition. If that could be accomplished, I would heartily join them in that effort, but the experience of all managers of our Soldiers' Homes goes to show that if these veterans can not have a place of entertainment, a place in the Home where they can secure a little mild beverage like beer, or something of that kind, they stray from day to day outside of the Home, go into purlieus where the vilest and meanest kind of saloons are kept, and the poorest and meanest kind of liquors, and there these old fellows become intoxicated, become helpless, and if they happen to have any change they are despoiled of that. The result is that the officers of the Homes have to go and hunt up these old fellows, and bring them back and take care of them and put them through a course of medicine to get them into a sort of fair condition again after they have been out. The parties who have these saloons outside in the vicinity of these Homes are opposed to these canteens, and it happens in this case, as we have often found it, that the prohibitionists and the saloon keepers cooperate.

But, Mr. President, I am unwilling to take up the time of the Senate further. I simply ask to have read a communication from Mr. M. R. Patrick, a late governor of the Soldiers' Home at Dayton, Ohio. This communication puts the case as clearly as can be before the Senate, and I ask that the whole of the communication may be read.

The VICE-PRESIDENT. The Senator from Minnesota asks that the communication sent to the desk by him may be read. Without objection, the Secretary will read as requested.

The Secretary read as follows:

Annual report of Central Branch National Home for Disabled Volunteer Soldiers for the year ending June 30, 1887.

CENTRAL BRANCH,
NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
Dayton, Ohio, August 1, 1887.

GENERAL: I have the honor to submit the following report of this Branch for the year ending June 30, 1887:

Soon after the commencement of this last financial year (July 12) a beer hall was opened here in the Home for the benefit of its members.

As is well known to the Board, it was a matter that had been under discussion for years. In the Army it has been the usage to sell beer certainly for more than half a century, and for several years (I know not how many) at the other Branches of the National Homes.

For some reason, I know not what, a terrible outcry was made through the press, through the mails, and by personal appeals to the governor for the redress of this outrage upon the members of the Central Branch and upon the interests of good order, good morals, and religion generally.

Possibly the fact that the governor had been known for more than

fifty years as an active temperance man, both in military and in civil life, may have had something to do with this onslaught upon him as a renegade. It is very true that the governor would gladly close every saloon in the land if it were in his power, but inasmuch as this Central Branch is hedged in on all sides by saloons, dives, and hells of the vilest character to entrap our men the moment they are outside of the gates, it seemed wise to choose the less of the two evils, either to furnish them with the best article of beer that can be purchased in the Home at a cheap rate, and retain our men under our own control, or suffer them to go outside, get drunk on the vilests drinks of every kind, get robbed of their money and kicked into the street, or secreted in the infamous dives that surround us until their money is exhausted and they are turned out penniless.

The statistics and records of this Branch for the past year speak for themselves:

The official report of Hon. Ira Crawford, mayor of Dayton, gives the number of arrests of our members from July 12, 1885, to July 1, 1886, as 486, while for the same length of time after the beer hall was opened (July 12, 1886, to July 1, 1887), as 274, a difference of 212.

The surgeon reports that the small number treated for alcoholism this year (fourteen), as compared with thirty-eight in 1886 and thirty-five in 1885, is without doubt, in his opinion, to be credited to the less number of members who are given to protracted debauches and bad liquor since the opening of the beer hall. Only such cases as can not with safety be treated out of the hospital are brought to hospital for treatment after a spree, and those treated in camp, especially at the guardhouse, are not one-fifth as many this year as in former years.

That a large number of our men will drink to excess when they have the opportunity is true, and notwithstanding the watchfulness of our employees at the beer hall, these shrewd old topers will manage to get tight; but on leaving the beer hall, if they show intoxication, they are at once sent up to the guardhouse, to remain until the next morning, without having had an opportunity to kick up a row in town or on their way home, or along the avenues of the Home.

Still another result: The beer we furnish is of the very best, and the man who gets intoxicated on it to-day is fit to be turned out to-morrow morning at 8 o'clock with a clear head and ready for duty, whereas a town drunk renders a man unfit for duty two, three, and four days.

Once more: The cry that less money would be sent by pensioners and employees to their families is disposed of by the showing of the treasurer's report and that of the postmaster.

The discipline and good order of the Home have never been as good as now within the last six or seven years at least, nor have the men been as contented.

I am happy to say that candid men and women of the most intense prohibition proclivities, who have been here at the Home and in Dayton making investigation fairly on the spot, have decided that under the circumstances it is best to leave the Home authorities to the exercise of their own judgment in this matter.

It is only theorists and fanatics at a distance, who know nothing of the circumstances, who keep up the cry, "Down with the beer saloon at the Soldiers' Home!" There are those who for their own purposes make statements to the effect that the men of the Home are induced to patronize the beer hall for the pecuniary benefit of somebody, presumably the Home authorities. It is true that the Home authorities and all connected with the Home are benefited by the expenditure of money inside of the Home instead of outside, the profits accruing from the sale of beer within the Home going to the post fund, which, as seen by the treasurer's report, has been very largely increased, thereby enabling the council of administration, of which the governor is chairman, to greatly increase the band, to afford more frequent amusements and of a higher class, to replenish library, reading room, etc., and, in general terms, to expend a large sum of money during the last year with the sole object of giving pleasure, comfort, and enjoyment to the men beyond what is provided for by Congressional appropriations.

It is not to be supposed that it is our object to make money, even for these purposes, at the expense of the health or morals of the men.

As we find it necessary we place restrictions upon hundreds of our men, some being entirely debarred from the beer hall and others being limited to one or two glasses, according to their physical, mental, or moral condition.

It is the opinion of every officer of this Home, whether prohibitionist or otherwise, that under existing circumstances the beer hall has reduced vice, crime, debauchery, sickness, and the waste of money that should go to the families of members in a very marked degree.

Very respectfully, yours,

M. R. PATRICK, *Governor.*

Gen. M. T. MCMAHON,
Secretary Board of Managers,
National Home for Disabled Volunteer Soldiers.

Mr. HALE and Mr. NELSON addressed the Chair.

The VICE-PRESIDENT. The Senator from Maine.

Mr. NELSON. Mr. President, I thought I was entitled to the floor. I had not concluded.

Mr. HALE. I thought the Senator had concluded.

Mr. NELSON. No; I have here certain statements made by Archbishop Ireland before the Committee on Military Affairs of the Senate, bearing on the same subject. I have known Archbishop Ireland for many years. He is one of the best temperance men in the country of whom I have knowledge. I should like to have his views on this subject read.

Mr. HANSBROUGH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from North Dakota?

Mr. NELSON. I will yield for a question.

Mr. HANSBROUGH. I simply want to call the attention of the Senate to a statement in regard to the Dayton Soldiers' Home directly connected with the document previously read.

Mr. NELSON. The Senator can do that in his own time. I am not yet through.

Mr. HALE. I sought the floor, thinking the Senator was through, to move to lay the amendment on the table.

Mr. HANSBROUGH. I can hardly yield to the suggestion of the Senator from Maine that I shall be debarred from a discussion of this proposition.

The VICE-PRESIDENT. Is there objection to the reading of the statement of Archbishop Ireland presented by the Senator from Minnesota? The Chair hears none, and the Secretary will read as requested.

The Secretary read as follows:

Archbishop Ireland and Bishop McGoldrick appeared before the committee.

The CHAIRMAN. The committee understands that you desire to say something on the canteen question?

Archbishop IRELAND. Yes.

The CHAIRMAN. We will be glad to hear you.

Archbishop IRELAND. What I wish to say is based, first, on my general knowledge of the manner of treating the liquor question with any class of people, and, secondly, from what I have heard and observed regarding the working of the canteen at Fort Snelling, Minn.

So far as the general method of dealing with the liquor question is concerned, it has been my experience that it is useless to try to prohibit absolutely the use of liquor, and the world, made as it is, men having the tastes they have, if we are too severe and try to do away altogether with the use of liquor, men will find it in ways illegal and ways more harmful than they otherwise would do. And, so far as I speak of the question of the Army canteen, I have observed myself and have heard it said that the soldiers at Fort Snelling go far more seldom to St. Paul to visit saloons in St. Paul and the saloons immediately bordering on the military reservations now that the canteen is established than they did formerly when there was no canteen. They find in the camp, in the establishment, that they can have beer and wine under reasonable conditions, and they are not tempted to sneak out, as they say themselves, and get drunk.

It was well known formerly they would go into St. Paul, and particularly so after pay day, and the result would be the following day a large number of them would turn up in the police courts. And then I know that along the military reservation it was the custom of three or four miserable saloons to establish themselves expressly and exclusively for the purpose of furnishing liquor to the soldiers—liquor of the worst kind—and not only furnishing liquor, but furnishing everything that makes for iniquity. The soldiers, when under the influence of liquor, are considered a prey for every vice and every iniquity, and much of the immorality to which some of them may be exposed comes from the use of liquor outside the forts, outside the camp grounds. Even if they were to take a little too much within the forts, they are protected against other evils—evils against which there is no protection for them when they are outside.

I know some time ago, some years ago, in the vicinity of Fort Snelling, houses of the most infamous kind were established in the name of saloons, to attract the soldiers. Now there is far less chance for anything of that kind, far less chance for drunkenness, and still further less opportunities for immoralities of a more serious character. And I think for the soldiers it would be better if they were allowed a little beer. There is no use in thinking that they will become total abstainers. Very few of them will become total abstainers. What those in charge of their morals should do is to eliminate danger and reduce their drinking to moderate temperance. I say this, although all my life I have been a total abstainer, and have worked for the last thirty years in the cause of temperance, and have induced people by moral suasion in many cases to take the total-abstinence pledge, and have induced thousands and thousands to do that. But when I am dealing with the people at large I am convinced that the only satisfactory and successful way is to eliminate dangers, as far as possible, and to reduce the drinking to a minimum.

I have advocated high license, gentlemen, in St. Paul and Minneapolis, instead of prohibition, and I have succeeded in reducing the consumption of alcoholic liquors by that policy. I am sure the same plan would work better among the soldiers.

As to Fort Snelling, from what I have heard and observed, drunkenness has been reduced a great deal, and immorality of a worse kind has been reduced yet more, because the soldiers have been kept at home. If they get a glass of beer there they will stay there, and if they are not able to get a glass of beer there they will sneak out, as they themselves say, and become intoxicated. I understand the canteen regulations are very good, and they can be made even more stringent, in the discretion of the Secretary of War.

The trouble with the soldiers has been that there has been no recreation in their camps or in the forts. After drills the soldier is tired and dull, and if he can go into the post exchange and sit down and talk and take a glass of beer right there it is far better than to have him go out and take it in a place where there is no object in view but to rob him.

The CHAIRMAN. We had an officer here who has stated that the savings of the men since the canteen has been established have been very considerable, and that from the fund created they are enabled to give the men magazines and newspapers, and so on?

Archbishop IRELAND. Yes; that is true. Bishop Goldrick, of Duluth, has always worked in the temperance cause. He is here with me today. He is a total abstainer himself, and I would like you to hear what he has to say on the subject of the canteen or post exchange.

Senator HARRIS. You spoke of a certain class of vile houses around the Fort Snelling Reservation.

Archbishop IRELAND. Yes, sir.

Senator HARRIS. Has the number of those houses been diminished since the establishment of the canteen or otherwise?

Archbishop IRELAND. I could not answer that directly. The only answer I can give is from the men and officers, who have told me that since the establishment of the post exchange conditions are infinitely better; that the number of such houses has been diminished to a great extent. Of course the exact number I could not myself say. Formerly I was around the fort and I knew about those things. I knew that, while they were ostensibly saloons, those houses were in reality houses of prostitution, and that the object was to get the soldiers there and get them drunk and get their money. And so I say that the canteen is far better for the soldiers and that there is far less immorality under this system.

Senator BURROWS. Just one question, if you please. Some excellent people make this objection, and I would like you to answer it: That the young man who has never been in the habit of drinking at all is tempted to drink by the canteen and led to the curse of drunkenness later on. What do you say about that?

Archbishop IRELAND. My answer is that that man in the Army is rather a rare article.

Senator BURROWS. I wanted your statement to go to the country.

Archbishop IRELAND. And, secondly, if the rare article does turn up, as it may, and he has been able to resist the temptations of the saloon in ordinary life, I think he will resist the temptations of the canteen.

Mr. NELSON. Without taking up the time of the Senate to read it, I ask that the statement of Bishop McGoldrick may be inserted in the RECORD as part of my remarks.

The VICE-PRESIDENT. Without objection, it is so ordered.

The statement referred to is as follows:

STATEMENT OF BISHOP M'GOLDRICK.

Bishop MCGOLDRICK. My experience has been very much like that of Archbishop Ireland. I have been long connected with Fort Snelling; I visited there frequently, and I have spent many days visiting there and around St. Paul and Minneapolis, and I can bear out what Archbishop Ireland says from my own experience. In talking with officers of the Army everywhere I can safely say that I never found anyone acquainted with the workings of the canteen who did not say that it was a good thing, and, gentlemen, officers, I think, are always the best judges of the soldiers' needs. The officers look after the soldiers; they are anxious about their welfare and their standing; they want to see that they do what is best for them; that they take proper exercise and proper care of themselves, and I believe a very large percentage—I do not know how many it would be safe to say, but a very large percentage—of the officers of the Army are on the side of preserving the canteen, and, as I think, with good reason. I believe the opposition to it is more fanatical than anything else.

I know that the idea has gone abroad among a great many that we must not touch or taste any alcoholic liquor; that it is a kind of mortal sin to take a glass of wine even. That idea was spread abroad, and people who are anxious to do away with drinking entirely have spoken of it being a dreadful crime to offer the soldier any opportunity of drinking. I believe that, and, so far as I am concerned, my hearty testimony is in favor of preserving the canteen under wise regulations, such as the Army has established.

Senator WARREN. You have spoken of the officers of the Army being in favor of it. What is your observation regarding the officers of the Army as to their principles of sobriety? Do you find them generally total abstainers or temperate men?

Bishop MCGOLDRICK. I have always found the officers of the Army temperate men.

Senator WARREN. A large percentage of them?

Bishop MCGOLDRICK. A large percentage temperate; yes, sir.

Senator WARREN. And what is their influence; what influence do they seek to exert over their men; is it one in the line of temperance or otherwise?

Bishop MCGOLDRICK. It is in the line of temperance.

Senator WARREN. Both as an example and otherwise?

Bishop MCGOLDRICK. Always.

Archbishop IRELAND. One thing is overlooked, which I alluded to myself, by many people who discuss the canteen question. It is this matter of prostitution, which is, of course, fatal to the soldier—soul and body. They only look at the mere drinking; but when a soldier goes outside to drink, outside the fort or reservation, he is generally tempted to go further. That is the danger.

Senator WARREN. And to gamble?

Archbishop IRELAND. Yes; also to gamble. You will find soldiers arrested in houses of prostitution. They are arrested, and then we ask: "How did you get there?" The explanation is that they went outside and got drunk in some of these vile saloons, and they were induced to go to these houses from the saloons. The agents of these houses are there, and they are there particularly for the purpose of inveigling the soldiers into these houses. The houses that I refer to are on the borders of the fort and are houses of prostitution—all of them. If a soldier does take too much to drink in the fort, he is not exposed of course to this other and greater evil. Outside those two evils go together. When the soldier gets drunk outside the fort he is led to something worse. And so I say, even if the drunkenness itself were not diminished, I would rather that a certain degree of drunkenness were to prevail in the fort than to be allowed to the soldier outside.

But, on the other hand, my own conviction is that the dangers are far less for drunkenness in the fort, and, at any rate, the amount there furnished is regulated, and there is a certain esprit de corps among the men that keeps them from abusing their privilege of taking beer. It is regarded as a respectable place to gather, and the men generally would not like to see the canteen become a place for getting drunk. If the man there takes too much, he is somewhat tabooed.

The CHAIRMAN. And he is restricted in his drinking, he is not allowed to drink too much?

Archbishop IRELAND. Yes, sir; that is better yet. Of course, if people could do away with all evil, it would be better for the world, but my policy is to deal with the world as it is.

Senator WARREN. It is a straight case of choosing the lesser of two evils?

Archbishop IRELAND. Yes, sir. I am a total abstainer myself; but I do not think it is a mortal sin for a soldier to take a glass of beer or for an officer to allow a soldier a glass of beer. I believe in temperance and in suppressing drinking as much as possible, but I can not accept the statement that has been made by others before this committee that it is infamous for the Government to allow the canteen; that this is a nefarious traffic, and that we ought not to sanction it in any way. I can not accept the principle that it is in itself a nefarious traffic.

Mr. GALLINGER. I should like to ask the Senator the date of that testimony?

Mr. NELSON. I do not remember the date. The Senator from Wyoming [Mr. WARREN] can tell the Senator.

Mr. WARREN. That is testimony taken before the Military Committee when the matter of Army canteens was under consideration.

Mr. GALLINGER. If the Senator will permit me, the bishop was discussing the conditions when the canteens existed. They have not existed for several years. He speaks of the lack of the means of recreation; but since then Congress has appropriated $2,000,000 to provide recreation for the soldiers.

Mr. HALE. Mr. President——

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

Mr. HALE. I thought the Senator was through.

Mr. NELSON. I will not further take up the time of the Senate, but will merely ask to have incorporated in my remarks a petition signed by Mrs. J. C. Kelton, representing the Woman's Army and Navy League, relating to this subject.

The VICE-PRESIDENT. Without objection, permission is granted.

The petition referred to is as follows:

STATEMENT OF MRS. J. C. KELTON, REPRESENTING THE WOMAN'S ARMY AND NAVY LEAGUE.

Senator PROCTOR (acting chairman). The clerk will read the petition which is before us.

The clerk read the petition referred to, as follows:

A petition by the Woman's Army and Navy League.

WASHINGTON, *D. C., December 15, 1904.*

We, the members of the Woman's Army and Navy League, an organization composed with few exceptions of women closely related to officers in the Army and in the Navy and in the Marine Corps, do earnestly petition the Congress of the United States to pass the bill (S. 5703) introduced by Senator Proctor on December 7, 1904: "That so much of section 38 of an act entitled 'An act to increase the efficiency of the permanent military establishment of the United States,' approved February 2, 1901, as prohibits the sale of beer in any post exchange or canteen at posts located in States where such sale is not prohibited by the law of the State, is hereby repealed."

We make this petition after a careful study of the effect the prohibition of the sale of beer at post exchanges has had upon the enlisted man since February 2, 1901.

The object of the Woman's Army and Navy League (organized in 1887) is to promote the general welfare and contentment of enlisted men, and judging from the numerous reports of Army officers of all ranks and from every branch of the military service recommending the restoration of the canteen as it existed prior to February 2, 1901, we think that it is quite in order that we should add our voice in the interest of the moral and physical well-being of the soldier.

We therefore beg that the Military Committee in the Senate and the Military Committee in the House of Representatives will give this vital matter their dispassionate consideration.

Mr. HALE. Mr. President, the hour is late. I do not propose to take up any of the time of the Senate upon this question. I have a great mass of papers and of figures, presented in the other House, going entirely in the opposite direction from the amendment offered by the Senator from Minnesota and the statements read at his request. I have a great respect for Archbishop Ireland, whom I know very well, but his testimony has been already taken care of by what the Senator from New Hampshire [Mr. GALLINGER] has said. I do not propose to take up the time of the Senate by submitting these figures and talking about them. My proposition is to leave the matter to the Senate by moving to lay on the table the amendment of the Senator from Minnesota. That presents the whole question to the Senate.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maine [Mr. HALE] to lay on the table the amendment of the Senator from Minnesota [Mr. NELSON].

The motion was agreed to.

Mr. NELSON. I have another amendment bearing on the same subject on the next page of the bill.

Mr. HALE. Very well. Let the Senator put that in. Then there is a very important amendment which I wish to withdraw.

Mr. HANSBROUGH. Before the Senator from Minnesota leaves page 144, I desire to say that at the appropriate time, if I am allowed to do so, I shall offer an amendment to the proviso on that page.

Mr. NELSON. On page 145, relating to the appropriation of money for soldiers' homes conducted and carried on by the States, I move to strike out the proviso beginning in line 2, after the word "maintained."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 145, line 2, after the word "maintained," it is proposed to strike out:

And provided further, That no part of this appropriation shall be apportioned to any State or Territorial home that maintains a bar or canteen where intoxicating liquors are sold.

Mr. GALLINGER. I presume the Senator is aware of the fact that that is the existing law, and that it is not a new provision in this bill.

Mr. NELSON. I am aware of that fact, but I will move to strike it out. I think that question should be left to the State authorities of each State to determine.

Mr. HALE. I move to lay the amendment on the table. It is existing law.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine [Mr. HALE] to lay on the table the amendment of the Senator from Minnesota [Mr. NELSON].

The motion was agreed to.

Mr. HANSBROUGH. I offer the amendment which I send to

the desk to take the place of the proviso on page 144, beginning on line 7.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 144, line 7, after the word "dollars," it is proposed to strike out the following proviso:

Provided, That this appropriation shall be available only under the condition that no bar or canteen shall be maintained at said Homes for the sale of beer, wine, or other intoxicating liquors.

And in lieu thereof to insert:

Hereafter there shall not be maintained at any Branch Home of the National Home for Disabled Volunteer Soldiers any bar or canteen for the sale of beer, or wine, or other intoxicating liquors.

Mr. HANSBROUGH. Mr. President, if the Senator from Maine, who seems to have the floor, will permit me to offer a few suggestions, I will be very much obliged to him. I will not unduly take up the time of the Senate.

Mr. HALE. I am willing to leave that entirely to the discretion of the Senator. He understands thoroughly, for he has had long service here, the necessity for getting this bill through. I will not move to lay it on the table if the Senator desires to speak.

Mr. HANSBROUGH. Mr. President, I want to call attention, in the first place, to the condition of the Soldiers' Home at Milwaukee. I have here a statement and diagram in regard to the canteen question. It will be remembered that at the Milwaukee Soldiers' Home there is a canteen; in other words, they sell beer and light wine in the military grounds there. It has been claimed by those who are in favor of the canteen system that when there is a canteen at a soldiers' home or a military post there are no saloons or other resorts of that character about the premises. I have here some pretty good evidence to show that, notwithstanding the fact that there is a canteen at the Soldiers' Home at Milwaukee where the soldiers may get their beer and other intoxicants, there are fifty saloons and resorts of that kind as near to the grounds of the Soldiers' Home as they can get. So that the existence of the canteen at a soldiers' home or at a military post does not do away with dives and groggeries outside.

In regard to the Dayton Soldiers' Home, permit me to call the attention of the Senate to this fact: I find in comparing the question of discipline at the Washington Soldiers' Home, where there is no canteen, with the Dayton Soldiers' Home, where there is a canteen, that the percentage of total offenses of all kinds at the Washington Home in 1905 was 0.218, while at the Dayton Home, where they have a canteen, it was 0.57 per cent.

Mr. President, I will not go into the figures on this question, but I want to insert in the RECORD a statement covering all these National Homes. It is from the report of the Board of Managers of the National Home for Disabled Volunteer Soldiers, and covers a period of six years. The summing up shows that at the Washington Home, where there is no canteen, the percentage of offenses is 0.175 and at the Central Soldiers' Home, where they have a canteen, it is 0.578 per cent. The average for seven Homes where the canteen exists is 0.389 per cent, while at the Washington Home, where there is no canteen, it is, as I have said, 0.175 per cent. I will not go into the subject further, but if I had the time to do so the testimony would be conclusively in favor of the amendment. I ask that the statement which I send to the desk be printed in the RECORD.

The VICE-PRESIDENT. In the absence of objection, the statement referred to by the Senator from North Dakota will be printed in the RECORD.

The statement referred to is as follows:

[From Report of Board of Managers of National Home for Disabled Volunteer Soldiers.]

Statistics in relation to National Soldiers' Homes.

PER CENT OF TOTAL OFFENSES OF ALL KINDS.

	Washington.	Central.	Northwestern.	Eastern.	Southern.	Western.	Pacific.	Danville.
1900	0.167	0.603	0.449	0.516	0.255	0.244	0.209	0.763
1901	.13	.619	.412	.35	.885	.219	.12	.496
1902	.16	.527	.395	.282	.611	.209	.051	.262
1903	.183	.565	.438	.227	.608	.143	.102	.32
1904	.197	.584	.625	.202	.51	.212	.092	.349
1905	.218	.57	.524	.31	.524	.282	.399	.317
Average for 6 years	.175	.578	.473	.314	.565	.218	.162	.417

Average for period of seven Homes with canteen, 0.389 per cent.
Average for period of Washington Home, no canteen, 0.175 per cent.

Statistics in relation to National Soldiers' Homes—Continued.

PER CENT FOR INTRODUCING LIQUORS INTO HOME.

	Washington.	Central.	Northwestern.	Eastern.	Southern.	Western.	Pacific.	Danville.
1900	0.003	0.059	0.032	0.037	0.005	0.014	.....	0.059
1901	.002	.061	.026	.049	.017	.002	.....	.04
1902	.003	.055	.023	.041	.012	.002	0.002	.067
1903	.006	.07	.034	.045	.015	.003	.....	.106
1904	.006	.079	.026	.023	.021	.022	.....	.104
1905	.011	.057	.047	.053	.023	.034	.....	.088
Average for 6 years	.005	.063	.031	.041	.015	.012	.002	.077

Average for seven Homes with canteen, 0.034 per cent.
Average for Washington Home, no canteen, 0.005 per cent.

PER CENT OF DRUNKENNESS.

1900	0.111	0.209	0.173	0.288	0.215	0.133	0.057	0.349
1901	.088	.27	.15	.164	.715	.124	.062	.187
1902	.108	.215	.153	.088	.496	.153	.024	.074
1903	.117	.201	.166	.07	.388	.112	.054	.075
1904	.133	.17	.372	.046	.304	.121	.06	.10
1905	.131	.153	.112	.12	.238	.148	.029	.128
Average for 6 years	.114	.213	.187	.129	.392	.131	.047	.152

Average for seven Homes, with canteen, 0.178 per cent.
Average for Washington Home, no canteen, 0.114 per cent.

PER CENT OF ABSENCES WITHOUT LEAVE.

1900	0.046	0.141	0.151	0.126	0.009	0.068	0.132	0.152
1901	.026	.221	.171	.091	.019	.038	.046	.138
1902	.031	.207	.148	.089	.011	.089	.014	.032
1903	.052	.209	.182	.064	.02	.062	.032	.05
1904	.049	.252	.13	.088	.106	.086	.023	.051
1905	.062	.198	.205	.107	.134	.127	.02	.043
Average, 6 years	.044	.214	.164	.094	.049	.078	.044	.081

Average for seven Homes with canteen, 0.103 per cent.
Average for Washington Home, no canteen, 0.044 per cent.

Mr. PATTERSON. Mr. President——

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

Mr. HANSBROUGH. Yes; for a question.

Mr. PATTERSON. I ask the Senator from North Dakota whether the Washington Soldiers' Home is not peculiarly favorably situated for the maintenance of discipline? Are there any groggeries or saloons in the neighborhood of the Washington Soldiers' Home?

Mr. HANSBROUGH. There are not supposed to be any within a mile of the grounds.

Mr. PATTERSON. Those who visit the Home know that the grounds are unusually large and spacious and commodious. There are no saloons in the neighborhood of the Home, and for that reason, in so far as the absence of liquor altogether will tend to promote discipline and good behavior, it is situated, I imagine, as is no other Soldiers' Home in the country.

A fair comparison, it seems to me, would be to take a Soldiers' Home, situated as a good many of them are at least, with saloons in their immediate neighborhood, and having a canteen, and compare the discipline in it with that in a Soldiers' Home without a canteen. I do not think the comparison of the Washington Home with Homes outside of the District of Columbia gives a fair idea.

Mr. HANSBROUGH. I think it is entirely fair, as the average conditions at the other Homes are very much the same as I understand they are here. At least I am so advised.

Mr. President, I shall not take up the time of the Senate any longer. I desire to have inserted in the RECORD a letter which has been received by Congressman LITTLEFIELD, of the State of Maine, from Mr. E. B. Furbish, chaplain at State Soldiers and Sailors' Home, Bath, N. Y. I will not ask that it be read, but simply that it be inserted in the RECORD in connection with my remarks.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

The letter referred to is as follows:

NEW YORK STATE SOLDIERS AND SAILORS' HOME,
Bath, N. Y., June 21, 1906.

Hon. CHAS. E. LITTLEFIELD.

DEAR SIR: Permit me to express to you my gratitude and the gratitude of my comrades for your wise, efficient, and successful efforts in the House of Representatives toward protecting the Soldiers and Sailors' Home from the degrading influence of the canteen. May I ask you to mail a copy of the CONGRESSIONAL RECORD for June 12,

Tuesday, 1906, containing your remarks in favor of this question, to M. H. Furbish, Portland, Me.?

Sincerely, yours, with gratitude and respect,

E. B. FURBISH,
Chaplain (Protestant) New York State Soldiers and Sailors' Home, Bath, N. Y.

Mr. CLAY. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. HANSBROUGH. For a question.

Mr. CLAY. If I understand the Senator's amendment, practically it differs from the House bill only in that the House provision is a prohibition against the canteen during the next fiscal year, while the amendment offered by the Senator from North Dakota means perpetual prohibition.

Mr. HANSBROUGH. It makes it permanent.

Mr. CLAY. That is the only difference between it and the House bill?

Mr. HANSBROUGH. I think it ought to be made permanent, in view of the fact that the Congress of the United States has repeatedly declared in favor of prohibiting the canteen. I think it ought to become the permanent policy of the Government. That is all I have to say, Mr. President.

Mr. GALLINGER. Mr. President, I had intended to submit some observations and to place in the RECORD some protests from churches and other religious organizations against striking from the bill this provision which the House in its wisdom has inserted. But I will refrain from that, and simply ask that some brief extracts from a statement made by Mr. Joshua L. Baily, a very distinguished citizen of Philidelphia, who visited all these National Soldiers' Homes, may be placed in the RECORD.

I also ask to have inserted in the RECORD a letter I received yesterday from Joseph H. Bradley, of One hundred and fifteenh street and Broadway, New York City, who signs himself "Late Chaplain at Southern Branch, N. H. D. V. S." On those documents I will rest the case.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

Hampton.—The beer hall was the subject of careful investigation at each of my visits. The approach to it was indicated by a pile of empty barrels, as well as by the file of men returning from their drink, whose breath, as it were, seemed to blaze the way. It is a one-story building about 35 by 130 feet in dimensions, but notwithstanding its spaciousness one has some difficulty in getting inside because of the crowd. The bar extends the full length of the interior, and behind it stands a cashier and three bartenders, who appear to be kept constantly employed. At one of my visits I found men in line, not only fronting the bar, but extending outside the door and standing close together for a distance of at least 150 feet, waiting their turn to be served. They paid their money to the cashier, who gave to each a ticket of the value of 5 cents, which they handed to one or the other of the bartenders, and each getting his mug of beer passed on to the other end of the building and outside.

There were about 200 men in line.

A CEASELESS ROUND OF DRINKS.

I noticed that many of them, after passing out, joined the line again to go in for a further supply, and I learned that it was possible for a man to get as many as three mugs of beer in the course of an hour. Indeed, I could discover nothing to prevent a man from keeping this up as long as his money held out. There are twenty tables on one side the hall at which from four to six men could sit, and these are occupied by the old and infirm, and the tables, as well as the men, are usually pretty full so long as the hall is open. And this is nearly all the day, excepting an hour and a half interval for dinner. Indeed, such is the eagerness for the drink that the men form in line even before the doors are open, and often, as I was informed, as many as 100 to 200 may be seen impatiently waiting the opening. I learned that it was not at all unusual for men to drink four or five beers in the morning and as many more in the afternoon, and that some drink even more than that. There is practically no restriction as to the quantity, so long as they can pay for it and not become so intoxicated as to be disorderly. That they do become intoxicated several men were in evidence whom I met on the grounds. I had a conversation with a surgeon in one of the hospitals and learned from him that not all of the inmates of the Home were drinking men, but that there were a certain number who were habitual drinkers, and these could be found with almost undeviating regularity every day at the canteen, and that the supply of the invalids in the hospitals came largely from that class, but he added these significant words: "Poor fellows, they don't live long."

At one of my visits (March, 1901) I went directly from the beer hall to the police quarters and there found fifty-seven old soldiers waiting trial for misdemeanors. The cases were all heard and disposed of by the governor of the Home, Capt. P. T. Woodfin. The court sits twice a week. These were represented to be the accumulation of three days.

* * * * * * *

BEER WHETS THE TASTE FOR STRONGER DRINKS.

Do the facts admit of any other conclusion than this, that the inside beer hall is a constant stimulant to appetite, an appetite which becomes insatiable and seeks its further indulgence on the stronger liquors to be had outside; and is there not a grave inconsistency in the position of the Government, which, in maintaining a liquor saloon, encourages the men in the very misdemeanors for the commission of which the Government punishes them.

* * * * * * *

DOES NOT LESSEN OUTSIDE DIVES.

The apologists for the canteen contend that by the sale of beer and light wines to the soldiers at the Home and on military reservations they prevent them from going outside to get stronger and more injurious liquors. This is their theory, and it is honestly held by many. But their theory has not stood the test. It is contradicted by the actual results. The inside supply of the milder kinds does not prevent them from going outside for the stronger. The ever-present facility by which they can obtain the one is an ever-present stimulant, which, instead of satisfying, quickens the appetite for the other and sends them outside to seek its indulgence.

* * * * * * *

From the conditions which I have attempted to describe we can draw at least this conclusion—that is, that the Government in maintaining the canteen inside the grounds of the Home is responsible for the mischievous results. The appetite for drink is continually nurtured, and the desire for stronger liquor is created and seeks its indulgence when the men are at liberty to go outside the grounds, with the resulting drunkenness, which is of daily occurrence. The most practicable if not the only remedy would seem to be the abolition of the canteen and the prohibition of beer as an intoxicant, not now included in the interpretation of the prohibitory rule as to intoxicating liquors.

ONE HUNDRED AND FIFTEENTH STREET AND BROADWAY,
New York, June 21, 1906.

Hon. JACOB H. GALLINGER,
United States Senate.

DEAR SIR: Most earnestly desiring to see the canteen abolished from the National Soldiers' Home (and all military posts) I beg leave to give facts from my nine years' service as chaplain at the Southern Branch, Virginia.

The efforts to promote temperance among my needy and weak comrades were made almost hopeless and ineffectual by the counter influences of the canteen. Intemperance has brought the great mass of the members of the Home to shame and destitution. Such seek refuge in the Home as a harbor where they can with comparative impunity indulge their evil appetites and devote their pension money to their gratification.

The great body of the drinking men are not satisfied with beer from the canteen, but form a procession from morning till night going out to the neighboring saloons. The presence of the canteen encourages the propensity to drink, and inflames the thirst for stronger liquor, and sends the victim outside to satisfy it. While a great many confirmed inebriates have been brought under good influences, and shown a desire to refrain (often resisting the temptation for months, or a year, and have solemnly pledged themselves to abstinence) yet the constant presence of the canteen, and the sight of their intimate friends and associates frequenting it, bringing the smell of it into the common quarters, talking about their drinking, etc., almost certainly soon overcomes the good resolution to reform, and these go back to their old habits, they become discouraged and disheartened, and give up in despair.

Drunkenness is the vogue in the Homes, and every effort to reform brings ridicule on the individual who shows this disposition, and his failure encourages contempt for the religious influences under which he sought in vain for help. Thus the canteen is the chief stumbling block to the reformation of the drinking, weak, old soldier.

Thus the canteen pollutes the whole moral atmosphere of the Homes. It so greatly encourages intemperance that membership in the Home is in itself a common byword of contempt in the neighboring communities. The men of respectable character brought there by misfortune are forced into close association with a multitude who glory in the shame of their degradation by drink, and instead of finding a peaceful, respectable retreat in their old age and necessity, are thrust into close contact with a mass of humanity which provokes only disgust and misery; their natural and just sensibilities are hourly offended and constantly outraged. The maintenance of the canteen under the authority of the Government practically offers a premium for intemperance, and contravenes every religious effort that a chaplain can put forth. It is made the duty of a faithful chaplain to denounce the influence which the Government maintains through the operation of the canteen. This is unmilitary, as it is also illogical.

There is no more crying need in the National Homes than to put intemperance truly under the ban; instead of which it is encouraged and supported. The care of the nation for its weak, helpless, and dependent veterans and saviors is misnamed and not in evidence in maintaining the canteen in the Home.

I am, very respectfully, yours, JOS. H. BRADLEY,
Late Chaplain at Southern Branch, N. H. D. V. S.

Mr. HALE. I move to lay on the table the amendment proposed by the Senator from North Dakota [Mr. HANSBROUGH].

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment proposed by the Senator from North Dakota. [Putting the question.] By the sound the noes have it.

Mr. HALE. If the Senate desires that, I have nothing to say. I think it is very unsafe to put the matter into conference. We had better retain the House provision as it was sent over. I do not know what will happen if it goes into conference.

The VICE-PRESIDENT. The Chair will again put the question. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment proposed by the Senator from North Dakota. [Putting the question.] In the opinion of the Chair the noes have it. The noes have it, and the motion is lost.

The question recurs on agreeing to the amendment proposed by the Senator from North Dakota. [Putting the question.] By the sound the ayes have it. The ayes have it, and the amendment is agreed to.

Mr. HALE. Mr. President, I do not think Senators understood the proposition. I myself voted——

The VICE-PRESIDENT. The Chair will have the Secretary again state the amendment.

The SECRETARY. On page 144 of the bill, line 7, after the word "dollars," it is proposed to strike out:

Provided, That this appropriation shall be available only under the condition that no bar or canteen shall be maintained at said Homes for the sale of beer, wine, or other intoxicating liquors.

And insert:

Hereafter there shall not be maintained, at any Branch Home of the National Home for Disabled Volunteer Soldiers, any bar or canteen for the sale of beer, or wine, or other intoxicating liquors.

The VICE-PRESIDENT. The question is on agreeing to the amendment which has just been stated.

The amendment was agreed to.

Mr. HALE. On page 175 I wish the amendment reported by the committee to be disagreed to because the question was settled by the Senate by its vote yesterday.

The VICE-PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 175, line 7, after the word "two," the committee proposes to strike out the following:

Provided, That no part of the sums herein appropriated shall be used for the construction of a canal of the so-called sea-level type.

Mr. HALE. Let that be disagreed to in order to conform to the action of the Senate.

The amendment was rejected.

Mr. HALE. I hope the bill may be reported to the Senate.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. GALLINGER. Mr. President, I present a conference report on the District of Columbia appropriation bill. I trust there will be no objection to action upon it at the present time.

The VICE-PRESIDENT. The report will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18198) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1907, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 12, 13, 14, 15, 26, 39, 40, 43, 44, 45, 46, 53, 60, 61, 62, 63, 69, 71, 72, 74, 79, 81, 85, 91, 92, 93, 96, 97, 99, 100, 103, 104, 117, 119, 122, 123, 125, 127, 128, 129, 148, 150, 157, 159, 163, 168, 170, 172, 178, 188, 193, 196, 199, 200, 202, 208, 209, 211, 212, 213, 216, 237, 240, 245, 246, 248, 250, 258, and 261.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 7, 8, 10, 16, 17, 18, 19, 21, 22, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 41, 47, 49, 54, 55, 56, 57, 58, 59, 64, 65, 66, 67, 68, 70, 73, 75, 78, 80, 83, 84, 87, 89, 94, 95, 98, 101, 102, 108, 109, 111, 113, 114, 116, 120, 124, 126, 130, 131, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 151, 152, 154, 155, 156, 160, 161, 162, 165, 171, 174, 176, 177, 179, 180, 181, 182, 183, 184, 186, 187, 190, 197½, 201, 204, 205, 206, 207, 210, 215, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 230, 231, 232, 236, 241, 242, 249, 252, 253, 254, 255, 256, 257, 260, 262, 263, 264, 265, 266, 267, 268, and 269; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$98,359;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: At the end of said amendment, after the word "five," insert "and the Commissioners of the District of Columbia are hereby authorized to refund any excess taxes paid on such returns by reason of such penalty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the number proposed insert "three;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In lieu of the sum proposed insert $15,800;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the number proposed insert "four;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$178,687;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$45,020;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows: Omit from the matter inserted by said amendment the words "chief of circulating department, one thousand dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$28,060;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "by the Commissioners for any other purposes than to visit such points within the District of Columbia as it may be necessary to visit in order to enable them to inspect or inform themselves concerning any public work or property belonging to the said District, or to do any other act necessary to the administration of its affairs;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$2,750;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For the erection of suitable tablets to mark historical places in the District of Columbia, to be expended under the direction of the Joint Committee on the Library, five hundred dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows: In line 2 of said amendment, after the word "where," insert the words ", on account of the character of the work;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following; "Girard street, between Twelfth street and Brentwood road, northeast, grade, $4,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows: Insert after said amendment as a paragraph the following: "Massachusetts avenue, from S street to Belmont road, grade and improve, $5,900."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment as follows: In lieu of the sum proposed insert: "$123,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

Add after said amendment as separate paragraphs, the following:

"For purchase or condemnation of an approach to the Anacostia end of the new Anacostia Bridge, and the grading and improving of such approach, and grading and improving the extension of Monroe street to the Eastern Branch of the Potomac River, and for constructing a suitable bridge to carry said extension of Monroe street over the tracks of the Baltimore and Ohio Railroad, all in accordance with plans approved by the Commissioners of the District of Columbia, $54,000, or so much thereof as may be necessary, and the said Commissioners are authorized to enter into a contract with the said railroad company or other parties for the construction of such bridge and approaches; and the Commissioners of the District of Columbia are hereby authorized and directed to acquire, by purchase or condemnation, the land necessary for the extension of Monroe street with a width of sixty feet from Harrison street northward to the Anacostia River, and of the south approach to the new Anacostia Bridge, with a width of sixty feet, to connect with said

extension of Monroe street by a curve passing over the tracks of the Alexandria branch of the Baltimore and Ohio Railroad; and such condemnation proceedings as may be necessary for this purpose shall be conducted under the provisions of subchapter one of chapter fifteen of the Code of Law for the District of Columbia, and such sums as are necessary to pay the expense of said condemnation proceedings and to pay any damages or excess of damages over benefits that may be allowed to owners of land taken is hereby appropriated: *Provided*, That such portion of this cost shall be borne by the Baltimore and Ohio Railroad Company as is provided in section ten of an act entitled 'An act to provide for a Union Railroad Station in the District of Columbia, and for other purposes,' approved February 28, 1903, and said sum shall be paid by the said company to the Treasurer of the United States, one half to the credit of the District of Columbia and the other half to the credit of the United States, and the same shall be a valid and subsisting lien against the franchises and property of the said Baltimore and Ohio Railroad Company and shall be a legal indebtedness of said company in favor of the District of Columbia, jointly for its use and the use of the United States as aforesaid, and the said lien may be enforced in the name of the District of Columbia by bill in equity brought by the Commissioners of the said District in the supreme court of the said District, or by any other lawful proceeding, against the said Baltimore and Ohio Railroad Company: *And provided further*, That the Anacostia and Potomac River Railroad Company shall pay toward the balance of the cost of the construction of said approaches and bridge over the said tracks of the Baltimore Railroad Company the sum of $3,750, to be collected in the same manner as the cost of laying pavements between the rails and tracks of street railways, as provided for in section 5 of 'An act providing a permanent form of government for the District of Columbia,' approved June 11, 1878, and paid into the Treasury, one-half to the credit of the United States and one-half to the credit of the District of Columbia.

"And the Anacostia and Potomac River Railroad Company is hereby authorized and directed to construct and operate a double-track street railway along the said south approach and extension of Monroe street provided for herein to intersect with its existing tracks at Monroe and Harrison streets, said line to be completed and equipped by September 13, 1907, and within thirty days thereafter the said Anacostia and Potomac River Railroad Company shall remove its rails from and restore the paving on the portion of its line hereby directed to be abandoned, to wit: along Harrison or Bridge street, lying west of Monroe street and on the present Anacostia or Navy-Yard Bridge: *Provided*, That the said Anacostia and Potomac River Railroad Company shall within sixty days after the completion of its new line herein specified, pave that portion of the approaches to the Anacostia bridge now being constructed and Monroe street extended lying between lines two feet exterior to the outer rails of its track, said paving to be of such character as the Commissioners of the District of Columbia may determine: *And provided further*, That when in the judgment of said Commissioners they shall deem it safe and proper to construct over the newly filled approach to said bridge the necessary conduits and appurtenances to operate a street railway by the underground or conduit system they are hereby authorized and directed to notify said Anacostia and Potomac River Railroad Company to construct such necessary conduits and appurtenances over so much of its lines between the said new bridge and Franklin street, Anacostia, and upon failure or neglect of said railroad company to complete the work of installing such conduits and appurtenances within six months after the date of such notification said railroad company shall be subject to a fine of not less than twenty-five dollars for each and every day during which it fails or neglects to install such conduits and appurtenances, which fine shall be recovered in any court of competent jurisdiction at the suit of said Commissioners.

"And the Anacostia and Potomac River Railroad Company is hereby required to pay a final sum of $15,000 toward the cost of construction and the use of the new Anacostia River bridge, in addition to any sum to be paid or expended by said Anacostia and Potomac River Railroad Company for approaches, and in addition to any sums required to be expended by said railroad under existing law for construction, maintenance, and repairs, and the said sum of $15,000 is hereby declared a valid and subsisting lien against the franchises and property of said street railroad company and shall be a legal indebtedness of said company in favor of the District of Columbia jointly for its use and the use of the United States. And the said sum when paid or collected shall be paid into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia."

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$2,040;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$250,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$18;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter stricken out by said amendment insert the following:

"For officers: For superintendent of public schools, $5,000; two assistant superintendents at $3,000 each; secretary, $2,000; clerk, $1,400; two clerks at $1,000 each; one messenger, seven hundred and twenty dollars; in all, seventeen thousand one hundred and twenty dollars; and members of the board of Education shall serve without compensation."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter stricken out by said amendment insert the following:

"For teachers: For one thousand five hundred and seventy-seven teachers, to be assigned as follows:

"For director of intermediate instruction, two thousand six hundred dollars;

"For thirteen supervising principals, at two thousand two hundred dollars each;

"For supervisor of manual training, two thousand two hundred dollars;

"For principals of Central, Eastern, Western, Business, and M Street high schools, five in all, at $2,000 each;

"For principals of McKinley Manual Training School and Armstrong Manual Training School, two at $2,000 each;

"For principals of Normal School Number One and Normal School Number Two, two at $2,000 each;

"For principal at Jefferson School, $1,920;

"For twelve heads of departments in high schools, at $1,900 each;

"For principal of Stevens School, $1,890;

"For principal of Franklin and Thomson schools, one, at $1,830;

"For director of primary instruction, $1,800;

"For principals of Force, Peabody, Dennison, and Lincoln schools, four in all, at $1,710 each;

"For principals of Wallach and Van Buren and Annex schools, two in all, at $1,650 each;

"For principal of Abbot School, $1,620;

"For two high school teachers, at $1,600 each;

"For principals of Seton, Henry, Webster, Grant, and Gales schools, five in all, at $1,590 each;

"For directors of music, drawing, physical culture, domestic science, domestic art, and kindergarten instruction, six in all, at $1,500 each;

"For principals of Towers, Jackson, and Blake schools, three in all, at $1,470 each;

"For assistant director of primary instruction, and one manual training school teacher, two in all, at $1,400 each;

"For principals of Johnson and Annex, Brookland, Emery, Garnet, Randall, and Birney and Annex, six in all, at $1,390 each;

"For principal of Mott School, $1,330;

"For assistant directors of music, drawing, physical culture, domestic science, domestic art, and kindergarten instruction, principals of Berret, Curtis, Sumner, and Cook schools, five high school teachers, three manual training school teachers, and two normal school teachers, twenty in all, at $1,330 each;

"For principals of Adams, Morgan, Hubbard, Polk, Phelps, Morse, Twining, Hilton, Maury, Edmonds, Lenox, Brent, Smallwood, Bradley, Sayles J. Bowen, Addison, Fillmore, Corcoran, Weightman, Toner, Ludlow, Blair, Taylor, Madison, Webb, Wheatley, Pierce, Takoma, Tenley, Brightwood, Monroe, Con-

gress Heights, Cranch, Buchanan, Carbery Hayes, Eckington, Briggs, Montgomery, Banneker, Logan, Jones, Lovejoy, Wilson, Garrison, and Bell schools, forty-six in all, at $1,270 each;

"For principal of Bruce School, two high school teachers, and three manual training school teachers, six in all, at $1,230 each;

"For principal of Garfield School, $1,210;

"For one high school teacher, $1,200;

"For principals of Ross and Gage schools, two in all, at $1,190 each;

"For principals of Harrison, Dent, Arthur, Amidon, Wormley, Patterson, Langston, Slater, Giddings, and Ambush schools, ten in all, at $1,160 each;

"For principals of Reservoir, Benning, Hamilton, Woodburn, Stanton, Langdon, Chevy Chase, and Petworth schools, eight in all, at $1,150 each;

"For principals of Greenleaf, Tyler, Phillips, Magruder, Anthony Bowen, Syphax, and Cardoze schools, twenty-three high school teachers, five manual training school teachers and six normal school teachers, forty-one in all, at $1,100 each;

"For principal of Industrial Home and Reno schools, two in all, at $1,070 each;

"For principals of Blow, Douglass, Payne, and Simmons schools, seven manual training school teachers, three teachers of music, one teacher of drawing, and one teacher of physical culture, sixteen in all, at $1,040 each;

"For one grade teacher, $1,030;

"For principal of Military Road school, $1,010;

"For teachers of normal, high, and manual training schools, eighty-nine in all, at $1,000 each;

"For four, at $990 each;

"For five, at $980 each;

"For eleven, at $950 each;

"For one, $925;

"For four, at $920 each;

"For eleven, at $900 each;

"For one, $890;

"For four, at $875 each;

"For eighty, at $860 each;

"For six, at $850 each;

"For two, at $845 each;

"For eleven, at $830 each;

"For fourteen, at $825 each;

"For two hundred and seventy-eight, at $800 each;

"For five, at $775 each;

"For twelve, at $750 each;

"For sixteen, at $725 each;

"For two, at $700 each;

"For one hundred and fifty-five, at $675 each;

"For two hundred and forty-one, at $650 each;

"For twenty, at $625 each;

"For three hundred and nineteen, at $600 each;

"For three, at $575 each;

"For three, at $550 each;

"For nineteen, at $525 each;

"For thirty-four, at $500 each;

"In all, $1,281,015.

"*Provided*, That when a salary in any class or group shall be vacated by resignation or otherwise the salary required to be paid to the teacher or officer promoted to fill such vacancy under the provisions of an act to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia, approved June —, 1906, may be substituted therefor: *Provided further*, That in assigning salaries to teachers no discrimination shall be made between male and female teachers employed in the same grade of school and performing a like class of duties; and it shall not be lawful to pay, or authorize or require to be paid, from any of the salaries of teachers herein provided, any portion or percentage thereof for the purpose of adding to salaries of higher or lower grades.

"Night schools: For night schools for pupils—and teachers of night schools may also be teachers in the day schools—$12,000.

"For contingent and other necessary expenses of night schools, $700.

"Kindergarten supplies: For kindergarten supplies, $2,500."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$300;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$96,700;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$45,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: At the end of line 1 of said amendment, after the word "at," insert "or near;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$44,255;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$12,740;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$4,220;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$100,360;" and the Senate agree to the same.

That the House recede from its disgreement to the amendment of the Senate numbered 166, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and on page 52 of the bill, in line 9, after the word "For," insert the word "brick;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$37,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$67,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 173, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "forty-eight thousand five hundred and sixty dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "twenty-five thousand dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$480;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 189, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$2,980;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment as follows: In lieu of the matter stricken out and inserted by said amendment, insert the following: "bailiff, six hundred dollars; three charmen, at three hundred and sixty dollars each;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment as follows: In lieu of the sum proposed, insert "$23,250;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$6,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$18,700;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 197, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$400;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with

an amendment as follows: In lieu of the sum proposed insert "$14,400;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$14,360;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 214, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$9,480;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 227, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$14,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 228, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$8,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 229, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$8,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 223, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$3,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 234, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$3,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 235, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$4,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 238, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$6,720;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 239, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$81,320;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 243, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$7,468;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 244, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$17,144;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 247, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$5,400;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 251, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$3,700;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 259, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$3,000;" and the Senate agree to the same.

J. H. GALLINGER,
GEORGE PEABODY WETMORE,
Managers on the part of the Senate.

FREDK. H. GILLETT,
WASHINGTON GARDNER,
A. S. BURLESON,
Managers on the part of the House.

The report was agreed to.

MENOMINEE INDIAN LANDS, WISCONSIN.

Mr. LA FOLLETTE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13372) to authorize the sale of timber on certain of the lands reserved for the use of the Menominee tribe of Indians, in the State of Wisconsin, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same with an amendment as follows: In the forty-eighth line strike out "five" and insert "four;" and the Senate agree to the same.

ROBERT M. LA FOLLETTE,
ROBERT J. GAMBLE,
WM. J. STONE,
Managers on the part of the Senate.

J. S. SHERMAN,
CHARLES CURTIS,
WILLIAM T. ZENOR,
Managers on the part of the House.

The report was agreed to.

OSAGE INDIAN LANDS, OKLAHOMA.

Mr. LONG submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15333) entitled "An act for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11 and 24.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: Strike out the words inserted by the Senate, restore the matter stricken out, and insert, after "members," "subject to the approval of the Secretary of the Interior;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: Following the word "Oklahoma," in said amendment, insert "*Provided*, That the surplus lands shall be nontaxable for the period of three years from the approval of this act, except where certificates of competency are issued or in case of the death of the allottee, unless otherwise provided by Congress; and;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: Strike out the word "ten" and insert "forty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: Strike out the word "ten" and insert "forty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the Senate amendment insert: "*And provided further*, That no mining of or prospecting for any of said mineral or minerals shall be permitted on the homestead selections herein provided for without the written consent of the Secretary of the Interior: *Provided, however*, That nothing herein contained shall be construed as affecting any valid existing lease or contract;" and the Senate agree to the same.

CHESTER I. LONG,
WM. J. STONE,
MOSES E. CLAPP,
Managers on the part of the Senate.

J. S. SHERMAN,
CHARLES CURTIS,
WM. T. ZENOR,
Managers on the part of the House.

The report was agreed to.

POST-OFFICE APPROPRIATION BILL.

Mr. PENROSE. I desire to call up the conference report on the Post-Office appropriation bill.

The VICE-PRESIDENT. The Chair understands that it has gone to the Government Printing Office and has not been returned.

Mr. PENROSE subsequently said: My attention has been called to the fact that the conference report on the Post-Office appropriation bill is printed in full on page 8785 of the RECORD, and as there is no controversy over the report I ask unanimous consent that the conference report may be taken up for consideration and disposed of.

The VICE-PRESIDENT. Is there objection? The Chair hears none. The report will be read.

[The Secretary read the report, which appears elsewhere in to-day's Senate proceedings.]

The VICE-PRESIDENT. The question is on agreeing to the report.

The report was agreed to.

SURVEY OF CONEY ISLAND CHANNEL, NEW YORK.

Mr. GALLINGER. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 19680) directing the Secretary of War to cause an examination and survey to be made of Coney Island channel, to report it favorably without amendment, and as it is a very brief bill I ask unanimous consent for its consideration.

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

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

APPALACHIAN AND WHITE MOUNTAIN FOREST RESERVES.

Mr. BRANDEGEE. I ask unanimous consent for the present consideration of the bill (S. 4953) for the purpose of acquiring national forest reserves in the Appalachian Mountains and White Mountains, to be known as the Appalachian Forest Reserve and the White Mountain Forest Reserve, respectively.

Mr. CULLOM. I wish to give notice that when this bill shall have been disposed of, I shall move an executive session.

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

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

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

EXECUTIVE SESSION.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eighteen minutes spent in executive session the doors were reopened, and (at 6 o'clock and 13 minutes p. m.) the Senate adjourned until tomorrow, Saturday, June 23, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate June 22, 1906.

PLACED ON RETIRED LIST.

Under the provisions of an act of Congress approved April 23, 1904, I nominate Col. Oswald H. Ernst, Corps of Engineers, to be placed on the retired list of the Army, with the rank of brigadier-general from the date on which he shall be retired from active service.

PENSION AGENT.

Selden Connor, of Maine, to be pension agent at Augusta, Me., his term having expired December 10, 1905. (Reappointment.)

REGISTERS OF LAND OFFICES.

George W. Wilson, of Minot, N. Dak., to be register of the land office at Williston, N. Dak., a new office. Original vacancy.

Clarence C. Schuyler, of North Dakota, to be register of the land office at Fargo, N. Dak., his term having expired March 19, 1906. (Reappointment.)

RECEIVERS OF PUBLIC MONEYS.

Victor Chaffee, of Grand Forks, N. Dak., to be receiver of public moneys at Williston, N. Dak., a new office. Original vacancy.

Judson J. Jordan, of North Dakota, to be receiver of public moneys at Fargo, N. Dak., vice De Witt C. Tufts, term expired.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 22, 1906.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Herbert H. D. Peirce, of Massachusetts, now Third Assistant Secretary of State, to be envoy extraordinary and minister plenipotentiary of the United States to Norway.

THIRD ASSISTANT SECRETARY OF STATE.

Huntington Wilson, of Illinois, now secretary of the legation at Tokyo, Japan, to be Third Assistant Secretary of State.

CONSULS-GENERAL.

Ernest A. Man, of Florida, now consul at Breslau, to be consul-general of the United States at Copenhagen, Denmark.

William Haywood, of the District of Columbia, former secretary of legation and consul-general at Honolulu, to be consul-general of the United States of class 4 at Seoul, Korea.

Henry W. Diederich, of the District of Columbia, now consul at Bremen, for promotion, to be consul-general of the United States of class 4 at Antwerp, Belgium.

George Horton, of Illinois, now consul at that place, to be consul-general of the United States of class 7 at Athens, Greece.

Church Howe, of Nebraska, now consul-general at Antwerp, for promotion, to be consul-general of the United States of class 3 at Montreal, Canada.

Frank R. Mowrer, of Ohio, now consul at Ghent, for promotion, to be consul-general of the United States of class 6 at Adis Ababa, Abyssinia.

Edward H. Ozmun, of Minnesota, now consul at Stuttgart, for promotion, to be consul-general of the United States of class 3 at Constantinople, Turkey.

Alban G. Snyder, of West Virginia, now secretary of the legation and consul-general at Bogota, for promotion, to be consul-general of the United States of class 5 at Buenos Ayres, Argentine Republic.

Samuel M. Taylor, of Ohio, now consul at Glasgow, to be consul-general of the United States of class 5 at Callao, Peru.

Jay White, of Michigan, now consul at Hanover, for promotion to be consul-general of the United States of class 6 at Bogota, Colombia.

Gabriel Bie Ravndal, of South Dakota, now consul at Dawson, to be consul-general of the United States of class 5 at Beirut, Turkey.

Willard D. Straight, of New York, now vice consul-general at Seoul, to be consul-general of the United States of class 5 at Mukden, China.

CONSULS.

Joseph M. Authier, of Rhode Island, now commercial agent at that place, to be consul of the United States of class 9 at St. Hyacinthe, Quebec, Canada.

Julean H. Arnold, of California, a student interpreter to China, to be consul of the United States of class 7 at Tamsui, Formosa.

James S. Benedict, of New York, now commercial agent at that place, to be consul of the United States of class 9 at Campbellton, New Brunswick, Canada.

Richard W. Austin, of Tennessee, to be consul of the United States at Glasgow, Scotland.

William P. Atwell, of the District of Columbia, now consul at Roubaix, for promotion to be consul of the United States of class 7 at Ghent, Belgium.

William Harrison Bradley, of Illinois, now consul-general at that place, to be consul of the United States of class 2 at Manchester, England.

Casper S. Crowninshield, of the District of Columbia, now commercial agent at that place, to be consul of the United States of class 9 at Castellamare di Stabia, Italy.

Gustave Beutelspacher, of Ohio, now commercial agent at that place, to be consul of the United States of class 9 at Moncton, New Brunswick, Canada.

George C. Cole, of West Virginia, now consul-general at Buenos Aires, for promotion to be consul of the United States of class 3 at Dawson, Yukon Territory, Canada.

Henry S. Culver, of Ohio, now consul at London, Ontario, Canada, for promotion to be consul of the United States of class 8 at Cork, Ireland.

Chapman Coleman, of Kentucky, former secretary of legation at Berlin, to be consul of the United States of class 8 at Boubaix, France.

E. Haldeman Dennison, of Ohio, now commercial agent at Rimouski, for promotion to be consul of the United States of class 5 at Bombay, India.

William T. Fee, of Ohio, now consul at Bombay, for promotion to be consul of the United States of class 3 at Bremen, Germany.

Alfred J. Fleming, of Missouri, now commercial agent at Stanbridge, for promotion to be consul of the United States of class 8 at Aden, Arabia.

Charles M. Freeman, of New Hampshire, now commercial agent at that place, to be consul of the United States of class 9 at St. Pierre, St. Pierre Island.

Fred D. Fisher, of Oregon, now consul at Tamsui, for promotion to be consul of the United States of class 5 at Harbin, Manchuria.

Roger S. Greene, of Massachusetts, now commercial agent at that place, to be consul of the United States of class 6 at Vladivostok, Siberia.

Wilbur T. Gracey, of Massachusetts, now vice and deputy consul-general at Hongkong, to be consul of the United States of class 5 at Tsingtau, China.

Edwin N. Gunsaulus, of Ohio, now consul at Cork, for promotion to be consul of the United States of class 6 at Rimouski, Quebec, Canada.

Joseph E. Haven, of Illinois, now commercial agent at that place, to be consul of the United States of class 9 at St. Christopher, West Indies.

John E. Hamilton, of Kentucky, now commercial agent at that place, to be consul of the United States of class 9 at Cornwall, Ontario, Canada.

George Heimrod, of Nebraska, now consul-general at that place, to be consul of the United States of class 6 at Apia, Samoa.

Perley C. Heald, of Michigan, now commercial agent at Wallaceburg, for promotion to be consul of the United States of class 9 at Saigon, Cochin China.

Alexander Heingartner, of Ohio, now consul at Guelph, for promotion to be consul of the United States of class 9 at Riga, Russia.

George N. Ifft, of Idaho, now consul at Chatham, for promotion to be consul of the United States of class 7 at Annaberg, Germany.

John Edward Jones, of the District of Columbia, now consul-general at that place, to be consul of the United States of class 6 at Dalny, Manchuria.

John F. Jewell, of Illinois, now consul at Martinique, for promotion to be consul of the United States of class 7 at St. Michaels, Azores.

George B. Killmaster, of Michigan, now commercial agent at that place, to be consul of the United States of class 9 at Port Rowan, Ontario, Canada.

James A. Le Roy, of Michigan, now consul at Durango, for promotion to be consul of the United States of class 8 at Madrid, Spain.

William C. Magelsson, of Minnesota, now vice and deputy consul-general at Beirut, to be consul of the United States of class 9 at Bagdad, Turkey.

Robert E. Mansfield, of Indiana, now consul at Valparaiso, to be consul of the United States of class 6 at Lucerne, Switzerland.

William W. Masterson, of Kentucky, now consul at Aden, to be consul of the United States of class 8 at Batum, Russia.

Chester W. Martin, of Michigan, now consul at Amherstburg, for promotion to be consul of the United States of class 8 at Martinique, West Indies.

George W. Shotts, of Michigan, now commercial agent at that place, to be consul of the United States of class 8 at Sault Ste. Marie, Ontario, Canada.

John H. Shirley, of Illinois, now commercial agent at Goderich, for promotion to be consul of the United States of class 9 at Suva, Fiji Islands.

Alfred A. Winslow, of Indiana, now consul-general at Guatemala, for promotion to be consul of the United States of class 4 at Valparaiso, Chile.

Philip Carroll, of New York, now commercial agent at Greenville, for promotion to be consul of the United States of class 9 at Manzanillo, Mexico.

Edwin S. Cunningham, of Tennessee, now consul at Bergen, for promotion to be consul of the United States of class 6 at Durban, Natal.

George A. Chamberlain, of New Jersey, late vice and deputy consul-general at Rio de Janeiro, to be consul of the United States of class 5 at Pernambuco, Brazil.

William F. Doty, of New Jersey, now consul at Tahiti, for promotion to be consul of the United States of class 7 at Tabriz, Persia.

Maxwell K. Moorhead, of Pennsylvania, now consul at St. Thomas, Ontario, to be consul of the United States of class 9 at Belgrade, Servia.

Henry H. Morgan, of Louisiana, now consul at Lucerne, for promotion to be consul of the United States of class 5 at Stuttgart, Wurttemberg.

Milton M. Price, of South Dakota, now commercial agent at that place, to be consul of the United States of class 8 at Jeres de la Frontera, Spain.

Nicholas R. Snyder, of Pennsylvania, now commercial agent at that place, to be consul of the United States of class 7 at Port Antonio, Jamaica.

Augustus G. Seyfert, of Pennsylvania, now consul at Stratford, for promotion to be consul of the United States of class 9 at Durango, Mexico.

Nicholas C. Schlemmer, of Texas, now vice-consul at Mannheim, to be consul of the United States of class 8 at Bergen, Norway.

John S. Twells, of Pennsylvania, now commercial agent at that place, to be consul of the United States of class 7 at Carlsbad, Austria.

SURVEYORS OF CUSTOMS.

John R. Purycar to be surveyor of customs for the port of Paducah, in the State of Kentucky.

Frank B. Posey to be surveyor of customs for the port of Evansville, in the State of Indiana.

UNITED STATES ATTORNEY.

George Du Relle, of Kentucky, to be United States attorney for the western district of Kentucky.

MARSHALS.

Leo V. Youngworth, of California, to be United States marshal for the southern district of California.

Charles T. Elliott, of California, to be United States marshal for the northern district of California.

PROMOTION IN THE REVENUE-CUTTER SERVICE.

Cadet James Louis Ahern to be a third lieutenant in the Revenue-Cutter Service of the United States.

APPOINTMENT IN THE NAVY.

Paul J. Dashiell, a citizen of the State of Maryland, to be a professor of mathematics in the Navy from the 21st day of June, 1906.

PROMOTIONS IN THE NAVY.

To be lieutenants (junior grade) in the Navy from the 7th day of June, 1906, upon the completion of three years' service:

Ernest J. King.
William Norris.
John P. Jackson.
Arthur P. Fairfield.
John H. Furse.
Charles T. Hutchins, jr.

To be lieutenants in the Navy from the 7th day of June, 1906, to fill vacancies existing in that grade on that date:

Ernest J. King.
William Norris.
John P. Jackson.
Arthur P. Fairfield.
John H. Furse.
Charles T. Hutchins, jr.

Midshipman Omenzo C. F. Dodge to be an ensign in the Navy from the 2d day of February, 1906.

Capt. William T. Burwell to be a rear-admiral in the Navy from the 6th day of June, 1906.

PROMOTIONS IN THE ARMY.

Col. Samuel R. Whitall, United States Army, retired, to be placed on the retired list of the Army with the rank of brigadier-general from June 15, 1906.

Lieut. Col. William L. Pitcher, Twenty-eighth Infantry, to be colonel from June 15, 1906.

Maj. Bernard A. Byrne, Thirteenth Infantry, to be lieutenant-colonel from June 15, 1906.

Capt. Harry C. Hale, Fifteenth Infantry, to be major from June 15, 1906.

First Lieut. Garrison McCaskey, Twenty-fifth Infantry, to be captain from June 15, 1906.

RECEIVERS OF PUBLIC MONEYS.

Neil B. Morrison, of Duluth, Minn., to be receiver of public moneys at Duluth, Minn.

Charles B. Timberlake, of Colorado, to be receiver of public moneys at Sterling, Colo.

John Jones, of Michigan, to be receiver of public moneys at Marquette, Mich., to take effect June 24, 1906.

Darius M. Amsberry, of Broken Bow, Nebr., to be receiver of public moneys at Broken Bow.

John Reese, of Broken Bow, Nebr., now receiver of public moneys at that place, to be register of the land office at Broken Bow, Nebr.

C. Frost Liggett, of Colorado, to be receiver of public moneys at Lamar, Colo., his term having expired February 20, 1906.

REGISTER OF LAND OFFICE.

John A. Williams, of Colorado, to be register of the land office at Lamar, Colo., his term having expired March 10, 1906.

POSTMASTERS.

ARIZONA.

Albert L. Smith to be postmaster at Prescott, in the county of Yavapai and Territory of Arizona.

ARKANSAS.

G. H. Taylor to be postmaster at Morrillton, in the county of Conway and State of Arkansas.

CALIFORNIA.

John N. Newkirk to be postmaster at San Diego, in the county of San Diego and State of California.

Alfred A. True to be postmaster at Highland, in the county of San Bernardino and State of California.

COLORADO.

Clark Z. Cozens to be postmaster at Littleton, in the county of Arapahoe and State of Colorado.

CONNECTICUT.

Henry Dryhurst to be postmaster at Meriden, in the county of New Haven and State of Connecticut.

FLORIDA.

Guy Gillen to be postmaster at Lake City, in the county of Columbia and State of Florida.

Alexander W. Jackson to be postmaster at White Springs, in the county of Hamilton and State of Florida.

Oliver S. Oakes to be postmaster at Fernandina, in the county of Nassau and State of Florida.

Henry J. Ritchie to be postmaster at St. Augustine, in the county of St. John and State of Florida.

Joseph L. Skipper to be postmaster at Lakeland, in the county of Polk and State of Florida.

ILLINOIS.

Holly C. Clark to be postmaster at Mount Morris, in the county of Ogle and State of Illinois.

George W. Dicus to be postmaster at Rochelle, in the county of Ogle and State of Illinois.

Frank E. Eckard to be postmaster at Vandalia, in the county of Fayette and State of Illinois.

James F. M. Greene to be postmaster at Hillsboro, in the county of Montgomery and State of Illinois.

Edward Grimm to be postmaster at Galena, in the county of Jo Daviess and State of Illinois.

William H. Hainline to be postmaster at Macomb, in the county of McDonough and State of Illinois.

James H. Lincoln to be postmaster at Franklin Grove, in the county of Lee and State of Illinois.

James R. Morgan to be postmaster at Maroa, in the county of Macon and State of Illinois.

William E. Nipe to be postmaster at Mount Carroll, in the county of Carroll and State of Illinois.

Joel S. Ray to be postmaster at Arcola, in the county of Douglas and State of Illinois.

INDIANA.

William T. Baker to be postmaster at Alexandria, in the county of Madison and State of Indiana.

E. T. Botkin to be postmaster at Farmland, in the county of Randolph and State of Indiana.

William C. Gordon to be postmaster at Summitville, in the county of Madison and State of Indiana.

Charles H. Kuester to be postmaster at North Judson, in the county of Starke and State of Indiana.

INDIAN TERRITORY.

Ulysses S. Markham to be postmaster at Caddo, in District Twenty-five, Indian Territory.

IOWA.

Frank E. Fritcher to be postmaster at Nashua, in the county of Chickasaw and State of Iowa.

Lew I. Sturgis to be postmaster at Oelwein, in the county of Fayette and State of Iowa.

G. L. Van de Steeg to be postmaster at Orange City, in the county of Sioux and State of Iowa.

KANSAS.

James A. Arment to be postmaster at Dodge City, in the county of Ford and State of Kansas.

Frank C. Bevington to be postmaster at Jewell, in the county of Jewell and State of Kansas.

James Frey to be postmaster at Enterprise, in the county of Dickinson and State of Kansas.

Theodore Griffith to be postmaster at Great Bend, in the county of Barton and State of Kansas.

Samuel C. Lobaugh to be postmaster at Harper, in the county of Harper and State of Kansas.

L. C. McMurray to be postmaster at McPherson, in the county of McPherson and State of Kansas.

Samuel R. Peters to be postmaster at Newton, in the county of Harvey and State of Kansas.

George W. Watson to be postmaster at Kinsley, in the county of Edwards and State of Kansas.

MAINE.

Perham S. Heald to be postmaster at Waterville, in the county of Kennebec and State of Maine.

MASSACHUSETTS.

William E. Freese to be postmaster at East Walpole, in the county of Norfolk and State of Massachusetts.

Joseph A. West to be postmaster at Provincetown, in the county of Barnstable and State of Massachusetts.

MICHIGAN.

Minnie L. Hall to be postmaster at Lawton, in the county of Van Buren and State of Michigan.

Charles G. Kellow to be postmaster at Painesdale, in the county of Houghton and State of Michigan.

Horace G. Prettyman to be postmaster at Ann Arbor, in the county of Washtenaw and State of Michigan.

MINNESOTA.

Theodore P. Fagre to be postmaster at Blooming Prairie, in the County of Steele and State of Minnesota.

Charles E. Callaghan to be postmaster at Rochester, in the county of Olmsted and State of Minnesota.

MISSOURI.

Alexander F. Karbe to be postmaster at Neosho, in the county of Newton and State of Missouri.

Albert C. Krog to be postmaster at Washington, in the county of Franklin and State of Missouri.

MONTANA.

Ira L. Kirk to be postmaster at Bozeman, in the county of Gallatin and State of Montana.

NEBRASKA.

James M. Beaver to be postmaster at Scribner, in the county of Dodge and State of Nebraska.

Frank D. Reed to be postmaster at Shelton, in the county of Buffalo and State of Nebraska.

NEW JERSEY.

Edwin Cadmus to be postmaster at Bayonne, in the county of Hudson and State of New Jersey.

L. W. Cramer to be postmaster at Mays Landing, in the county of Atlantic and State of New Jersey.

NEW YORK.

Robert H. Barcham to be postmaster at Palmyra, in the county of Wayne and State of New York.

Charles E. Sheldon to be postmaster at Sherman, in the county of Chautauqua and State of New York.

Claude L. Wilson to be postmaster at Little Valley, in the county of Cattaraugus and State of New York.

NORTH CAROLINA.

B. G. Green to be postmaster at Warrenton, in the county of Warren and State of North Carolina.

William H. Jenkins to be postmaster at Henderson, in the county of Vance and State of North Carolina.

OHIO.

Oakey V. Parrish to be postmaster at Hamilton, in the county of Butler and State of Ohio.

Edwin P. Webster to be postmaster at Gambier, in the county of Knox and State of Ohio.

OKLAHOMA.

Alfred F. Deming to be postmaster at Snyder, in the county of Kiowa and Territory of Oklahoma.

PENNSYLVANIA.

David M. Graham to be postmaster at Mahanoy City, in the county of Schuylkill and State of Pennsylvania.

James E. Karns to be postmaster at Springdale, in the county of Allegheny and State of Pennsylvania.

Burd R. Linder to be postmaster at Orwigsburg, in the county of Schuylkill and State of Pennsylvania.

Jesse H. Roberts to be postmaster at Downingtown, in the county of Chester and State of Pennsylvania.

George W. Schmeltzer to be postmaster at Pine Grove, in the county of Schuylkill and State of Pennsylvania.

SOUTH CAROLINA.

Charles E. Carman to be postmaster at Aiken, in the county of Aiken and State of South Carolina.

James O. Ladd to be postmaster at Summerville, in the county of Dorchester and State of South Carolina.

TEXAS.

William C. Smith to be postmaster at Bowie, in the county of Montague and State of Texas.

UTAH.

John W. Dougall to be postmaster at Springville, in the county of Utah and State of Utah.

Peter Martin to be postmaster at Park City, in the county of Summit and State of Utah.

VIRGINIA.

Alexander McCormick to be postmaster at Berryville, in the county of Clarke and State of Virginia.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June 22, 1906.*

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

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF RAILROAD SIDINGS IN DISTRICT OF COLUMBIA.

The SPEAKER laid before the House, from the Speaker's table, the bill (H. R. 19682) authorizing the Commissioners of the District of Columbia to permit the extension and construction of railroad sidings in the District of Columbia, and for other purposes, with Senate amendments.

The Senate amendments were read.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move that the House concur in the Senate amendments.

Mr. CLARK of Missouri. Is this the bill that enables the street-car lines to extend their tracks to the Union Depot?

Mr. CAMPBELL of Kansas. No; it relates to another local matter, and imposes no burden on anyone.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had further insisted upon its amendments to the bill (H. R. 18750) making appropriations for the naval service for the fiscal year ending June 30, 1907, and for other purposes, disagreed to by the House of Representatives, disagreed to the amendments of the House to the amendments of the Senate numbered 6, 7, and 10, had agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. PERKINS, and Mr. TILLMAN as the conferees on the part of the Senate.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House of Representatives was requested:

S. 544. An act to provide for the erection of a public building in the city of Great Falls, Mont.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 1326. An act granting an increase of pension to Ora P. Howland.

The message also announced that the Senate had excused Mr. DUBOIS and Mr. CLAPP from further service on the conference committee on the bill (H. R. 13372) to authorize the sale of timber on certain of the lands reserved for the use of the Menominee tribe of Indians, in the State of Wisconsin, and the Vice-President had appointed Mr. GAMBLE and Mr. STONE in their places.

PURE-FOOD BILL.

The SPEAKER. Under the order of the House the House is in Committee of the Whole House on the state of the Union for the consideration of the pure-food bill, and the gentleman from New Hampshire [Mr. CURRIER] will take the chair.

Mr. CURRIER took the chair.

Mr. ADAMSON. Mr. Chairman, it is unfortunate that in the practice and history of legislation misleading names, sometimes high-sounding, moral, and even pious names, are used to deceive the people as to the character of vicious and pernicious legislation. I do not mean to declare that this legislation per se is vicious in all respects, but in some respects I regard it as exceedingly so. People are expected to believe that, being lined up against this legislation, we are against pure food; but this is a false position, in which the strategists have sought to place those who oppose this bill and demand regular and orderly legislation for the government of the people in a proper manner. The talk about arraigning us and aligning us as opposed to pure food is foolishness. We are used to good food. We do not know anything about all that pile of corrupt and adulterated misbranded stuff that the propagandists working up this bill have succeeded in piling up in the last ten years, industriously gathered from every quarter, throughout the length and breadth of the United States. I would like to improve the food of some sections of the United States. I would like for the philanthropists who are looking out for the health and comfort of the people to start somebody out to teach people to make good, honest biscuits, and how to make good, honest corn bread. [Laughter and applause.]

They can then do good in a great many places not far from here by teaching people how to cook vegetables by boiling decent bacon with them instead of old ham or beef, and how to make honest coffee. [Applause.] But they start at the wrong place. The truth is, they get wrong ideas in their heads—some people do—and in other cases rival interests start fights on one another. They naturally go to Congress, and people who go to Congress are usually those with sinister purposes or conflicting business interests. They follow it up by getting up a literary bureau and scattering literature and petitions and stirring up agitation all over the country, getting up a hysteria that, under the misleading name of "purity," will scare people into asking Congress to do something it has no business to do. You may just as well get the traditional boy with his sore toe and hold it up in an aggravated form and let my brother the gentleman from Illinois [Mr. MANN] speak about the horrible condition of that sore toe for two hours and say that therefore Congress ought to do something to cure that sore toe. It is just as logical and sensible and fully as constitutional.

Mr. Chairman, the history of this bill has been a varied and checkered one. It was originated, in my memory, by a venerable statesman now dead. He worked upon it with but little progress. Upon his demise it was inherited by the beloved chairman of our committee, and in one form or another it was before our committee for a good many years, and all these old familiar bottles and jugs and packages have been before our committee time out of mind, endeavoring to run us into hysteria. They are no strangers to us members of the committee. At first I had one ally, and then another, and then another. I remember in the outset my ablest coadjutor, in opposing this legislation as absolutely unnecessary and unwise, was my friend and esteemed colleague from Illinois [Mr. MANN], who made such an able and beautiful and lovely speech about the horrors of those commodities that I could not eat last night nor this morning. [Applause.] Somehow or other he was conciliated; I don't know how; I don't know what constituents were pleased or anything about that; but I know I lost his able support forever, that a great "change came over the spirit of his dream" and he is now leading the hosts of error.

My next coadjutor was my beloved friend the gentleman from Massachusetts [Mr. GARDNER]. He fought manfully. He was a Hercules in the fight, but the committee placated him by giving him codfish and beans; and there is a monument in this bill to his reconciliation and victory over the majority of our committee in the shape of a provision that wherever preservatives are used which must be removed mechanically or by maceration in water, the purity or impurity of the article shall not be judged until the preservative has been removed by maceration or otherwise and is ready for use. Beautiful provision, beautiful! Wise diplomat! Any man can go in and say the fool cook did not know how to macerate it, that the fool cook did not know how to remove the preservative, and anybody can escape. My noble friend must laugh over his triumph. He can be happy with his codfish and beans. My next coadjutor was the refined and elegant and distinguished gentleman from Michigan [Mr. CORLISS], but he stuck in the bark and never did reach the core of the bill. My beloved friend from Missouri [Mr. SHACKLEFORD] was another who stood by me, and the last, but he was the same way. As far as he got would be to say "I object to some things in the bill as sumptuary legislation." The only two allies I have ever had on the committee who helped me oppose the bill on correct principles and stuck to them are my present associates in the minority views, Mr. BARTLETT and Mr. RUSSELL.

The legislation has been as fickle and uncertain as my changing associates. The Senate worked on it all the time, and somebody over there have their own ideas. In the hands of the present sponsor in the House the legislation suffered mutilation until the shades of Statesman Brosius would not have recognized it at all. The lobbyists of all sections pulled and hauled at it, every interest and faction seeking selfish ends in the legislation complimented one another as lobbyists and enemies to the bill until they secured changes without number and some without character; so that the present distinguished sponsor appeared disgusted enough to cast off his adopted bantling.

And finally when the Senate bill came over, the renovated Brosius, Hepburn, Taylor, and Hough, doctor and drug store and patent medicine, patent legalized makeshift to disappoint its friends and delude the people, was substituted for the Senate bill, I confess nothing was lost. I do not think there is ever any danger of losing by substituting one of these bills for another. If you could lose both in the swap, it would be lucky for the people. So you see the course and current of this legislation has been as uncertain and irregular as the shifting silt that disturbs navigation in a sandy stream. It requires a wary pilot and constant soundings to hold the current, and even then the boat runs aground. When people and associations, moved by the lobbyists agitating the various interests at stake, try to write Congressmen advocating support of the legislation, they actually do not know what to call it. The lightning changes, worthy of a professor of legerdemain, keep them in

the dark, and they sometimes call it the "Heyburn bill" and sometimes the "Hepburn bill."

The truth about it is, Mr. Chairman, the bill from first to last violates every principle of our Government by proposing to go into sumptuary legislation for the regulation of the table menu, and I suppose the next step will be to prescribe the table etiquette and dress. The bill does not, even in its title or caption, pretend to rise to the dignity of Congressional jurisdiction. There is not one word in the title about interstate commerce. You can read it, and you will find that it simply proposes to do certain things to prevent the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, etc., and after going through all the folly of all the pages of the bill, with all the committee amendments, even down to the last on page 28, the committee then takes another whack at the title and tries to amend it, and yet do not say that it has anything in the world to do with interstate and foreign commerce. The first section of the bill provides for the punishment of adulteration and misbranding, and it has this peculiarity, really a legal curiosity:

It provides that if a man does a thing knowingly he may be imprisoned, but if he does a thing without knowing it he shall simply be fined. That is another innovation in the way of law. It has always been the popular belief among lawyers and courts that the severity of the punishment was regulated according to the enormity of the crime. If the essential elements of guilt are there, it is a question for the court, according to the circumstances of the crime itself, how much or whether the guilty party may be fined or imprisoned. But a crime is a violation of penal law in which there must be a joint operation of act and intention, and if a man does not know that he misbrands or adulterates, he is not guilty at all. In the second place, the provision in that first section provides to treat all foreign countries with more decency than the States of our Union. It is provided that if a man, no matter how he packs and prepares commodities for shipment to foreign countries, no matter whether in compliance with this law or not, if he complies with the law of the foreign country it shall be sufficient. We demanded that courtesy for the States. We say the Constitution requires it for the States and the Constitution will preserve it regardless of what Congress can do. We tried in the language of the Supreme Court of the United States to amend this bill to limit it to the District of Columbia and the Territories. The Supreme Court, in cases cited in the minority report, have expressly declared that in the District of Columbia and the Territories alone can the provisions of this bill be constitutional, and in a case similar to those that would arise under this bill it was distinctly held that a demurrer to an indictment should be sustained.

Now, Mr. Chairman, there is no use to have hydrophobia against State lines nor talk about a man marching in red-handed rebellion because he says there are some things that Congress ought not and can not do. We are talking about the Constitution of the United States and the legislation by Congress thereunder. So far as the purposes of this bill are concerned, the only purposes and uses of State lines are simply to separate geographical divisions of parts of the country which are charged with local self-government, to attend to their own business instead of piling it upon Congress, and I say to you, Mr. Chairman, after listening to all the witnesses, listening to the speech of the gentleman from Illinois [Mr. MANN], hearing all the tales of woe about these things that affect the stomach and affect the pockets of the people, I have never yet heard presented a solitary case that any State in this Union in its own courts can not punish if you will just produce the evidence. The trouble is, gentlemen make this mistake: Venue is the same in all courts, whether Federal or State. You must allege an act to be within the jurisdiction and prove it within the jurisdiction. You can do that in one court as easily as in the other, but the coon in the woodpile, in my judgment, is this: In the State courts people are in the habit of attending to their own business and looking after their cases. In the Federal court sometimes, as provided in this bill, the entire expense and trouble of hunting up the cases and conducting the prosecution is piled upon the Government. And right here you will find the great inducement to a great many interests to support this bill that it is provided that after this arbitrary standard-making concern that we are creating over here shall have discovered or think they have grounds for prosecution the Government shall take the matter up and prosecute it without expense to anybody, with all the attendant evils of spies and informers and pestiferous agents running around meddling with the business of the people.

Mr. GAINES of Tennessee. Mr. Chairman, will my friend yield?

Mr. ADAMSON. Yes.

Mr. GAINES of Tennessee. Let me suppose this case, which is pertinent to your argument. You say people will go and prosecute in the State courts. My information is that these wholesalers go to, say Brown & Co., and say "Now, you agree to sell my goods and not to sell any other competitive goods;" and he makes that kind of an agreement, and he does sell no other goods except what that manufacturer makes. Do you think Brown & Co. would go before the grand jury and indict the firm or manufacturer who proved to be their friend in such a contract as that?

Mr. ADAMSON. If I understand you, even this law would not be effective in that case.

Mr. GAINES of Tennessee. You say the Government furnishes agents whose business it is, and we compel and pay them to go and look up evidence against parties to indict manufacturers—to indict Brown & Co.—and if they are particeps criminis——

Mr. ADAMSON. I can not tell the gentleman from Tennessee who will or who will not in any jurisdiction assume the trouble of the prosecution. What I say is this: That the men who are injured ought to feel interest enough in it, as we do in the States in other matters under police regulation, to get after the fellow who swindles them.

Mr. GAINES of Tennessee. This firm of Brown & Co. would be very slow to say *they* are injured in such a case. They could say they buy from the manufacturer, their friend, and sell to the people a thing the manufacturer sells to them, and unless the people complained the chances are there would be no complaint.

Mr. ADAMSON. I think, Mr. Chairman, the people are the ones who should complain.

Mr. McNARY. Mr. Chairman, I desire to say to the gentleman from Georgia [Mr. ADAMSON] and the gentleman from Tennessee [Mr. GAINES] that under the State law of Massachusetts the last few years a similar condition he has described has been dealt with and the parties prosecuted and the practice broken up under the State law——

Mr. ADAMSON. No doubt about that——

Mr. GAINES of Tennessee. What business is that—the tobacco matter?

Mr. McNARY. Yes.

Mr. ADAMSON. The gentleman from Tennessee further reminded me of a feature that has struck me throughout this entire investigation, and that is these complaints, so far as I know, have not come from the consumer, except in an artificial way—sending back literature—but the movements and the hearings have all been in behalf of the business interests.

Mr. GAINES of Tennessee. Will my friend yield?

Mr. ADAMSON. Certainly.

Mr. GAINES of Tennessee. The plain people, who are not scientists, who are not doctors, who are not fine lawyers and judges, and have not the information, intelligence, and experience of my friend from Georgia, they can not tell whether these things are deleterious or not. Here is a little child that is sick, here is a man's wife sick, or all are sick, and he does not know the cause. The doctor comes, and he can not tell the cause. He just says: "GAINES, you are sick; you are bad off, and I do not know what has caused your illness. I will get you soon," etc.——

Mr. ADAMSON. I know a great many good lawyers and good doctors outside of Washington or the present service of the Government. I knew a great many before I came to Congress, and I think all of my constituents and all of the gentleman's constituents know where to get doctors and where to get lawyers, and I think they get them when they need them. And I desire to say now that people are expecting too much from the idea hinted at by the gentleman as to scientific knowledge as to accuracy and safety on all questions. I believe there are millions of old women, white and black, all over my country, who know more about good victuals and good eating than my friend Doctor Wiley and all of his apothecary shop. [Applause on the Democratic side.]

Now, the feature about which I was talking when my good friend from Tennessee interrupted was the pestiferous feature of the bill. It is provided here that after this board constituted to create standards, a thing that can not be constituted by legislation, a thing that only the experience and wisdom of mankind through ages and ages of observation can establish—after they have established artificial or bureau standards and sent out spies, those spies may go and say to a man, "I want to buy something that you have got that I believe is wrong. I want to buy it for the purpose of proving that you are acting in a rascally way in your business. And if you give it me and I find it is so, I will put you in jail, and if you will not give it to me, I will have you put in jail anyhow."

It places the grocer in the fix described by my old friend Joe Cobb:

I can and I can't, I will and I won't, I'll be damned if I do, and I'll be damned if I don't.

That is the proposition to add to the pestiferousness of the administration of law and multiply the troubles of the people without a corresponding benefit.

Now, I respectfully submit that there is likely to be crime enough in the world, according to the description of my distinguished friend from Illinois [Mr. MANN] yesterday, without the Government preparing and attuning its machinery to produce the perpetration of more crime.

Mr. GAINES of Tennessee. Does not my friend believe that the Federal Government should aid the States, in policing the trouble in the States, by excluding deleterious foods from going into the States?

Mr. ADAMSON. I do not; and the Supreme Court says that they absolutely have no authority to do it.

Mr. GAINES of Tennessee. Did my friend vote for the Lacey bird law?

Mr. ADAMSON. No, sir; I fought my friend from Iowa on that.

Mr. GAINES of Tennessee. You are opposed to the Federal Government helping the States to do anything?

Mr. ADAMSON. I oppose everybody whom I conceive to be attempting to violate the Constitution of the United States in this House.

Mr. GAINES of Tennessee. If my friend had been in Congress he would have voted for the Sherman antitrust law.

Mr. ADAMSON. I do not know about that. I suppose so. I have been trying to think about the matter under consideration for the last few minutes. [Laughter.]

Mr. GAINES of Tennessee. You would have been for that, and I know it. That aids the States in policing the troubles in the States.

Mr. ADAMSON. I am in favor of enforcing every law that is valid; and if it is not valid, I am in favor of enforcing it until the Supreme Court breaks it and gets it out of the way.

Mr. HENRY of Texas. The gentleman from Tennessee [Mr. GAINES] talks about the Federal Government aiding the States. Now, the gentleman from Georgia has given a great deal of thought to this bill, and I will ask him if it is not the legal effect of this act to repeal the pure-food laws in States like Massachusetts and other States that have very good food laws, instead of aiding them? Is it not taking the jurisdiction from them instead?

Mr. ADAMSON. I will say to my friend that it is absolutely impossible to add to or take from the police powers of the State of Massachusetts or any other State by any act of Congress. We might make trouble and confusion; we might enact unconstitutional laws; and the Administration in attempting to enforce those unconstitutional laws might make trouble, might cause confusion, might cause endless litigation; but it is utterly impossible to add one iota to the strength of the Constitution or take one iota from it. It is construed in a number of cases by the Supreme Court, cited by the minority in their report, that the Federal Government has nothing to do with the police regulations of the State. It has been expressly declared that in case of misbranding, adulteration, and fraud being charged, the original packages could have nothing to do with it even when coming from other States. In the regular course of trade they say that the original packages are inviolate if no fraud or cheat be alleged.

Mr. SULLIVAN of Massachusetts. I would like to ask the gentleman a question, Mr. Chairman. As the result of his study, I should like to have his opinion as to whether there is any food regulation that could not be as well provided by the legislature of Massachusetts as by the Congress of the United States?

Mr. ADAMSON. The Supreme Court in trying a case from your State has expressly said that it can not only do it as well, but better than any other authority, and it is the only authority that can do it. I say they said that.

Mr. SULLIVAN of Massachusetts. I wish to reenforce it by stating that the various officials charged with enforcing the various food laws of the State give it as their opinion that their laws will operate better for the protection of the people in the matter of foods than laws of the United States.

Mr. ADAMSON. In the case from your State oleomargarine had been shipped from Illinois. Your State provided against selling it under false name and color. And this simply puts oleomargarine on all fours with the cases made in this bill. The laws of Massachusetts, the Supreme Court stated, were adequate to deal with that case, and they went further, and said nobody else could do it, and they said the original package has nothing to do with it. They said requiring it to be respected in original packages was a regulation of interstate traffic, where no question of fraud or deceit as to its character had been raised, but in this case the question was squarely raised, and the Supreme Court declared emphatically that in a case where the question is raised, as had been raised there, that the original package was no exemption, constituted no exemption from the police power of the State, and then they went on and indulged in other language, and said the people who imagined that the commerce clause of the Constitution was intended to promote fraud and abrogated the police powers of the State were badly mistaken.

Mr. SULLIVAN of Massachusetts. So that as a result of that it appears that the State law was operating better for the protection of these consumers than the national law.

Mr. ADAMSON. I have no doubt of it.

Mr. GILBERT of Kentucky. Will the gentleman allow me to ask him a question?

Mr. ADAMSON. Certainly.

Mr. GILBERT of Kentucky. Do you take the position that the Federal Government has no power to limit the importation of poisonous substances into a State designed to be consumed as food?

Mr. ADAMSON. I take the position that the Supreme Court has declared in numerous cases that the police power of a community was to be exercised by a State, not by the Federal Government; and then they proceeded to an argument, and they said that although some of these provisions did appear to interfere with interstate commerce to a large extent, that yet it could not be helped; that the complete police power of the communities was reserved in the States by the Constitution.

Mr. GILBERT of Kentucky. But the gentleman does not answer my question, which is this: Has not Congress absolute and full jurisdiction to prohibit the transportation of poisonous commodities for food from one State to the other?

Mr. ADAMSON. Well, I have told you my views of the law.

Mr. GILBERT of Kentucky. Can the State prevent it?

Mr. ADAMSON. Yes; it can.

Mr. GILBERT of Kentucky. Suppose I order a barrel of sugarhouse molasses at New Orleans and the merchant delivers to the common carrier, instead——

Mr. ADAMSON. He sells you one thing and delivers another.

Mr. GILBERT of Kentucky. Yes. The offense is consummated by delivering the wrong thing to the common carrier. Now, where is there any remedy for a citizen of Kentucky or Georgia in a case of that kind?

Mr. ADAMSON. The gentleman has stated where the venue is, and the remedy would be where the offense was committed.

Mr. GILBERT of Kentucky. And it has been decided that the delivery to the carrier is delivery to the consignee.

Mr. ADAMSON. Wherever the sale is consummated is the venue, and the venue is the place to prosecute.

Mr. GILBERT of Kentucky. How can any Kentucky or Georgia citizen be protected in that kind of a case?

Mr. ADAMSON. I believe he would have to go to the State where the offense was committeed or trade in some other market.

Mr. COCKRAN. If the gentleman will permit me, I am intent on obtaining information here; I understand the gentleman's position to be that there is abundant power in the State to protect the commerce of the country from poisonous, dangerous, or fraudulent goods passing from one State to another?

Mr. ADAMSON. It has been so decided time and again.

Mr. COCKRAN. And that is the only authority, as I understand the gentleman?

Mr. ADAMSON. That is as much as I want.

Mr. COCKRAN. I did not ask the gentleman how much he wanted, because I know the gentleman's desires are modest; but what I wanted to ask him was his conception of the powers of the State and of the Federal Government. Do I understand the gentleman to assume that the only power is the power of the State?

Mr. ADAMSON. I understand that the police powers are reserved to the States.

Mr. COCKRAN. I beg the gentleman to get away from the phrase "police power," which it seems is an elastic one, in which a great many of us manage to find that our footsteps become lost.

Mr. ADAMSON. My apology to the gentleman is that I have acquired that language from the Supreme Court of the United States, in deciding cases exactly like this.

Mr. COCKRAN. I understand that perfectly, and it is to get away from that limitation on the gentleman's intellect, and upon the procedure of Congress, that I ask his judgment on a specific state of facts, regardless of the formula.

Mr. ADAMSON. What is that?

Mr. COCKRAN. Is there any power outside of the State to protect other States from the sending of impure, dangerous, or fraudulent goods into them from one State?

Mr. ADAMSON. I will state to the gentleman, if he insists on my getting away from the Supreme Court——

Mr. COCKRAN. From the formula only.

Mr. ADAMSON. Well, then, I will go by analogy, and say that if I had read the Constitution of the United States, without having heard of the Supreme Court or what it has decided, I would still be of the opinion that the States have the exclusive power to punish these things, and they ought to do it or give up their charters.

Mr. COCKRAN. Now, does the gentleman deny the existence of the abuses which the gentleman from Illinois [Mr. MANN] described so vividly here yesterday?

Mr. ADAMSON. Well, I think there is something in it; yes.

Mr. COCKRAN. Now, is the gentleman's position this, that there being abuses, to some extent at least, of the character described by the gentleman from Illinois, and the States having clearly refused or failed to prevent the continuance of the abuses, does the gentleman say there is no remedy in the hands of the American people?

Mr. ADAMSON. I do not admit the premises of the gentleman from New York.

Mr. COCKRAN. I thought the gentleman did a moment ago.

Mr. ADAMSON. No.

Mr. COCKRAN. Let me go back, then.

Mr. ADAMSON. Here is this premise you make, as one of your premises, that the States do not meet this difficulty.

Mr. COCKRAN. Well, these evils exist.

Mr. ADAMSON. I wish to say to the gentleman that there is no law on any statute book that is not violated to a greater extent than that accumulation of ten or twelve years there would indicate in these cases.

Mr. HENRY of Texas. Will the gentleman from Georgia yield for a suggestion there? If the gentleman from New York [Mr. COCKRAN] will read the Coffee case, in 192 United States, dealing with impure coffees, he will find that the Supreme Court decided that the State of New York had plenary, absolute, and exclusive authority to deal with this particular question.

Mr. ADAMSON. It has been decided three times.

Mr. COCKRAN. The question I am trying to get light upon is a pure question of fact, and the gentleman's position as to the respective powers of the State and of the Federal Government. I decline to engage in a competition of attorneyship here.

Mr. ADAMSON. I understood the gentleman to say that the States were not doing their duty.

Mr. COCKRAN. I am asking you.

Mr. ADAMSON. That was one of your premises.

Mr. COCKRAN. Oh, no; I have no premises. I am putting hypothetical questions upon the statement of the gentleman from Illinois [Mr. MANN] and of the gentleman from Georgia [Mr. ADAMSON]. I understand this to be his position, and if so, we can discuss it, that there is no power anywhere outside of the State to prevent the circulation of fraudulent or poisonous commodities throughout the Union; and I understand that he concedes the statement of the gentleman from Illinois [Mr. MANN], that these abuses do exist, to be correct, to some extent. Now, my question is, Does the gentleman contend that there is no power anywhere to remedy this abuse, except a power that, as matter of fact, does not remedy it nor prevent it?

Mr. ADAMSON. I think I have answered that several times, but I will attempt to do it again to the gentleman's satisfaction, or my own at least. I know of no power, except the State whence shipped, to prevent anybody from shipping any kind of a package into a State. When that package reaches the State (that is, if it is permitted by the State in which it originates to start), when it enters the confines of another State, if it is a regular, unimpeached article of commerce, in an original package, it is sacred; but when any man impeaches it, and discloses that it is adulterated or misbranded or accompanied with any deceitful guise or practice, then the State authorities have ample and exclusive power to deal with anybody who sells it or offers it for sale.

Mr. COCKRAN. The gentleman and I do not differ on the statement he has made. There is no question whatever that the gentleman's statement is correct. I still come back to the one question I have not had light upon. Does the gentleman take the position that there is no power to remedy these abuses except the power which has not remedied them and in spite of which the abuses have gone on?

Mr. ADAMSON. If I am unable to satisfy the intellect of the distinguished gentleman, I am sorry. If the State has ample and exclusive power to punish where the goods are manufactured or whence they are shipped, and if the State where they land has exclusive power to punish after they arrive, I can not see any necessity of further legislation. What you need is somebody to go and prosecute.

Mr. COCKRAN. The question still remains unanswered. There is the abuse, as the gentleman admits. What power is there to deal with it?

Mr. ADAMSON. You have laws against robbery and adultery and murder, and yet for ages the annals have been full of the violations of those statutes.

Mr. COCKRAN. There has never been any doubt about the power of prohibition in any State, but here is an abuse which has grown up in the very teeth of the State, and I ask the gentleman now if he says there is no other power than that which is shown by his own statement to be inadequate?

Mr. ADAMSON. I must respectfully dissent from that statement. I have not confessed that it is inadequate. It is adequate. The Constitution says it is adequate, the Supreme Court says it is adequate, and time and again its power and efficiency has been shown by the people of the States, notably in Georgia and Massachusetts.

Mr. COCKRAN. One moment, if the gentleman will pardon me. The gentleman is stating his position, perhaps, correctly. If all the States were as efficient as Massachusetts, and their laws as well administered, there would be no danger to public health. That is a statement nobody can question. But suppose States are negligent and remiss and deliberately permit such manufactures and such circulation of these articles, I ask the gentleman does he think and contend that there is no power in the Federal Government to protect the citizens of one State from assaults upon their health permitted by lax legislation of another State? That is the question.

Mr. ADAMSON. Without admitting the correctness of the gentleman's statement——

Mr. COCKRAN. Assuming it.

Mr. ADAMSON. Without admitting the condition in any particular State, I wish to say that Congress has no right nor power to interfere in these cases. But to the gentleman's proposition that some States do not do their duty in the matter, I call the gentleman's attention to this observation—that complaints have not come from these States admitting their inability to cope with the situation, but from business men and dealers who sing the song that the gentleman from Illinois sang yesterday, that they desire uniformity, an impossible condition convenient in commerce, and contrary to law and nature; they want to break down the requirements of the various sections of the country so they will have less trouble in scattering their business throughout the land and less danger of detection and punishment.

Mr. COCKRAN. Assuming the gentleman's statement of facts to be correct, which I am far from doing——

Mr. ADAMSON. That is my opinion.

Mr. COCKRAN. I put the question. Assuming that a State has, as in the case of the State of Illinois and the slaughterhouses, deliberately permitted the circulation in other States of food products dangerous to public health, is there no power in the Federal Government to save the people of the other States from such an invasion?

Mr. SULLIVAN of Massachusetts. If the gentleman from Georgia will allow me, there is a power which resides in the legislature of each State in the Union to protect its inhabitants. The mere fact that it has not been exercised efficiently does not argue that it will not be. If the State of Massachusetts under its reserved powers has passed pure-food laws and has enforced them, will the gentleman tell me that the State of Massachusetts should be compelled to accept the standard Congress raises simply because South Dakota or some other State has not passed and enforced pure-food laws? I remember not long ago that the gentleman from New York stood on this floor and asked that the taxing power of the Federal Government be exercised in order to prevent abuses in insurance, upon the theory that the sovereign State of New York did not have sufficient power or virtue to deal with those abuses. And since the gentleman made his speech the great State of New York has acted, and its legislature has vindicated the wisdom and the virtue of its people by regulating those abuses to the satisfaction of everybody, thus demonstrating that there was no need of Federal regulation.

Mr. COCKRAN. Mr. Chairman, I hope the gentleman from Georgia [Mr. ADAMSON] will indulge me for a moment to say a word in reply to that. My position on the question of insurance is exactly the same as my position on this proposal.

Mr. SULLIVAN of Massachusetts. Yes; exactly.

Mr. COCKRAN. I believe in the absolute power of the State

to deal with everything that concerns the people of that State exclusively. Its police power is unlimited; its right to regulate the movements of every citizen inside its borders can not be questioned. But when any action of that State, whether it be permissive or directory, empowers a citizen of it to affect the condition of people in another State by circulating in the channels of their commerce anything dangerous to their health and to their welfare, there is no excuse for the existence of a Federal Government if under such a condition it can not step in and say, "All the powers of sovereignty you may use as you please inside your own borders, but all the powers of the Federal Government will be employed to see that you use them with due regard to the rights of others, when anything made under sanction of your laws passes beyond your borders and affects their daily lives." [Applause.] Now, Mr. Chairman, one moment with reference to what has been said about the great State of New York. I did say that the taxing power of this Government ought to be exercised so as to limit the operations of insurance companies to the State chartering it, as savings banks are limited now, and that nothing else would remedy the evils of which complaint was had. When the gentleman says the great State of New York has dealt with the insurance frauds, I will tell him how it has dealt with them. It has confirmed the hold of the thieves on the treasure that they have been plundering. The inefficient agents of plunder, who were dismissed because they were so inefficient as to permit discovery, are replaced by more skillful tools of the same gang that planned all the infamy and profited by most of it. [Applause.]

Mr. ADAMSON. Mr. Chairman, I always like to hear my distinguished friend from New York——

Mr. SULLIVAN of Massachusetts. Mr. Chairman, will the gentleman from Georgia yield me just one minute?

Mr. ADAMSON. Mr. Chairman, I was about to say that I loved to hear my eloquent friend from New York [Mr. COCKRAN], but I did not know the discussion of insurance was germane to this bill.

Mr. COCKRAN. But I did not bring it in.

Mr. GAINES of Tennessee. Why, insurance is not even commerce.

Mr. ADAMSON. I desire to be courteous to all gentlemen, but I have already spoken twice as long as I intended to speak, because I want to yield to others. I shall continue to yield to gentlemen as long as they wish to ask questions, but I will ask them to confine themselves to questions.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I just wanted to say briefly in reply to the gentleman from New York [Mr. COCKRAN] that there is not now in the National Government, or in any State, any power which will prevent men from appointing corrupt officers, but the abuse has been dealt with so far as the law is concerned, for the legislature has dealt with those abuses by revising the law. Unquestionably corrupt officials may be appointed. That can never be dealt with by law.

Mr. COCKRAN. Not one has been disturbed. In two of these companies at least they are in power now, more firmly intrenched than ever.

Mr. HENRY of Texas. Mr. Chairman, the gentleman from New York [Mr. COCKRAN] seems to be disturbed about the term "police power." In a case from his own State of New York, where the pure-food law of that State was involved, decided by the Supreme Court in 1903——

Mr. ADAMSON. That is the coffee case?

Mr. HENRY of Texas. Yes; the coffee case. By unanimous opinion the Supreme Court answered the gentleman's question. He would have this House to believe that there is an original police jurisdiction of the Federal Government. The Supreme Court has said over and often and reaffirmed that there is no such power in the Federal Government; that it resides in the States.

Mr. COCKRAN. There is no doubt about that. Nobody doubts that.

Mr. HENRY of Texas. And I want to read a sentence or two which answers the gentleman's question. The lawyers were taking the position that he is taking, and the court said:

> We are unwilling to accept this view. We are of the opinion that it is within the power of a State to exclude from its markets any compound manufactured in another State which has been artificially colored or adulterated so as to cause it to look like an article of food in general use, and the sale of which may by reason of such coloration or adulteration cheat the general public into purchasing that which they may not intend to buy. The Constitution of the United States does not secure to anyone the privilege of defrauding the public.

The Supreme Court in that case sustained the pure-food law of the State of New York.

Mr. COCKRAN. There is no question about that.

Mr. GAINES of Tennessee. Mr. Chairman, I want to ask the gentleman whether Congress has not the power to exclude that foul article from going to another State.

Mr. HENRY of Texas. The other State can exclude it.

Mr. ADAMSON. Mr. Chairman, I think I can answer that as I answered the gentleman from New York. The State ought to prevent its being manufactured and packed and shipped, and the other State ought to prevent its being disseminated if it is shipped into it.

Mr. GAINES of Tennessee. Can not Congress help to do that?

Mr. ADAMSON. The Supreme Court says not.

Mr. GAINES of Tennessee. Can not Congress prohibit——

Mr. ADAMSON. Mr. Chairman, I must get through, and I am using the time of other gentlemen.

The CHAIRMAN. The gentleman from Georgia declines to yield.

Mr. ADAMSON. I do not want to be harsh and say I will not yield, but I want to ask gentlemen to let me conclude and yield to some other gentleman. The gentleman from Mississippi [Mr. WILLIAMS] yesterday asked my friend from Illinois [Mr. MANN] about the twelfth section. I want to say as to the latter part of that section, which declares "that food and drugs fully complying with all the provisions of this act shall not be interfered with by the authorities of the several States when transported from one State to another, so long as they remain in original unbroken packages, etc.," that that is absolutely unconstitutional, according to the Supreme Court of the United States in the three cases cited, in one of which they sustained a demurrer to indictment, and in every case which arises under this bill a demurrer can be sustained, I believe, or habeas corpus would lie, because we can not add to nor take from the constitutional rights and powers of the States.

Now, here is a section in this bill which I suppose will please my friend the gentleman from Tennessee. A long time the question has been mooted at to what our friends on the other side would do with the elephants they acquired from the Spanish war—a lot of islands that no other nation would have for four hundred years and never will want for centuries to come. The fifteenth section settles that. It is the first authoritative, legislative, administrative declaration on the subject. "That the term 'territory' as used in this act"—before I go any further, what does it mean as used in this bill? One of the divisions of the United States, treated as a State in every respect, the only difference is one has not been admitted to statehood and the other has, but in all other respects it is a political division of the recorded domain and official operation of the United States. "That the term 'territory' as used in this act shall include the insular possessions of the United States." That settles the question. But if they are right about it, instead of being a pure-food law they will find it to rise to curse them in the shape of a very impure piece of legislation which, to be consistent, will require them to ask for a Delegate from the Territories in the Philippine Islands and the other possessions just as in the Territories mentioned in the United States.

Now, I want to allude to the credit system in this bill. That is another beauty. The original bill gives a credit of twelve months. And they say it shall go into force and effect at once, and yet no penalty shall be visited until twelve months. It is in force, but how? Who is enforcing it? It amounts to nothing. You can not punish anybody. Like all people who leave the beaten track and get lost, the more you flounder and wander the more you are lost, and seeing the utter incongruity of the section they attempted to remedy it by offering a committee amendment, and, bless your soul, how do they improve it? They provide by an amendment which they are going to offer that as to adulteration there shall not be any credit. The fellow who is adulterating they punished at once, but they extend the bonded period to the people who misbrand and do what my friend so eloquently was complaining of, send it off and swindle their neighbors. For eighteen months after the bill passes the constituents of my New York friend could make and send to Georgia and Mississippi misbranded swindling stuff without punishment. It is more ridiculous than it was before; the section is without proper reason, in my judgment.

Well, there are one or two other sections I want to call attention to, but time will not permit. I want to talk about the celebrated drug section, but I talked about that before. They require everything compounded of alcohol or poisonous drugs—opium, morphine, and others—to be plainly labeled. But they got up a fight between the doctors and the druggists and they seesawed, whipsawed, up and down, right and left, day in and day out, week in and week out, and changed and changed and changed it until they finally got it so that druggists could put 2 grains of opium or a quarter of a grain of morphine in a fluid ounce or in a solid ounce and sell it, or put alcohol enough in it to dissolve

any ingredients, even resin, which requires 100 per cent of alcohol, enough to make drunkards by the wholesale. The committee have gotten ashamed of that, and they have stricken out all except alcohol and now propose to let them brand everything except alcohol. You can put a piece of rosin in the bottle, say that it requires 100 per cent of alcohol, and dissolve it, and you can make all the alcohol drunkards you want all over the country, although you can not so freely make morphine and opium drunkards. They propose for Congress to go down into the middle of the State and talk about whether you should sell a man a quarter of a yard, or an infinitesimal quantity less, and say that it is necessary to invoke the great power of the great Republic of the United States to teach the people in the community all these little matters of private and everyday dealings and concern among themselves. It is ridiculous.

The argument of reductio ad absurdum ought to knock it out of the consideration of this House. Now, the committee amendment so amends that, and provides and provides and provides, until they have provided it into a new provision, that this new tribunal, erected over here by the mandate of this House, in this act, if it is ever done at all, may fix up according to the custom of the trade a certain package that all these fellows may use and get around the weights and measures entirely. Bless your soul, would not that be certainty with a whiz?

The only other section that I propose to notice is what they call the "whisky section." Whisky is bad enough at its best. It is an old saying that "Though you get the best of booze, booze will get the best of you." Folks use it for various purposes and various reasons, and in this free country no law will ever successfully prevent it. If it is going to be used it ought to be as good as it can be made.

I remember the time when it was denied that Congress ought to fool with it. When they set up the internal-revenue system, every Democratic legislature in the United States memorialized Congress at every session to repeal it on account of its character. But now it is found that under the revenue system they do not look after all the imperfections and impurities that rectifiers may produce; and this bill attempted to correct rectifiers. Let me show you how they manage to let them knock it out in that section. They came in and put the language in which says that they shall not blend, except by blending articles of a similar character and purity, which meant two whiskies of different age, but they got these words slipped in, "not excluding harmless coloring matter or flavoring extracts," which experts tell me may be available to help dishonest rectifiers, if there are any such, to manufacture any amount of deceptive liquors, with nothing in them beneficial, even if not deleterious. If they put nothing but water into it, it may be that more water and less whisky will be better for the consumer; but when they propose to sell whisky of a certain character, they ought not to be permitted, under the guise of a pure-food law, by these words being put in it, to use flavoring extracts and coloring matter and to make quarts and gallons of liquor out of only a few ounces of genuine spirits. Even the bill that makes so much pretense about pure food and honesty is sadly lacking in all the essential particulars, and the most impure thing about it, the vilest thing about it, the wickedest and most criminal thing about it, is that it seeks to encroach upon the liberties of the people in violation of the Constitution, which guarantees the just, fair, and equal protection of all the States and citizens of this great Republic by allowing them, under the reserved rights, to govern themselves.

How much time have I occupied?

The CHAIRMAN. The gentleman has used fifty-four minutes.

Mr. ADAMSON. I yield to the gentleman from Alabama [Mr. RICHARDSON].

Mr. RICHARDSON of Alabama. Mr. Chairman, I think it is right and proper for me at the beginning of my remarks to congratulate the friends of pure food in this body, as well as throughout the country, for the decided and manifest progress that Congress has made in the last eight years in the identification of food and drink.

I refer to the acts called the "filled-cheese" act, to the "mixed-flour" act, to the "bottled-in-bond" act, to the "mixed-flour" law. I also refer to the provisions of the agricultural bill excluding and prohibiting misbranded products from foreign countries entering our ports, and to the oleomargarine law, where Congress resorted to its extraordinary power of taxation without the expectation of revenue in order to break down "imitation butter." All of these acts are certainly in line with a pure-food bill. We are now approaching the consummation of our labors—the enactment of a national pure-food law. I am led to believe, Mr. Chairman, that the majority of the Members of this House are in favor of pure-food legislation. I judge that simply from the favorable action taken by the Fifty-seventh Congress as well as the Fifty-eighth Congress on that subject. And now, the Senate having for the first time passed such a bill, we should act promptly.

I do not mean to be understood, Mr. Chairman, by that remark, as saying that all of the friends of pure food are agreed upon the scope or the character of this measure. I know that there are gentlemen on this floor who are really and truly the friends of pure food who would like to have this bill amended in some respects. Indeed, it is the part of frankness on my part to say that while I have stood unfalteringly in the Fifty-seventh and Fifty-eighth Congresses and now for the doctrine of pure-food legislation, yet there is a feature in this bill to which I do not agree and to which I will hereafter call attention, that I have reserved the right to criticise and comment on. It is unworthy and unwarranted to say that anyone on the floor of this House, for or against this bill, is actuated by any other than worthy and patriotic motives.

Pure-food legislation, Mr. Chairman, is a very difficult subject to handle, as we have found out in our strenuous labors in the Committee on Interstate and Foreign Commerce for the past six months. It embraces and relates to such a great variety of the foods and drinks of the people that it is very difficult to establish any rule upon that subject that does not apparently seriously interfere with special interests. Why, you take, Mr. Chairman, for instance, the canning interests, which I incidentally refer to—a very great and very important interest throughout this country, and an industry that we desire to uphold—and they contend, and contend with a great deal of earnestness and sincerity, that we ought not to compel them to put upon their cans the weight that is in there or other identification. Why? They say, among many other things, because the product evaporates and is variable. They say you lay yourself under the charge of the officer and liable to a prosecution in a Federal court because the contents have diminished by one process or another. Why, the answer to that, Mr. Chairman, is that there are different grades of the product that are put up in these cans; one, the first gathering of the snaps and other vegetables, is the better grade; the second is somewhat inferior; and the third is the lowest grade of any of them; but the manufacturer sells the first and last grade to the purchaser at the same price. Now, why is it that we can not under these circumstances hold them not to sell the inferior products at the same price of the first grade? To do otherwise is to encourage a fraud. Why can not they separate these different grades and sell the first as being the first, the second as the next best, and the third as the most inferior? What objection has a man to such a proposition as that? I would say that in considering the object and purpose of this bill, we must not forget that simply wholesomeness is not all we are looking after. While this is important, it is not all.

While that is one of the objects and ends of the bill, yet there is another and a more important one, in my judgment, than that. It is that when a man offers to sell a commodity that he ought to be required to state what is in it. Does such a requirement hurt an honest manufacturer or dealer—have him tell what he offers for sale? If he is going to sell me a keg of New Orleans molasses, and three-fourths of it is glucose, he ought to be required to state it on the label on the barrel or on the jug. Why should we encourage him to perpetrate a falsehood? Why should the purchaser be deceived and imposed on? Is that right? Is it honest to act under a false representation and deceive the purchaser? I tell you, Mr. Chairman and gentlemen, it is only the man, in my judgment, after an experience of years on this committee, who looks to his own personal gain and advantage over the seller who is unwilling to label his goods and say just exactly what they are. That is the honest man.

Mr. UNDERWOOD. Will my colleague permit me to ask him this question? Does this bill provide that all goods shipped as interstate food shall be labeled so as to state what are the contents of the packages?

Mr. RICHARDSON of Alabama. It must state the contents.

Mr. Chairman, I briefly refer to the minority report; and I take occasion to say here, after having heard this discussion of States rights, that, according to my teaching, the man who has studied the true principles and theories of our republican form of government can never deny honor and respect for the rights of the States. I say that is my general view. For myself I am a strict adherent of States rights as defined by the Constitution or reserved by the States. No pure-food bill that this House has ever passed, coming as it did from the Interstate and Foreign Commerce Committee, has ever failed to provide explicitly and as plainly as the English language is susceptible of being written that it does not intend to nor does not interfere with the rights of the States. Under our Constitution this can

not be done. I have almost, Mr. Chairman, despaired, after so many efforts we have made in the Interstate Commerce Committee, to convince my friend from Georgia [Mr. ADAMSON] that while the State has its rights that no one wishes to disturb the Federal Government has also its rights and prerogatives. It looks like he will persistently insist on his untenable views, however honest and sincere he is in the same.

Mr. GARRETT. Do you mean that the present bill does not interfere with the States?

Mr. RICHARDSON of Alabama. I do.

Mr. GARRETT. I am very much interested in that question, and I would like to call your attention to section 12, I think it is.

Mr. RICHARDSON of Alabama. Section 12 is the one.

Mr. GARRETT. Now, there can not be a pure-food law without power to have standards. Our observation in life has led us to observe that it will be very hard to determine as to what shall be the standard. Now, suppose under this bill the department which you provide shall establish one standard, and suppose your State or my State passes a pure-food law and establishes another standard——

Mr. RICHARDSON of Alabama. It does not interfere with the several rights of the State at all.

Mr. GARRETT. Now, this bill reported by your committee says that no package which meets the requirements of that act, and therefore the requirements of the standard of purity that is to be established by that act, shall be interfered with by the State so long as it is in the original package. Now, a can of oysters, or a can of beans, or a jug of molasses, or anything of that kind, is in the original package after it gets into the hands of the retail man, and until it gets into the kitchen of the consumer, is it not?

Mr. RICHARDSON of Alabama. Yes; that is correct.

Mr. GARRETT. Now, is there not room for a conflict between the powers of the State and the powers of the Federal Government?

Mr. RICHARDSON of Alabama. Oh, you can not make any law which does not give room for conflict. That can not be accomplished. This section 12 says plainly that "this act shall not be construed to interfere with commerce wholly internal in any State." How do you answer that?

Mr. GARRETT. I will not take the gentleman's time——

Mr. RICHARDSON of Alabama. Why, Mr. Chairman, it seems to me these gentlemen who are discussing the question of States rights lose sight of the great aim and object that this bill has of inducing the States to cooperate with the Federal Government, or inducing the Federal Government to cooperate with the States, in order to destroy an evil that the States have been unable to conquer. That is the whole theory of the bill and the whole case. Does the decision which has been read by the gentleman from Texas [Mr. HENRY], contain any prohibition of that doctrine? The Constitution can not be construed by the strictest advocate of States as not possessing the power to cooperate with the States in suppressing an evil that the State can not control.

Why, Mr. Chairman, it is simply amusing to hear all the theories that have been advanced here this morning about interfering with the culinary department, about interfering with the cook and the good housewife in what she will put upon her table. Is that argument to be applied to this great bill—a bill, Mr. Chairman, so momentous to all our people?

Why, there was a gentleman before our committee, an intelligent man, a large dealer in canned goods, and so forth, and I asked him this question:

> Is it not a fact that standards created by different States with respect to the sale of goods can not be effectually enforced?
>
> Mr. WILLIAMS. Not without a lot of embarrassment of this kind.

What was the embarrassment? He was sending his goods into three great States of the North, and he was required to put certain labels on them that were adapted to the laws of each State. Each food commissioner gave the same label a different construction, and he had to label them according to the laws of each State, and it resulted in all kinds of trouble and embarrassment to his business. This law intends to invite the States, when Doctor Wiley and his associates, composed of our ablest men, agree upon a standard, to induce them, not to force or compel them, but for their own public good and their interest and the interest of the trade, to invite them to adopt the same standard. Does anyone pretend to say that in doing that we are ignoring or disregarding the laws of the States or the police regulations of the States? Why, it is the most sacred province of this Government to come to the aid of the States when they are unable to enforce effectively laws that relate to health, such as laws relating to food and drink. I am aware, Mr. Chairman, that some of my southern brothers disagree with me, yet I am a sincere believer that the Constitution properly construed can come to the relief of the States when the States are unable to protect the people thereof.

Now, Mr. Chairman, look at this minority report. I am amazed that my good and distinguished friend from Georgia [Mr. ADAMSON] should have ever put his name to a declaration contained in this minority report. He says:

> One of the purposes of the bill is to enable the manufacturers of food and dealers in food to disregard and violate the laws of the various States on the subject of pure food, and that has been one of the chief influences that have been advocating the enactment of this bill into law.

Mr. Chairman and gentlemen, I say, with all respect to my distinguished friend, there is not a shade of that kind of spirit that has ever entered into the consideration of this bill. He is mistaken. We have sought in this bill to make it simply an interstate bill.

Mr. ADAMSON. Mr. Chairman, I wish to call the attention of the gentleman to the latter part of section 12, which was the last thing I read while on the floor, where it is expressly provided that after a package has reached the State it shall not be interfered with by the State authorities. It is true it is absolutely void, but yet it is an attempt to meddle with State affairs.

Mr. RICHARDSON of Alabama. Mr. Chairman, this provision has been fully explained—the right of the Government to inspect before a product leaves the State for a destination outside of the State—but I will say that no fair construction of this bill makes any interference with the police or other rights of the States.

Mr. GARRETT. Would my friend mind stating his construction of this language? Let me put a concrete case: Suppose tomatoes are canned in the State of Tennessee.

Mr. RICHARDSON of Alabama. I will answer the gentleman. The qualification was put there partly in relation to theories of the Hepburn-Dolliver bill. I do not believe that a package of whisky ought to be sent into a prohibition section and violate the laws of that prohibition locality. But if a package unlabeled or unmarked is about to be shipped from one State to another in violation of law, does he say that the Federal Government is powerless to prevent such shipment?

Mr. GARRETT. That exception is well put in there. I am talking about the language before that. Let me put this case briefly: Suppose tomatoes are canned in the State of Tennessee and they meet the requirements of law and they are shipped into the State of North Carolina to a retail man. Now, so long as they are on the road to North Carolina—on the way to the retail man—they can not be touched by State law. When they have reached the retail man they are still in the original package. Now, what about the right of the State to take them, supposing they do not meet the standard of the North Carolina law?

Mr. RICHARDSON of Alabama. In no instance or condition has the State a right to enact an interstate law. That belongs to the Federal Government, and that is the only answer I can give the gentleman, save that your question implies the right for a State to interfere with interstate commerce—that I do not concede.

Mr. Chairman, the distinguished chairman of our committee [Mr. HEPBURN], for his own good reason, unknown to me, asked me as a member of his committee to give my special attention to the question of the adulteration or imitation of whisky. Why he asked me that I do not know, unless he meant and believed that I was a temperance man and wanted to do all things in my power to promote temperance; unless he believed that I thought that pure whisky, unadulterated and genuine, guaranteed by the Government as to its purity, would promote temperance as the people of France thought that pure wines would promote it in their nation.

Mr. SHERLEY. Will the gentleman tell us whether there is any existing law that guarantees the purity of whisky?

Mr. RICHARDSON of Alabama. I will with pleasure answer the question. I am going to discuss that question; I know what the gentleman from Kentucky [Mr. SHERLEY] thinks about it.

Mr. SHERLEY. I am delighted to know that the gentleman knows my mind, but I am speaking not for myself nor for him, but for the benefit of the House. If the gentleman does not want to yield, all right.

Mr. RICHARDSON of Alabama. Oh, I will yield to the gentleman without hesitancy.

Mr. SHERLEY. Is it not a fact that the present bottling-in-bond law guarantees simply these facts, the distiller, the place of distillation, the age, the proof, and that $1.10 a gallon has been paid; and that only——

Mr. RICHARDSON of Alabama. I am going to answer that question specifically, but I am not going to do it now. I am going to answer it when I get to it, and I will call the gentleman's attention to it if he is in his seat. The chairman of our committee, as I was saying, might have thought that I was a man peculiarly adapted to peace and order in the walks of life, and that is why he wanted me to discuss "whisky," because he knows and I know that it is the spurious concoction, the adulterated stuff in this country that puts the very devil into men, and which results in murder and the breaking up of happy families. He knew that I had great respect and honor and reverence for the home life that is fostered around the family hearthstone. Yet, Mr. Chairman, you and I and all citizens have seen discord and strife enter these happy abodes and the peace of families disrupted by these drugged and adulterated mixtures miscalled "whisky." Why, I hold here in my hand a paragraph taken from one of the leading papers of the city of New York, which says that wood alcohol, a deadly poison, had been used in whisky and drank at a saloon, and as the result two women and one man were killed.

But I desire, Mr. Chairman, to show the haughty spirit that has characterized the dictatorial bearing and conduct that is visited upon one who asserts the right to oppose the demands of those interested in foisting on the public adulterated and misbranded whisky. I know that I have endeavored since I have been a Member of this House to conduct and demean myself in an orderly, courteous, proper manner.

I never tried to browbeat, run over, or insult a witness in any of our hearings. I hold in my hand a letter which would have justified me, Mr. Chairman, at any moment on the floor of this House, to rise to a question of "personal privilege." But I thought it best to answer it as I am now doing. It is a statement referring to what I said on the floor of the House on this subject on the 7th of May. It was written by one Warwick M. Hough, who styles himself "attorney for the National Wholesale Liquor Dealers' Association of America."

I shall not, Mr. Chairman, characterize this communication in the manner it deserves, for if I did I would infringe upon the rules of this House, which require me to be respectful when I refer to another person. I have the advantage of the writer. I can speak on the floor of this House, and he has no right to reply to me. While I have sufficient provocation to do this, yet it would be unmanly to avail myself of such advantage. I state that the language that he used, and that I will read to you, was unwarranted, unprovoked, and unbecoming, and revealed the fact that the writer was unacquainted with the ordinary civilities and amenities of life. The conviction that it carried to my mind was that his reckless and intemperate denunciation that the statement which I made previously on the floor of the House, and which he quotes in his letter, was "absolutely and unqualifiedly false" was a convincing evidence of the weakness of his case, and he was arrogantly seeking to bolster it with the manner and tone of an insufferable egotist and ordinary braggart. His conduct denominates him as being an unfit and unsuitable representative of any association. He can not escape the conviction of rudeness by the qualification he attempts to give to the meaning of the word "pure." Such sophistry and word juggling but expose the essential poverty and insincerity of his position. Mr. Hough calls any concoction "whisky" which masquerades under that name, no matter how it is made and what it contains.

I appeal to every member, Republican or Democrat, on the Interstate and Foreign Commerce Committee, if Mr. Warwick M. Hough was not allowed as much time to give his views as any other man that appeared in that hearing.

During his statement, as it appears in the printed hearings, commencing at page 96 and ending on page 118, on February 19 and 20, 1906, he was courteously treated and listened to with respect by every member of the committee. I will now read enough of Mr. Huff's letter to enable me to comment intelligently on the same, and I ask, Mr. Chairman, unanimous consent that the full letter and the answer to the same by Mr. Edmund W. Taylor, of E. H. Taylor, jr., & Sons, of Frankfort, Ky., be inserted, as a part of my remarks, in the RECORD. These two letters, in my opinion, will give valuable information on this important subject:

ST. LOUIS, *May 11, 1906.*

Hon. WILLIAM RICHARDSON,
House of Representatives, Washington, D. C.

DEAR SIR: You appear in the CONGRESSIONAL RECORD of the 7th instant to have made the following statement to the House:

"I desire the House to understand that we had uncontradicted and reliable testimony before the Interstate and Foreign Commerce Committee on this one article, that there were 60,000,000 gallons of whisky made in the State of Kentucky annually, and that only 15,000,000 of it was pure. The rest is altogether adulterated."

If there was no categorical and specific denial and contradiction of such a statement before the Interstate and Foreign Commerce Committee, it was due to the fact that when I requested an opportunity of replying to what had been said on the whisky question, the opportunity was denied me. If, however, the opening statement which I made on the whisky subject was understood, there was ample therein to refute the statement which you repeat.

For your information, therefore, I will say that such a statement is absolutely and unqualifiedly false, unless the word "pure" is used in a perverted sense and indicating something different from what the public generally understands the meaning of such word to be, and unless the word "whisky" is also used in a perverted sense, as applying to a product which was never entitled to be called "whisky" during a period of over six hundred years after the term "whisky" originated. As a matter of fact, the article which you refer to as whisky under the 15,000,000 classification is an article which is not fit to be given to a stevedore—it is neither whisky, in the strict meaning of that term, nor is it pure—and if it ever becomes fit to drink or ever becomes entitled to be called "whisky," it is due solely to a subsequent process to which it may be subjected after distillation, which has the effect of purifying and refining the article, and adding thereto coloring and flavoring; but no matter what the process to which it may be subjected after distillation, if it does not accomplish rectification and purification, and if it does not result in the addition of both coloring and flavoring, it not only is not pure, but it is not whisky in the correct meaning of the term. That which you refer to under the classification of 60,000,000 is real whisky, and while the degree of purity varies in whisky, the statistics show that it is not only more pure, if I may use such an expression, but more wholesome than the article which you refer to as pure whisky, which no intelligent physician would ever prescribe to an invalid.

It will be seen that he asserts that the opportunity of replying to what had been said about whisky was denied him. The record, as I have referred to, overthrows that statement. "False in one thing, false in all" is an underlying principle of ethics and law. The statement he assails was found on the following colloquy, page 182, of hearings before the Interstate and Foreign Commerce Committee of the House:

Mr. RICHARDSON. What is the average sale of whisky in Kentucky; I mean all kinds?
Mr. TAYLOR. All kinds?
Mr. RICHARDSON. Yes; all kinds.
Mr. TAYLOR. It is estimated at about 60,000,000 gallons a year.
Mr. RICHARDSON. How much of that is real whisky?
Mr. TAYLOR. I suppose there is about 15,000,000 gallons of it which is real whisky.
Mr. RICHARDSON. And the balance is spurious?
Mr. TAYLOR. Yes, sir.

Mr. Hough, with the same self-satisfied "know-all" air that he assumed before the committee, declares that the article that I referred to, 15,000,000 gallons, was "not fit to be given to a stevedore," because he says it is "neither whisky" nor "is it pure." Let us test the accuracy of his boasted knowledge as to his definition of "whisky." Dr. Joseph Y. Remington, the president of the Pharmacopœia of the United States of America, whose letter I will read, says plainly that the article called "whisky" and made out of "neutral spirits" is not whisky, and is not so recognized as whisky by the Pharmacopœia. There is no denial that the whisky Mr. Hough defends is made of "neutral spirits" and is not whisky, but is a mixture of straight whisky with pure alcohol diluted to a proof suitable for drinking, with what the rectifier chooses to fictitiously age, flavor, color it and give it smoothness, and then label as he pleases, and he always pleases to call it "pure whisky." I wrote to Doctor Remington, and I read my letter and his reply:

WASHINGTON, D. C., *June 9, 1906.*

Dr. JOSEPH P. REMINGTON,
Revision Committee, United States Pharmacopœia,
Philadelphia College of Pharmacy, Philadelphia, Pa.

DEAR SIR: On page 418 of the last revised edition of the United States Pharmacopœia, which I understand was revised by your committee, and has been the official edition since September 1, 1905, I find the definition of "whisky" officially set forth.

Will you kindly advise me if I am correct in construing the terms of this official definition of "whisky" to positively exclude the recognition by the Pharmacopœia of "neutral spirits" as whisky?

I have taken it that I was correct in my understanding that this definition does not recognize "neutral spirits" as whisky, but I would appreciate your reply.

Yours, respectfully, WILLIAM RICHARDSON.

PHARMACOPŒIA OF THE UNITED STATES OF AMERICA,
Philadelphia, Pa., June 18, 1906.

Hon. WILLIAM RICHARDSON, *Washington, D. C.*

DEAR SIR: In reply to your letter of June 9, I would state that you are correct in construing the terms of the official definition of whisky to exclude the recognition by the Pharmacopœia of "neutral spirits" as whisky. This is not the first that I have heard of this proposition, but neutral spirits is a thoroughly understood product, and it can not be said to be whisky. There are tests in the United States Pharmacopœia description which would exclude neutral spirits.

Very truly, yours, JOSEPH P. REMINGTON.

Doctor Wiley, the distinguished gentleman at the head of the Chemical Bureau of the Government, in our hearings, on page 331, said:

Mr. BARTLETT. That bottle there is Overholt whisky. That is straight whisky?

Doctor WILEY. That is straight whisky, and when you buy that you know what you are getting. You are getting a certain quantity and a certain strength, made at a certain date. That was made in 1896, ten years ago, and the date it was bottled is given there.

Mr. TOWNSEND. What, in short, is it that you think ought to go into the bill on that subject?

Doctor WILEY. I think the bill as it passed the Senate is a very good bill on that subject. I have always told Mr. Hough that, as far as I am concerned, if their people would put on their bottles the fact that it was a mixture or compounded article I would be satisfied.

What fair and logical reason exists for not following Doctor Wiley's suggestion as to what should be put on the bottles? Is the Government of the United States expected to condone a palpable fraud in the false branding and adulterating whisky? That is what the proposition is reduced to. No honest and fair dealer is hurt under this bill who sells his goods labeled and branded truthfully.

This eminent scientist, the head of the committee Pharmacopœia that fixes the standards of pure foods, says the article called whisky by Mr. Hough "can not be said to be whisky."

Before going any further, I will now answer my distinguished friend the gentleman from Louisville, Ky. [Mr. SHERLEY], the question that he propounded to me. What evidence is there that there is any guaranty of pure whisky in the bottled-in-bond? I went back, Mr. Chairman, to the origin of this question. I went back to the report from the Committee on Ways and Means submitted with the bill H. R. 8582 on May 2, 1896—a committee of able men. I send to the Clerk's desk and ask that this report be read.

The Clerk read as follows:

[House Report No. 1595, Fifty-fourth Congress, first session.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8582) entitled "A bill to allow the bottling of distilled spirits in bond," having carefully considered the same, report it back to the House with the recommendation that it pass when amended as follows:

Substitute the word "or" for the word "nor" at the close of line 8 on page 2.

Insert a comma after the word "prescribe" in line 18 on page 2.

Strike out the word "of" and the word "thereof" in line 13 of page 3.

Strike out the comma after the word "discretion" in lines 6 and 7 on page 4.

Add the following section, to wit:

"SEC. 8. That nothing in this act shall be construed to exempt spirits bottled under the provisions of this act from the operations of chapter 728 of the public laws of the Fifty-first Congress, approved August 8, 1890."

The bill as amended has the approval of the Secretary of the Treasury and the Commissioner of Internal Revenue, who have carefully scrutinized its provisions.

The obvious purpose of the measure is to allow the bottling of spirits under such circumstances and supervision as will give assurances to all purchasers of the purity of the article purchased, and the machinery devised for accomplishing this makes it apparent that this object will certainly be accomplished.

The interests of the Government and the revenue are carefully guarded, so that there will be no expense or loss to either.

The passage of the bill will enable American producers to supply a very large home and foreign demand which is now supplied, greatly to the injury of the home manufacturer, by Canadian producers, so that persons who desire to purchase bottled goods under a stamp must get the Canadian instead of the American article, and instead of having the option to obtain either.

We are not permitted to export to Canada in packages of less than 100 imperial gallons (equal to 120 of our gallons), while we permit the importation of bottled Canadian spirits, thus putting our manufacturers at a great disadvantage, especially as the bottled spirits thus imported are supposed to be guaranteed by the Government label and stamp, placed thereon under a law somewhat similar to the pending measure.

It is believed that the enactment of the bill will give our home producers a large market for their goods which is now given to Canadian or other foreign spirits.

These considerations lead the committee to recommend the passage of the bill.

Mr. RICHARDSON of Alabama. Now I shall ask the gentleman from Kentucky [Mr. SHERLEY] what he has to say to that.

Mr. SHERLEY. Mr. Chairman, I desire to ask the gentleman this question: First, is there one line upon the statute books to-day that requires any inspection as to the quality of the particular grain, whether it be corn, rye, malt, barley, or any other grain that is used?

Mr. RICHARDSON of Alabama. Yes.

Mr. SHERLEY. If the gentleman will show me that there is a line as to the quality, not the quantity, I will agree to vote with him for this bill. [Applause.]

Mr. RICHARDSON of Alabama. Mr. Chairman, I say that the great Government of the United States, by inspectors, follows that bottled-in-bond whisky from the time the grain is ground until it is aged and put in bottle, and puts a green stamp on that bonded whisky. It guarantees exactly the quantity. He knows the alcoholic strength; it is bound to be 50 per cent alcohol 100 proof. You know who made it and when, and it is free from added adulterations under the law.

Mr. SHERLEY. I will ask the gentleman to answer the question.

Mr. RICHARDSON of Alabama. It goes under the inspection of its officers from the time it leaves the distillery and during the time it stays in the bonded warehouse, for four years, it is under lock and key and the key in the pocket of a Government official, and then when it is taken out of the warehouse it goes under the guidance and control of an inspector who sees every bottle of it filled and sees the green stamp put upon it. What other guaranty is required or could be given? Why, does not the gentleman know—and he ought to know, and I think he does know—that when you take the ethyl alcohol, with its secondary products, carry it into the charred barrel of the bonded warehouse, and it stays there four years before it comes out with a dark amber color and an age that the people on the other side—the blended—try to imitate, it carries with it into the charred barrel the ethyl alcohol and the secondary products; nothing is added to or taken from it?

Mr. SHERLEY. Can the gentleman state one single line of existing law that requires any inspection of the yeast that goes into the making of whisky, anything in regard to whether the meal is sour or the grain musty or whether the whisky as it runs out and is put into the barrel has been properly distilled or not?

Mr. RICHARDSON of Alabama. Mr. Chairman, the guaranty that the Government has supervision of it is an assurance. These men who made this report had some sense when they said that "Government supervision will give to all purchasers assurance of the purity of the article purchased," etc.

In the Fifty-second Congress, March 1, 1893, the Judiciary Committee by resolution of the House was directed to investigate "whether rectifiers under license granted by the Government adulterate, pollute, or otherwise drug the product produced or distributed by them, and if so adulterated, whether such product when so adulterated is sold and distributed throughout the country to be used as a beverage."

For the special edification and instruction of the gentleman from Kentucky [Mr. SHERLEY] I will read him some few of the conclusions of that Judiciary Committee as reported in House Report 2601:

These compounds are now being extensively made by mixing with new spirits certain oils, ethers, and coloring fluids, now extensively manufactured in the United States. The manipulation and composition of these goods is done by dealers under authority and direction of a license granted to them as rectifiers. The license for that purpose is now used by wholesalers to enable them to "blend" and "compound" goods. (See page 111.)

Again on the same page:

The compound goods which are now forcing the straight product in the market can be produced in a much shorter space of time, therefore at less cost.

And again on the same page:

Neutral or cologne spirits possessing the same strength as whisky and being susceptible to the most delicate flavor and color can easily and with little expense be given the odor and appearance of aged whisky, which may be and no doubt are extensively disposed of in the open market as straight goods.

The committee then said:

The straight goods are unquestionably preferable, and in so far as the Government has the power it should protect the public against the deception that is now being practiced.

Mr. SHERLEY. Does not the gentleman know, as a matter of fact, from the time the grain is ground until the whisky is run into the barrel and put into the bonded warehouse the Government's inspection is entirely a revenue inspection, looking to see that $1.10 is paid on each gallon of whisky?

Mr. RICHARDSON of Alabama. No; I can not say that I do.

Mr. SHERLEY. Then the gentleman does not know the revenue law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RICHARDSON of Alabama. I will ask the gentleman from Georgia if he will yield me five minutes more?

Mr. ADAMSON. I yield to the gentleman five minutes more, because he is a good friend of mine and because he is on the other side, but I shall have to take it away from somebody else.

Mr. RICHARDSON of Alabama. That is very kind in my friend.

Mr. GAINES of West Virginia. Mr. Chairman, I would like to ask a question here if the gentleman will permit.

Mr. RICHARDSON of Alabama. Yes; certainly.

Mr. GAINES of West Virginia. I would like to ask the gentleman from Kentucky [Mr. SHERLEY] what inference he desires to be drawn from the questions which he asks. In other words, suppose that straight distilled whisky may sometimes, and even generally—I don't know the facts—be impure, does he believe that the still further polluting of it by blending or otherwise ought to be discouraged?

Mr. RICHARDSON of Alabama. All right; let him answer. It is true I have but five minutes more.

Mr. SHERLEY. If the gentleman from Georgia [Mr. ADAMSON] will yield me two minutes, so as not to be taken out of your time, I will answer.

Mr. RICHARDSON of Alabama. Mr. Chairman, the blenders who can not bottle in bond concoct spurious whisky that is made of neutral spirits. Why, the fact is, and I have given the proof here, they take a small quantity of real pure whisky, 6, 7, or 8 years old, and mix with that, under section 3244 of the Revised Statutes, whatever they please—all kinds of coloring and flavoring extracts, prune juice, and oils—and between sunset and sunrise they will bring out what they call "pure Kentucky whisky, 8 years old." I do not say that all rectifiers do this, but it is done, and under section 3244 of the Revised Statutes spurious, imitation, or compound whiskies are allowed.

Mr. RYAN. Will my colleague yield, just for a question on that point?

Mr. RICHARDSON of Alabama. If you get my time extended, I will.

Mr. RYAN. I will try to do so.

Mr. RICHARDSON of Alabama. All right; go on.

Mr. RYAN. I want to ask the gentleman if whisky, whether bottled in bond, straight whisky, or blended whisky, is not colored and flavored? Every article that is sold on the market as whisky, I will ask the gentleman, Is it not colored and flavored?

Mr. RICHARDSON of Alabama. Yes; but in a different way from which the imitation, spurious, compounded whisky is colored. Straight whisky is colored by age, by the charred barrels, and it has ethyl alcohol in it and all of its secondary products, and they are mellowed down by the lapse of age; and when that is taken out of the warehouse at the end of four years that is what the parties who do not desire labels endeavor to imitate. You know that no flavoring or coloring ingredients are added to the whisky taken from a bottle-in-bond warehouse at the end of four years. The inspector is there and sees that nothing is taken from or added thereto.

Mr. RYAN. If the gentleman will permit. Would it be possible, if they did not have the white-oak barrel and its being charred, for them to get the flavor that they now get in so-called "straight whisky?"

Mr. RICHARDSON of Alabama. I fear that I do not fully understand my colleague's question. It is said that the charred barrel gives a better flavor than any other vessel.

Mr. RYAN. There is only one character of barrel you can char, and it is northern white oak; and this produces the color and flavor found in straight whisky; one is put in by the barrel stave, and the other is put in by an individual adding coloring and flavoring ingredients.

Mr. RICHARDSON of Alabama. Then, as I understand you, the whisky in the charred barrel, whether under the bottle-in-bond law or not, after remaining in that barrel for some time acquires color and flavor, which color and flavor is given to the straight whisky you speak of "by adding coloring and flavoring ingredients." That is certainly imitation whisky if added to it is coloring and flavoring ingredients, which flavor, coloring, and age the genuine, real, pure whisky acquires by staying in a charred barrel for four years.

I think it quite suitable for me to read to you a certain reply found in the hearings before our committee, made by Mr. Hough, as to "aging whisky."

The CHAIRMAN. Does pure ethyl alcohol and water in proportions constitute whisky?

Mr. HOUGH. It does; that is, with the proper flavor. That was the only original whisky. The term whisky has never been properly applied to all of the products of distillation, but it has been applied only to the rectified products—the purified or refined products. The straight distillate was high wine.

The CHAIRMAN. Then that is just as much whisky the moment after it is made as it is ten years after it is made?

Mr. HOUGH. Not a particle of doubt about that, and the Government brands it whisky.

The CHAIRMAN. And it is just as valuable, just as pure, at the age of one day as it is at the age of ten years, except as it may draw something from the receptacle in which it is placed?

Mr. HOUGH. Excepting that and excepting that it may get rid of something which has been left in it.

The CHAIRMAN. How does it get rid of that something that may be left in it?

Mr. HOUGH. By the process of oxidization, evaporation, and aeration.

The CHAIRMAN. What is there in pure ethyl alcohol that it ought to get rid of?

Mr. HOUGH. Nothing in pure ethyl alcohol.

The answer that Mr. Hough gives is the true essence and best analysis of the blender. It takes him no time to give age, color, or flavor. He needs no bottle-in-bond warehouse for his product to stay there for several years to acquire age, flavor, or color. He substitutes all that in a few hours.

The CHAIRMAN. The gentleman's time has again expired.

Mr. RYAN. I yield five minutes of the time given to me. I ask the gentleman in charge to yield five minutes of the time due me.

Mr. ADAMSON. I understand all that, but I admonish the gentleman from New York not to expect to give away his time and to also use it.

Mr. RYAN. I will state to the gentleman from Georgia, I am entitled to more than the five minutes I have yielded.

Mr. RICHARDSON of Alabama. I am very much obliged to the gentleman from New York [Mr. RYAN] for his kindness.

Mr. RYAN. Will the gentleman answer this: What percentage of the whisky sold in this country is of the bottled-in-bond variety?

Mr. RICHARDSON of Alabama. But little over 1½ per cent, I think, and that is why the people are so much aroused about it being imitated by the blenders.

Mr. RYAN. Just one more question: What, if anything, is in this bill or the gentleman's proposed amendment that will in any way affect the new straight whisky that is sold in bulk—that is, whisky less than four years old?

Mr. RICHARDSON of Alabama. The amendment that I propose to offer is not intended to injure an honest dealer or manufacturer. If what you call "straight" whisky is pure and genuine and you are willing to label it just what it is, then that is all right.

Mr. RYAN. Why, the gentleman does not understand me. I am talking about——

Mr. RICHARDSON of Alabama. If you mean by "straight whisky" whisky not subjected to the bottled-in-bond process, then I do not hesitate to say that if it is labeled and branded as to its contents, when, where, and by whom made, and the quantity, then it would not fall under the condemnation of this bill, for the purchaser would be advised as to what he was buying, and let him buy it if he wants to. You misunderstand me. I am not contending that there is no genuine whisky in this country outside of the bottled-in-bond article. That is not my position.

Mr. RYAN. Just one more question. The gentleman did not understand me again. The bottled-in-bond whisky is straight whisky. Now, all straight whisky that is consumed in this country is not bottled. I ask him what it is proposed to do to protect the people against young straight whisky being sold—whisky that is not 4 years old?

Mr. RICHARDSON of Alabama. If it is labeled and marked just what it is. If it substantially informs the purchaser what its ingredients are; if it is marked "blended," then state the age of the blends, colorings, and flavor.

Mr. RYAN. If the gentleman had examined the revenue laws, he would know that a barrel containing whisky must be labeled and branded.

Mr. RICHARDSON of Alabama. Yes; a whisky made in a garret or cellar between sunset and sunrise, with a fraction of real whisky mixed with adulterants, and comes out eight years old the next morning, is whisky that ought to be condemned and ought not to be imposed upon an innocent purchaser as pure whisky.

Mr. SHERLEY. Now, will the gentleman yield? Water is made of hydrogen and oxygen; whisky is composed of ethyl alcohol or neutral spirits and certain by-products. If to the neutral spirits is added the other elements that go to make whisky, do you not get whisky?

Mr. RICHARDSON of Alabama. No; not in the way the blenders fix it. No. You do not get it. The secondary products are absent and you substitute them by flavorings and colorings that pretend to give age, bead, smoothness, and flavor.

Mr. STANLEY. Will the gentleman yield for a question?

Mr. RICHARDSON of Alabama. In just a moment. I was informed, and reliably informed, that while there were 60,000,000 gallons of this imitation whisky from the great State of Kentucky, that not more than 10,000,000 gallons of it was taxed by the Federal Government. The Government tax is imposed on the proof gallon and by manipulation the rectifier multiplies the quantity that escapes revenue taxes. I refer to the action of the Kentucky legislature on that subject, and they ought to know something about it, and will do so later on. I will read one or more of the speeches of distinguished senators there that condemned it in the roundest and most emphatic terms and are seeking to drive the spurious imitation whisky trade beyond the borders of their State. I am aware that the question before the Kentucky legislature was one of taxation, but the whole question of spurious or imitation whisky was discussed.

Mr. RYAN. Perhaps they were drinking a little of this whisky that you were talking about and may be excused.

Mr. ADAMSON. I will ask the gentleman from Alabama if he agrees with me, then, that the words "not excluding harmless coloring or flavoring extracts" ought to be stricken out?

Mr. RICHARDSON of Alabama. Yes; I emphatically do, for that permits the blender to continue his imitation. I would be very glad indeed to discuss that if I had the time. I made the motion in the Committee on Interstate and Foreign Commerce that the words the gentleman refers to, "not excluding coloring and flavoring ingredients," should be stricken from this bill.

Mr. RYAN. And the committee did not take that action.

Mr. RICHARDSON of Alabama. I know that; and I will make a motion before this House at the proper time to have the provisions of this bill as to adulterating and misbranding food apply to whisky, just as they apply to other food products. I have heard no good reason why a discrimination should be made. Understand me, I do not charge that all sections are engaged in the business of imposing a spurious whisky on the public, but the door is open to do that.

Mr. SHERLEY. Is the gentleman supporting the committee bill?

Mr. RICHARDSON of Alabama. While I am truly an advocate of a pure-food bill, I am unable to get everything in the bill that I want. I intend to support the bill But I have the right to criticise any feature of the bill, and perfect it if I can. I have the right to point out a defect and ask that it be removed. I would not be frank and honest if I did not do it.

I will now briefly refer to the proceedings touching this subject before the general assembly of the State of Kentucky. I do this, Mr. Chairman, simply for the reason that the workings of the advocates of blended whisky is forcibly and truthfully portrayed. I will here refer to the resolution of the Kentucky Distillers' Association, adopted a few days since at the city of Louisville, Ky., and which was forwarded to the House committee of Congress, as follows:

Resolved, That the Kentucky Distillers' Association, comprised, as it is, of bona fide distillers and bottlers in bond, does now, and has always, earnestly favored the pure-food bill and heartily condemns the mislabeling, misbranding, or adulteration of whisky or any other food product. This association is not in sympathy with the alleged efforts of a national organization of wholesalers to defeat the pure-food bill.

This action was taken by the distillers to correct the impression created by certain published items that the Kentucky Distillers' Association was opposed to the pure-food bill.

For better information as to what the real contention in this great question is as to misbranding and adulteration, as to what you offer to the public for sale, I will quote section 3244 of the Revised Statutes of the United States. It is:

Any person who rectifies, purifies, or refines distilled spirits or wines by any process other than as provided for on distillery premises, and every wholesale or retail liquor dealer who has in his possession any still or leach tub, or who keeps any other apparatus for the purpose of refining in any manner distilled spirits, and every person who without rectifying, purifying, or refining distilled spirits shall, by mixing such spirits, wine, or other liquor with any materials, manufacture any spurious, imitation, or compound liquors for sale under the name of whisky, brandy, gin, rum, wine, spirits, cordials, wine bitters, or any other name is to be regarded as a rectifier and as being engaged in the business of rectifying.

It will be observed that by the provisions of this statute that any person "who rectifies, purifies, or refines distilled spirits" is not the person who concocts imitation or spurious spirits, but it is the person who does not rectify, purify, or refine distilled spirits, but who by mixing such spirits with any materials and thereby manufactures any spurious imitation or compound liquor under the name of "whisky" is the man chiefly that the law is after. He has the anomalous authority under the law to concoct a spurious whisky by putting anything in it he pleases, such as wood alcohol or anything else that his cupidity may suggest. What does the term "spurious" mean as used in this statute? It means "not proceeding from the true source or from the source pretended—not genuine—counterfeit—false—adulterated—bastard.

I admit that this is a remarkable statute. The Government, while it protects the distillers who avail themselves of the advantages of the "bottled-in-bond act," yet licenses a rectifier, who needs no distillery or warehouse in his business, and is authorized under a blanket license to set up his business 600 feet from a distillery and by artificial means imitate, corrupt, and adulterate the quality of the pure whisky that the Government has guaranteed and by false label send this spurious article to the public as being "pure whisky." It is a gigantic fraud, and any bill purporting to be a "pure-food bill" will fail in its mission if it does not invoke the strong hand of the law against such hypocrisy and deception.

On the 13th of March the regular session of the Kentucky legislature adjourned. The bill to tax the rectifiers $1.50 per wine gallon for their products had failed of passage. Kentucky taxed her railroads and all other interests, but the products of the blenders substantially escaped State taxation. Governor Beckham, with a courage aided by an irresistible sense of right and justice, within a few hours after the term of the regular session of the legislature adjourned, issued his proclamation for the general assembly to reconvene at once in extra session. It was a brave and commendable act on the part of the governor of Kentucky. I do not hesitate to say that such men as Beckham, LA FOLLETTE, Folk, and Cummins are the men that the people are turning to to protect and uphold their interests. In his proclamation recalling the legislature Governor Beckham said:

A powerful interest present with its astute and capable representatives has been able for a week or more to block all legislation upon the important question of your revenue affairs, and as chief executive I give you this opportunity to determine whether or not this industry shall bear its just proportion of the burden of taxation. Its power has been so great that the whole system of our revenue, the condition of the State treasury, and the welfare of the Commonwealth have been threatened by its opposition to the recent revenue bill.

It was declared in bold words during that extra session that the rectifiers, the blenders, who imitate the genuine Kentucky whisky and prostitute the proud name of the State, are as much counterfeiters and forgers as the men who utter spurious coin or premeditatedly inscribe the name of another on an unauthorized check. It is true that the direct issue before Governor Beckham and the legislature was the levying of a State tax on an escaped and untaxed article.

The governor called the legislature back to levy this tax, and the country rejoices that the victory he won over the rectifiers and blenders was notable and magnificent in its results. It is said that more than one hundred millions of this spurious whisky—blended—are put on the market from some thirty-four States in the Union. The people of Kentucky and other States are being rapidly educated to know what spurious imitation is, as compared with the whisky to which nothing is added and nothing taken from, and they intend to destroy and break down the counterfeiter and his business. I hope, Mr. Chairman, that I can, in my humble efforts, contribute something to this great and beneficent work. I will read to the committee just a few extracts from notable speeches that were made in that extraordinary session of the Kentucky legislature as giving a good evidence of the esteem in which the business of the "rectifier" and "blender" is held in that State. Listen:

"I would be ashamed to go back to my people," said Senator Chinn, as his lifted voice rang through the senate chamber, "and tell them that I had voted against a tax on this counterfeiting business. The rectifiers may be considered reputable business men by some of the senators here, but as for me, I consider that the deception which they are forcing upon the public by labeling their new mixtures, which they can make in a few minutes, as famous old Kentucky whisky, 8 or 10 or 12 years old, puts these gentlemen in the class of the 'bunko steerer,' the 'green-goods men,' and the 'gold-brick' fakir, who are all outlawed by the good people of Kentucky."

The man who sells you a gold brick, gilded like it was gold and which by chemical test shows that it was brass, is put into State prison as soon as the law can get hold of him; but the man who sells you a bogus whisky gets rich on the trick and becomes an influential citizen. If I had my way I would require them to tell the truth about these mixtures they are labeling like real whisky, and stop committing this fraud upon the public.

I want every man, woman, and child in my district to know what these rectifiers are doing. When a woman goes to a drug store for pure whisky for a sick infant, I don't want her to get rectified dope.

Senator Campbell, the orator of the Kentucky senate, flayed the rectifiers, branding them as counterfeiters of the worst type.

Senator Campbell told the senate that the facility with which some rectifiers produce any sort of liquor on a moment's notice had a striking parallel in Goethe's Faust. "The devil," said Senator Campbell, "asked the good people of the village what sort of drink each desired. Some asked for Tokay wine; some asked for champagne; some asked for port; some asked for sherry, and, lo and behold, the devil proceeded to draw all these different beverages from one and the same cask."

This was pretty good work, but the rectifier beats the devil. He can not only draw you brandy, rum, gin, and whisky from the same vat, but he can make them all eight years old for you while you wait.

I now submit, Mr. Chairman, the letters of Mr. Hough and Mr. Taylor, which I consider instructive contributions on this question.

KLEIN & HOUGH,
St. Louis, May 11, 1906.

Hon. WILLIAM RICHARDSON,
House of Representatives, Washington, D. C.

DEAR SIR: You appear in the CONGRESSIONAL RECORD of the 7th instant to have made the following statement to the House:

"I desire the House to understand that we had uncontradicted and reliable testimony before the Interstate and Foreign Commerce Committee on this one article that there were 60,000,000 gallons of whisky made in the State of Kentucky annually and that only 15,000,000 of it was pure. The rest is altogether adulterated."

If there was no categorical and specific denial and contradiction of such a statement before the Interstate and Foreign Commerce Committee, it was due to the fact that when I requested an opportunity of replying to what had been said on the whisky question the opportunity was denied me.

If, however, the opening statement which I made on the whisky subject was understood, there was ample therein to refute the statement which you repeat.

For your information, therefore, I will say that such a statement is absolutely and unqualifiedly false, unless the word "pure" is used in a perverted sense, and as indicating something different from what the public generally understands the meaning of such word to be, and un-

less the word "whisky" is also used in a perverted sense, as applying to a product which was never entitled to be called whisky during a period of over six hundred years after the term "whisky" originated.

As a matter of fact, the article which you refer to as whisky under the 15,000,000 classification is an article which is not fit to be given to a stevedore. It is neither whisky in the strict meaning of that term nor is it pure, and if it ever becomes fit to drink or ever becomes entitled to be called whisky it is due solely to a subsequent process to which it may be subjected after distillation, which has the effect of purifying and refining the article, and adding thereto coloring and flavoring; but no matter what the process to which it may be subjected after distillation, if it does not accomplish rectification and purification, and if it does not result in the addition of both coloring and flavoring, it not only is not pure, but it is not whisky in the correct meaning of the term.

That which you refer to under the classification of 60,000,000 is real whisky, and while the degree of purity varies in whisky, the statistics show that it is not only more pure—if I may use such an expression—but more wholesome than the article which you refer to as pure whisky, which no intelligent physician would ever prescribe to an invalid.

Everything which was said derogatory to the so-called "blended" or "rectified" whisky hinged upon a play of words in which terms are used in a different sense than that in which they are commonly understood.

If I should be given authority to establish a definition for flour, I could establish such a definition as would make it apply only to a product made by certain patented machinery, in the light of which it could then truthfully be said that no flour is manufactured, either in the State of Alabama or the State of Minnesota; in consequence of which, if anyone in either of those States, making in the old-fashioned way what has heretofore been regarded as flour, should ship the product into another State, labeled flour, he could be prosecuted under the provisions of a Federal pure-food bill as shipping something not honestly labeled.

Is this the kind of legislation which the country wants or would sanction under the title "Pure food?"

If the so-called "pure-food bill" only incorporated the idea of "honest labeling," it would contain much of merit, and I presume there would not be heard a voice raised in opposition to it.

But when, in addition to the principle of honest labeling, there is incorporated an authority to establish definitions and standards, and the denial of the right to ship from one State to another an article which is adulterated or misbranded within the meaning of the bill as it shall be construed by a Department of the Government, in the light of the definitions and standards to be established by it, there is injected into the measure a most objectionable element, offensive alike to our sense of propriety and our theories as to the right of the individuals of each community to determine for themselves what they shall eat and drink.

The bill is not an honest measure, because nothing can be honest which sails under false colors; and under the guise of regulating interstate commerce, the bill undertakes to determine what the people of each State shall eat and drink, irrespective of their own views on the subject, by "preventing the manufacture, sale, or transportation" of articles of food and drink which are adulterated or misbranded according to the views of a certain bureau.

How can there be any interstate commerce in something the manufacture, sale, or transportation of which is prohibited or prevented? And how can a person in any State be said to exercise the right of choice if an article which he might choose is prohibited from being shipped to him?

The theory of State rights has been trailed in the dust by the hands of those who should be expected to uphold it; but surely those hands will not upraise the standard of paternalism in its place.

The people of each State should be entitled to determine for themselves what they should eat or drink.

The Supreme Court of the United States, in Gibbons *v.* Ogden, said:

"It is legislation which can be most advantageously exercised by the States themselves."

And in the case of Crossman *v.* Lurman (192 U. S., 197) the same court said:

"If there be any subject over which it would seem the States ought to have plenary control, and the power to legislate in respect to which it ought not to be supposed was intended to be surrendered to the General Government, it is the protection of the people against fraud and deception in the sale of food products."

It has been asserted that the necessity for Federal legislation of this character was due to the fact that the States could not protect themselves against adulterated and misbranded articles in an original package, but on this subject the Supreme Court said in the case of Plumley *v.* Massachusetts (155 U. S., 479):

"And yet it is supposed that the owners of a compound which has been put in a condition to cheat the public into believing that it is a particular article of food in daily use and eagerly sought by people in every condition of life are protected by the Constitution in making a sale of it against the will of the State in which it is offered for sale because of the circumstance that it is an original package and has become subject to ordinary traffic. We are unwilling to accept this view."

If it were true that the States were unable to cope with the question by virtue of the original-package theory, there might be some excuse for adopting the Jesuitical maxim that "the end justifies the means," and enacting police regulation under the guise of regulating interstate commerce; but in view of these clear and unequivocal expressions of the highest tribunal in the land, how can any man, North or South, justify his support of a measure in the form of the pending pure-food bill?

Respectfully,

WARWICK M. HOUGH.

FRANKFORT, KY., *May 21, 1906.*

Hon. WILLIAM RICHARDSON,
House of Representatives, Washington, D. C.

DEAR SIR: It is highly interesting to read the dispassionate opinion of Attorney Hough, of the National Wholesale Liquor Dealers' Association of America, dated May 11, 1906, to the effect that the rectified and blended Kentucky product is the real Kentucky whisky, in the light of the action of the Kentucky legislature at a special session called by the governor of the Commonwealth on March 14, 1906, for the express purpose of levying a tax upon the rectified or blended so-called "Kentucky whisky," which session closed after one of the most elaborate exposures of the rectifying and blending fraud ever given to the public or made by any legislative body on any commodity of food or drink.

The Kentucky whisky which you represented as appearing in the markets to the extent of about 15,000,000 gallons per annum, already taxed by the State of Kentucky prior to the call of the governor, was exploited in speech after speech as possessing every virtue, whereas the 45,000,000 gallons of the rectified or blended article was denounced in speech after speech as a spurious imitation of the genuine Kentucky product, and on March 26, 1906, this spurious Kentucky whisky was taxed as an adulterated article—the bill so classifying it.

The subject-matter upon which Attorney Hough offers you his dispassionate opinion appears to us, therefore, as res ajudicata.

It is highly entertaining to read the dispassionate opinion of Attorney Hough, of the National Wholesale Liquor Dealers' Association of America, an association of rectifiers and blenders, on May 11, 1906, to the effect that for six hundred years the rectified and blended product has been exclusively entitled to the name of "whisky," when one of the greatest court cases ever tried in the United Kingdom of Great Britain and Ireland on the subject of a food commodity resulted in an opinion by Magistrate Fordham, of the North London police court, on February 26, 1906, by which the integrity of Scotch and Irish whiskies was up-held against the sophistication of the rectifiers and blenders, and it was decided that nothing could be Scotch or Irish whisky to which had been added a single foreign ingredient.

The dispassionate views of Attorney Hough gratuitously conferred upon you on May 11, 1906, therefore, I might suggest, are ex post facto, and I might further suggest that, whatever colorable plausibility similar statements made by him before your committee on February 19, 1906, may have had, they lost that colorable plausibility when, on the 26th of the same month, seven days afterwards, the good news was cabled to this country giving the decision of the London magistrate.

The importance of this Scotch and Irish whisky case is only understood when it is known that the entire trade of the United Kingdom was involved in the issue, and that the specific prosecutions were made merely as a test case, and that the blenders and rectifiers had as their counsel the Hon. Frederick Moulton, perhaps the leading barrister of London, to whom they paid a fee of $50,000 for his unsuccessful effort to prove that the fictitious Irish and Scotch whiskies of the blenders and compounders were the real articles.

In delivering his decision from the bench, Justice Fordham said, among other things:

"The misrepresentation with regard to Irish and Scotch whisky has become very usual, and its adulteration by the addition to it of patent still spirits—neutral spirits—made largely from maize, has been greatly increasing for years, and the result has been taken by the unsuspecting public until the so-called 'blenders' have dared to concoct, place upon the market, and sell to the retailers raw, new patent still spirits with a mere dash of Irish or Scotch whisky in it as 'Irish whisky' or 'Scotch whisky.' The retailer has, in fact, sold this effort of adulteration to the public under the description by which it was sold to him. It is time the fraud upon the public in the matter of the sale of whisky was stopped, and though doubtless these prosecutions are very costly to those who engage in them, the information obtained and published in the course of the hearings of these two summonses is most valuable, and the result of this trial seems to me to afford ample justification for the prosecution. Great blame attaches, in my opinion, to the blenders who supplied Wells and Davidge. I do not think that much moral blame attaches to the defendants themselves, as I believe they trusted to those who sold the articles to them."

It strikes the writer as unfortunate for the argument of Attorney Hough that he should have chosen and elected to use flour in order to illustrate to you the unfairness of the propsed national pure-food legislation.

It is in connection with this commodity of flour that the Federal Government has one of its best precedents for all that it proposes to enact into law through the pending pure-food bill.

Sections 35 to 49, inclusive, of the act of June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," provides that whenever wheat flour is sophisticated or "blended"—the statutes use the word "blended"—it must be marked, note you, not "blended flour," but "mixed flour," in plain black letters not less than 2 inches in length, together with the true weight of such package, the names of the ingredients composing same, the name of the maker and the packer, etc. (See sec. 36 and sec. 37.)

This mixed-flour law and the regulations of the Commissioner of Internal Revenue are set forth in series 7, No. 25, of that Bureau under the title of "Regulations concerning mixed flour under the internal-revenue act approved June 13, 1898."

If the Federal Government will pattern after its action as to flour, now that Attorney Hough has called your attention to it, it will make the blenders, compounders, and rectifiers of spirits mark their spurious imitation with the word "mixed," and it will make them tell upon the labels in letters that he who runs may read every ingredient which they have used in the concoction of the aritificial substitutes.

It is interesting to note in reading over the unsuccessful argument of the great attorney, Mr. Frederick Moulton, who lost the test case for the blenders and compounders in the London court, that he presented to the magistrate the same arguments about flour which Mr. Hough has kindly presented to you.

Mr. Moulton did this on December 18, 1905, and on the 6th day of the hearing before the magistrate. Mr. Hough must have been embarrassed for an argument when he had to take one from the unsuccessful speech of the English defender of the rectifiers and blenders across the water.

There is even a greater similarity, however, in the fact that the magistrate of the North London police court could not appreciate the value of the views of the Attorney Moulton, and the Kentucky legislature can not appreciate the value of the views of Attorney Hough as to what constitutes Kentucky whisky.

It is interesting to place in juxtaposition the views of Attorney Hough on Kentucky whisky and the solemn decision of the highest court of the Commonwealth, the Kentucky court of appeals, on the same subject-matter.

Said court, on March 17, 1905, having adjudicated as follows:

"The proof shows that the rectifiers and blenders take a barrel of whisky and draw off a large part of it, filling it up with water, and then adding spirits or other chemicals to make it proof and to give it age, bead, etc. The proof also shows that from 50 to 75 per cent of the whisky sold in the United States is blended whisky. It is a cheaper article and there is a temptation to simulate the more expensive whisky."

In the April term, 1905, the attorney-general of the State of Kentucky filed with the Kentucky court of appeals a brief in behalf of the Commonwealth against the rectifiers and blenders for the collection of the tax levied upon them by an act of March 24, 1904.

While this suit of the Commonwealth involves only the issue as to the constitutionality of the act entirely upon the question of its having originated in the Senate, the attorney-general went into the subject-matter of taxation, and as chief legal defender of the Commonwealth of Kentucky, explained that it was a spurious imitation of the genuine Kentucky whisky.

The attorney-general set forth to the court its own decision in a previous case. He quoted from volume 9, page 616, bottom of right-hand column, of the Twelfth Census of the United States, as follows:

"Most of the distilled liquors consumed as a beverage by the American people pass through rectifying houses. The different classes of rectified spirits range from the cheapest concoctions of neutral spirits and drugs to the simple blending of young and old whisky."

He quoted from the Courier Journal market report of September 28, 1903, as follows:

"A trade publication calls attention to the fact that 8,000 barrels of whisky leave Louisville every week, though much of this is compounded goods made in the rear of rectifying houses or upstairs out of Peoria spirits and drugs and about 20 per cent of pure whisky added to give it flavor."

He stated in his brief to the court of appeals that in the State of Kentucky during the fiscal year ending June 1, 1904, there were in operation, as shown by the report of the Commissioner of Internal Revenue, 200 distilleries, and during the same period of time there were eighty-one rectifying plants in full operation, and that, due to the fact that there is an enormous profit in the rectifying of whisky, and to the fact that the business is easily operated, it requires no great outlay of money in the building and equipping of a plant, as, on the other hand, is the case with the distilleries.

The attorney-general further says in his brief:

"The rectifier, in a small cellar and with the proper materials, can turn out a greater quantity of whisky in a day than can the distiller in many months of labor. The Federal statutes permit a rectifier to spuriously imitate whisky, but require him to keep at a distance of 600 or more feet from a distillery. A rectifier in Kentucky needs no distillery plant, nor does he need a bonded warehouse, for under the law he can not carry the business on in either.

"As has been stated, give the rectifier a small room, a vat for mixing his spurious imitation, and then by the right given him under section 3244 of the Federal Statutes he brings into Kentucky his neutral spirits from Illinois, oil of bourbon from Ohio, prune juice from New York, bead oil from Massachusetts, and aging oil from Michigan, and with a few drops of real whisky in an incredibly short time he turns out barrel after barrel of his imitation whisky and labels it 'Kentucky whisky, 20 years old,' although the *whisky* used is not one-fiftieth of the volume of such liquor turned out, and instead of being 20 years old, the age of the mixture may be only a few days."

It appears to this writer that if any Member of the National House of Representatives will read the conclusions of the Committee on the Judiciary, as set forth in its formal report to the House, No. 2601, Fifty-second Congress, he can not fairly remain in ignorance of the status of the rectifier, blender, and compounder, since the investigation covered by this report was made under a resolution approved by the House itself and for the purpose of ascertaining "whether rectifiers, under license granted them by the Government, adulterate, pollute, or otherwise drug the product purchased or distributed by them."

It is interesting to note that the committee disagreed with the opinion of Mr. Warwick M. Hough, and has formally given the National House of Representatives the benefit of its conclusions, after making the investigations imposed upon it by a vote of the House.

Among the important conclusions of the Committee on the Judiciary, as officially reported to the House in the above-mentioned document in 1893, on page 3, are the following:

"These compounds are now extensively made by mixing with the spirits certain oils, ethers, and coloring fluids now extensively manufactured in the United States." "The manipulation of these goods is done by dealers under authority and protection of a license granted to them as rectifiers." "Neutral or cologne spirits possess the same alcoholic strength as whisky, and, being susceptible to the most delicate flavor and color, can easily and with little expense be given the odor and appearance of aged whisky, which may be, and no doubt are, extensively disposed of on the open market as straight goods. With the alcoholic basis, bourbon and rye whisky, cognac brandy, Jamaica rum, gin, cordials, etc., by the use of oils, essences, and coloring mixtures, are produced from the same tank."

On page 4 we find a conclusion of the committee which would seem to embarrass the contention of Mr. Hough entirely.

The committee reports to the House as follows:

"The straight goods are unquestionably preferable, and in so far as the Federal Government has the power, it should protect the public against the deception that is now being practiced."

The committee's idea of the significance of the word "pure" and the idea of Attorney Hough seems to differ, with the committee in the majority.

Even the Deputy Commissioner of Internal Revenue testified before this committee that "the making of any spurious imitation was rectifying or blending."

The question of the therapeutic value of genuine whisky to which Mr. Hough refers in connection with the 15,000,000 gallons made in Kentucky was thoroughly discussed before this committee, and Doctor Wiley made the following statement in his testimony:

"I do not consider that any mixture can imitate the straight goods perfectly, and for that reason when used for medicinal purposes it would be better and preferable in every case to have the straight goods."

The same point was insisted upon by the physicians who testified before the North London police court, and their contentions were upheld by the decision of the magistrate above referred to. (See mention of Pharmacopœia further on.) I do not think it a perversion of the word "pure" to say that certain arsenic, free from sophistication, is pure, although in its purity it may be toxic.

I do not think that certain vinegar, free from sophistication, can be denied the title of "pure" because it contains acetic acid—without which it can not exist—because of the fact that acetic acid is toxic.

I do not think it is a perversion of the word "pure" to apply it to a whisky, when such whisky exists in its original integrity, free from sophistication, because that whisky possesses the secondary products which came over in distillation, and without which it would not be whisky.

Doctor Wiley has explained his use of the word "pure" again and again in the press as being properly applied to a natural or genuine article, free from sophistication.

Mr. Hough says in his letter to you that all of the 60,000,000 gallons is pure in a varied degree.

The Kentucky legislature does not agree with him.

The North London police court in its decision as to what constitutes Scotch and Irish whisky does not agree with him.

The Committee on the Judiciary of the House in its report of 1893, above referred to, does not agree with him.

The State chemist of Kentucky, who read an exhaustive paper on the subject of whisky before the International Pure-Food Congress at St. Louis in 1904, does not agree with him.

The State chemist of Minnesota, Dr. Julius Hortvet, upon whom has been perpetrated a bogus interview, does not agree with him, as is shown by Doctor Hortvet's formal description of the rectifier or blender (as he is found in the State of Minnesota) in the tenth biennial report to the governor of Minnesota, under date of 1905, in which he says:

"The well-known quick methods of imparting age to liquors are among the most aggravating forms of sophistication. According to one method, the result is said to be attained by adding 4 to 8 ounces of ammonia water to 40 gallons of spirits, and in the production of rums, whiskies, and brandies an addition of about 1 ounce of a so-called 'raisin essence' to 1 barrel of 40 gallons is claimed to have an aging effect. The manufacturer of compounded liquors asserts that he has discovered the 'rational method.' He characterizes the method of the distiller as 'crude' and 'old fashioned,' and claims for his own products certain advantages as to purity, quality, and delicacy of aroma. Granting all these advantages, as many, in fact, as he may choose to enumerate, the fact can not be overlooked that the manufacturer of spurious liquors has the supreme advantage of being an expert advertiser. His products are all 'old-time favorites;' they bear the names of localities long famed for genuine products, and their labels specify the number of years during which they have been stored for the purpose of aging." (See pp. 433–435.)

The food commissioner of Pennsylvania does not agree with Mr. Hough. On page 24 of his report for the year 1904 appears the following:

"Investigations made demonstrate the fact that so-termed 'pure rye whisky' is almost a myth, as raw alcohol, prune juice, and chemicals constitute the main ingredients of many of the 'compounded' or 'blended' pure rye (?) brands. This mixture may suit some palates, but the purchaser is deceived and pays for what he does not receive. We have need of some stringent laws regulating the sale of alcoholic beverages," etc.

The assistant food commissioner of Illinois, in an address before the international pure-food congress at St. Louis in 1904, said:

"It is stated by authority of the Government that some 80 per cent of all whiskies now on the market in the United States are adulterated, base imitations, and injurious decoctions. Figures from Pennsylvania alone show that 93 per cent of the whisky sold there is what is technically termed 'blended whisky.' This means that for a barrel of 48 gallons some 40 gallons of cologne spirits are used, which has no taste, but has a pernicious effect upon the human system. To this 40 gallons of cologne spirits are added about 4 gallons of straight whisky, 2 gallons of prune juice, 2 gallons of peach juice, and some flavoring extract. The decoction is stirred up, bottled, given a fancy name, and sold for from 75 cents to $2 and even more per bottle."

I regret that Mr. Hough has not seen fit to give some other authority than himself in support of his contention about the word "pure."

Attorney Hough says if his "opening statement" before the committee on the whisky subject was understood you would be set right.

I have referred to the record to find out what his "opening statement" was, and I find it to be as follows:

"I appear as attorney for the National Wholesale Liquor Dealers' Association of America."

This "opening statement" does, in fact, shed some light.

The light it sheds is augmented by the statement which immediately follows it, said statement being made by Chairman HEPBURN, viz: "We will ask you to stand aside, as we are endeavoring to get facts. We will have lawyers when we need them."

It is noticeable in this record also that the chairman did not even put the attorney for the National Wholesale Liquor Dealers' Association under oath.

But for fear that we might miss something of value of Attorney Hough's contention, let us go a little further into his "opening statement." He says:

(1) "The bill does not apply to all kinds of liquors.

(2) "The term 'whisky' was applied originally to the blended or compound article, and never applied to the straight distillate at any time in the first six hundred years during which the term was a part of the vocabulary of the English language."

If by statement (1) he meant to convey the idea that the bill as it stood drafted at the time did not embarrass the pure whisky of the legitimate distiller when the bill required same to be deemed adulterated, "if any substance has been mixed and packed with it, so as to reduce or lower or injuriously affect its quality or strength," and he considered that the pure whisky of the distiller was not affected thereby, he paid that product the compliment of saying that it had not been mixed and packed with any substance so as to reduce or lower or injuriously affect its strength and quality.

When he took the position that it was not embarrassed by the bill when that bill said "that it shall be deemed adulterated if any substance has been substituted wholly or in part for the article," and maintained that this requirement did not attach to genuine whisky, he paid it a compliment.

He paid it a compliment again in assuming that no valuable constituent of the article had been wholly or in part abstracted.

He paid it a compliment again when he assumed that it had not been mixed, colored, coated, or stained in a manner whereby damage or inferiority was concealed.

With regard to the word "added," Mr. Hough appeared before the Senate Committee on Manufactures in 1904 and plead with it to strike out the word "added" from the pure-food bill then under discussion.

The Senate committee turned him down.

Senator FORAKER on February 19, 1905, offered an amendment to the Heyburn bill to strike out the word "added."

On page 2690 of the CONGRESSIONAL RECORD, of February 19, 1906, you will find Senator HEYBURN'S statement that "the word 'added,' after very mature consideration by your (the Senate) committee, *was adopted* because of the fact that there is to be found in nature's products as she produces them," etc., and his masterful defense of this word "added" in the bill.

You have, of course, noted that when the amendment came to the vote the Senate turned it down by an overwhelming vote and kept the word "added" in the bill, although Senator FORAKER had had the clerk at the desk read a letter from an unknown party at Cleveland, Ohio, setting forth the views of a famous expert as to why the

word "added" should come out, said expert being described in the letter as one *Warwick M. Hough*.

I think the London magistrate has disposed of the issue raised by (2).

I note that Attorney Hough does not question the correctness of your figures, so that the only real question he leaves us to determine is the true character of the 15,000,000 gallons and the true character of the 45,000,000 gallons of Kentucky whisky.

He says that the species represented by your 45,000,000-gallon classification is purer than the species represented by your 15,000,000-gallon classification.

This is one of the nicest illustrations of ipse dixit that the writer has ever noticed before in polemic correspondence.

Against this ipse dixit of Attorney Hough I have now placed for you the Kentucky legislature, the Kentucky court of appeals, the Kentucky attorney-general, and the Kentucky State chemist, and think that I can afford to rest my case.

In my statements before your committee I said:

"If you take the rectifier and discuss with him before any body of men the comparative values or qualities of the output of the distiller and that of the compounder or blender or rectifier, he will tell you in the course of the argument, as Mr. Hough said before the Pure-Food Congress, that the rectified, blended, or compounded article is superior to the distiller's output which has been aged, because this distiller's output which has been aged possesses certain secondary products which are obnoxious and deleterious, and when you say to him, 'Then, in the name of fair play, won't you allow the privilege to be accorded to you to parade the superiority of your product before the public by identifying it in such a way as to distinguish it and free it from any confusion with the output of the distiller, which you decry; won't you accept that privilege?' you will find that there is always a reason why he does not want to do it."

I have met Mr. Hough three times before various bodies. He went before the International Pure-Food Congress, at St. Louis, and made the same argument which he is making to you.

He decried the whisky of the distiller, but notwithstanding his disparagement, that congress unanimously indorsed the bottling-in-bond law.

Now, as Mr. Hough understands it, the pure-food bill will require the compounders and blenders to put out a pure article and notify the public of its virtues.

Mr. Hough tells us that it is going to allow the straight whisky of the distiller to retain the secondary products, which he disparages, and he agrees that it is going to put the compounder and blender on a pedestal where the great Government of the United States will virtually say to the people: "This product has no poison added to it. This product comes to you now sanctioned by the officials of the Government under the operation of the national pure-food bill. This product is not the distillers' product. This product was not made at one of those distilleries and aged in one of those bonded warehouses, having all the secondary products left in it that came over in distillation and were oxidized by age. No! No! It is the synthetic product of a great blender, or a great rectifier, or a great compounder, who has discovered and has long known and practiced the superior methods of producing beverages"

Why should Mr. Hough have placed the bar of inviolate State rights against this blessing to himself, his association, and the American public?

He says the theory of State rights has been trailed in the dust by the hands of those who should be expected to uphold it.

I see in the CONGRESSIONAL RECORD of May 7 (page 6629) your language on this particular subject, and in answer to Mr. Hough I will say in a paraphrase of your words:

"I have been taught, Mr. Speaker, just as thoroughly as my friend from the bosom of the rectifiers and blenders, what are the rights of State; I have been taught at the same time that the Federal Government, in the exercise of its lawful and constitutional functions, has some rights also."

The writer could pursue the points raised by Mr. Hough still further, but apprehends that he should not trespass upon your patience at greater length.

There is one point, however, which I shall incidentally make.

On page 21, lines 22, 23, 24, and 25, there is what I consider a vicious amendment in the bill as it came from committee.

While the general clauses of the bill forbid imitation, this amendment on page 21 fully relieves the blenders, compounders, and rectifiers from the operation of those clauses, in that by specifically stating what a blend is it opens up the path for imitation ad infinitum, and exempts this class of imitation from the operation of the bill by describing a blend.

Attorney Hough says in his letter to you that everything which was said derogatory of the so-called "blended" or "rectified" whisky hinged upon a play of words.

I was not conscious of the fact that in my speech before your committee I was playing upon words when I endeavored to explain the difference between the genuine whisky of the distiller and the artificial imitation of the rectifier and blender.

I doubt if Doctor Wiley thought he was playing upon words when he showed your committee how the rectifiers operate.

I do not think that the members of the Kentucky legislature were playing upon words when they called the output of the blender or rectifier a "Kentucky counterfeit;" and I do not think that the magistrate of the North London police court was playing upon words when he said, "The so-called 'blenders' have dared to concoct, place upon the market, and sell to the retailers raw new neutral spirits, with a mere dash of Irish or Scotch whisky in it, as 'Irish whisky' or 'Scotch whisky.'"

I do not think the Judiciary Committee of the House was playing upon words when it concluded that rectifiers adulterate, pollute, and otherwise drug their product.

The United States Pharmacopœia does not even recognize the so-called "whisky" of the compounder, rectifier, or blender. Its definition and standard for whisky exclude the product which Attorney Hough makes whisky by his ipse dixit.

It may interest you to know that in order to reassure myself beyond any possibility of a doubt as to the exact attitude of the revision committee of the Pharmacopœia I addressed a letter to Professor Remington, of Philadelphia, chairman of said committee, and asked him to state in categorical terms whether or not the Pharmacopœia recognized neutral spirits as whisky.

He replied that the Pharmacopœia did not recognize neutral spirits as whisky, and, in fact, did not recognize it at all, because it was simply a neutral product. He called my attention then to the terms of the definition of whisky used by the Pharmacopœia.

These terms, as stated above, rigidly exclude the bogus product defended by Attorney Hough.

With kind regards and high respect,

EDMUND W. TAYLOR.

P. S.—It is interesting to note some of the further language used by the Kentucky court of appeals in its whisky decision of March 17, 1903, viz: "The appellee advertised his whisky extensively, and we think that one reading these advertisements, who is not familiar with the whisky trade, would understand that it was a straight whisky, and without going into the minutæ of the evidence, we deem it sufficient to say that we are satisfied from it that the appellee intentionally labeled and advertised his whisky as he did to pass it off not as blended goods, but as the whisky of appellant, which had attained a very high reputation as pure Kentucky distilled whisky, and that his thus selling his blended whisky was a violation of appellant's rights. Appellee's whisky was a cheaper article and could be sold at prices at which appellant could not afford to sell his whisky. The selling of the cheaper goods under labels and advertisements which to the uninitiated would indicate that it was appellant's whisky, so well advertised as a first-class article, can not be sanctioned."

The whisky which the Kentucky court of appeals described as the pure Kentucky distilled whisky belonged to the 15,000,000-gallon classification.

The stuff passed off not as blended goods, but advertised and sold as straight whisky, was an excellent sample of the 45,000,000-gallon classification which Attorney Hough champions as the real pure Kentucky article.

Mr. ADAMSON. Mr. Chairman, in my anxiety to conclude my remarks and yield to others, I omitted to call attention to an unanswerable reason why this bill should not pass, and that is, that the act for the support of the Agricultural Department is a law which carries all necessary and constitutional provisions. It is repeated in the act that is now certain to become a law. I will ask the Clerk to read to the House from line 7, on page 62, to line 20, on page 64 of the bill.

The CHAIRMAN. The section will be read in the gentleman's time.

The Clerk read as follows:

To investigate the composition, adulteration, false labeling, or false branding of foods, drugs, beverages, condiments, and ingredients of such articles, when deemed by the Secretary of Agriculture advisable, and also the effect of cold storage upon the healthfulness of foods; to enable the Secretary of Agriculture to investigate the character of food preservatives, coloring matters, and other substances added to foods, to determine their relation to digestion and to health, and to establish the principles which should guide their use, and to publish the results of such investigations when thought advisable; to enable the Secretary of Agriculture to investigate the character of the chemical and physical tests which are applied to American food products in foreign countries, and to inspect before shipment, when desired by the shippers or owners of these food products, American food products intended for countries where chemical and physical tests are required before said food products are allowed to be sold in the countries mentioned, and for all necessary expenses connected with such inspection and studies of methods of analysis in foreign countries. To investigate, in collaboration with the Bureau of Animal Industry, the chemistry of dairy products and of adulterants used therein, and of the adulterated products; to determine the composition of process, renovated, or adulterated and other treated butters, and other chemical studies relating to dairy products, and to make all analyses of samples required for the execution of the law regulating the manufacture of process, renovated, or adulterated butters. To study, in collaboration with the Weather Bureau, the Bureau of Plant Industry, and agricultural experiment stations, the influence of environment upon the chemical composition of wheat and other cereals, with especial reference to the variation in the content of gluten, and the suitability of barley for brewing and other purposes. To investigate the chemical composition of sugar and starch producing plants in the United States and its possessions, and, in collaboration with the Weather Bureau, the Bureau of Plant Industry, and agricultural experiment stations, to study the effects of environment upon the chemical composition of sugar and starch producing plants. And the Secretary of Agriculture, whenever he has reason to believe that any articles are being imported from foreign countries which are dangerous to the health of the people of the United States, or which shall be falsely labeled or branded either as to their contents or as to the place of their manufacture or production, shall make a request upon the Secretary of the Treasury for samples from original packages of such articles for inspection and analysis, and the Secretary of the Treasury is hereby authorized to open such original packages and deliver specimens to the Secretary of Agriculture for the purpose mentioned, giving notice to the owner or consignee of the sampling of such articles, who may be present and have the right to introduce testimony before the Secretary of Agriculture, or his representative, either in person or by agent, concerning the suitability of such articles for entry; and the Secretary of the Treasury shall refuse delivery to the consignee of any such goods which the Secretary of Agriculture reports to him have been inspected and analyzed and found to be dangerous to health or falsely labeled or branded, either as to their contents or as to the place of their manufacture or production, or which are forbidden entry or to be sold, or are restricted in sale in the countries in which they are made or from which they are exported.

Mr. ADAMSON. Mr. Chairman, how much time have I consumed or yielded?

The CHAIRMAN. The gentleman has eighty-one minutes remaining.

Mr. ADAMSON. I yield to the gentleman from Texas.

Mr. HENRY of Texas. Mr. Chairman, in addressing the committee this morning on this bill I do not apprehend that I will change the mind of any gentleman here. I realize the fact that the American people and the Congress of the United States have drifted further this year from the old landmarks than ever heretofore. I recognize the futility at present of discussing abstract questions of State rights, and am not here for that purpose. We have reached that period in our history when

the President of the United States says, in a letter to a Member of this body, "I am willing to accept so and so from Congress;" "We are willing for you to do so and so." And Members of this body, who ought to have some independence, abdicate their functions to the Chief Executive. [Applause.] The fact is freely recognized by me that it is not fashionable to discuss the Constitution of the United States in this day and generation, and I am sorry to say that even among some gentlemen on this side of the House that instrument is not as popular as it should be. At every session of Congress we have sent to our desks a copy of the Constitution carefully annotated, construed by the decisions of the court. We have uplifted our hands and sworn to support it. And so far as I am concerned, as long as I am a Member of this body, when it becomes apparent to me that a bill is in flagrant violation of the Constitution, I intend to keep my oath of office as a Representative of the people. [Applause.]

The people have a fashion of coming to the General Government for everything. Soon they will be coming here for uniform laws upon the subject of divorce and marriage, on the subject of suffrage. Shortly they will come here inviting the Federal Government to invade the State of Mississippi and other States and pass uniform suffrage laws because the States will not do so.

Mr. Chairman, I read a very clever editorial yesterday morning in the Washington Post, stating that there was a movement in Kansas to elongate 1 inch the nether extremities of cotton shirts. Now, if under this bill it is constitutional to regulate pure food, it does seem to me that an amendment would be proper and in order providing that cotton shirts going into interstate and foreign commerce shall be extended at least 1 inch at the nether extremity for the health, comfort, and preservation of the people using them would be in order. [Laughter and applause.] Besides, such amendment would serve a double purpose. It would appreciate the price of cotton to the Southern States. It has been said by some one that if the Chinaman would only lengthen his shirt 1 inch, the price of cotton would immediately go up throughout the world. This reasoning is perhaps correct, and such legislation would not be much more ridiculous legislation than that before us.

Mr. Speaker, this bill has the following provision, which is at variance with the fundamental principles of this Government. Sections 10 and 11, on pages 23, 24, and 25, are radically vicious. In those sections it is provided that a Federal official and inspector may go into any manufacturing establishment in any State manufacturing products for shipment to other States and foreign markets, and may demand a sample of the manufacture of that factory; and if it is denied, the Federal Government can prosecute the owner of this factory for failing to furnish the sample. And such person may be fined not exceeding $100 and imprisoned not exceeding one hundred days or both. In addition, the expenses of inspection may be placed upon him. Was ever such monstrous doctrine contained in a bill passed by Congress? In the South we have canning factories everywhere. We have cotton-seed oil mills. We have flouring mills in almost every locality. By the provisions of sections 10 and 11 of this bill a Federal officer is authorized to go into any of these local establishments and demand a sample of their manufacture, and if it is refused the owner may be prosecuted, fined, and imprisoned. And that is not all. The expenses of every inspection at the hands of the Federal Government by further provisions of these two sections may be taxed against the owner of that institution.

Let me for a minute call attention of gentlemen to some of the fundamental principles long since established by judicial decision. Ah, gentlemen in one breath contend for a broad construction of the Federal Constitution, when they wish to pass a high protective tariff or other measures violative of the Constitution; but when the people call for control of railroads, when they demand that Federal judges shall not issue injunctions, that such judges shall not issue temporary restraining orders, you flee to the Constitution as a city of refuge and ask for its protection!

If we are going to regard the Constitution, if we intend to follow the decisions of the Supreme Court of the United States, we should certainly square our legislation in accordance with the settled law as thoroughly adjudicated. We have a great tribunal to determine and construe these questions. If we are going to follow them, let us pass laws in conformity therewith. If we are not going to respect them, why the necessity of a tribunal to adjudicate constitutional and legal questions?

A Federal officer can go into any local canning factory or cotton-seed oil mill, or flouring mill, or any other local establishment that intends to ship its products to another State or foreign country. Any advocate of this measure is defied to demonstrate that I am not literally correct. Let him speak out. No one answers and denies my proposition. Let us take the sugar trust case decided a few years ago by the Supreme Court.

That decision was right as a matter of law. Take that case, decided in 156 United States, where the American Sugar Refining Company purchased four sugar companies in Philadelphia, and combined them into a trust under one management. They were prosecuted by the United States for forming a trust. Yet when the cause went to the Supreme Court it decided that the four factories being in the city of Philadelphia and in the State of Pennsylvania were subject to the domestic laws of that State, engaged in manufacture and not subject to the laws of Congress; that Congress has no jurisdiction to legislate concerning them until their product became interstate or foreign commerce, although the products of the factories were intended for shipment to other States or foreign countries; that Congress had no power to touch manufacture in any State; that manufacture was not commerce, but "commerce succeeded to manufacture."

Mr. GAINES of Tennessee. Will the gentleman yield right there for an inquiry?

Mr. HENRY of Texas. Just one moment.

Mr. GAINES of Tennessee. Suppose they sell in that factory a hogshead of sugar to be shipped to Europe.

Mr. HENRY of Texas. Yes.

Mr. GAINES of Tennessee. It is actually sold and paid for.

Mr. HENRY of Texas. Yes.

Mr. GAINES of Tennessee. And the foreigner is there ready to ship it.

Mr. HENRY of Texas. Yes.

Mr. GAINES of Tennessee. Do you contend that the Federal Government has no right to go there and examine that hogshead to see that it is in proper sanitary condition to be shipped and to come in contact with the instruments of Federal and foreign commerce?

Mr. HENRY of Texas. I contend that we have power to regulate interstate commerce. We have plenary power in that respect; but until an article becomes interstate commerce it is not subject to the jurisdiction of the Federal Government. Nothing is clearer or more firmly established.

Mr. GAINES of Tennessee. I put a concrete proposition to you. Here it is, sold to the foreigner. He is there ready to cart it out onto the pavement and put it on the ship. Now, has the Federal Government a right to send an agent there to see that that hogshead is in a sanitary condition, so as to avoid smallpox, and things of that sort, in carrying it across the ocean?

Mr. HENRY of Texas. The decisions are just as clear and well defined on that proposition as is the intellect of the gentleman from Tennessee. They are perfectly plain. Whenever the article begins its journey as a part of interstate commerce then the jurisdiction of the Federal Government attaches, but not until that moment, not until it starts as interstate or foreign commerce.

Mr. GAINES of Tennessee. Has it not become an object of Federal commerce? Here is a complete contract, and the man ready to start with it.

Mr. HENRY of Texas. Then it would undoubtedly be subject to the jurisdiction of the Federal Government.

Mr. GAINES of Tennessee. I think so too.

Mr. HENRY of Texas. It would be well for us to return to the Constitution occasionally and refer to the decisions of our court. It seems as though there are some gentlemen even on this side of the House who do not care to refer to the opinions of the Supreme Court, and I will admit that there is getting to be a little prejudice against lawyers even on the floor of the House of Representatives. We have drifted far away from the old moorings, and while I realize that I am in a minority in opposing this bill, and perhaps the majority of the people of my State favor a pure-food bill, I shall cast my vote against it, because it not only strikes down States rights, but it demolishes the Constitution of the United States and nullifies every vestige of the decisions on questions we are discussing this morning. Let me commend to the gentleman the language——

Mr. GILBERT of Kentucky. Before the gentleman begins that may I interrupt him?

Mr. HENRY of Texas. Just for a moment.

Mr. GILBERT of Kentucky. The most difficult feature of the bill to me is this, that the man who violates the law and subjects himself to punishment is the man who does not violate the terms of any act of Congress, but who violates the terms of some rule prescribed by an Executive Department. Now, is not that of itself a pernicious feature?

Mr. HENRY of Texas. I was coming to that, and I had a note to make an argument on it.

Mr. Chairman, this bill provides that the Secretary of Agri-

culture, the Secretary of Commerce and Labor, and the Secretary of the Treasury Department may make rules in regard to this subject and may enforce those rules, and a citizen of any State violating the rules may be tried and punished before a Federal court for violating rules made by this trio of Cabinet officials.

Mr. GILBERT of Kentucky. And these rules may be changed by these officers?

Mr. HENRY of Texas. Of course they may all be changed. Here is an opinion, unanimously decided by the Supreme Court, where it held the State of Iowa had the right to prevent a brewery doing business in that State, and not only that, but to tear it down and literally destroy it, although it was making beer to be shipped to foreign countries and to other States. That the Federal Government had not and could not have any jurisdiction to prevent it, although every particle of beer made in the brewery was to go into interstate commerce.

And yet in this bill you provide that a Federal officer may go into a local factory, a little institution in which the citizens and the community may be interested, and demand samples there, levy taxes and inspection fees upon the owners, and they can be punished under the law if they refuse to submit to the jurisdiction of the Federal Government. If this bill had nothing else in it except that one provision I should vote against it.

The line is well defined between domestic commerce and foreign commerce, and between the jurisdiction of the Federal and the State governments. Until this year no one in either branch of Congress ever thought of police jurisdiction being lodged in the Federal Government. Never before did anyone contend that the police jurisdiction was not reserved to the respective States when the Constitution was adopted.

Now let me read from this decision, and I commend it to the gentleman from Tennessee [Mr. GAINES] and others, for it is directly on the question asked by him. The opinion was delivered by Justice Lamar, that great intellect from the State of Mississippi. He uses this language:

No distinction is more popular to the common mind, or more clearly expressed in economic and political literature, than that between manufacture and commerce. Manufacture is transformation—the fashioning of raw materials into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce; and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation. * * * If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with the power to regulate not only manufactures, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market? Does not the wheat grower of the Northwest or the cotton planter of the South plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago. The power being vested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform, and vital interests—interests which in their nature are and must be local in all the details of their successful management.

And then the learned justice proceeds along those lines, in which he is sustained by other judges, drawing a broad line between *commerce* and *manufacture*. It is as clear as the noonday sun in the heavens. It has been reaffirmed in many decisions. Yet this pure-food bill wipes out every vestige of these decisions. It means there shall be no line between *manufacture* and *commerce;* that the Federal Government can march across State lines and can seize articles of manufacture. Still the Knight case and others hold to the contrary. But if this were a constitutional measure I would not support it and give it the sanction of my vote. It is bad policy to centralize everything in this Government here; and the policy of this legislation is as odious to me as the constitutional objections. It is not popular to take that stand when everything is not only centralized in the Congress of the United States, but we can say conscientiously and deliberately that practically all governmental power is concentrated in the rough riding President now inhabiting the White House. You have permitted him to ride rough shod over you. Ah, gentlemen, it is time to call a halt. Section 12 of this bill repeals the pure-food laws of every State. It is intended to repeal them, and if you press the gentleman from Illinois [Mr. MANN] and the gentleman from Alabama [Mr. RICHARDSON], who preceded me, they will not deny it. Their intention is studied and deliberate. Let me demonstrate it. Section 12 has in it, among other words, this language:

But food and drugs fully complying with all the provisions of this act shall not be interfered with by the authorities of the several States when transported from one State to another so long as they remain in original unbroken packages.

There you send the original package into the State under the chaperonage of the Federal Government to keep it there *under the jurisdiction of that Government* until it goes into the hands of the consumer. This section is intended to shield it and prevent the State from touching it until it is sold and in the hands and possession of the consumer.

Why was this language embodied in the section? Because the Supreme Court had decided in the Masachusetts pure-food case (155 U. S.) that manufacturers of Chicago could not ship an original package from Illinois into Massachusetts and sell it to the people of Massachusetts against the laws of that State. The Supreme Court decided that the Massachusetts law under which the agent of the Illinois manufacturer was prosecuted was constitutional, was proper, and the agent could be prosecuted under the pure-food law of the State of Massachusetts; that the original package from Illinois could be excluded from Massachusetts if it was poisonous or *fraudulent*. The decision was plain, bold, and precise.

Mr. GAINES of Tennessee. Will the gentleman yield for a question?

Mr. HENRY of Texas. Yes.

Mr. GAINES of Tennessee. Could not Congress have prohibited the transmission of that impure product from Illinois to Massachusetts under the commerce clause of the Constitution, and in that way aided the State of Massachusetts in enforcing her food law?

Mr. HENRY of Texas. No; because that clause was put in the Constitution not for the purpose of suppressing commerce, but for the benefit and the freedom of commerce. Congress can not put an embargo on commerce. It must be free when legitimate. Questions of murder, larceny, poison, etc., were left to the jurisdiction of the States.

Mr. GAINES of Tennessee. I grant you that, though not entirely; but this is diseased, rotten commerce, poison commerce, and it is not the commerce contemplated by the Constitution. Congress has stopped that sort of commerce and can do it again.

Mr. HENRY of Texas. If that sort of commerce has gotten into the State of Tennessee, all I can say is that the people of Tennessee ought to be more watchful and keep it out. It is within their power to exclude it. The jurisdiction of Tennessee is plenary and exclusive on the subject.

Mr. GAINES of Tennessee. And I want to say that we do that, and we have kept out the diseased Texas cattle, but we always welcome her great men.

Mr. HENRY of Texas. That may be very true. Then if you have kept out diseased cattle, why can you not also keep out poisonous foods? The gentleman complains of impure foods and yet he has fattened on the diet in Washington, and is conceded to be the strongest, healthiest, and handsomest gentleman on the floor.

Mr. GAINES of Tennessee. Oh, that is simply because the devil can't kill me and I can't be poisoned very easily.

Mr. HENRY of Texas. I hope the gentleman may never be killed and may always escape the devil. He never will be killed by impure foods that go into the State of Tennessee if that State is as watchful of its own interests as it ought to be and utilizes its interest, sovereignty, and powers.

Mr. Chairman, I was referring to the Massachusetts case. That was not a unanimous opinion, but was sustained by a unanimous court in the New York "coffee case," in 192 United States Reports. In this case it was held that the State of Massachusetts had plenary, absolute, and exclusive power to punish a person for selling oleomargarine colored as butter in the State of Massachusetts.

Mr. GILBERT of Kentucky. Is there any decision of the Supreme Court that holds that notwithstanding Congress has the power to regulate commerce, a commodity that Congress permits to become an article of interstate commerce can be prohibited and eliminated from commerce by the legislature of a State?

Mr. HENRY of Texas. Why, yes; the books are full of decisions of that sort. If this body should say that poisonous articles could be shipped through the States from one State to another, if they should say that impure foods could be shipped into Massachusetts or Kentucky, the gentleman's State has *exclusive power* to meet them at the border and destroy them and prevent their entrance within the borders of his State.

Mr. GILBERT of Kentucky. Undoubtedly; but is the converse of that proposition true?

Mr. HENRY of Texas. I have not the time now to go into a discussion of that. I am stating the other side of that proposition, which has been thoroughly decided.

Mr. COCKRAN. Does the gentleman contend that the State of New York or the State of Massachusetts could prohibit goods from coming into that State merely because of the fact that it

was not satisfied with the general system of inspection established in the State from which the goods came?

Mr. HENRY of Texas. Because the State of New York was not satisfied with it?

Mr. COCKRAN. Yes.

Mr. HENRY of Texas. It undoubtedly can, as was decided in that case to which I referred the gentleman this morning, where the coffee was simply colored and did not come up to a certain standard.

Mr. COCKRAN. The gentleman assumes a totally different state of facts from the one that I state. The gentleman quotes a case where the law was sustained because certain coffee on actual inspection did not come up to a certain standard of color. I ask the gentleman whether the State of New York would have the power to prevent any goods coming in from the city of Chicago simply because they came from the city of Chicago and the State of New York was not satisfied with the system of inspection established in the State of Illinois?

Mr. HENRY of Texas. It could not, because it has been decided over and often that no State can put an embargo upon legitimate commerce.

Mr. COCKRAN. Exactly. Now let me ask the gentleman one more question.

Mr. HENRY of Texas. Oh, I must decline to yield. If I had the time I would yield, but I have not the time. Mr. Chairman, I wish I could discuss three other sections in this bill that are just as vicious as the one providing for the inspection of local institutions by Federal officers. Let any gentleman who has sworn to support the Constitution read this bill and analyze it, and he will come to the conclusion that it does go further than any measure this body has ever yet approved.

If we give this power to Congress, we usurp it. We rob the States of their inherent sovereignty. An adjudication of the Supreme Court is worth nothing here to-day. We are throwing law, precedents, and authority to the winds. Still I deliberately flaunt the following language in your face: "In none of the above cases is there to be found a suggestion or intimation that the Constitution of the United States took from the States the power of preventing deception and fraud in the sale within their respective limits of articles in whatever State manufactured, or that that instrument secured to anyone the privilege of committing a wrong against society." Thus spoke the Supreme Court in 1894. It has never departed from that doctrine. Over and over again it has reaffirmed it. In vigorous and unequivocal language did that great court decide that the States had supreme, plenary, and exclusive power to prevent the introduction of poisonous or impure foods into their midst; that such power has not been surrendered, impaired, or abated in the least. This language is plain, and if judicial interpretation is entitled to any sanctity whatever it should be followed.

A little further along the same opinion proceeded: "If there be any subject over which it would seem the States ought to have plenary control, and the power to legislate in respect to which it ought not to be supposed was intended to be surrendered to the General Government, it is the protection of the people against fraud and deception in the sale of food products." The court adds: "Laws of that character are not inconsistent with the power of Congress to regulate commerce among the States." In 1903 the Supreme Court quoted and approved the same language, yielding not to the wild clamor and hysteria of the hour. I take my stand with judges who announce this sane, wholesome, and correct doctrine.

It will be developed that the potentiality of the Constitution is not exhausted. That the real sovereignty and rights of the States are not a hollow mockery and sham. There is coming a time in this Republic when the people will return to the constitutional government which the bravery, the wisdom and patriotism of our fathers, who were wiser than we, gave us in the beginning of our glorious history. [Applause.] If we are to overturn that written instrument, disregard it, and say it means nothing but the mere parchment upon which it is written, let us throw it to the four winds of the earth, tear down the temple of justice where it has been sanctified and construed more than a thousand times. And let us tear down the pillars of constitutional government and mock their shallow foresight.

But, Mr. Chairman, I have not lost confidence in this body and the American patriotism that has characterized our glorious past. Our consciences will be quickened and hearts fired with a new glow. In patriotic fervor American freemen will rise up and supplant the constitutional usurper and iconoclast with America's greatest citizen, who now commands the respect, admiration, and love of other peoples as he journeys in their midst. [Loud applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GROSVENOR 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 bill of the following title:

H. R. 18529. An act to authorize the sale of certain lands to the city of Mena, in the county of Polk, in the State of Arkansas.

The message also announced that the Senate had passed joint resolution of the following title; in which the concurrence of the House of Representatives was requested:

S. R. 68. Joint resolution expressing the sympathy of the people of the United States with the Hebrews on account of the massacres of members of their race in Russia.

PURE-FOOD BILL.

The committee resumed its session.

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Arkansas.

Mr. ROBINSON of Arkansas. Mr. Chairman, a careful study of the so-called "pure-food bill" now under consideration by the House has convinced me that the proposed legislation is wholesome and ought to be enacted.

The principal grounds of opposition to the bill are clearly and forcibly expressed in the minority report filed by the gentleman from Georgia [Mr. ADAMSON], the gentleman from Texas [Mr. RUSSELL], and the gentleman from Georgia [Mr. BARTLETT]. The ability and recognized integrity of these gentlemen as Representatives and as lawyers cause me to hesitate before expressing views radically opposed to their opinions. As members of the Committee on Interstate and Foreign Commerce they have doubtless studied every phase of the proposed legislation, and their opinions, based upon painstaking deliberation, are entitled to receive and will command the respect of their colleagues. Nevertheless, Mr. Speaker, in the discharge of my duty as a member of this body I am led to the conviction that, however conscientious the conclusions of the gentlemen making this minority report, my duty lies along the path of support to the purposes of this legislation, and, with the deference due their superior learning and great familiarity with the subject, I desire to set forth the grounds of my support of the pending bill.

The contention of those opposed to the bill is that Congress has no power under the commerce clause to enact this measure and that the policy of the proposed legislation is vicious. It is asserted with great earnestness that the passage of this bill is not "regulating commerce" within the meaning of the Federal Constitution; that it is an unwarranted and illegal attempt to exercise police powers belonging to the States by the Federal Government; that these police powers are peculiarly within the reserved powers of the States, and Congress ought not to interfere in their free exercise by the States by attempting, under the guise of regulating commerce, to exercise functions which are peculiarly local. The legislation is not only branded as unconstitutional because it is not "regulating commerce" and is an illegal encroachment upon State authority, but, in the second place, the opponents of this bill assert that

THE POLICY OF SUCH LEGISLATION IS VICIOUS.

That the States have ample power to deal with the subject; that under its police powers each State can prevent the sale within its limits of any article deleterious to its citizens and can, by the right of inspection, investigate and ascertain whether articles of interstate commerce are either adulterated or misbranded; that it is peculiarly within the province of the State to protect its citizens from fraud and misrepresentations; that for Congress, under the authority delegated in the Constitution to attempt to prevent the importation from one State to another of articles which, under arbitrary rules of government inspection, might be deemed prohibited, would be to arouse antagonisms between State and Federal authorities and to occasion needless confusion and countless conflicts between the States and the Federal Government; that, even if Congress has the power under the Constitution to pass such a bill as that now under consideration, it ought not to do so, because there is no real necessity for so doing, and existing evils which are sought to be remedied by the bill may be abolished by other means.

It is perfectly apparent that if Congress has no power to pass the measure the policy of such legislation need not be considered. On the other hand, if it should be determined that the passage of the bill would be constitutional, yet unnecessary, one could not justify himself in supporting the bill.

I am convinced that the proposed legislation is within the province of Congress; that it is not unconstitutional, and that it is wholesome and much-needed legislation. Recent agitation of questions relating to meats and meat food products illustrates the necessity for Federal action in the matter of foods

entering interstate and foreign commerce. A misapprehension has arisen among some of my colleagues as to what really are the provisions of the bill with reference to manufacture.

The only provisions relating to manufacture contained in this measure are found in sections 10, 11, and 12. Read them and analyze them for yourselves. Section 10 requires every manufacturer for interstate shipments, etc., to furnish, upon demand and tender of the price, samples of his products for analysis. This, of course, is for the purpose of determining whether the article so manufactured is misbranded or adulterated; for ascertaining whether the article should be recognized as of proper commercial character. Section 11 merely punishes the manufacturer for refusing to comply with this demand for samples and for manufacturing without doing so. He can manufacture all he pleases provided he furnishes the samples. He can manufacture for sale within the State without furnishing the samples; but if he manufactures for shipment and sale to other States than that in which he manufactures he must furnish the sampes or render himself liable to prosecution. The requirement that the manufacturer furnish for inspection samples of his products is a reasonable one. It will facilitate the determination of the issue as to whether his goods are entitled to recognition as articles of interstate commerce. The bill says if he refuses to furnish these samples he should pay a fine. It further says if the manufacturer produces goods for interstate shipment without furnishing these samples he shall pay a fine. Both sections are in aid of procuring the means to determine whether the articles produced are within the terms of this measure. Nowhere in the bill is manufacture forbidden.

Section 12 does not expressly relate to manufacture, but does provide that the act shall not be construed as interfering with commerce wholly internal in any State nor with the exercise of the police power by the several States. It is as follows:

SEC. 12. That this act shall not be construed to interfere with commerce wholly internal in any State nor with the exercise of their police powers by the several States; but foods and drugs fully complying with all the provisions of this act shall not be interfered with by the authorities of the several States when transported from one State to another, so long as they remain in original unbroken packages, except as may be otherwise defined by law or provided by statutes of the United States.

The prevention of the manufacture of articles being a police power, and Congress, as I understand it, having no power under the commerce clause to prevent the manufacture of goods within the States, for the reason that the character of commerce does not attach to an article when it is manufactured with the intent of shipment to another State, but only when it is produced for shipment, as clearly appears from the Knight case (156 U. S.) and the Addyston Pipe case (175 U. S.), this section, construed with all the others, eliminates from my mind any thought that this measure seeks to forbid manufacture. Of course it will affect it incidentally. Many regulations of commerce may do that, just as many police regulations may indirectly affect interstate commerce, as especially when exercised to prevent manufacture; but nowhere in this measure is it provided that manufacture in any State shall be prohibited, nor is it within the province of Congress to so provide. The provisions relating to manufacture are in aid of the investigation to determine the character of the article. The bill only deals with manufactured products as articles of commerce. It has the greatest superiority over some other measures I have examined of a similar character in that particular. Congress certainly has the power to deal with the subject in this way.

The constitutional provision under which Congress seeks to exercise this power is Article I, section 8, clause 3, and provides:

Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

COMMERCE DEFINED BY THE COURTS.

It is difficult to frame a definition that would accurately and fairly express, in a few words, the meaning of the term "commerce" as defined by our courts, but it includes every species of commercial communication between the United States and foreign countries, between the several States of the Union, and with Indian tribes. It is held in many cases to embrace trade or traffic and the interchange of commodities, but it also embraces commercial intercourse between nations and parts of nations in all its branches. (Gibbons *v.* Ogden, 9 Wheat., 189; Brown *v.* Maryland, 12 Wheat., 447; Groves *v.* Slaughter, 15 Pet., 449; United States *v.* Holiday, 3 Wall., 417; Mitchell *v.* Steelman, 8 Cal., 363; People *v.* Brooks, 4 Denio., 469; United States *v.* Bailey, 1 McLean, 234; The Daniel Ball, 10 Wall., 557; Wabash, etc. Rwy. *v.* Ill., 118 U. S., 573; Leisy *v.* Harden, 135 U. S., 11.)

It has been repeatedly held that "commerce" does not consist in transportation only, but includes also the contracting for the sale of the articles and their delivery in another State. (Addystone, etc., Co. *v.* U. S., 175 U. S., 246.)

In Brown *v.* Maryland (12 Wheat., 447) it was asserted that sale is an ingredient of intercourse.

THE POWER OF CONGRESS "TO REGULATE COMMERCE."

All the cases hold that this power committed to Congress is without limitation, save that prescribed by the Constitution itself.

In Addystone Pipe case (175 U. S., at 228) the Supreme Court said:

The power to regulate interstate commerce is, as stated by Chief Justice Marshall, full and complete in Congress, and there is no limitation in the grant of the power which excludes private contracts of the nature in question from jurisdiction of that body. Nor is any such limitation contained in that other clause of the Constitution which provides that no person shall be deprived of life, liberty, or property without due process of law. It has been held that the word "liberty" as used in the Constitution was not to be confined to the mere liberty of person, but included, among others, the right to enter into certain classes of contracts for the purpose of enabling the citizen to carry on his business. But it has never been, and in our opinion ought not to be, held that the word included the right of an individual to enter into private contracts upon all subjects, no matter what their nature and wholly irrespective, among other things, of the fact that they would, if performed, result in the regulation of interstate commerce and in the violation of an act of Congress upon that subject. The provision in the Constitution does not, as we believe, exclude Congress from legislating with regard to contracts of the above nature while in the exercise of its constitutional right to regulate commerce among the States. On the contrary, we think the provision regarding the liberties of the citizens to some extent limited by the commerce clause of the Constitution, and that the power of Congress to regulate interstate commerce comprises the right to enact a law prohibiting the citizen from entering into those private contracts which directly and substantially and not merely indirectly, remotely, incidentally, and collaterally, regulate to a greater or less degree commerce among the States.

We can not so enlarge the scope of the language of the Constitution regarding the liberty of the citizen as to hold that it includes, or that it was intended to include, a right to make a contract which in fact restrained and regulated interstate commerce, notwithstanding Congress, proceeding under the constitutional provision giving to it the power to regulate that commerce, had prohibited such contracts.

In Champion *v.* Ames (188 U. S., 346), the court said:

The leading case under the commerce clause in the Constitution is Gibbon *v.* Ogden (9 Wheat., 1). Referring to that clause, Chief Justice Marshall said: "The subject to be regulated is 'commerce;' and our Constitution being one of enumeration and not of definition, to ascertain the extent of the power it becomes necessary to study the meaning of the word. The counsel for the appellee would limit it to traffic, to buying and selling or the interchange of commodities, and do not admit that it comprehends navigation. This would restrict a general term, applicable to many objects, to one of its significations. Commerce undoubtedly is traffic, but it is something more; it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribed rules for carrying on that intercourse. Commerce among the States can not stop at the external boundary line of each State, but may be introduced into the interior. It is not intended to say that these words comprehend that commerce which is completely internal, which is carried on between man and man in a State or between different parts of the same State and which does not extend to or affect other States. Such a power would be inconvenient and is certainly unnecessary. Comprehensive as the word 'among' is, it may very properly be restricted to that commerce which concerns more States than one. The genius and character of the whole Government seems to be that its action is to be applied to all the external concerns of the nation and to those internal concerns which affect the States generally, and not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government.

"Again, we now arrive at the inquiry, What is that power? It is the power to regulate—that is, to prescribe the rules by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. These are expressed in plain terms. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States."

That the regulation may sometimes assume the form of prohibition is also illustrated by the cases of diseased cattle transported from one State to another.

Congress, in its power to regulate commerce, may either provide for their being inspected before transportation begins or, in its discretion, may prohibit their being transported from one State to another.

Certainly, if Congress has the power, as the court here asserts, to provide for the inspection of cattle before transportation begins, it also has the power to provide for the inspection of any other article of commerce between the States which, in its judgment, may require inspection, and it also has the right and power to provide reasonable means to enable it to effectually carry out this power of inspection. There can therefore be no objection to the requirement of the manufacturer who proposes to ship from one State to another articles of commerce for sale to assist in facilitating this inspection by furnishing samples of the goods to be inspected before transportation begins, since this is the most convenient way to do it. As to whether he could be compelled to furnish such information in a criminal proceeding brought by the Government authorities against him for shipping articles prohibited under the

law is a question I do not here assume to discuss, as it has no intimate relationship with the power of Congress to enact this legislation or its effects on interstate commerce when it has been enacted.

Continuing, in the case of Champion *v.* Ames (above cited), the court said:

Under this grant of power to Congress, that body, in our judgment, may enact such legislation as shall declare void or prohibit the performance of any contract between individuals or corporations where the natural and direct effect of such contract will be, when carried out, to directly, and not as a mere incident to other and necessary purposes, regulate to any substantial entent interstate commerce. The power to regulate interstate commerce, as stated by Chief Justice Marshall, is full and complete in Congress, and there is no limitation in the grant of the power which excludes private contracts from the jurisdiction of that body.

The court sustained an act of Congress forbidding the transmission of lottery tickets from one State to another, but refused to pass upon the question as to whether Congress might arbitrarily except from commerce among the States any article, however valuable and useful, which it might choose, saying:

It will be time to consider the constitutionality of such legislation when we must do so; but, as often said, the possible abuse of a power is not an argument against its existence.

Quoting further from Chief Justice Marshall, in Gibbon *v.* Ogden, the court said:

The wisdom and discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are, in this as in many other instances, the sole restraint upon which they have relied to secure them from its abuse. They are the restraints upon which the people must often rely in all representative government.

This power of Congress "to regulate commerce" embraces every instrument of commerce, as well as the articles carried. (Weldon *v.* Missouri, 91 U. S., 280; Schollenberger *v.* Pennsylvania, 171 U. S., 24.)

It also includes the negotiations leading up to interstate commerce. (Addyston Pipe Co. *v.* United States, 175 U. S., 246; Robbins *v.* Shelby County Tax District, 170 U. S., 497; Gunn *v.* White Sewing Machine Co., 57 Ark., 35.)

A STATE CAN NOT REGULATE INTERSTATE COMMERCE UNDER ITS POLICE POWERS.

In Bowman *v.* Chicago, etc., Ry. Co. (125 U. S., 501) we find the following declarations of law:

What is an article of commerce is determinable by the usages of the commercial world, and does not depend upon the declaration of any State. The State possesses the power to prescribe all such regulations with respect to the possession, use, and sale of property within its limits as may be necessary to protect the health, lives, and morals of its people; and that power may be applied to all kinds of property, even that which in its nature is harmless, but the power of regulation for that purpose is one thing and the power to exclude an article from commerce by a declaration that it shall not thenceforth be the subject of use and sale is another and very different thing. If the State could thus take an article from commerce, its power over interstate commerce would be superior to that of Congress where the Constitution has vested it. The language of Mr. Justice Catron on this subject in the License Cases, quoted in the opinion of the court, is instructive. (5 How., 504, 600.) Speaking of the assumption by the State of power to declare what shall and what shall not be deemed an article of commerce within its limits, and thus to permit the sale of one and prohibit the sale of the other, without reference to congressional power of regulation, one of the learned justices said: "The exclusive State power is made to rest not on the fact of the state or condition of the article, nor that it is property usually passing by sale from hand to hand, but on the declaration found in the State laws and asserted as the State policy, that it shall be excluded from commerce, and by this means the sovereign jurisdiction in the State is attempted to be created in a case where it did not previously exist. If this be the true construction of the constitutional provision, then the paramount power of Congress to regulate commerce is subject to a very material limitation, for it takes from Congress and leaves with the States the power to determine the commodities or articles of property which are the subjects of lawful commerce. Congress may regulate, but the States determine what shall or shall not be regulated. Upon this theory the power to regulate commerce, instead of being paramount over the subject, would become subordinate to the State's police power, for it is obvious that the power to determine the articles which may be the subject of commerce, and thus to circumscribe its scope and operation, is, in effect, the controlling one. The police power would not only be a formidable rival, but, in a struggle, must necessarily triumph over the commercial power, as the power to regulate is dependent upon the power to fix and determine upon the subjects to be regulated."

In Schollenberger *v.* Pennsylvania (171 U. S., 12) is announced a proposition which seems thoroughly supported by many decisions of our highest court. In that case the court said:

The general rule to be deduced from the decisions of this court is that a lawful article of commerce can not be wholly excluded from importation into a State from another State where it was manufactured or grown. A State has power to regulate the introduction of any article including a food product, so as to insure purity of the article imported, but such police power does not include the total exclusion even of an article of food.

The court further said:

In Minnesota *v.* Barber (136 U. S., 313) it was held that an inspection law relating to an article of food was not a rightful exercise of the police power of the State if the inspection prescribed were of such a character or if it were burdened with such conditions as would wholly prevent the introduction of the sound article from other States. This was held in relation to the slaughter of animals whose meat was to be sold as food in the State passing the so-called "inspection law." The principle is affirmed in Brimmer *v.* Rebman (138 U. S., 78) and in Scott *v.* McDonald (165 U. S., 58, 97).

In Leisy *v.* Hardin (135 U. S., 100, 125), overruling Peirce *v.* New Hampshire (5 How., 504), it was said:

Whatever our individual views may be as to the deleterious or dangerous qualities of particular articles, we can not hold that any articles which Congress recognizes as subjects of interstate commerce are not such, or that whatever are thus recognized can be controlled by State laws amounting to regulations while they retain that character, although, at the same time, if directly dangerous in themselves, the State may take appropriate measures to guard against injury before it obtains complete jurisdiction over them. To concede to a State the power to exclude, directly or indirectly, articles so situated without Congressional permission is to concede to a majority of the people of a State represented in the State legislature the power to regulate commercial intercourse between the States by determining what shall be its subjects, when that power was distinctly granted to be exercised by the people of the United States represented in Congress, and its possession by the latter was considered essential to that more perfect union which the Constitution was adopted to create.

Pabst Brewing Company *v.* Crenshaw (198 U. S., 17), fairly construed, supports the general doctrine that a State can not regulate interstate commerce by means of statutes enacted under its police powers. It expressly reaffirms the general doctrine asserted here *except in so far as it had been modified by the Wilson Act, which made fermented, distilled, or other intoxicating liquors transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent as though such liquors has been produced in such State or Territory, and also expressly provided that the same should not be exempt therefrom by reason of being introduced in original packages or otherwise.*

Quoting from In re Rahrer (140 U. S., 545), the court said in the Pabst Brewing Company case:

Congress has now spoken and declared that imported liquors or liquids shall, upon arrival in a State, fall within the category of domestic articles of a similar nature.

And further:

No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so.

The Wilson Act was again passed on in Rhodes *v.* Iowa—

Says the Supreme Court in the Pabst Brewing Company case—

Reiterating the ruling made in the Rahrer case, it was decided that whilst the Wilson Act caused liquors shipped into Iowa from another State to be divested of their character as articles of interstate commerce after their delivery in Iowa to the person to whom consigned, nevertheless the act did not authorize the laws of Iowa to be applied to such merchandise while in transit from another State and before delivery in Iowa.

Vance *v.* Vandercook (170 U. S., 438) is also quoted in the Pabst Brewing Company case with approval:

Considering the Wilson Act and the previous decisions applying it, it was decided that the South Carolina law, in so far as it took charge in behalf of the State of the sale of liquor within the State and made such sale a source of revenue, was not an interference with interstate commerce. In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina, intended for his own use and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina, shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption and not for sale.

Quite recently, in American Express Company *v.* Iowa and Adams Express Company *v.* Iowa (196 U. S., 133, 147), the construction affixed to the Wilson Act in the previous cases was applied, and the power of the State of Iowa to control the sale of liquors shipped from another State into that State, after their delivery to the consignee, was upheld.

Thus it appears that the rule applied in many cases decided by our highest court, to the effect that the States can not interfere with any article recognized by Congress as being a proper article of interstate commerce, either while in transit or held by the importer for sale in the original package, under its police powers; that Congress by the Wilson Act has made liquors subject to the police powers of the States upon their arrival there, thus divesting them of the character of interstate commerce. Having unlimited control of the subject, as decided in Ogden *v.* Gibbon and many subsequent cases, Congress can make any regulation it chooses. It can define what articles shall be transported, when the character of interstate commerce shall attach, and when it shall terminate.

Bowman *v.* Chicago, etc., Railway Company (125 U. S.) held void an Iowa statute imposing a fine upon transportation companies for knowingly bringing into that State any intoxicating liquors without having first been furnished with a certificate, under the seal of the county auditor of the county to which the liquor was to be transported, certifying that the person to whom

the same was to be delivered was authorized under the law to sell such liquors in that county. It was regarded as an interference with interstate commerce and not within the State's police power. In this case the court quoted approvingly the definition of police power in Robbins *v.* Shelby Taxing District (120 U. S., 489), as follows:

It is also an established principle, as already indicated, that the only way in which commerce between the States can be legitimately affected by State laws is when, by virtue of its police powers and its jurisdiction over persons and property within its limits, a State provides for the security of the lives, limbs, health, and comfort of persons and the protection of property, or when it does those things which may otherwise incidentally affect commerce, such as the establishment and regulation of highways, canals, railroads, wharves, ferries, and other commercial facilities; the passage of inspection laws to secure the due quality and measure of products and commodities; the passage of laws to regulate or restrict the sale of articles deemed injurious to the health or morals of the community; the imposition of taxes upon persons residing within the State or belonging to its population, and upon avocations and employments pursued therein not directly connected with foreign or interstate commerce or with some other employment or business exercised under authority of the Constitution and laws of the United States; and the imposition of taxes upon all property within the State mingled with and forming part of the great mass of property therein. But in making such internal regulations a State can not impose taxes upon persons passing through the State or coming into it merely for a temporary purpose, especially if connected with interstate or foreign commerce; nor can it impose such taxes upon property imported into the State from abroad or from another State, and not yet become a part of the common mass of property therein; and no discrimination can be made by any such regulations adversely to the person or property of other States; and no regulation can be made directly affecting interstate commerce. Any taxation or regulation of the latter character would be an unauthorized interference with the power given to Congress over the subject. * * * In a word, it may be said that in the matter of interstate commerce the United States are but one country and are and must be subject to one system of regulation, and not to a multitude of systems. The doctrine of the freedom of that commerce, except as regulated by Congress, is so firmly established that it is unnecessary to enlarge further upon the subject.

In this case the court referred approvingly to the doctrine of Brown *v.* Maryland (12 Wheat., 419), where it was held that the right of importation necessarily implied the right to sell in original packages. Mr. Justice Field, concurring in the majority opinion in the Bowman case, said:

That the right of importation carries with it the right to sell the article imported does not appear to me doubtful.

So in the present case it is perhaps impossible to state any rule which would determine in all cases where the right to sell an imported article under the commercial power of the Federal Government ends and the power of the State to restrict further sale has commenced. Perhaps no safer rule can be adopted than the one laid down in Brown *v.* Maryland, that the commercial power continues until the articles imported have become mingled with and incorporated into the general property of the State, and not afterwards. And yet it is evident that the value of the importation will be materially affected if the article imported ceases to be under the protection of the commercial power upon its sale by the importer. * * * Thus the absence of regulations as to interstate commerce with reference to any particular subject is taken as a declaration that the importation of that article into the State shall be unrestricted. It is only after the importation is completed and the property imported has mingled with and become a part of the general property of the State that its regulations can act upon it, except so far as may be necessary to insure safety in the disposition of the import until thus mingled.

Mr. Justice Field cited in support of this doctrine the following cases, which from a casual reading appear to support the point: Cooley *v.* Board of Wardens of the Port of Philadelphia (12 How., 299, 319); State Frt. Tax Case (15 Wall., 232, 271); Weldon *v.* Missouri (91 U. S., 275, 282); Railroad *v.* Husen (95 U. S., 465, 469); Mobile *v.* Kimball (102 U. S., 691, 697); Gloucester Ferry Company *v.* Pennsylvania (114 U. S., 196, 203); Brown *v.* Houston (114 U. S., 622, 631); Walling *v.* Michigan (116 U. S., 446, 455); Pickard *v.* Pullman So. Car Co. (117 U. S. 34); Wabash, etc., Railway Company *v.* Illinois (118 U. S., 557); Robbins *v.* Shelby County Tax District (120 U. S., 489).

It is uniformly held that while an article ceases to be a subject of commerce when importation is complete (People *v.* Huntington, 4 N. Y. Leg. Obs., 187), yet importation is never complete (except in the case of liquors transported from one State to another under the Wilson Act) so long as the article remains in the importer's hands in the original package. (Leisy *v.* Hardin, 135 U. S., 108; Bowman *v.* Chicago, etc., Ry., 125 U. S., 506; Brown *v.* Maryland, 12 Wheat., 442.)

An article loses its character as an article of commerce if the importer so handles it as to mix it with the mass of property in the State. (May *v.* New Orleans, 178 U. S., 507; Ex parte Brown, 48 Fed., 436; Brown *v.* Maryland, 12 Wheat., 441.)

Crosman *v.* Lurman (192 U. S., 189) is frequently quoted by those opposed to this bill as authority for the contention that Congress is without power to pass such a measure as that now under consideration under its power to regulate commerce, and also as an authority that the States can by statute fully protect their citizens from impure and adulterated foods and other deleterious articles often the subject of interstate commerce. This was a case where the court found that imported coffee had been "*adulterated for the purposes of fraud and deception,*" and the court sustained a statute of the State of New York forbidding its sale, as not being an interference with commerce. Furthermore, I think that coffee "adulterated for the purposes of fraud and deception" was not a legitimate article of commerce within the meaning of the act of Congress of August 30, 1890, which contained among other provisions the following:

That it shall be unlawful to import into the United States any adulterated or unwholesome food or drug, or any vinous, spirituous, or malt liquors, adulterated or mixed with any poisonous or noxious chemical, drug, or other ingredient injurious to health.

Moreover the State act merely forbade the sale of, or having for sale, any adulterated food or drug. There is not now, nor has there ever been in my mind any question as to the power of the State to forbid the sale of adulterated or fraudulently branded articles for the protection of its citizens from danger of disease and from fraud. These subjects are peculiarly within the province of the States. The fact that the States have the power to enact such legislation in no sense detracts from the power of Congress to deny the instrumentalities and privileges of interstate commerce to articles which, if consumed, might injure the health of the citizens. The State can not do this, for it has nothing to do with interstate commerce. The only influence it can exert upon interstate commerce is that incidental to its police regulations regarding inspection after an article has been imported, and forbidding its sale if deemed deleterious. Nowhere has it been held that Congress is without power to divest an article, adulterated or misbranded, designed for transportation and sale in another State than that in which it was manufactured, of its character as an article of commerce. I am not now discussing the policy of the exercise of this power, but the existence of it, and I say that if, according to the many authorities cited and others which I have not had an opportunity of presenting, Congress has plenary power over interstate commerce, over its instrumentalities, its subjects, and can determine what articles are proper articles of commerce, subject only to the limitations imposed by the Constitution itself, it can certainly deny to an article found to be adulterated or misbranded the right to be transported to another State.

If it has not this power, then what is the power delegated to Congress in the Constitution? What mean the words "to regulate commerce * * * among the States?" If Congress can not prescribe what articles shall be deemed proper articles of commerce, if it can not deny that character to any article adulterated or misbranded, then its "power to regulate commerce" is indeed a limited and useless one. Clearly the line between State and Federal authority in this matter is well drawn, although confusion may arise in attempting to trace it in some instances. The States have power to prescribe all needful rules for the protection of its citizens from frauds and misrepresentations and from injury therefrom by forbidding the manufacture within its own borders and the sale within its limits of any article deleterious to the health of the citizens, and in the matter of articles imported from other States, under its police power, a State may provide for the inspection of all articles imported, and if found unsound, may forbid their sale. But no State can define what articles shall be imported or forbid the importation of any recognized article of commerce, and, except for purposes of inspection, as a general rule, the State can not interfere with any article of interstate commerce while it is in the hands of the importer in the original package unless the importer has mixed it with the general property of the State. No State has any power to regulate interstate commerce. In the exercise of its police powers it may effect the transportation of articles in interstate commerce, but such effect is merely incidental to the right of inspection.

The respective powers of State and of the Congress are in the main independent of each other, and neither can add to nor take therefrom. The decisions sustaining the Wilson Act of 1890 do not proceed upon the theory that Congress has added to the police power of the States by making liquors subject to State laws with reference thereto upon their arrival in the State, but rather on the idea that Congress, in the exercise of its power to regulate commerce, can, since that power is unlimited, save by the Constitution itself, divest an article of interstate commerce of its character as such upon its arrival in a State, and that in doing so Congress does not add to the police power, but merely facilitates and aids it, and in that way regulates commerce. The distinction may not be altogether clear, and it may seem to many, as it sometimes has to me, that if Congress has the power to say that an article of interstate commerce shall be divested of its commercial character immediately upon arriving in another State than that from which it was shipped, that it can also provide that such articles shall be divested of their character from the time they are shipped, and thus totally destroy interstate commerce as such. But perhaps it will be time enough to consider this proposition when it arises. We have here no question of the power of Congress to suspend or

destroy interstate commerce or to delegate its powers of regulation and control conferred in the Constitution to State tribunals and police powers. The question here is, Has Congress the power to define, within reasonable limitations, what foods and drugs shall be deemed adulterated and misbranded and to deny the character of interstate commerce to articles which are so adulterated and misbranded? I have no shadow of doubt that Congress has such power, and I find, fairly considered, the theory supported by a long line of decisions from our highest court. Moreover, I have found no case fairly construed that minimizes that doctrine. The line of demarkation between State and Federal authority in such matters is not always easily followed, but it is there, and neither Congress nor the States can make a new line. The power is vested exclusively in Congress to regulate interstate commerce, and this bill seeks to deal with articles of interstate commerce as such. It nowhere interferes with the right of the State to pass any law it desires with reference to the sale of such articles, except that it forbids interference with original packages, and since the States can only interfere with them for purposes of inspection, on the theory that they may be dangerous to the health of its citizens, I see no objection to that feature of the bill, because every article so transported will be recognized as an article of interstate commerce, and the States to which it is imported would have no occasion to interfere with it, except for such purposes as the protection of the lives and health of their citizens, and the power to do this can not be taken from them.

I have carefully examined the principal cases cited by gentlemen opposing this measure, and do not find that they are inconsistent, upon the whole, with the position here sought to be maintained. Some of these cases have already been discussed at length.

Crosman *v.* Lurman (192 U. S., 189), strongly relied on by opponents of this bill, was a case where a State statute forbade the sale of adulterated food and drugs, and coffee which the court found to be adulterated for purposes of fraud and deception was not permitted to be sold. The Supreme Court held that the Constitution of the United States does not secure to anyone the privilege of defrauding the public and that the statute was within the police powers (p. 198).

Pabst Brewing Company *v.* Crenshaw (198 U. S., 17) is governed by the Wilson Act of August, 1890, which has several times been upheld. In this case the court sustained the statute of Missouri providing for an inspection of liquors shipped from other States upon their arrival, no discrimination being made between home and foreign manufactured goods. This doctrine of the Wilson Act, making liquors shipped into a State subject to the laws of the State upon their arrival, is sustained by Rahrer's case (140 U. S., 545) and many other cases.

1851.—Fitch *v.* Livingstone (6 Sandf., 492) involved an action for damages occasioned by a steamboat collision on the Hudson River, based upon a State statute requiring steamboats to carry two signal lights in the usual manner on the river, while the act of Congress on the subject provided: "Every steamboat shall carry at night one or more signal lights." The statute was sustained as not in violation of any act of Congress, implying that such legislation is within the recognized power of the States when not in conflict with any act of Congress.

1837.—City of New York *v.* Miln (11 Peters, 102). Held valid a New York statute requiring the master of every vessel, within twenty-four hours after arriving, to make a report, in writing, of the names, ages, settlement, etc., of all passengers, as not violating the Constitution; that persons are not the subject of commerce, and neither the clause regulating commerce nor that prohibiting the States from imposing duty on imported goods apply. That portion of the opinion which questioned the exclusive power of Congress to regulate commerce was never authorized. (7 How., 429.)

1840.—Holmes *v.* Jennison (14 Pet., 568) was a habeas corpus case, and merely decided that a State court can not surrender to a foreign power a fugitive from justice, but can make punishable within its own courts crimes committed in foreign countries if jurisdiction is obtained of the criminal. (7 How., 427.)

1841.—Groves *v.* Slaughter (15 Pet., 449, 512) merely decided, after much discussion of many irrelevant points, that a provision in the Mississippi constitution of 1832, providing that after May 1, 1833, the introduction of slaves from other States should be prohibited as merchandise or for sale, was not effective without legislative enactment. Under Article I, section 9, Constitution of the United States, there is implied the right of the States to exclude slaves until Congress should forbid.

1847.—The License cases (5 How., 589, 631) involved the validity of statutes enacted by Massachusetts, Rhode Island, and New Hampshire relating to the sale of liquor. There was no opinion of the court as such (see reporter's statement, p. 504); but each of the judges rendered a personal opinion. The authority of Gibbons *v.* Ogden and Brown *v.* Maryland, now universally recognized, was questioned by some of the judges, approved by others, and disputed by others still. While these discussions are illuminating, they can not be regarded as controlling. Long ago the Supreme Court established firmly the doctrine of the exclusive power of Congress to regulate commerce between the States, and that the character of commerce is retained by an article imported from another State until sold by the importer in the original package or otherwise commingled with the general property of the State, and the only case which involved the power of the States to regulate commerce within their own limits in the absence of Congressional action (the New Hampshire case) was overruled in Leisy *v.* Hardin.

1849.—The Passenger cases (7 How., 283) held statutes enacted by the respective legislatures of New York and Massachusetts taxing alien passengers upon their arrival from foreign countries at the ports of these States void. There was no authentic report—that is, the court as such rendered no opinion—but each of the judges expressed his views concerning the subject. Mr. Justice Wayne, in his opinion, firmly declared that so much of the alleged opinion of the court in New York *v.* Miln (11 Peters, 102) as expressed any doubt that Congress has exclusive power to regulate interstate commerce was never agreed to. He also strongly reaffirmed Gibbons *v.* Ogden (9 Wheat.) and Brown *v.* Maryland (12 Wheat.).

Lunt's case (6 Greenl. (Me.), 412) relates to the right of a State legislature to regulate the sale of liquor, no question of interstate commerce whatever being involved. It merely holds that the privilege of selling liquor as a retail dealer is not a constitutional right, and may be licensed by a State.

Conway et al. *v.* Taylor (1 Blackford, 603) was a ferry case. It holds that a State may grant a valid and exclusive privilege to transit from her own shores, leaving the other States to regulate the same rights on their own sides. It does not directly enlighten any issue in this controversy.

United States *v.* Reese (92 U. S., 214). This was an election case involving the fifteenth amendment to the Constitution and relating to the power of Congress to legislate concerning elections in the States, and holding that power to be limited to cases where the wrongful refusal to permit one to vote is on account of race or color.

United States *v.* Cruikshanks (92 U. S., 543) is an election case, in which was at issue the validity of an indictment charging in general terms a conspiracy to deprive a colored citizen of his rights, privileges, and immunities under the Constitution, and to prevent and hinder him in the free exercise thereof on account of his race or color. The court, of course, held that the indictment was indefinite because it did not state what right, etc., was sought to be invaded.

Austin *v.* Tennessee (179 U. S., 343) held cigarettes to be articles of interstate commerce, and that the importer has the right to sell in original packages without regard to the Tennessee statute, but that this right does not extend to subterfuge original packages.

We next have to consider the propriety of exercising this power of Congress and passing this bill. For, as has often been observed, the power to do a thing and the propriety of doing it are quite different questions, and it may often be well not to exercise a power that plainly exists. The failure to exercise a power of Congress does not rob the national legislative branch of the Government of authority conferred upon it by the Constitution, and Congress possesses many powers that it does not habitually exercise. So it will be well to examine into the question whether the passage of this bill, conceding the power of Congress to enact it, is to be desired.

The policy of this legislation is not vicious, but, on the contrary, it is wholesome. The first consideration that leads me to the conviction that Congress, having the power to do so, should enact this bill or some similar measure, is the failure or inability of the States, in the main, to exercise their police powers to protect their citizens from frauds and injuries occasioned by impure and adulterated foods and drugs, and this failure or their inability to do so, or both, accentuates the necessity for the exercise by Congress of its powers to deny the character of commerce to articles so misbranded or adulterated.

As heretofore shown, the line between State and Federal authority is reasonably distinct. The State, for the protection of the lives and health of its citizens, can forbid the sale of deleterious articles; Congress can forbid their importation, and thus materially aid in protecting the public from the avarice of manufacturers who practice frauds in the introduction and sale of their products. The powers of the State and nation are distinct and independent, and the existence of the one does not question the existence of the other. The legislation enacted

by the various States does not indicate organized effort to prevent the imposition of frauds in the sale of food products and drugs. This fact urges upon my mind the consideration whether Congress can rightfully refuse also to act within the scope of its powers. The Government has a power which the States can not exercise. That is the power to regulate commerce, to deny commercial character to fraudulent or misbranded, adulterated, and unwholesome articles. Why and how would the exercise of this power deprive any citizen of any right or any State of any power? The power of the State is separate from the power of the nation. The State can not exercise the national function, which is to regulate commerce between the States. The nation can not lessen the inherent power of every State to preserve peace and health among its citizens. How can it be wrong for Congress to say to manufacturers, "You can not use instrumentalities under our control to rob and oppress the public; you shall not claim protection under the Constitution from the enforcement of any State statute which seeks to prevent fraud and deception; neither will the strong arm of this Government be extended to make heavier the burden of the States in the exercise of their rights and in the discharge of their duties?" The power to regulate commerce gives Congress the right to deny the instrumentalities and benefits of interstate commerce to persons and organizations who, for profit or other purpose, misrepresent their products and thus mislead and defraud the public. How can any honest man who wants to brand his goods object to branding them honestly? Is it claimed that the Constitution was designed to shield fraud and encourage deception?

If one brands his goods falsely, upon what principle can one demand of the Government the use of agencies under its control to assist in perpetrating frauds on innocent purchasers of his goods? The so-called "pure-food laws" of the States are, in the main, failures. I admit that if Congress did not have the power to pass a law forbidding impure foods from being carried as articles of commerce that the failure or inability of the States to do their duty could not create that power. But Congress having such power, the inability or failure of the States to exercise such powers as they possess only makes the duty of Congress to act more imperative. Its action does not create power. That power exists, and has always existed since the Constitution was adopted. The question of whether a power shall be exercised is independent of the existence of such power, for it involves considerations of public policy. As has often been said heretofore, power exists for the protection of the public, and it is not always true that every existing power should be exercised, but when the public is oppressed, defrauded, deceived, robbed, the time has come for the Government, in the exercise of its powers, to do its part in the prevention of such abuses. Why should the Government not exert its agencies to the suppression of the carrying as articles of interstate commerce fraudulent, misbranded, or adulterated articles? It must, indeed, be a peculiar mind that objects to the enactment of legislation on the ground of public policy when that legislation is designed to suppress widespread and long-continued abuses, evils which all decry and none condone.

STATE LEGISLATION ON THE SUBJECT IS VARIED AND INEFFECTIVE.

Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, and other States have food laws, but there is an almost total lack of uniformity among them, and in most instances no agencies are provided for the enforcement of the statutes that have been enacted, so that the laws in the main are mere dead letters.

Alabama, in her criminal code, has a general statute against the adulteration of foods by merchants or their sale after they have been so adulterated, and other provisions relate to selling unwholesome bread, adulterated butter, confectioneries, and meats, but no machinery is provided for its enforcement, save that the commissioner of agriculture is required to investigate sales of oleomargarine and report violations of the law to prosecuting officers. There seems to be no legislation relative to misbranded or adulterated drugs, and, from the best information obtainable, the statute is rarely enforced.

Arkansas, by act of April, 1893, has provided, with reference to general foods:

Whoever shall knowingly sell or offer or expose for sale, or bring or cause to be brought into this State, or shall have in his or their possession with intent to sell for food, the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased; or shall sell or offer for sale the flesh as of one animal, knowing it to be of another species, or shall offer for sale or sell any tainted, diseased, corrupted, decayed, or unwholesome meat, fish, fowl, vegetables, produce, or provisions of any kind whatever, without making the same fully known to the purchaser, or shall sell or offer to sell the meat of any calf which was killed before it had attained the age of six weeks, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $500 or by imprisonment in the county jail not exceeding six months.

The following provisions with reference to oleomargarine or butter are found in Kirby's Digest, sections 1702, 1703, 1704, 1705, and 1706:

BUTTER.

Oleomargarine to be labeled and marked.—Whoever shall sell any article, substance, or compound made in imitation or semblance of butter, or as a substitute for butter, and not made exclusively or wholly of milk or cream, or containing any fats, oils, or grease not produced from milk or cream, shall have the words "adulterated butter," or, if such substitute is a compound known as "oleomargarine" or "butterine," or if it is known by any other name, the word "oleomargarine," "butterine," or such other name as shall properly describe it, shall be stamped, labeled, or marked in printed letters of plain roman type not less than 1 inch in length, so that said word or words can not be easily defaced, upon the top and side of every tub, firkin, box, or package containing any of said article, substance, or compound; and in case of retail sales of any of said article, substance, or compound, the seller shall attach, or cause to be attached, to each package so sold at retail, and deliver with said package to the purchaser, a label or wrapper, bearing in a conspicuous place upon the outside of said package the words "adulterated butter," or the word "oleomargarine," "butterine," or such other word or words as will correctly describe the article, substance, or compound sold, as hereinbefore provided, in printed letters of plain roman type not less than one-half inch in length.

Defacing of labels, etc., on butter substitutes; penalty.—Whoever shall sell or expose for sale, or has in his possession with intent to sell, any article, substance, or compound made in imitation or semblance of butter, or as a substitute for butter, except as provided in section 1586, and whoever shall deface, erase, cancel, or remove any mark, stamp, brand, label, or wrapper provided for by this act, or change the contents of any box, tub, article, or package marked, stamped, or labeled as aforesaid, with intent to deceive as to the contents of said box, tub, article, or package, shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than $50 nor more than $500.

Hotels, etc., must indicate nature of butter substitutes.—If any hotel, inn, restaurant, or boarding-house keeper shall set before his guests at any meal any of said article, substitute, or compound, the dish or plate holding the same shall have clearly and indelibly marked on some prominent part thereof the words "adulterated butter," or the word "oleomargarine," "butterine," or such other word or words as may correctly describe the article, substance, or compound in said dish or plate.

Penalty.—Whoever shall violate the provisions of section 1588 shall be guilty of a misdemeanor and, on conviction, shall be fined in any sum not less than $5 nor more than $100.

Definition.—The term "butter" shall be understood to mean the product usually known by that name, which is manufactured exclusively from milk and cream.

Other provisions are found regarding the manufacture and sale of poisonous candies. With reference to native wines it is permissible to sell in original packages, provided the same shall be honestly labeled and contain no poisonous ingredients. (Kirby's Digest, secs. 5096, 5097, 5098, 5099, 5100, 5101, 5102, 5103.)

No provision whatever is made for the enforcement of these laws, except in so far as the law relates to wines. An inspector of wines is provided for. In all my experience as a lawyer, and from my information as a citizen, I have known of no instances in which these statutes are enforced, save, perhaps, in conjuction with city ordinances in the case of the sale of adulterated butter and milk.

Many citizens in that State desire the passage of this bill. I have received a large number of letters and petitions from my constituents asking my support of this measure. The State Association of Pharmacists, while in session at Hot Springs, sent me the following telegram:

HOT SPRINGS, ARK., *May 11, 1906.*

Hon. JOSEPH T. ROBINSON, M. C.,
Washington, D. C.:

The Arkansas Association of Pharmacists in session here request the support of all the Arkansas Congressmen to the Mann bill. Please advise them of our request.

W. H. SKINNER, *President.*

California has passed statutes against falsely labeling drugs, false weights, brands, adulterated foods, drinks, and drugs, and defines the words "drug," "food," "adulteration," etc. It also has a provision preventing the manufacture of poisonous candies; requires oleomargarine to be so labeled; renovated butter to bear brand clearly indicating its character to the purchaser; a record is required to be kept of brands and grades of cheese. It regulates the use of imitation products in hotels and boarding houses. The California statute is full, and enforced in conjunction with some such act as that proposed by Congress now, so as to assist the State by simplifying its difficulties and keeping out of the channels of interstate commerce articles of a clearly objectionable nature, it would, in my judgment, avail the citizens of that State much. No special officer, however, is charged with the duty of enforcing these statutes, except in so far as they relate to dairy products, and this duty is vested in the State dairy bureau.

Colorado has made criminal the sale of diseased or adulterated meat, poisonous foods, adulterated and counterfeit foods, tainted and unwholesome food, and has forbidden the adulteration of drugs and foods under severe penalties. The manufacture of adulterated liquors is made unlawful, and the importation of spurious, poisonous, adulterated, or drugged liquors, or liquors mixed with poisonous substances is punishable with a grave penalty. The manufacture and sale of adulterated

liquors is strictly forbidden. The statutes of Colorado contain many provisions relating to dairy products and the enforcement of the law in regard to the same, but no provision is made for the enforcement of other food drug laws.

Connecticut has enacted general pure-food and pure-drug laws after which this bill seems in many particulars to be closely modeled. The manufacture of adulterated and misbranded foods is forbidden, and these terms are defined much the same as in the proposed bill. Other provisions relate to alcoholic beverages, use of injurious drugs in brewing, the sale of adulterated liquors, and the inspection by the Secretary of Agriculture of sample packages to be procured from the manufacturer. The whole subject seems to be covered in the Connecticut statute, the provisions relating to water and milk being not the least important.

Delaware has confined her legislation on this subject principally to breadstuff, butter, candy, and fruit, and no officer is charged with the duty of enforcing these laws, with the exception of those relating to breadstuffs (principally for exportation), and the further exception that provision is made for the sampling and inspection of products suspected to be deleterious.

Florida forbids the sale of diseased, corrupted, or unwholesome food by any person without making known to the purchaser its condition. False packing is also forbidden. The statutes cover adulteration of alcoholic beverages, bread, butter, candy, and drugs. Here, as in many other States, no provision whatever is made for the enforcement of the food laws.

Georgia makes the sale of unwholesome foods a misdemeanor, and authorizes an action for damages by the person injured against the seller in case of injury from the same. The sale of adulterated food or drink without giving a true analysis of the article so adulterated is also a misdemeanor. Careful provision is made in regard to the sale of drugged liquors, inspection being required monthly or whenever desired by either buyer or seller. Other provisions in the Georgia statute relate to candies and dairy products. Impure, unwholesome, or adulterated milk, imitation butter or cheese, the use of coloring matter in cheese and butter, the sale of oleomargarine without notice that it is oleomargarine, and the use of the same in hotels without notice to guests that the product is oleomargarine are some features of the law. Enforcement of the laws relating to liquor is provided for, but no special provision is found for any of the remaining statutes.

Idaho forbids the adulteration of foods and drugs, the sale of tainted or diseased food and drugs, the sale of famished animals as food, the sale of imitation or adulterated butter, the manufacture or sale of adulterated or poisonous candy, the manufacture or sale of vinegar containing certain ingredients alleged to be injurious to health; forbids the handling of adulterated vinegar, and requires all receptacles to be marked with kind and standard of strength. No officer is provided to enforce the Idaho laws.

Some of the Territories, including the District of Columbia, Alaska, Hawaii, and Arizona, have enacted pure-food laws, but most of them are without the facilities for enforcing them.

This brief review of State legislation on the subject reveals the fact that with the exception of three or four of the States, legislation in regard to pure food is meager, and that which has been passed, in most instances goes unenforced. Thus the public, in the very vital matter of the food they consume and the medicine they use, is left at the mercy of avaricious manufacturers and dealers, who are constantly poisoning the springs of existence by adulterating the food we eat; by selling as pure and wholesome poisonous substances that kill rather than sustain, and by practicing many forms of fraud and deception which, whether forbidden by State laws or authorized, ought not to be countenanced by the National Government in the control of interstate commerce.

Even if the States had demonstrated a disposition to deal efficiently with the subject, the great expense that is occasioned them by the failure and refusal of Congress to aid in the consummation of the laudable purpose of protecting the public from the injurious effects of poisonous, unwholesome, and adulterated foods, makes necessary this or similar legislation on the part of Congress.

Without the aid of Congress in regulating the transportation of foods and drugs among the States, no State can adequately enforce its statutes enacted under the police powers for the security of the life and health of its citizens. When one considers the multiplied avenues of interstate commerce entering and passing through every State in the Union, the countless express and freight offices where delivery is made of articles shipped from other States, the innumerable points on every railroad, the many wharves and landings to which goods are shipped from foreign States, it is at once apparent that the States can not maintain an effective system of inspection (without great expense), that will enable its officers to ascertain whether the State laws are being evaded or complied with; when we remember that daily jobbers and merchants are selling, over their counters at every market in the State, products which may impair the health of the purchaser, it would be difficult in the extreme to estimate the cost and inconvenience to the State authorities of maintaining and effectively enforcing statutes designed to afford security to the public from the dangers of impure foods and adulterated drugs, if at the same time the railroads and express companies are permitted to carry as commerce every article offered from another State. As already observed, the States can not act extraterritorially; they can not regulate interstate commerce; they can not prevent the importation of recognized articles of commerce.

It is this circumstance, the fact that Congress has failed to do its part in this matter by exercising its power to keep out of the channels of commerce articles that are not to be properly recognized as entitled to that privilege—this failure of Congress to exercise its power has made the State laws relating to impure foods ineffective.

The uniformity that would result from the passage of this bill would be a great benefit to the public. This is a subject peculiarly admitting of uniformity, not in its every detail, indeed, but in its most important particulars. No State ought to want to encourage the manufacture and sale of poisonous and adulterated food, and no State should encourage a manufacturing industry which bases its prosperity upon misbranding and falsely labeling its products. Under the practical operation of every reform difficulties arise which can not be anticipated. Some of these difficulties are latent, while others are devised by the opposition to reform and designed to discountenance and defeat it. I should be glad to see the day when every State shall forbid, by statutes fairly uniform, the manufacture and sale within its limits of all poisonous, adulterated, and misbranded foods, and when the National Government shall deny the character of interstate commerce to all such commodities. This legislation will hasten the coming of that day.

In many of the States there have grown up industries which are so far-reaching in their influences that the States fostering them have refused to regulate them. Some of these industries ship habitually into the different States through the common carriers of interstate commerce tainted food, meats of animals slaughtered while dying from loathsome diseases, the flesh of animals which have died before slaughter. Others manufacture large quantities of beverages which they have grown accustomed to adulterate for market in the various States. Others still have made, and are making, fortunes by the sale to a credulous public of simple food stuffs misbranded and adulterated with worthless substances. Others are deliberately and wickedly placing upon the markets of the States for use by the unfortunates who suffer chronic miseries entailed by heredity and other afflictions which cause them to seek remedies everywhere and apply everything recommended, in the hope of getting relief, alleged medicines, loaded with poisonous drugs, which temporarily allay pain and thus give promise of curative effects. Do you tell me that it is wrong for Congress to forbid the transportation, as articles of interstate commerce, of such products? Do you assert that any State could resent the assistance which Congress would thus give to existing statutes on the ground that it was an interference with the rights of the States? Why should the doctrine of State rights be invoked in justification of indifference to the public welfare?

Do gentlemen here profess that the prevention of the sale to the millions of our population (who have neither the time nor the facilities for analyzing their foods) of adulterated, misbranded, fraudulent, and poisonous foods by denying the commerce character to such articles is an invasion of State rights? What right of any State will be thus invaded? What privilege or right of any State, inherent or reserved, will be restricted? Will not each State still retain its power to pass whatever statutes it chooses for the protection of the lives, the health, the morals of its citizens? Does any gentleman here oppose the passage of this measure because it refuses to lend respectability to fraud, because it denies the designation of "interstate commerce" to substances which none can claim should longer mask behind that name? I yield to no man in my regard for the doctrine of local self-government. But that expression means a government under the laws and Constitution of my country by the exercise of every power, whether State or national, or both if necessary. It does not mean license. The failure of Congress to pass this measure, or one similar, and to thus deny the character of interstate commerce to articles

tainted with fraud or loaded with poison will not strengthen or increase the right or power of any State, but it will weaken the confidence which the public has in this Congress.

We are called upon, not to exercise any power reserved to the States, but to exercise the power delegated to Congress to regulate commerce. The exercise of a power does not create it, nor does the nonexercise of it destroy a power that exists. The sphere of Congressional action is circumscribed. It can not invade the States and nullify valid State laws. It can not forbid manufacture for sale within a State where an article is manufactured nor forbid a sale there. But it can prevent the transportation, by common carriers as interstate commerce, articles recognized to be unwholesome, and prevent their sale by the importer in the original package, just as it has forbidden the importation of unwholesome tea. Congress has the same power over commerce between the States that it has over foreign commerce. Practical experience may develop necessity for changes in this measure. It may not be doubted that some difficulties will be met in its enforcement. But when the importance of the subject is considered, the necessity for Congressional action contemplated, those difficulties do not appear insurmountable. It must be something worthy of consideration by this body, that we are permitting the Government, through agencies within its absolute control, to distribute poisons as foods and adulterated products as genuine. I must, indeed, study a new code of morals before I can justify my failure to combine with the power of the States the strength of the nation in protecting the public from the greed of those who count profit above honor and wealth above the rules of fair dealing.

The citizens of every State are entitled to the combined action of State and nation, each operating within its sphere, to ward off the physical and moral degeneracy that must result from the long-continued consumption of impure, adulterated, and poisonous foods. The citizen has little opportunity for personal inspection of the products he consumes and is without the means of accurately determining the genuineness of the articles he feeds upon. In practical life we rarely see the articles we consume until they are served in the most attractive way that can be devised. Is it incumbent on the Government to admit to the character of interstate commerce every commodity offered, without regard to its purity or wholesomeness? To ask the question is to answer it. Admittedly the States can not regulate interstate commerce. The Congress can. Private enterprises in some localities may suffer from the enactment of this law, but an enterprise that thrives by fraud, and poisons while it pretends to feed, does not deserve to prosper and can not demand the aid of government to continue its existence. Neither can it invoke the police powers of the State to compete with honest, legitimate enterprise through interstate commerce and thus cheat the public. A fair application of the principles of this proposed law can not harm any legitimate business. It is unfair to assume that the law will not be properly enforced. It is begging the question to assert that the agents of the Government intrusted with the enforcement of the law, if it be enacted, may be partial and unjust. There is, practically speaking, no such thing as exact justice. But there is a sense of equality before the law, of fair dealing and reasonable application, that underlies all our institutions and statutes, and makes possible the maintenance of order and the development of industry. The health and comfort of American citizens is above any consideration of private gain. Colossal profits, based on frauds, can not offset the detriment of a poisoned and degenerated citizenship.

The real source of opposition to this measure is the fear that it will operate partially, discriminate against legitimate industries, and thus become a means of oppression, while affording no remedy for the evils against which it is directed. But such objection may be made to any statute. The possibility of impartiality in the enforcement of a law is inherent in every law that can be enacted. Law can not make officers honest, nor can it always compel efficiency. There is nothing unfair in this bill, nothing oppressive, although some features of it may be and doubtless are imperfect. But experience and the wishdom of future Congresses, in my judgment, may be relied upon to correct such mistakes as we may make. I have no fear that legitimate industry will suffer by the passage of this bill. Manufacturers and jobbers who make and sell as genuine adulterated products, who place upon our markets as wholesome poisonous foods and drugs, are commercial brigands who rob the citizen of both his health and his money, and one must be cross-eyed in his moral vision to see merit in their claims. It is far from any thought or purpose of mine to oppress any citizen, to discourage any proper business, to restrict any authority in the States, and if I believed that such would be the effect of passing this bill, I would most assuredly oppose it. But, honestly believing that legislation of this character is needed, that it is within the province of Congress to enact it, that it does not impair the right of the States to govern themselves in all matters of local concern, and that it will aid the States in protecting their citizens from the irreparable injuries of impure foods and drugs, I cheerfully give it my support. [Loud applause.]

The CHAIRMAN. The time of the gentleman from Arkansas has expired. [Loud applause.]

Mr. ROBINSON of Arkansas. I would ask, Mr. Chairman, leave to revise and amplify my remarks.

The CHAIRMAN. Without objection, it is so ordered. The Chair hears no objection. The Chair understands the gentleman from Georgia [Mr. ADAMSON] yields ten minutes to the gentleman from Maryland.

Mr. ADAMSON. The gentleman from New York [Mr. GOULDEN] desires to be recognized for a moment.

Mr. GOULDEN. Mr. Chairman, we were all deeply interested yesterday in the able and instructive speech of the gentleman from Illinois [Mr. MANN].

The exhibition of adulterated and short-weight goods now shown on the floor of the House speaks in language unmistakably for the adoption of a remedy.

I shall call attention to the salient points in the pending bill now under discussion, beginning with section 7.

Section 7 of the House bill relates to the subject of "misbranding," and is the section the provisions of which have given rise to the greatest controversy. It provides that the term "misbranded" shall apply to all drugs or articles of food, or articles which enter into the composition of food, which bear any statement, design, or device on the package or label regarding the ingredients or substances contained therein, or the article as a whole, which shall be false or misleading in any particular; and to any food or drug product falsely branded as to the State, Territory, or country in which it is manufactured or produced; that also a drug shall be deemed "misbranded" if it be an imitation of or offered for sale under the name of another article, or if the contents of the original package have been removed in whole or in part and other contents substituted, or if it fail to bear a statement on the label of the quantity or proportion of alcohol, or of opium, cocaine, or other poisonous substance contained therein.

It is proposed to offer an amendment to this provision, which in effect will provide that the quantity of alcohol or narcotic need not be stated upon a pharmacopœia remedy prepared in accordance with the pharmacopœia formulary, but that on other preparations of drugs the amount of alcohol and of opium, morphine, cocaine, heroin, alpha and beta eucaine, acetanilid, and chloral hydrate shall be stated, so that people may be informed who purchase prepared medicines whether they are taking habit-forming drugs or alcoholic compounds.

"Food" shall be considered as adulterated if it be an imitation of or offered for sale under the distinctive name of another article, or if labeled or branded so as to deceive the purchaser, or falsely purport to be a foreign product, or, if in package form, the quantity of the contents of the package be not plainly and correctly stated in terms of weight and measure on the outside of the package.

An amendment will be offered to the package provision somewhat modifying the arbitrary provision, but still protecting the purchaser and the honest manufacturer from the fraud of those who wish to cheat and swindle by short weight or measure.

It ought also to be considered as misbranding of food if the contents of the original package shall have been removed in whole or in part and other contents placed in the package, or if the package fails to bear a statement on the label of the quantity or proportion of any of the narcotic drugs.

The section provides that an article of food not containing added poisonous or deleterious ingredients shall not be deemed adulterated or misbranded in case of mixture, or compounds known as articles of food under their own distinctive names and not imitations, if the name be accompanied on the label with a statement of the place where the article has been manufactured or produced, and also that food shall not be deemed adulterated or misbranded in case of articles labeled, branded, or tagged so as to plainly indicate they are compounds, imitations, or blends, provided that the term "blend" as used therein shall be construed to mean a mixture of like substance, not excluding harmless coloring or flavoring ingredients.

The provisions in the House bill which covers the subject of liquor, as well as other articles of food and drink, is that an article shall not be deemed misbranded when labeled, branded, or tagged so as to plainly indicate that it is a compound, imitation, or blend, provided that the term "blend" as used therein shall be construed to mean a mixture of like substance, not excluding harmless coloring or flavoring ingredients.

Section 13 of the House bill and of the Senate bill provides for seizing and confiscating adulterated or misbranded articles by process of libel for condemnation.

Section 14 of the act proposes to put in permanent statute the provisions which have been carried in the agricultural appropriation bill for several years, authorizing examinations to be made of imported articles of food and drugs and directing the Secretary of the Treasury to refuse entry and delivery when found to be adulterated or misbranded.

The most remarkable thing about the bill under consideration is the state of affairs which it intends to correct, to use a paradox. We are so used in these days to having deception practiced on us, we have grown so accustomed to it, that we no longer realize its enormity. It is taken as a matter of course, as part of the status quo of the things we are born heir to, and as having perhaps some right to exist.

Yet when we stop to take thought of the matter, we realize that a state of things exists which should bring the blush of shame to the cheek of every honest man and woman or to one who is inclined to raise truth and fair dealing only slightly above the mad greed for the mighty dollar. [Applause.]

It would seem that wherever we turn in the business or manufacturing world we meet with deception in many cases on a mighty scale. Not only is the very spirit of competition driving out all respect for honest representation of wares, but it tends to the imposition of dishonest wares upon an unsuspecting public. Perhaps the spirit of competition is held responsible for too much, and its back is broken with the heavy burden of misplaced blame; we might therefore be somewhat lenient and endeavor to rightfully place a part of the blame.

But in the endeavor to do so we are obliged to fall back upon the worst elements in human nature, which impel men to squeeze a profit from every trade. We are all familiar with the famous horse deals so liberally sprinkled in popular literature, and with the efforts of trusts and millionaires, as elaborated by the sensational press. These are only samples of what is taking place in almost every trade and industry, in manufacturing and business, even at times in the professions and arts. And that is the sad part of it, that in the endeavor to live and to pursue their lives in a Christian fashion, men will stoop to questionable methods, adopting as their motto that rule which has always been falsely attributed to the Jesuits, "that the end justifies the means."

And this is the state of affairs which is disclosed after a careful and cold-blooded analysis, and which the bill under discussion is endeavoring to correct in certain lines of trade and manufacture. Prepared foods and food products are so adulterated as to either reduce the quality or increase the quantity for the purpose of saving cost of production on the one hand or to increase the cash income on the other. Valuable ingredients in the natural foods are cleverly, ingeniously substituted by chemicals, with the same object in view. Drinks and condiments are treated in the same way. But when we take up the matter of drugs and chemicals themselves the field grows so vast that the mind of no man here is able to grasp it all or to go to the bottom of the subject.

Enough has been shown during all the years that pure foods have been under discussion by State legislatures and Congress to prove that the enormity exists; that a cancerous growth of giant proportions has been built up on a foundation of fraud and deceit, and that the public has been the victim for so long that it might be said to have grown accustomed to it, and to have thrived on it; at least so those who have profited by it might claim. This was developed in the recent meat investigation, so fresh in the minds of the people of the world. [Applause.]

But the one phase of the subject that has received no attention is, of course, the moral one. We are so busy hunting evidence that we do not stop long enough to remember how repugnant all of it is; that misrepresentation has been elevated into a virtue of business; that men grow rich by stuffing false foods into the stomachs of their fellow-citizens, and by trying to cure their ills by medicines that produce new ills or which fail to cure.

The bill under consideration aims to put a stop to at least some of this fraud and deceit as it may exist in the District of Columbia and the Territories and in interstate commerce. After years of agitation Congress has at last decided to interfere in the interests of the people and to really do something in their behalf. It might be interesting to know why it takes so many years for a measure of this kind to receive the sanction of the people's Representatives, but the reasons have been given so often by advocates of tariff-reduction bills and other acts for the real people's benefit that it would be idle and useless to go over them now. It is sufficient to say that the powerful manufacturing interests are always more potent with some of these Representatives than the people themselves—another illustration of the intrenched power of the trusts and industrial combinations and the lack of organization on the part of the consumers.

However, Congress has at last decided to do something, and that something, as embodied in the bill under consideration, is so worthy that no one should hesitate about supporting it. The only regret is that its provisions are not applicable to the internal commerce of the States. We might say that this is an instance where constitutional limitation prevents us from doing something good for the public; but the bill carries a remedy for this regret by suggesting that the States may follow the action of Congress by enacting uniform laws upon the pure-food question, and that the officials intrusted with the enforcement of the law, in both nation and State, may frequently consult for the purpose of fixing exact standards of food products and drugs. As a first step in the right direction the bill is excellent, and it gives me pleasure to raise my voice in its behalf and to cast my vote for its passage.

I have but one objection to the bill, and that is to the provision which exempts foods and drugs intended for foreign commerce from the restriction and penalties of the measure. Now that we have made up our minds to protect our own citizens from fraud and deception—to do a little needed house cleaning, as it were—we should not continue to believe that the foreigners are still fit subjects for such practices and that we can broom onto them that which we would not accept ourselves. It makes us look ridiculous when we stop to make such distinctions, and it tends to make our foreign customers look with suspicion upon all of our commerce. We take no means to conceal the fact that fraud can be practiced upon them; that anything can be palmed off on them so long as it looks and tastes well and a stiff price is charged for it.

While about it we might as well have gone that much further and forbidden our manufacturers from selling to the foreigner for genuine what we forbid them selling to our own citizens. It requires no stretch of imagination to know why this step was not taken. It shows that the protected interests have not lost all their influence, even though Congress has at last decided to pass a pure-food bill.

But as half a loaf is better than none, and charity begins at home, I am most willing to support this present bill as amended in spite of my objection to the foreign-commerce exemption; and I shall hope that it may not be very long before Congress will remedy the matter and relieve itself and the American people from the reproach of perpetrating fraud upon our customers abroad who like and need our products.

And how strange it is that a measure of this kind, aiming to do so much good to the people and to prevent so much unfair dealing, should meet with opposition. Of course every reform that the world or a nation, or even a community or a single family, has inaugurated has been bitterly fought and has only been accomplished after incredible struggles and heartburnings. It is one of the traits of human nature to stick to the things that are, however ill, rather than fly to the new things—the ills that may be. And in the present instance we have no exception to the rule. And yet, I repeat, it seems so strange that a good can only be accomplished after a determined fight. I believe that if a movement was started to abolish the kingdom of Satan that the usual mighty opposition would at once arise, even in this House.

Fortunately, the character of the evil and the suggested remedy are so plain and simple that the opposition can be easily concentrated and analyzed for what it is worth. We find that it consists only of those interests which have fattened for years upon fraudulent goods imposed upon a patient people, of interests which have grown so large and powerful that they resent interference as an impertinence, as a meddling with sacred property rights. Although they enjoy no special franchise or privilege, they feel that the superstructure which they have erected upon the gullibility of the people is sacred by reason of its mere existence; and we have the novel spectacle of a cancer being spared from the knife, even though the body on which it festers should die. That some necessary amendments will be adopted before the bill passes goes without saying.

It is always the same class of people, however, who object—the protected interests, clamoring for a continuance of the protection, of the aids which have given them life, strength, and wealth, and without which they could not thrive at the expense of the people. It would be too much to expect governments to go back to the "laissez faire" days, the days of the "hands-off" doctrine; but if we could only adopt a little of it in these

times, how many trusts would fall to the ground at once, how many frauds would be exposed and driven out of business? In other words, the people demand a "square deal" all around.

The Interstate Commerce Committee has listened to many people on the subject of pure food, and most of them have been in opposition; but, of course, they have represented manufacturing interests, who felt that their business would be injured by the passage of such an act. Representatives have been liberally supplied with literature from similar sources, with the object of convincing them that the interests of their constituents demanded the defeat of the bill. And no stone is left unturned if it can be made an obstacle to its progress.

I would like to read a letter received from my friend, Dr. Thomas Darlington, the present commissioner of health in the city of New York, a man well known all over the country for his efficient services in making New York one of the healthiest cities and one of the best in which to live in the world:

CITY OF NEW YORK, DEPARTMENT OF HEALTH,
OFFICE OF THE COMMISSIONER OF HEALTH,
New York, March 8, 1906.

Col. J. A. GOULDEN,
180 Broadway, New York City.

SIR: I wish to call your attention to the patent-medicine clause in the pure-food bill which is now before the House of Representatives, since it will be on this clause that one of the serious attacks upon the bill will be made. The clause provides briefly, as you will see by a reading of it, that all poisons contained in patent medicines be stated upon the label, and that any patent medicine shall be deemed misbranded which carries on its label any misstatement.

This seems to me, and I believe will appeal to you, as an eminently fair and honest proviso. The Proprietary Association of America has its representatives in Washington working against the provision, and ready to work against the whole bill in case the clause is permitted to remain in it. You have undoubtedly received their literature and heard from them in other ways.

Therefore I urge you to take into account, no matter what their arguments may be, that the patent-medicine section as it stands is simply a requirement of fair play, such as to safeguard the public and to let the purchaser know what he is purchasing in the field of proprietary medicines.

Very sincerely, yours, THOMAS DARLINGTON,
Commissioner.

This is a sample of the opposition that has been raised to the pure-food bill. But as we have listened to it for many years now and have seen how hollow and selfish it all is, we have at last determined to ignore it and to do a little something for the people. It is a pleasure to be able to say that the people's representatives are really representing them and not the interests that have been greedily preying on them, and I am proud to be able to aid by my vote the passage of so worthy an act.

The distinguished gentleman from Missouri [Mr. CLARK] has set a fashion in tombstone inscriptions by desiring his vote on the Philippine annexation question duly carved on his. Let me ditto his sentiments as to my vote on the pure-food and good-meat questions. [Loud applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. STERLING 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 bill of the following title:

H. R. 20321. An act to provide for the traveling expenses of the President of the United States.

PURE-FOOD BILL.

The committee resumed its session.

Mr. ADAMSON. Now, Mr. Chairman, I yield to the gentleman from Maryland [Mr. GILL] ten minutes.

Mr. GILL. Mr. Chairman, there is unquestionably a demand for the enactment of constitutional legislation by Congress, under the interstate-commerce clause, by which it shall cooperate with the several States in protecting the health and lives of our citizens against the ravenous greed of those who would injure or destroy them in their unholy and criminal efforts to secure wealth through disease-breeding and poisonous adulteration of both food and drink. It is my desire to aid as far as possible in securing the passage of such legislation as will promote the preservation of the purity of food and drink for both man and beast. But in considering such legislation we should not permit ourselves, under the hysteria of the moment, to enact imperfect measures which may be fraught with greater harm to our true interests than the evils which we are seeking to remedy. In my opinion, danger signals have been hoisted in this Congress, warning us of governmental rocks upon which our country may be stranded if the tendency to enact extreme, crude, ill-considered, and preferential legislation is not curbed. These signals admonish us to seek more persistently and to observe more carefully than in the past the line of demarcation between the powers reserved to the States and those granted to the Federal Government. In this body, by reason of its rules, we are fast reaching, if we have not already reached, a method of legislation which in the future will be known as "committee autocracy." By the extraordinary increase, within a very short time, of departments and bureaus we are beginning to emulate, in the executive branch of our Government, those States which history denominates as "Governments of bureaucracy." "Committeeautocracy" and "bureaucracy" are both departures from the methods of our democratic forefathers and are grave dangers to republican institutions. The one fosters preferential legislation for the benefit of privileged classes; the other creates an army of officeholders so great as to threaten with destruction our party government.

Senate bill No. 88, commonly known as the "pure-food bill," which has been passed by the Senate and for which the House Committee on Interstate and Foreign Commerce has proposed a substitute, is now before us. This substitute is a striking manifestation of the tendency to which I have tried to draw your attention.

In section 10 of the committee's bill it is provided, among other things, that—

Every person * * * who manufactures or produces for shipment * * * from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, any drug or article of food, and every person who * * * exposes for sale * * * any drug or article of food received from a State, Territory, or the District of Columbia other than the State, Territory, or the District of Columbia in which he exposes for sale * * * such drug or article of food, etc.—

Shall be required to furnish a sample of such commodity to the authorized agent of the Government for the purposes of analysis, and by section 11 it is further provided that any such person who fails to comply with the terms of section 10 shall be guilty of a misdemeanor.

Even a superficial reading of this section (10) of the committee's bill brings home the conviction that through it Congress is seeking to regulate manufacturing within the States and sales purely intrastate, a function which it is powerless and never was intended to exercise. It is a firmly established principle of constitutional law, that under the interstate clause the jurisdiction of Congress extends only to the regulation of commerce among the several States, with the Indian tribes, and with foreign nations. By seeking to compel a person "who manufactures for shipment" or "exposes for sale" any drug or article of food to furnish a sample thereof to an agent of the Government, which sample might furnish the basis of a criminal prosecution against him, Congress is trying to trench on the police powers of the State.

One of the many instructive cases in which this principle is lucidly stated and the boundaries between the reserved power of the States and the powers granted to the Federal Government clearly defined is In re Greene, 53 Federal Reporter, 104.

In this case the court uses the following language:

It is equally clear that Congress has no jurisdiction over and can not make criminal the aims, purposes, and intentions of persons in the acquisition and control of property which the States of their residence or creation sanction and permit. It is not material that such property, or the products thereof, may become the subject of trade or commerce among the several States or with foreign nations. Commerce among the States, within the exclusive regulating power of Congress, "consists of intercourse and traffic between their citizens, and includes the transportation of persons and property, as well as the purchase, sale, and exchange of commodities." (County of Mobile *v.* Kimball, 102 U. S., 691–702; Gloucester Ferry Co. *v.* Pennsylvania, 114 U. S., 203, 5 Sup. Ct. Rep., 826.)

In the application of this comprehensive definition, it is settled by the decisions of the Supreme Court that such commerce begins and the regulating power of Congress attaches when the commodity or thing traded in commences its transportation from the State of its production or situs to some other State or foreign country and terminates when the transportation is completed and the property has become a part of the general mass of the property in the States of its destination.

When the commerce begins is determined, not by the character of the commodity, nor by the intention of the owner to transfer it to another State for sale, nor by his preparation of it for transportation, but by its actual delivery to a common carrier for transportation or the actual commencement of its transfer to another State. At that time the power and regulating authority of the State ceases and that of Congress attaches and continues until it has reached another State and becomes mingled with the general mass of property in the latter State; that neither the production nor manufacture of articles or commodities which constitute subjects of commerce and which are intended for trade and traffic with citizens of other States, nor the preparation for their transportation from the State where produced or manufactured, prior to the commencement of the actual transfer or transmission thereof to another State, constitutes that interstate commerce which comes within the regulating power of Congress, and, further, that after the termination of the transportation of commodities or articles of traffic from one State to another and the mingling or merging thereof in the general mass of property in the State of destination, the sale, distribution, and consumption thereof in the latter State forms no part of interstate commerce. (Pensacola Tel. Co. *v.* Western Union Tel. Co., 96 U. S., 1; Brown *v.* Houston, 114 U. S., 622, 5 Sup. Ct. Rep., 1091; Coe *v.* Errol, 116 U. S., 517–520, 6 Sup. Ct. Rep., 475; Robbins *v.* Taxing Dist., 120 U. S., 407, 7 Sup. Ct. Rep., 592, and Kidd *v.* Pearson, 128 U. S., 1, 9 Sup. Ct. Rep., 6.) In the latter case the Supreme Court pointed out

the distinction between commerce and the subjects thereof, and held that the manufacture of distilled spirits, even though they were intended for export to other States, was not commerce falling within the regulating powers of Congress.

Clearly, then, that part of this bill which seeks to regulate the manufacture of a commodity within a State where made, or to regulate its disposition or sale after its transportation has been completed and it has become part of the general mass of the property in the State of its destination, is valueless legislation and beyond the power of Congress to enact.

This imperfection, however, is not the only one in this bill. In my judgment the House Committee on Foreign and Interstate Commerce has most seriously weakened the Senate measure by its attempt to incorporate in this bill an imperfect provision safeguarding fair trade by weight and measure. Certainly fair trade by weight and measure is not germane to pure food. A pure-food measure is framed to protect men's stomachs and, through their stomachs, their health and lives. A requirement for fair trade by weight and measure is designed to promote bona fides in matters of contract and the observance of a higher standard of morality in commercial transactions. But even if the subject of fair trade by weight and measure were relevant in a pure-food measure, it seems to me that with the three lines which the committee has inserted on this subject it would be impossible to cover so vast a field. It is to be hoped that in the consideration of this weight-and-measure provision of the bill the House will not, as it did with the rate bill, assume the infallibility of the Committee on Interstate and Foreign Commerce, in the end only to have the Senate reform it with eighty amendments.

So far as I have been able to ascertain, there has been no demand for a law insuring fair trade by weight or measure. But granting that there were, this paragraph, by which it is sought to satisfy such a demand, fails utterly to do so. It reads as follows:

In the case of food, if in package form, the quantity of the contents of the package be not plainly and correctly stated in terms of weight and measure on the outside of the package—

it shall be deemed misbranded. This paragraph is vitally defective in three respects: First, it imposes upon a large and important class of our population duties and obligations which are onerous and foreign to them and which, as the paragraph now stands, do not compensate the consumer with any corresponding benefits. Secondly, the word "package," as used in this section, conveys no such legal signification of the term as would render it possible to enforce the penalties provided for a violation of this part of the proposed law. Thirdly, there is no national standard of weights and measures, none having ever been established by Congress, nor is any provided for in this bill.

Section 5 of this bill provides "that the term 'food,' as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound." This provision is so comprehensive, so all-embracing that in its application it affects the business operations of a large class of our people and all kinds of articles of foods and drugs. It includes the products of our fisheries, the products of almost every garden and farm in the land, and every modification of the natural product when these products enter into interstate commerce. It affects every farmer, every fisherman, every canner, every preserver or modifier of foods, as well as every other person who may become the shipper of any article of food as defined in this bill. Indeed, the magnitude and vastness of its application is commensurate only with our population and the volume of our food production.

The State of Maryland alone, with a population of a little over a million, exported last year upward of 2,000,000 bushels of oysters in cans, buckets, and barrels. There were preserved and exported by the farmers and canners of that State about 250,000,000 tins of agricultural products, including vegetables and fruits of every kind and description grown in the State of Maryland and the surrounding States. Food products and the modifications thereof gave to the carriers in Maryland a greater amount of freight than any other class of commodities. Hence the interest of the people of our State in this measure, which they believe will impose upon them onerous obligations without any corresponding benefits to the consumer.

What did the framers of this weight and measure provision intend its phraseology to embrace? Those who have been impelled to study this provision by the belief that it will affect them in their business or occupation labor under the impression that it seeks to compel the shipper or manufacturer of drugs or articles of food to mark on every single unit which may be used in making up a package the quantity of its contents in terms of weight or measure; that the farmer who ships a crate of strawberries must brand on each small box in the crate the weight or measure of its contents; that the farmer who ships a crate of eggs containing a number of baskets or boxes is required to have weighed the quantity of eggs in each box or basket which goes to make up the crate and mark each box or parcel therein in order to comply with the requirements of this provision; that the canner who puts up his goods in tins and sells them by sample is required to mark each tin, which may be the units of a larger package, in terms of weight or measure. But does the language of this paragraph, judicially defined, really mean this? And if it does not mean this, does it avail us anything to insert this provision in the bill?

In Guckenheimer *v.* Sellers (81 Fed. Rep., 997) the court said:

Where bottles or packages are fastened together and marked, or are placed in a larger box, barrel, or crate, or other receptacle, and shipped therein, the outside box, bundle, or receptacle, and not any bottle or package contained therein, constitutes the original package.

In the well-known case of Commonwealth *v.* Schollenberger (Pa.) (27 Atl. Rep., 33) the court uses this language:

Such packages put up with a view to the convenience and security of transportation and handling in the regular course of trade are the original packages of commerce. * * * "Original" means pertaining to the beginning or origin; the first or primitive form of a thing. "Package" means a bundle or parcel made up of several smaller parcels combined or bound together in a box, crate, or other form of package. An original package is such form and size of package as is used by the producers or shippers for the purpose of securing both convenience in handling and security in transportation of merchandise between dealers in the ordinary course of actual commerce. Such packages are not always made up by putting smaller packages or bundles together, but may include any form of receptacle that shall hold a fixed quantity, as a barrel of sugar or salt, a bag of coffee, a chest of tea, and the like. (Approved in Parson's case, 27 Southwestern Rep., 1104; also in Haley *v.* State (Nebr.), 27 American State Rep., 723.)

The court has here defined separately the word "original" and the word "package," and its definition of "package" is not controlled or affected by the adjective "original" prefixed thereto, which merely serves to identify the package as the one primarily placed in the hands of the carrier and by the carrier delivered to the consignee.

The definition of "package" in this case applies equally to the word "package" as used in the paragraph I am now discussing, and would unquestionably permit a manufacturer to label, under the requirements of this section for branding, the outside box, bundle, or receptacle with the weight or measure of its contents, and such labeling would be a compliance with the terms of this paragraph. It would not be necessary for him to mark any of the parcels or bundles which go to make up this package. As to the packages which the court has defined as containing a fixed quantity—such as a barrel of sugar—in contradistinction to those which are made up of or contain a number of smaller parcels or bundles, of course there is no question as to where the label should be put. It is almost a universal custom and practice to ship a number of smaller parcels in a package for convenience in handling in interstate transportation. The small parcel, which is the one that reaches the consumer and which it would be proper to mark with the information of value to the consumer, is by the terms of this paragraph exempted from its operation. We may shed a little more light on this subject by placing together the language of the first part of the first section and the language used in the paragraph under discussion. Thus placed together it reads: "Shipment of food in package form." Can the word "package," as used here, mean any other package than that which is delivered for shipment to the carrier to be by him "introduced" into another State or Territory? If not, then this package, which is delivered to the carrier to be transported to another State or Territory, is the one which, under this paragraph, should be branded with the weight or measure of its contents, and not the parcels or packages which it contains, though they may number a thousand. If the framers of this paragraph had intended that the parcels or bundles which are the units that make up this package—such as the small boxes of strawberries in a crate or cans of preserved fruits or vegetables in a box—should each bear the weight or measure brand, then the language employed to convey that meaning is unquestionably vague, uncertain, and capable of a different interpretation. As it now stands it is a trap for the wary as well as for the unwary. Certainly such a foundation is too flimsy and insecure upon which to rear the structure of a penal offense.

Though this vagueness as to the term "package" may give way to words more specific and definite, there is, in my judgment, a graver difficulty to be dealt with in this paragraph for fair trade by weight and measure—one more organic than the defect which I have just been discussing. Congress has never fixed a standard of weights and measures for the United States, notwithstanding its constitutional authority to do so. It has authorized the adoption of standards for the custom-house and in various acts has defined certain standards of weights and

measures to be used in the custom-houses in the levying of duties on certain classes of goods. Complete sets of the various weights and measures in use in the Treasury Department and the custom-houses have been furnished to all the States and Territories, and, with certain modifications, have been adopted by nearly all of them as their standard of weights and measures. But the modifications to which these standards of weights and measures of the various States have been subjected are so great and universal that practically there is a different standard of weights and measures in every State. In addition to the weights and measures prescribed for the use of the custom-houses, Congress has legalized a metric standard of weights and measures and authorizes the use of this system in the custom-houses, the Government offices, and by the citizens of the several States.

This act, however, does not undertake to prescribe a system of weights and measures for the United States, so that we have this condition: The Government has adopted a standard of weights and measures for the custom-houses, has prescribed the use of another standard—the metric system—in the custom-houses, and has legalized the use of the metric system so far as the citizens of this country may choose to use it. Fifty-one States and Territories, including the District of Columbia, have each adopted a standard of weights and measures. The use of these standards is compulsory upon the citizens of these States and Territories, except in so far as the act of Congress of July 28, 1866, making it lawful to employ the weights and measures of the metric system, may have modified the State laws on this subject. The acts and resolutions of Congress bearing out my statement that Congress has never established a standard of weights and measures for the United States are as follows: Resolution of May 19, 1828; resolution of June 14, 1836; act of July 28, 1866; resolution of July 27, 1866, which read as follows:

And be it further enacted, That, for the purpose of securing a due conformity in weight of the coins of the United States * * * the brass troy pound weight procured by the minister of the United States at London, in the year 1827, for the use of the Mint, and now in the custody of the mint at Philadelphia, shall be the standard troy pound of the Mint of the United States, conformably to which the coinage thereof shall be regulated.

Resolved, etc., That the Secretary of the Treasury be, and he hereby is, directed to cause a complete set of all weights and measures adopted as standards and now either made or in progress of manufacture for the use of the several custom-houses, and for other purposes, to be delivered to the governor of each State in the Union, or such person as he may appoint, for the use of the States, respectively, to the end that a uniform standard of weights and measures may be established throughout the United States.

Be it enacted, etc., That from and after the passage of this act it shall be lawful throughout the United States of America to employ the weights and measures of the metric system, and no contract or dealing or pleading in any court shall be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system.

SEC. 2. *And be it further enacted,* That the tables in the schedule hereto annexed shall be recognized in the construction of contracts and in all legal proceedings as establishing the terms of the weights and measures now in use in the United States the equivalents of the weights and measures expressed therein in terms of the metric system; and said tables may be lawfully used for computing, determining, and expressing in customary weights and measures the weights and measures of the metric system.

Be it resolved, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to furnish to each State, to be delivered to the governor thereof, one set of standard weights and measures of the metric system for the use of the States, respectively.

Now, let me submit this question to the framers of this weight and measure paragraph of the bill. There being no national standard of weights and measures, what standard of weights and measures have you adopted in this bill? Clearly none. Hence this weight and measure paragraph is utterly void and valueless, and should be stricken from the bill. No attempt should be made to impose conditions requiring weight or measure on the interstate commerce of the country until Congress has exercised its constitutional function of prescribing a uniform standard of weights and measures for the United States.

But if by any possible interpretation the language of this weight and measure paragraph may be made to imply the use of the standards adopted in the different States and Territories under their laws and those adopted by Congress for its custom-houses, its effect on interstate commerce would be disastrous and deplorable. The wide and almost universal differences between the various State standards of weights and measures would breed endless confusion.

A Maryland shipper of a bag of potatoes labels it as containing 1 bushel, which must weigh 56 pounds in Maryland. He ships it to a commission merchant in Virginia, where the same bag of potatoes, marked a bushel, to be correctly marked, should weigh 60 pounds. In Virginia the sale of this bag of potatoes, as marked in Maryland, would be illegal and fraudulent. Again, a barrel of turnips, marked 3 bushels in Wisconsin, need only contain 42 pounds to the bushel. Shipped to the State of South Dakota, it should contain 60 pounds to the bushel. Its sale in South Dakota as 3 bushels of potatoes would also be illegal and fraudulent. If marked by weight, what weight would be compulsory, avoirdupois or troy, between which there is a well-known difference? If by measure, by the dry quart or by the liquid quart? A commodity might be composed of a liquid and a solid, which measure would be compulsory in such a case? Indeed, the difficulties that present themselves are so great, so complex, that, unless Congress prescribes the adoption of the metric system or some other uniform system of weights and measures throughout the United States, they would be absolutely insurmountable.

In conclusion, Mr. Chairman, let me ask why a weight and measure paragraph is incorporated in and is insisted upon by the framers of a pure-food bill. There is no public clamor for it either in the press or by petitions to this body. There is even no ordinary demand for it. It could not subserve the purposes of preserving the purity of food. Indeed, it threatens to overload the whole structure of this bill and to topple it over into the slough of defeat. I do not believe the proposers thereof seek to impose additional burdens on the agricultural and piscatorial classes of our people, but they certainly will if this provision is adopted. It requires them, directly and indirectly, to purchase labels, weights, and measures, and to employ additional labor. Are they not already sufficiently taxed? Is not their real and personal property subjected to State and county taxation? Does not Congress mulct ample tribute from them by levying tariff duties on their clothing, their food, and their implements? Does Congress not exact more from them through its internal-revenue tax on the grain and tobacco products of the land? Yet, insatiate, you seek further of their substance through this delusive weight and measure clause. Are you impelled by an uncontrollable desire to breed new trusts in this country? Do you wish to foster a weight and measure trust by creating an inordinate demand for their products, or do you want to provide more spoils with which to fatten an overprotected paper trust at the expense of the toilers of the deep and the tillers of the soil?

Mr. ADAMSON. Mr. Chairman, the gentleman from New York [Mr. GOLDFOGLE] desires to be recognized for five minutes.

The CHAIRMAN. The gentleman from New York [Mr. GOLDFOGLE] is recognized.

Mr. GOLDFOGLE. Mr. Chairman, if Congress will enact this pure-food bill into law it will be entitled to the everlasting gratitude of the American people. [Applause.] The distinguished gentleman from Illinois [Mr. MANN] gave us yesterday a splendid demonstration of the frauds and artifices practiced in the use of deleterious and unhealthful food adulterants. He ably demonstrated, too, how the public are deceived by the use of short weight and measures, and after that interesting exhibition and lucid explanation no one in the House can longer doubt the necessity of a pure-food law.

We have been told by some of the distinguished lawyers in our body that the bill is unconstitutional. Others of equal legal ability have declared that it is valid, and does not conflict with any constitutional provision. True, Mr. Chairman, in the enactment of statutes we ought to exercise care in their framing, and reasonable caution that none of their provisions contravene the fundamental law of the land. We ought to proceed with care not to infringe upon the restrictions and limitations imposed by the supreme law of the land. But I see nothing here which would make the measure before us invalid. If the doubt as to the constitutionality is as great as that expressed on the one hand, and the belief in the validity is as strong as that asserted on the other, let us in the interest of the public health, in the interest of honest dealing, in the interest of life itself, resolve that doubt in favor of the bill and let the courts settle the disputed questions. Let Congress do something now, here at this moment, that may lend protection to the health of the citizen; that may put a stop, so far as Federal legislation can do it, to the frauds practiced on an unsuspecting public, and that may help to preserve the life of our fellow-countrymen. [Applause.]

The recent disclosures of the packing-house scandals, and those which prove the putting on the market of unwholesome, adulterated food and drink have weakened the confidence of the public. We have been shocked at these disclosures, and from every section of the country comes a demand for a pure-food law. Its passage will restore public confidence; it will tell the fraud and the evil doer that the day of money getting at the expense of life and health of the consumer is at an end. Let us enact such legislation that we may not again be nauseated by such reports as we have had from the meat-packing houses. The bill will in some measure insure to the public protection against the oil they ought not to have palmed off on them—cottonseed oil. When they buy honey they ought not to have palmed

off on them prepared glucose, with a dead bee cunningly thrown in to convey the idea they are getting the real product of the bee. When they buy canned salmon they ought not to be given canned codfish artfully prepared to resemble the salmon; and so on. And when they buy canned goods they ought to be sure that punishment is in store for the dishonest canner who would put up unwholesome or rotten food treated with preservatives.

Without going further into the details that require this legislation, let me express the hope that we shall proceed speedily to give to the country a law that will make for honesty of dealing and for protection of the life and health of our citizens. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ADAMSON. Mr. Chairman, how does the time stand?

The CHAIRMAN. The gentleman from Georgia has thirty-one minutes remaining and the gentleman from Illinois [Mr. MANN] has fifty minutes.

Mr. GOLDFOGLE. Mr. Chairman, I yield back my unexpired time if I have any.

The CHAIRMAN. The gentleman has none.

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Maryland [Mr. SMITH] fifteen minutes.

Mr. SMITH of Maryland. Mr. Chairman, one of the great industries of Maryland is the packing of its home products.

The Secretary of Agriculture, Hon. James Wilson, has recently said that Maryland is the best State in the Union for agriculture and horticulture.

I believe that Maryland offers greater opportunities for the successful and profitable growth of diversified crops than any other State in the Union, with locations obtainable to suit the tastes of the most fastidious, even though they be as many and as varied as the varieties of the products that so delightful and uniform a climate as Maryland can produce. It matters not whether they prefer the mountain slope, the hillside, the valley, or plain, each can be found in Maryland, either washed by the waves of the Atlantic, the waters of the great Chesapeake Bay, the placid rivers flowing therein, or the cool rivulets and babbling mountain brooks, all of which are in unison for the promotion of the growth of crops in spring and summer and the protection of the delicate fruit buds of the vine and tree during the winter's frost, which season but for the rarefication of the atmosphere by these waters, might prove to be blasting.

Everything in the shape of grasses, grains, fruits, and vegetables that grow under similar climatic influences flourish in Maryland soil, whether indigenous or otherwise; hence the greatest possibility for diversification exists, the advantages of which are clearly apparent to the intelligent farmer, for he knows full well that if his planting is confined to one or two crops, and the season should prove adverse to these, his profits would be very small, or, perhaps, the balance on the wrong side of the account; when, on the other hand, if he sowed wheat, planted corn, strawberries, blackberries, raspberries, canteloupes, melons, potatoes, tomatoes, and other cereals, fruits, and vegetables as commend themselves to the market and his taste of culture, within the scope of his ability to properly cultivate and handle, there can be no total failure with him any year, because there is never a season in this State so unpropitious but that some of these crops mature and are profitable, and in most cases the great majority of them.

Among the Maryland products most commonly canned in the State are tomatoes, corn, peaches, pears, strawberries, raspberries, blackberries, lima beans, sweet potatoes, pumpkins, and oysters, the last named being the product of the great Chesapeake Bay and its tributaries. Pineapples, while not a Maryland product, are also largely canned in Baltimore. Baltimore has been called "the cradle of the canning industry," and according to the best authorities, Maryland not only leads in oyster canning business, but is also among the first States in the Union in the canning of fruits and vegetables.

The first patent for a tin can for hermetically sealed food was granted to Peter Durand, in England, in 1810. It was brought to America shortly after, and Maryland, or more particularly Baltimore, was the first place in the United States where the packing of fruits, vegetables, and oysters in cans was successfully carried on, although glass was used before tin. Previous to 1850 the cans were made by hand; subsequently machinery took the place of hand labor.

The packing of fruits and vegetables extended until the industry has grown to such immense proportions that it has become important to every State in the Union and to almost every farmer in the States. Probably the greatest development of canneries in Maryland occurred between 1885 and 1895. Great increase in machinery, the novel and improved methods of processing, and the rapid growth of the industry resulted in largely cheapening the price of the product.

According to the history of the packing industry, in 1894 there were 1,900 known canned-goods packing firms in 42 States who operated over 2,000 canneries, of which 25 per cent were in Maryland; and the total output for that year was computed to have been about 700,000,000 cans. The total aggregate value of canned goods for 1894, as estimated, was $71,250,000, and would have required 58,750 box cars to carry the pack at 500 cases to the car and two dozen cans to the case. It would have required at that time 2,000,000 boxes of tin plate, 30,000,000 cases, and 700,000,000 labels to complete the pack for shipping. The growth of the packing business in Maryland is estimated to have amounted to fully 40 per cent in the decade of 1890 and 1900.

In Maryland tomatoes are more largely canned than any other product of the State, and, indeed, some seasons Maryland furnishes at least one-tenth of the pack of the United States.

In the season of 1902 Maryland packed of this commodity alone over 4,000,000 cases of an average standard size of No. 3 cans, 2 dozen to the case, making a grand total of over 96,000,000 cans.

If Maryland furnished 25 per cent of the pack of this country in 1894, as claimed, and as statistics seem to show, and has increased 40 per cent since, then the pack of all the commodities in the State of Maryland to-day should be at least 245,000,000 cans. So far as canning fruit and vegetables is concerned, Maryland has made a gratifying increase in variety, quantity, and quality.

Now, Mr. Chairman, the bill under consideration proposes to impose upon this great industry, not only in the State of Maryland, but in every other State and Territory of this country, a hardship and blow that is not only detrimental to the packer, but is also an absolute injury to the farmer who grows the crop and the consumer alike, without being a particle of benefit to anybody, as intended by this bill—namely, protecting the purity thereof and the quantity the can contains.

The weight of canned fruits and vegetables would not necessarily have anything to do with the purity or impurity of the goods. In other words, canned fruits and vegetables are about on a parity with water, as far as weight is concerned, and a can of water would weigh about the same as a can of vegetables packed as solidly as is possible with the vegetable matter as grown (the skin and cores being removed), the cans being the same size; and especially is this so of tomatoes and most other packable agricultural and horticultural products. The tomato, for instance, is made up of cells and globules whose chief component parts are water; hence the greatest care is exercised by the practical, up-to-date canner, in order that the tomato may be crushed as little as possible consistent with the required and necessary rapidity in handling and packing, for the more the vegetable or fruit is crushed the less solid and more watery it appears.

Tomatoes honestly packed and subjected to severe freeze would deteriorate in appearance, and upon being opened they would have a ragged, spongy look, and be much more watery, but would not be affected thereby as to weight. This might happen after the goods had passed the packer and even the jobber and while in the hands of the retailer, and would simply be no fault of the packer. The provisions of clause 3 of section 7 of this bill are entirely impracticable so far as canned goods are concerned, and would benefit no one, but would render a successful management of the canning business almost impossible. In the first place, the weight of the solid material put into cans does not always mean the quality. For instance, some fruits, such as strawberries, peaches, and, in fact, we might say all fruits and tomatoes, if they happen to be a little soft when put into cans, would not "cut out," in technical phrase, after processing in so good a condition, and would not be so valuable to the customer as if a lesser weight of fruit that was in a firmer condition had been put into the cans. And, as I have said before, some articles are made up of a greater percentage of water, and although the can was packed full of the solid material and nothing else was put into it, yet after processing there would be quite a percentage of water or juice in the can, which must vary from day to day, and no living man could put on his label what weight or measure of solid material is contained in the can. He might weigh into a can 32 ounces of tomatoes, and then after processing and opening the can the solid tomato, when poured out and the liquor drained off, might weigh anywhere from 18 to 26 ounces, and if squeezed a little would still keep emitting juice and might go down to 15 or even 14 ounces. It would all depend upon the condition of the fruit.

Other articles would be affected in a similar manner, and I respectfully submit to you that the proposed law would be asking the packers to do something that would be absolutely impossible. Honest canners have no objection to a pure-food law if it guarantees to the consumer what its name implies, but this section would not accomplish that result, and its adoption would be a serious handicap to one of the most important industries in this country. Every honest canner and packer would welcome any practicable law that would protect and guarantee the purity of the article and the honesty of the pack, but they do not want a law that practically cripples one of the greatest industries in this country, and places additional cost on the already overburdened consumer in the purchase of many of the necessaries of life, and that without a particle of benefit to anyone in any conceivable way. Such a "tariff" would not even benefit a trust.

Canned goods as packed in Maryland—or anywhere else, so far as I know—are not sold on a weight or measure basis. The tin cans in which the goods are packed are properly known by numbers; for instance, tomatoes are packed in No. 3 Maryland standards and in No. 3 Jersey standards and in No. 10 standards, the latter for use in large quantities. Peas and corn are usually packed in No. 2 cans, though sometimes when packed for large consumers—hotel and restaurant trade—they are put in No. 10 cans; and this is the case with other Maryland-packed products, and I presume it is the rule throughout the country; and the can itself, seen by the consumer, is sufficient evidence of its capacity, sale being made at a convenient retail price per can. Just here, too, I wish to speak of preserves, jellies, and jams, packed in glass jars, which is also a great industry in Baltimore city and elsewhere in the country. The manufacture of glassware is not such a fine and exact art that the glass manufacturers can produce vessels of equal and uniform capacity, and each container would have to be weighed and marked separately as to weight and measure, under this bill, before it is filled as well as after, or the packers would be constantly laying themselves liable for statements which, in the nature of things, would be a technical violation of the proposed law. I am credibly informed that variations occur in weight or measure from evaporation and consequent shrinkage. A statement might be correct when made and incorrect six months later.

The case as it stands in the nine agricultural counties of the First district of Maryland, Mr. Chairman, is simply this: Our farmers depend largely, in most sections, upon the canneries for disposing of the products of the soil which I have already referred to as finding a natural home in Maryland; in the canneries our laboring people find well-paid work for a considerable period of the year; the value of canning property is a factor in the taxable basis; for material and labor the packers annually distribute large sums of money in the towns and rural communities, which is spent at home and stimulates all branches of industry, and upon the operation of the packing houses depends, to a great degree, the progress and prosperity of my district, as of other districts in my State and in two score of States in this Union. If the packer is putting on the market a 3-pound can, say, of tomatoes, and selling it through the broker or middleman to the consumer for a 3-pound can, and it is short in weight, there might be some excuse for requiring him to go to the expense and inconvenience of branding each separate can; but he does not do this. He packs a No. 3 can and two dozen of these are put in a wooden case and this case is marked "Two dozen No. 3 Maryland standard," or "New Jersey standard," as the case may be. Why should his business, now conducted under fixed and recognized methods, be suddenly revolutionized and every detail of it be required to be readjusted, because the groceryman and the department store advertise 3-pound cans that are not 3-pound cans? Certainly no fraud or dishonesty has been imputed to the packer. The gentleman from Illinois [Mr. MANN] were he familiar with the packing business would not lay such stress upon the varying sizes of No. 3 cans. The Maryland No. 3 is as uniform as it can be made. The Jersey No. 3 is slightly larger and is also as uniform as can be made. The dealer who retails canned goods knows that when he buys No. 3 Maryland he is getting a can that holds, of tomatoes, an average of about 40 ounces; and should a packer not give honest weight, and should his No. 3 Maryland or his No. 3 Jersey—and I use these standards because they are the ones most generally followed in the East—not come up to the standard for which he sells them, the inexorable laws of trade would doubtless punish him by making it impossible for him to get the market price for No. 3 cans. As the gentleman from Maryland [Mr. GILL] has said, Congress has never fixed a standard of weights and measures, and the entire effect of this part of the pure-food bill will simply result in damage and confusion to the canned-goods industry, without, so far as I can see, any benefit whatever to the consumer. Should it be enacted into law, the increase in cost of canned goods to the consumer will be considerable, and we all know he will have it to pay.

The law would tend to destroy the value of individual labels and packages which now have a recognized standing among consumers, and the copyright of special designs now possessing a large monetary value would be destroyed without any corresponding benefit to either manufacturer or consumer. Such a provision is not properly a part of a pure-food law, so far as it concerns the canning industry, for which I speak, and is unnecessary, as the goods are sold at a given price per can or container, and not by weight or bulk, nor is any claim made for weight or bulk. The language of subdivision 4 (page 21) of the bill in itself fully protects the purchaser from fraud or deception in all respects, weight and measure included, by prohibiting any labels false or misleading in any particular.

I want to say in regard to labels that every provident canner has already purchased his labels for this season's pack, at least, and it is frequently twelve or eighteen months before his goods are all out of his possession, hence at the proper time I shall offer an amendment to the provision in section 16, so far as it may pertain to canned fruits and vegetables.

Now, let us return to the canned goods themselves. In so far as it relates to purchase and sale, the goods are neither sold nor bought by weight or measure, and the only thing that does enter vitally into the purchase or sale is the number of the can and the quality of the goods. The cans, being standard sizes and as nearly uniform as it is possible to make them, show for themselves as to quantity of contents, and samples are opened by the salesman or broker and quality exposed to the purchaser by dumping or otherwise, examination being thoroughly made by him, and the sale is conditioned upon the fact that the bulk lot when received shall open up and be fully as good as the sample by which purchase was made, a part of the original sample being retained by the broker and purchaser for comparison and decision. Hence you can readily see that the marks upon the goods have no part whatever in the sale as to quality or quantity, and a fairer way of doing business between the purchaser and the dealer, and hence the retailer and consumer, could not be conceived; and since there is no benefit to be derived by the packer, dealer, or consumer by the operation of subsection 3 of section 7 of the bill, and since it would entail an increased price to the consumer and a useless added expense to the packer, as well as a practical paralysis of a legitimate business, and no good of any kind or character can possibly be produced by it, I will ask that lines 3, 4, and 5, on page 21, be stricken from the bill. [Loud applause.]

Mr. MANN. I yield to the gentleman from Minnesota.

Mr. STEVENS of Minnesota. Mr. Chairman, the able and exhaustive argument of my colleague, the gentleman from Illinois [Mr. MANN], last evening completely covered the whole field and represented the views of the majority of the Committee on Interstate and Foreign Commerce upon the importance and scope and detail of this legislation.

But there are a few facts of general importance which, in this connection, should be a matter of record.

It is recognized now that the welfare of people and their ability to accomplish something for themselves and their families and for the public depends, for a very large extent, upon proper nutrition for their bodies. The experience of this Government in the Tropics, in the Philippines, in Porto Rico, Cuba, and Panama shows conclusvely that as soon as men can secure proper food in sufficient quantities they are capable of doing much more and efficient work and become far better and more valuable citizens. But it is needless to go to the Tropics to ascertain the truth of such a self-evident fact. One great source of the incapacity, poverty, suffering, and degradation in our own land, in both cities and country, has been the imperfect nutrition of body and brain, caused by deficient quality or quantity of foods.

Nearly all the civilized governments realize this fact, and have enacted laws, more or less stringent, designed to correct, so far as possible, the evils of this adulteration and deterioration of foods. The majority of the States in the Union have laws, more or less wise, and more or less well enforced. About twenty-five States of the Union have good laws, very well enforced, which have been productive of untold benefits to the people. If all of the States had good pure-food laws, well administered, and adapted to the varying conditions of their localities, there would be little need for a national pure-food law for interstate commerce. But it is because there are so many States which have no laws at all, or are not enforcing the laws they do have wisely and efficiently, and there is such a woeful lack of uniformity and protection to the people and to the business inter-

ests that it now seems to be necessary that Congress should exercise its power under the interstate-commerce clause of the Constitution for the purpose of protecting all of our people against the admitted and manifest dangers of adulterated and misbranded foods and drugs.

The State authorities themselves, the food departments of many State governments, have urged the enactment of this legislation. The great business interests of the country—manufacturing, jobbing, and retail—have urged it strongly for their own protection, while the great mass of consumers seem to look for relief to the Federal Government more than to their local authorities for protection from conditions and evils as to food products. This situation may be unfortunate under our form of government, but it exists, and we have to meet it.

The present legislation is not designed to supplant any State legislation on the subject of pure food, but to supplement it and make it the more effective. The State authorities desire it, first of all, because it can enable them by cooperation to reach the principal offender, who is generally some powerful manufacturer outside of the State. The business interests desire it, because it will tend to produce a uniformity of standard foods, of preparation and distribution, and will tend toward uniformity of method and practices in the laws themselves and in their administration.

The pending legislation will tend to encourage honesty and fair dealing in the great mass of food products and discourage the fraud and swindling which has not only tended to impoverish the masses of our people, but to threaten their lives, health, and happiness. Under existing conditions a national pure-food law will inspire confidence among producers and consumers, and this will improve methods, encourage development along proper lines, and decrease prices of good foods to consumers.

Unless one has examined the matter he will not appreciate the immensity of the interests affected by this legislation. The United States census for 1900 shows there were 16,187,715 families in the United States, and by the increase of population during the last six years there has doubtless been a proportionate increase of families, so there must now be at least 18,500,000 families in the United States. The average income per family in this country is estimated at something over $500 per annum, and nine-tenths of the families spend about three-fifths of their annual income for food and drink. Conservatively estimated on this and other bases, it is fair to assume that fully $6,000,000,000 is expended in this country every year for foods, as defined in this bill.

The census of 1900 also shows that there was annually produced at that time of manufactured foods $2,273,880,879, and of liquors and beverages $425,504,167; total, $2,699,385,041.

The vast increase of all of these industries during the last six years would probably now disclose an annual production of at least $3,500,000,000. This does not include drugs or animal foods, also affected by this bill, whose production will also aggregate many millions of dollars. The popular notion as to the vast extent of fraud and adulterations in foods is not sustained by the facts. A fair estimate would be that not over one-fourth to one-fifth of the food products are susceptible of being so treated, so that probably a billion and a half dollars of annual production would come within the province of adulteration. There will be inserted in the RECORD some of the articles found to be most adulterated by the official food chemists of the various States. Competent authorities have estimated the pecuniary losses to consumers caused by adulteration, but the calculation has never been very satisfactory. They vary from minimum of $150,000,000 to a maximum of $500,000,000 per annum.

It seems to be fairly safe to assume that if the provisions of this bill can tend to produce the good results hoped for it and bring about uniformity of laws and administration between the Federal Government and the States, and also bring about an improvement and economy of methods and development among the business interests affected, that there can be an annual benefit to the people of at least $300,000,000.

This shows the great importance of this measure and why there has been such an insistent demand for it among our people. As I have before stated, the amount of harmful adulterations of food has been exaggerated, but, at the same time, the situation is very aggravating. The official reports show that it has ranged from an estimate of 26 per cent in some States to fully 70 per cent in other places, depending upon the amount of consumption and also on a proper enforcement of the local law. A fair estimate is that from 40 to 50 per cent of products which can be adulterated are so treated in the country as a whole and would be affected by the provisions of this act; so the results of this legislation may not only save $300,000,000 or more to our people, but, more important still, preserve their health, increase their capacity for enjoyment, for labor, and good work in public and private life.

In the limited time allotted to me I only wish to particularly discuss one paragraph, which has excited much interest on this floor, and that is the package provision, so called, being the third paragraph on page 21 of the House amendment. The members of this committee all realize, from the scope of this discussion, the many troubles which the Interstate Commerce Committee have had in the preparation and discussion of this bill. We have been overwhelmed with all sorts of advice; and the one thing which has astonished us is this—the unanimity of the one opinion—that everybody is strongly in favor of a proper pure-food bill. Everybody has favored the enactment of some proper measure. The singular feature to which I wish to call your attention in connection with this remarkable unanimity is that nearly everyone has a little amendment which he knows will greatly improve the bill and which generally excepts from the operaton of the act the particular business or product in which he is interested. The vender of rotten eggs was strongly in favor of a pure-food bill, but he wanted an amendment excluding his business. The gentleman who manufactured Jamaica ginger out of wood alcohol was in favor of a pure-food bill, but he wanted an amendment excluding his business. The gentlemen who make adulterated pepper all favor a pure-food bill, but they want an amendment excluding their business.

The gentlemen who manufacture catarrh cures with cocaine and like substances, or who manufacture cough cures with opium and morphine, or who vend stomach cures or bitters or various nostrums with percentage of pure alcohol in them far greater than is contained in good whisky—all of these reputable gentlemen are very loudly in favor of a proper pure-food bill, but they all want a little amendment which shall not affect their particular business.

The gentlemen also who sell short-weight canned goods as full-weight product all favor a pure-food bill, but like the rest of them they want an amendment excluding their business. It is the same with nearly everyone in connection with this legislation. Your committee was confronted with this sort of condition. From the nature of the subject-matter this bill is necessarily divided into two entirely distinct and different divisions. One has reference to adulteration, the other has reference to misbranding. The gentleman from Illinois told you truly that the amount of adulteration of foods in the United States was not as large as many people imagined. It is decreasing somewhat in proportion to what it used to be on account of the rigid enforcement of wise pure-food laws in many of the States. But the amount of misbranding, of cheating, of swindling by means of imitation foods, by means of fraudulently prepared foods, by means of short-weight preparation, by means of various devices compelled by competition, is increasing in the United States; and if there is one thing which needs legislation, it is upon that evil which is constantly increasing.

We find this condition, too, in reference to the preparation of foods: There is a revolution in the manufacture and distribution of foods for consumption. Many foods which were formerly sold in bulk are now sold in prepared packages. Many people prefer it in that way, and the manufacturer certainly does. It is prepared cheaper and better in some respects. It comes to the consumer cleaner and fresher in some respects. It is certainly very convenient and attractive and worthy of encouragement. So that there is great competition between the bulk products and the package products.

Now, the package products are prepared by large concerns, having ample capital, able to push their business, having great skill, and they are able to do to the best advantage that which is necessary to prepare their products for the market. We have received many circulars from these manufacturers of the various products; and it is a little unfortunate for them that they do not agree. The Western Canners' Association send us a circular which was alluded to by the gentleman from Illinois, in which they stated that the cans were prepared as one-pound regular, one pound tall, one pound and a half, etc.—not that such was or would be the contents of the can, but that such was the trade name. Others have sent us circulars in which they stated that cans were prepared by standard sizes, that the sizes were numbered 1, 2, and so forth; showing that there is a vital difference between them as to the names or terms they use in describing the size of the cans. But no matter what they call the cans, none of them hold the weight of goods to which the term of weight is affixed.

Now, as a matter of fact, Mr. Chairman, these cans are not prepared in pound sizes or in any size which will hold the amount of the product which the trade term designates. The circular which was sent to us by the canners' association states

the fact that they do use cans of various sizes which they call pound cans, but as a fact can not contain that amount of goods. It is absolutely impossible to find a can known as No. 1 pound regular, prepared for fruit and vegetables which will hold a pound of prepared fruit or vegetables. Any statement that such is a pound can is a false statement; and yet these canners notify this House that they desire the privilege of sending that can out in the market and hold it before the public as one-pound can, which never was made for a one-pound can, and can not hold a pound of any kind of fruit or vegetables. Now, what do they actually do? As a fact, they prepare it as a standard can, containing less than a pound, yet they call it a pound can and it is sold to the public as a pound can. You examine the newspapers of this country; you take any daily paper in any State in the Union; you examine any weekly paper, and look at the advertisements of some of the grocers, and especially of the grocery department of the great department stores in the largest cities and the catalogues of the great supply houses and you will find that the majority of the advertisements are of package products described to be sold by weight and measure, and nearly every single description is misleading, is a deception to the public, because the public does not get the amount set forth in the advertisement.

Mr. TALBOTT. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. Certainly.

Mr. TALBOTT. Are these advertisements inserted by the canner or the dealer?

Mr. STEVENS of Minnesota. Of course they are inserted by the local dealer. Our point is this: The canners want the privilege to prepare these cans and sell them by weight, as pound cans. They ask the privilege of selling them as pound cans, when, as a matter of fact, they are not pound cans. And the principal reason for this deception is that by such means they can better supplant the bulk products which the consumer might in some cases use if he thought he was getting a full weight.

Mr. MANN. This circular that you have there was not gotten out by a dealer.

Mr. STEVENS of Minnesota. This circular was prepared by the Western Canned Goods Association and sent to us over the signature of its officers. In it they ask the privilege of preparing what they term a pound can, which is not a pound can, and the privilege of selling it to retail dealers, who will advertise to the public that the goods are pound cans, when as a matter of fact they are not. Now, that practice is increasing in this country. That is the way these package men are trying to extend their business in competition with the bulk trade. Now, we have no right to discriminate as between the package men on the one side and the bulk people on the other. All we want to do is to require that each one tell the truth—tell the people just exactly what their goods are, no more and no less.

Mr. McCLEARY of Minnesota. May I ask my colleague a question?

Mr. STEVENS of Minnesota. Certainly.

Mr. McCLEARY of Minnesota. If a can is made which for a certain product would be a 1-pound can, would it be a 1-pound can for another kind of product?

Mr. STEVENS of Minnesota. Probably not; but I will come to that in a moment. Now, the committee amendment simply provides that goods shall be sold by weight or measure of the contents of the can (and now comes the point that is important to the canners), provided that the board of secretaries designated in the bill shall have authority to make regulations concerning the standard sizes of these cans; and all that is necessary then to be labeled on the can is the standard size that it actually purports to be, so that a standard size No. 1 shall be labeled "Standard size No. 1," and shall not be labeled a 1-pound can.

Mr. NORRIS. I want to ask the gentleman if it is the theory of the committee that by virtue of this provision of the bill this board of secretaries, as you call them, will make a definite stipulation by rule as to the exact contents that shall be contained in these different sizes?

Mr. STEVENS of Minnesota. I will tell the gentleman.

Mr. NORRIS. And if that is the theory, why would it not be a good idea so to state in the law itself, so that there may be no possibility of a misunderstanding?

Mr. STEVENS of Minnesota. Mr. Chairman, I hardly believe it is necessary to set forth all the details in the bill. It would be embarrassing by making too rigid rules for a matter which may need to be changed from time to time; but according to our idea they would work out something along this line: All of these package manufacturers, or nearly all of them, are organized into different associations. This one is the Western Packers' Canned Goods Association. Thirteen or fourteen States are represented in this association. These powerful organizations would agree upon a standard size can, a No. 1 can, containing so many cubic inches, or such a weight of water, and so forth; a No. 2 can, holding so many cubic inches or such a capacity, and a No. 3 can with a certain described capacity, and so on. Those would be the standard-size cans—one set for tomatoes, another for peaches, another for berries, and so forth. That is what is really done now, but if provided by law would accomplish two things: First, that a standard-size can could not be sold as a pound can, and when people called for a pound can or saw one advertised as a pound can, the chances are it would be one instead of a can 25 per cent short of such weight, and if a can was not sold as a pound can, everyone would gradually learn it was a standard-size can and would buy it for what it actually was. That would prevent fraud and swindling by the advertisements of the department stores and catalogue houses and those box-car merchants in our Western States.

Again, that standard-can size could not be cut down, could not be diminished, as is now so often done, without violating the law. The gentleman from Illinois [Mr. MANN] yesterday showed you, and you can see for yourselves right there, that there are different sizes of these cans of any one standard, and that difference in size is increasing, because the temptation to cheat is increasing. That is, the increased competition tends to diminish the size of the can, as many reputable dealers are forced to provide the two sizes—standard size and diminished size—in order to hold their trade. So there is a constant opportunity and almost a necessity sometimes in holding or building up a trade for diminishing the size of the can, and thus meeting an unscrupulous competitor and engage with him in deluding the public. You may take a No. 3 can for an article in one place and compare it with a No. 3 can in another place and you will find a considerable difference in the sizes of those cans.

Mr. NORRIS. I want to say to the gentleman that I am not asking the question with a view to criticising——

Mr. STEVENS of Minnesota. I understand that. I am very glad to give the gentleman the information.

Mr. NORRIS. I want the information, and am only seeking light. This agreement between the different manufacturers of cans would have no legal effect until approved by this board of secretaries.

Mr. STEVENS of Minnesota. The views of the manufacturers or dealers would have no effect except advisory. Any legal rule would have to be promulgated by this board—made a formal regulation by them. Such a rule would be the action of the board, and hence a law of Congress, but these things are always done upon consultation with the trade which is affected by them.

Mr. NORRIS. Under this bill now, would there be any way by which the dealer or manufacturer of cans who did not want to make any such agreement could go on just as he pleased?

Mr. STEVENS of Minnesota. Certainly. We do not undertake to restrict him, except he must not sell an undersized can for a standard can or a pound can.

Mr. NORRIS. I understand that, but by the use of this word he would not need to come clear up to the standard, would he?

Mr. STEVENS of Minnesota. I am glad the gentleman has spoken of that, for I want to explain. I am responsible, I suppose, for the insertion of that word "approximate." Some word like that was necessary in the bill in reference to weight and measure, not as to size of package. We have been criticised because we left the door wide open. To my mind it was disclosed last evening by the gentleman from New York and the gentleman from Massachusetts that a slight difference in weight necessarily occurs in packing and preparing these cans and packages. Now, that slight and natural difference in weight is met by the word "approximate." This word, as used in the committee amendment, only refers to weight and measure and not to the size of the package. Approximate would be defined in the dictionary and, I think, by the court and jury as the nearest possible under the circumstances. That leaves a small latitude, where a latitude is necessary. If we attempt to make a rigid standard, it would burden, it would greatly injure, the packing business of the country. We have no desire to do that, but, on the contrary, desire to help it. What we want to do is to make an elastic system which will not injure anybody, that will accomplish something, and that will fix some standard; that will encourage the honest dealer to set forth exactly what he has, since he knows that the honest man can not then unfairly compete by surreptitiously diminishing the size of the packages.

Mr. GILBERT of Kentucky. Does the gentleman admit that it is left to the jury and the judge in each particular instance to say whether the law has been violated or not?

Mr. STEVENS of Minnesota. Under the Constitution that is the only thing we can do.

Mr. GILBERT of Kentucky. That is the very thing you can't do. Take a case that occurred in my city——

Mr. STEVENS of Minnesota. My time is limited to twenty minutes, and I can not allow the gentleman to consume it.

Mr. GILBERT of Kentucky. The supreme court of my State say that leaving it to the jury to say whether or not the law has been violated makes the law unconstitutional.

Mr. STEVENS of Minnesota. I do not see how it can be escaped that no man can be convicted of violating any law except by a trial at law. But that is not this case. We lay down the law, we provide that a package shall have such a weight, which shall be fixed upon it, with a certain exception, and we provide that there may be a little necessary variation.

The inspector only ascertains whether the law has probably been violated, and it is his business to try and enforce the law as passed by Congress. Under the Constitution the only way a man can be tried for violating the law is by the court. If the inspector thinks your man has violated the law, he brings him before a court and the court decides whether the man has violated the law. If it decides he has not, that settles it, and he is discharged. If it decides that he has violated the law, it finds him guilty, and that settles it. Whether we did or not have the word "approximate" in this paragraph, it must be for the court to determine whether the man had violated the law.

Mr. GILBERT of Kentucky. Will the gentleman pardon just one question?

Mr. STEVENS of Minnesota. I will yield for a question.

Mr. GILBERT of Kentucky. We have a Jew butcher in my town, and the inspector comes along and says: "You have got too much of a certain acid in that sausage, and you are a criminal." The next inspector comes along and inspects precisely the same sausage, and says: "You have not got too much in there, and it is not a violation of the law." So he is a criminal one day for selling certain sausage, and he is not a criminal the next day for selling precisely the same sausage.

Mr. STEVENS of Minnesota. Oh, Mr. Chairman, that does not meet the situation at all. The man is not a criminal until the law by its constitutional processes adjudges him a criminal. The inspector can't do that; he can only bring him before the court.

Mr. THOMAS of North Carolina. Let me ask the gentleman would the canner have a choice of one of three things—to state on the package the approximate weight in the first place, the approximate quantity in the second place, or to use a standard can in the third place?

Mr. STEVENS of Minnesota. Yes; that is the situation exactly.

Mr. HOAR. I would like to make a suggestion to the gentleman.

Mr. STEVENS of Minnesota. I will yield to the gentleman.

Mr. HOAR. It is not the court which decides whether your can is approximately up to the standard. If it were the court you would have the same decision in each case, but it is the jury which settles whether the can is "approximate" or not. As I followed the gentleman from Illinois here yesterday, he had several cans which he exhibited to us which would not balance each other on the scales, and from which he argued that there had been a fraud, because instead of being a 3-pound can, it only weighed 2 pounds and ten and a half ounces. Now, there is not one of these cans that the jury would not say was approximately of that weight, and that illustrates the danger of your standard in that connection, whereas if you provide that the cans should be of the same size, you have a definite test from which nothing can depart. If you provide that the can, whatever it is, shall contain not less than a certain amount you have a minimum standard.

Mr. STEVENS of Minnesota. These cans are not designed to be made by weight, but by size, and that is exactly what this paragraph provides shall be done, but the trouble is that the canners and these dealers desire to sell a size can as a weight can. That we desire to forbid, but we believed it necessary that in their weight and measure packages we should provide that there may be allowed to be a slight difference on account of natural and unavoidable difficulties. If they attempt to make and sell a can by weight, there necessarily must be left a little leeway, so to prevent opportunities for blackmail of honest men, which might come from too strict a rule as to such matters.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, I yield ten minutes to the gentleman from Texas [Mr. SLAYDEN].

Mr. SLAYDEN. Mr. Chairman, it is with some hesitation that I even undertake to assert my right as a Member and to get into this debate at all. Legal subtleties have been dealt in by members of the learned profession to such an extent that I think they have confused the minds and obscured the thinking of certain gentlemen whom I have always esteemed learned men. I shall devote myself to the consideration of this question from the point of view of one of the common people, as a Representative of the common people, who wants to be neither swindled nor poisoned.

The country and the Congress have just gone through a period of hysteria provoked by a fiction writer's description of what he saw in Chicago. Those days of excitement were marked by reports from a special committee sent out to Chicago by the President, by messages from the President to Congress, and by letters to individual Members of Congress, as well as by broadsides of hot indignation from the newspapers. The House fairly fell over itself in its anxiety to yield to a clamoring constituency as broad as the country. Legislation on new lines, and drastic to a degree, was put through this body by an almost unanimous vote. We were determined, at all hazards, to protect the meat-eating public from the chance of contaminated food. Now, we have another opportunity, on the same general line of legislation, to protect the people, and Members of this House who voted for that bill balk at this. I fail to see why.

I believe that it is susceptible of proof that for every case of ptomaine poisoning caused by the eating of unclean meat there have been a hundred or more cases of poisoning and death from the use of hurtful drugs masquerading as harmless remedies for disease. No man who ever ate tainted meat willingly returns to it. It is so repulsive that it can not get to be a habit. But many drugs that destroy the moral sense and enslave the bodies and minds of men are eagerly sought for after they have been tried a few times. The people will avoid unclean meat as pestilence, but once they have the habit men who otherwise are truthful and honest will lie and steal to gratify their debased appetites for drugs. The horror of this drug situation is that unfortunates who are ill, or fancy they are, unwittingly get into habits that bring misery to themselves and ruin to their families.

There seems to be a poison adapted to every age, sex, and condition. There are soothing sirups that poison the infant and make opium fiends out of babies in arms. There are alcoholic beverages in the guise of medicines for women's diseases, the use of which, it has been proven, have had a prenatal influence for evil. Drunkards and drug fiends have been made during the period of gestation by mothers too stupid to comprehend the effect of their habits.

Men who would scorn a toddy and can not be persuaded by a pleasing compound of mint and other things, honestly and frankly presented, will surrender to "bitters" that are recommended for the stomach's sake.

If one may believe what he sees in the portrait gallery of the newspapers, those Members of Congress who have not been restored by somebody's celery compound have been rejuvenated by Peruna. Indeed Peruna seems to be the favorite Congressional drink. [Laughter and applause.] I happen to know that it is also a favorite prescription in certain prohibition sections. The fact that it makes men drunk quickly, violently, and sometimes viciously has not hurt its standing as a family medicine.

Mr. Chairman, in common fairness to this medicine, or this drink, whatever it may be, that I have just referred to, I think I ought to tell the House the only good thing I ever heard of it. Last summer in Texas on a railway train one day I overheard a conversation between two gentleman who had met, who were friends. It seems that one of them resided under the same roof with his mother-in-law, and the dove of peace had not always roosted on that rooftree. His friend knew that, and when he came up, after making the usual inquiries as to his health, he asked him how things were going in the domestic line. The other replied, "Oh, fine, fine! I introduced the old lady to Peruna two months ago, and she has been drunk and happy ever since." [Prolonged laughter and applause.]

It is notorious, Mr. Chairman, that the opposition to this measure is largely controlled, inspired, and directed by a tre-

mendous lobby representing the manufacturers of so-called "patent or proprietary medicines." It was stated by Mr. Adams a writer in Collier's Magazine, in that remarkable series of articles which he printed last year, and which did more, in my judgment, to advance this very much to be desired reform than the work of any other single man in the country, that that association had between thirty and fifty millions of dollars to spend each year in protecting the rights of the people who make it, to protect the rights of the people who belong to the association to poison the people of this country, and to make drunkards out of those dupes who thought they were taking harmless drugs. Whether those figures are correct or not, I do not know, but it is evident, Mr. Chairman, to every man who has studied the course of this legislation that there has been somewhere back in the dark a tremendous power which has been able to stay the hands of the reformer time and time again, when the people were demanding protection to their health and their bodies and their minds and seemed on the point of getting it. Somewhere back of it all there has been a power that seemed irresistible.

Mr. Chairman, what will be the effect of this bill, and what is its purpose? I believe that it will promote honesty in trade, which is certainly desirable, and cultivate the habit of telling the truth, which, I take it, is equally desirable. It will not deny men the privilege of getting drunk on bitters, if they choose to do so; but it does say that they shall not be deceived into intoxication in the belief that they are taking harmless medicines. It will not take away from the cocaine or opium victim the privilege of his poison, but it does say that a man not addicted to these drugs shall not be seduced into the habit unknowingly. It does not even deny those who have a taste for such things the right to buy adulterated foods and drinks, but it does say that those who prefer honest food and drink shall not be swindled with adulterants nor poisoned without knowing it by an article of interstate commerce.

And that reminds me, Mr. Chairman, that there are gentlemen in this body who are concerned because they think this bill, if it should become a law, will trespass upon the rights of the States. They do not believe that section 12, which expressly disavows any intention by the act to infringe the prerogatives of the States, is a sufficient guaranty. I can not agree with that view. The Constitution gives to Congress the right to regulate commerce between the States, and if adulterated food or drink made in Chicago and shipped to Texas is not interstate commerce I would like to know what it is. But, sir, even if we should make a mistake in this matter, which we don't want to do and don't think we are doing, the question is sure to be raised and carried to the Supreme Court, and that body, I think, can be relied upon to set the matter right.

My colleague [Mr. HENRY of Texas] this morning stated that it was not popular to refer to the decisions of the Supreme Court, and then did so, and showed that the Supreme Court had protected the constitutional rights of the States. I had hoped to have time to say a little something further about his argument, but my time is about exhausted, and I can only remind my colleague, for whose character and judgment and knowledge of the law I have profound respect, that that court is still doing business, and its doors wide open to litigants, and that every right of the individual or of the Commonwealth of Texas can be determined there.

I am as jealous of the rights of my State as any man can be, but I am even more jealous of the rights of the individuals who compose the State. One of the rights, one of the dearest and most valued rights, of the individual is not to be poisoned or swindled by some knave who resides in another Commonwealth. I want to be protected against the conscienceless greed of the rascal who sells poison under the label of health-giving drugs.

I think I heard the gentleman from Illinois [Mr. MANN] say yesterday that since this agitation began there has been an appreciable decrease in the adulteration of food. It was a cheering piece of information, and I hope that it is merely the beginning of a great reform. I have observed from time to time advertisements in the newspapers in which great stress was laid on the fact that the commodity offered for sale was pure. If we pass this bill, I believe that in a very few months the newspapers will all be full of advertisements of good, honest, sound, and wholesome articles of food and drink. I do not believe that the newspapers will eventually lose anything by the expulsion of the nostrums from their columns, and I know that the people will be gainers. [Applause.]

I heard it stated yesterday that olive oil was adulterated by mixing with it a percentage of cotton oil. Some gentlemen from the South may incline to the view that it will hurt one of our great industries if these blenders of the two vegetable oils are forced to quit their lying claim that it is all pure olive oil. I can not take that view. Cotton-seed oil is an honest, wholesome product and has merit enough to stand on its own inherent worth. Certainly we ought not to foster the trade by telling lies about it. It should be sold for what it is, and if as good as we think it is, it will soon be established on a higher plane as a food product than it has ever had and will command a better price. But whether it is or not, I want to see square dealing in food and drink, and for more than 200,000 Texans I declare here and now that we want no trade based on dishonesty in weight, measure, or quality. [Prolonged applause.]

Mr. WALLACE. Within less than a week I heard a scientific gentleman under oath say that cotton-seed oil was a fair substitute for olive oil.

Mr. ADAMSON. Mr. Chairman, how much time is there remaining?

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] has seventeen minutes, and the gentleman from Georgia [Mr. ADAMSON] has sixteen minutes.

Mr. ADAMSON. Mr. Chairman, before yielding the remaining portion of my time I wish to make a statement. My colleague, Mr. BARTLETT, of Georgia, is absent. He is very seldom absent from this House, and the House knows the reasons of his absence now, that it is to attend the funeral of a deceased colleague. I do not myself remember when he has been absent before. He requested me to ask the House, if he did not return, permission to extend his remarks in the RECORD. Before closing the general debate I wish to modify that request a little, and I now request that in the event he returns during the reading of the bill under the five-minute rule he may be permitted to deliver his remarks, and that otherwise he be permitted to extend them in the RECORD.

Mr. MANN. Mr. Chairman, I hope the gentleman will not make his request at this time. If the gentleman from Georgia returns during the course of the five-minute debate at a time when it would be possible to accommodate him, I think there would be no doubt about giving him the time; but the House might not wish to make an agreement to give him the time now and then have him consume the last half hour.

The CHAIRMAN. The Chair suggests to the gentleman from Georgia that he make this request during the consideration of the bill under the five-minute rule.

Mr. ADAMSON. That is perfectly satisfactory to me, but I thought before closing general debate I ought to call attention to the matter. I now yield to the gentleman from New York [Mr. RYAN] such time as I have left.

Mr. RYAN. Mr. Chairman, I favor the enactment of a pure-food law. I will not enter into a discussion of all of the provisions of this bill, as it has been ably presented to the House by the gentlemen who have preceded me. There is a demand for this legislation. The recent discussion, by the press of the country, brought about by the investigations of the packing industry in Chicago and elsewhere have aggravated the demand. The people are demanding pure food. They are demanding that articles of food shall be correctly labeled and that Congress prevent, by the enactment of this bill, the adulteration or misbranding of foods or drugs.

In order to fully carry out the purposes of this bill it is hoped that the different States of the Union will enact laws to conform with the Federal laws, and thus fully protect the people of this country from the dishonest manufacturers of foods and drugs.

Mr. Chairman, after the decision of the Committee on Interstate and Foreign Commerce to place a more drastic provision in section 7 of the bill in relation to the labeling of medicines or drugs containing any poisonous substances than originally decided upon, I communicated with the manufacturers of proprietary medicines in Buffalo, N. Y., and I received, among others, a reply from Mr. D. E. Foster, of Foster, Milburn & Co. It is so different from most letters received by Members of Congress under similar circumstances that I will insert it in my remarks. The letter is as follows:

BUFFALO, N. Y., *June 21, 1906.*

Hon. W. H. RYAN,
House of Representatives, Washington, D. C.

DEAR MR. RYAN: Your message advising us as to what your committee had cut out of the Lovering amendment was duly received.

We thank you very much for your kindness in this matter. We believe your committee acted on their best judgment and conscientiously in cutting out of the Lovering amendment "opium" and "morphine," and of course it is useless for us to make any comment.

We might say, however, after all these years of brain work you have put in while at Washington, if you do pass the pure-food bill it will certainly be a great relief to you and entitle you to a holiday. The writer is just starting on a fishing trip about 400 miles north of Toronto, away up in the Canadian forests.

Mercy sake, Mr. RYAN, what fun I shall have compared with the

hard work you are putting in in Washington trying to please everybody and in the end get nothing but "cusses."

Thanking you again for your kindness, we remain,

Yours, very truly,

FOSTER MILBURN CO.
D. E. FOSTER, *Prest.*

Mr. Chairman, I will now discuss briefly the provisions of the bill relating to whisky, referred to by the gentleman from Alabama [Mr. RICHARDSON]. A few words concerning the origin of whisky may aid somewhat to a clearer conception of the subject. Even the name itself is not devoid of interest.

EARLY HISTORY OF DISTILLED SPIRITS.

It is quite probable that the knowledge of distilled spirits corresponding somewhat closely to whisky was known to the ancient Egyptians. When the Arabians overran Egypt they acquired, among other useful information concerning the Egyptian arts and sciences, the knowledge of the art of manufacturing distilled spirits from sprouted grain. This knowledge they carried back with them to their academies in Spain, from whence it spread over Europe. The introduction of the art of making whisky into Ireland has been traced to the ancient Phoenician traders. When the English invaded Ireland they found the manufacture of whisky a well-understood art, carried on as a household operation by the inhabitants. The Irish called the spirit they distilled "Uisque beatha." This name itself smacks of the aims and traditions of those ancient alchemists who were seeking the water or elixir of life. "Uisque beatha" means water of life. This term was corrupted by the English into "Uisquebaugh." Finally the last syllable was altogether dropped, thus shortening the name into "uisque," or whisky, as it is now spelled.

Distillation was practiced a thousand years before the term "whisky" originated.

When the term "whisky" was first used it was applied exclusively to distilled spirits made from grain which had been purified and refined as much as the primitive methods then known could accomplish purification, *and to which coloring and flavoring matters were added.*

All products of distillation which are entitled to be called "whisky" have had coloring and flavoring added to them *in one way or another.*

The so-called "straight whisky" of to-day is a distillate from grain which has been *partially* rectified, purified, and refined and which is put into a barrel especially prepared to give it *both coloring and flavoring.*

If any law is to exclude the addition of coloring and flavoring from so-called "blends," then it should also exclude all processes intended to give coloring and flavoring to so-called "straight whiskies."

Distillation alone does not produce whisky, and therefore a distiller, as such, does not produce whisky.

It is what is done to a distilled spirit *after distillation* that determines whether it is entitled to be called whisky or not.

The gentleman from Alabama states that at the proper time he will move to strike out the proviso beginning on line 22 and ending on line 25, page 21, or to strike out the words "not excluding harmless coloring or flavoring ingredients."

I believe that I will show that the distiller obtains his flavor, in part, by a mixture of grains before fermentation and from the charred barrel. The blender obtains his flavor by a mixture of whiskies after distillation.

NOW AS TO COMPOUNDED OR BLENDED WHISKY.

A compounded or blended whisky is neither an imitation nor a spurious whisky if sold merely as whisky, and it becomes spurious or an imitation only if sold under some other trade name in connection with the word "whisky." This construction was placed upon this section in 1869, when it was enacted.

The words "spurious," "imitation," or "compound" liquor are used in the statute in the disjunctive and not in the conjunctive; but if there were any doubt as to whether they were used as synonymous terms, it would be disssipated by a contemporaneous departmental construction of the law which was made by the then Commissioner of Internal Revenue, Mr. Delano, under date of September 16, 1869, which may be found in Volume X, Internal-Revenue Record, page 121, and from which I quote the following extracts:

To mix any material with distilled spirits, wine, or other liquor, which does not result in producing either a spurious imitation or compound liquor is not rectification.

To determine whether the mixing is rectification or not under this clause of the statute, you must, therefore, look to the result to see whether either of the three kinds of liquors named is manufactured by the mixing. A spurious liquor is an imitation of and held out to be genuine.

An imitation liquor is one that is an imitation of the genuine and held out as such imitation.

A compound liquor is any liquor composed of two or more kinds of spirits mixed with any material which changes the original character of either so as to produce a different kind as known by the trade.

It follows, therefore, that the mixing of liquors identical in kind, as known by the trade, does not constitute rectification.

For instance, a party may mix a material with spirits, wine, or other liquor, which will not produce either a spurious, imitation, or compound liquor, but such mixing is nevertheless rectification if it results in either purifying or refining the spirits, wine, or other articles thus mixed.

From the foregoing it is apparent that a compound liquor is neither a spurious nor an imitation liquor, and that rectified whisky is neither a spurious, an imitation, nor a compound liquor.

What is described as compound liquor is known in the trade as applied to whisky, as a blend, which usually includes the addition of harmless flavoring and coloring matter.

A mixed whisky is a mixture of two straight whiskies without the addition of anything else, and a rectified whisky is a whisky made by freeing the high wines from fusel oil and adding thereto coloring and flavoring.

GOVERNMENTAL INSPECTION OF RECTIFIERS AND BLENDERS.

There is as much governmental inspection and supervision, if not more, thrown around the business of the rectifier, blender, and wholesale liquor dealer as there is around the business of the distiller.

Section 3319, Revised Statutes of the United States, limits the persons from whom a rectifier or wholesale liquor dealer may purchase distilled spirits. Penalty, $1,000.

Section 3317a, Revised Statutes of the United States, provides that when a rectifier expects to rectify or compound distilled spirits he shall, before emptying any package of distilled spirits for that purpose, give notice in duplicate to the collector and submit such package for the inspection of the United States gauger, who weighs, gauges, and makes return thereof to the collector.

Section 3320, Revised Statutes of the United States, provides that when a package is filled on the premises of a rectifier, it shall first be inspected and gauged by a United States gauger, who shall affix a stamp thereto, etc.

Section 3318, Revised Statutes United States, as amended, provides that every rectifier and wholesale liquor dealer shall provide a book, to be kept in a form prescribed by the Commissioner of Internal Revenue, and that he shall on the same day on which he receives any spirits, and before he touches them or alters them in any way, enter in such book the name of the persons or firm, from whom and where received, by whom distilled, rectified, or compounded, and when and by whom inspected; the number of wine and proof gallons, the kind of spirits and the number and kind of stamps thereon; and before he sends any spirits away from his premises he shall make similar entries, thus keeping a perfect account with the Government of everything which he receives in and everything which he sends out. He is furthermore required to keep this book open for inspection, and on or before the tenth day of each month he must send to the collector a transcript covering the preceding month. Any false entry or failure to keep the book is severely punished.

Section 3277, Revised Statutes United States, requires rectifiers to furnish facilities to internal-revenue officers to examine and gauge any vessel or utensil on the premises, and to supply all the necessary assistance for inspecting the premises, stocks, and apparatus applying to such persons, and for that purpose he must open all doors, boxes, packages, and casks for examination, under a heavy penalty.

Section 3456, Revised Statutes United States, provides that if any rectifier or wholesale liquor dealer fails to do any of the things required by law or does anything prohibited by law, and no specific punishment is mentioned by any other provision, he shall pay a penalty of $1,000 and forfeit all the liquors owned by him or in which he may have any interest.

There are about 1,000 real rectifying houses, and a Government guager is assigned to each, and in addition there is quite a large number of special agents and assistants who continually inspect these places.

From the foregoing, which, however, are not all the provisions of law relating to the inspection and supervision of the business of the rectifier and wholesale liquor dealer, it is apparent that it is not possible for him to do any of the disreputable things which have been charged to him. It is no more profitable for him to add anything deleterious or poisonous than it is for the distiller; and the worst thing which it is possible for him to add is the purest and most wholesome thing from the standpoint of the distiller.

Nothing which he could add could possibly be worse than the fusel oil, which may be in excessive quantities in immature straight distillates.

The Lord did not put fusel oil into straight whisky any more than he made a suit of clothes which you wear. Both are manufactured articles, and neither is a natural product. When

fusel oil is in whisky in excessive quantities, it is there because of the carelessness or the cupidity of the distiller.

DECISION OF ENGLISH COURTS.

The British Parliamentary commission, after taking testimony for two years, decided in 1891 that what I have described as a blend was whisky; and the issue of the recent whisky trials in London was not, as has been stated, What was whisky? But the issue was whether a distillate made from corn was entitled to be called "*Scotch*" or "*Irish*" whisky, and it was very properly decided that it was not.

The old-fashioned name for the raw whisky as it comes from the receiving cistern at the distillery was "wines" or "high wines," in contradistinction from the first run, which was called "low wine." In the case of United States *v.* Eight Barrels of Whisky (25 Fed. Cases, 982), a United States court, in 1867, stated as follows:

Pouring the wines into the vat was the first act toward rectification, which was followed by the rectifying process, thereby changing the wines into whisky.

And it is pertinent to inquire that if that person produced whisky in 1867, and prior thereto, why does it not still produce whisky? At that time there was no bonded period, no bonded warehouses, no charred-barrel process of refination and purification, and no whisky of the bottled-in-bond variety; yet there was whisky.

A WORD ON THE PRODUCTION OF ALCOHOL.

Alcohol is produced by fermentation of a mash—something like a mush—and distillation only serves to separate the volatile from the nonvolatile matters in the mash.

This separation takes place by converting the volatile matters into steam and then condensing it. The result is termed "spirit of wines."

As the result of the first distillation, the product is about one-third alcohol and two-thirds water, and hence is called "low wines."

By the second distillation of these low wines there is produced what is called "high wines," which contain all the way from a little over half alcohol and less than half water to about two-thirds alcohol and one-third water.

If the product is to be put into a charred barrel, it is reduced to one-half water and one-half alcohol by the addition of more water.

The product is then approximately one-half water and one-half ethyl alcohol, with about 0.50 of 1 per cent of fusel oil.

If you should remove the fusel oil, there would remain just the water and the ethyl alcohol, about half and half, and this is called "neutral spirits" or "cologne spirits." If you should then take out all the water, there would then remain nothing but alcohol, or what is sometimes called "double-proof spirits."

Usquebaugh, from which the word "whisky" is derived, means "water of waters," which indicates that you can not have whisky unless you add water to alcohol.

When the word "whisky" was first used by the Irish and the Scotch, it referred exclusively to a *compounded beverage*, consisting of water and alcohol, to which coloring and flavoring were added; and that is true even to this day, for no matter by what process whisky is made, it contains coloring and flavoring which has been added in some way.

THE COLORING OF WHISKY.

The coloring of whisky, of the bottled-in-bond variety, is due to caramel and tannic acid which it extracts from the barrel which has been prepared to enable it to do so. The controlling flavor in such whisky is obtained from the same source, for if the same whisky should be put into a barrel made of some other kind of wood than northern white oak which has been charred, the flavor would be entirely different.

In this connection I submit a clipping from the St. Louis Post-Dispatch of March 21, 1906:

WHISKY TO LOSE DARK-BROWN TASTE—WHITE OAK SCARCE, COOPERS MUST USE INFERIOR WOOD FOR BARRELS.

If the fears of the National Coopers' Association, now in session at the Southern Hotel, are realized, whisky drinkers must prepare themselves for a radical change in the color and taste of their favorite beverage.

The delegates say that the northern white oak, now regarded as the only timber suitable for making whisky barrels, is rapidly disappearing, and that soon some other material must be used. The barrel of white oak is charred inside, which causes the formation of a resinous gum between the clear and the solid wood. This gum, it is said, gives whisky much of its well-known color and long-remembered taste.

The association has appealed to the United States Government to preserve the white oak timber from destruction, and at the session Wednesday Dr. Herman Von Schrenk, in charge of the Government Bureau of Agriculture, located at Shaw's Garden, touched on this topic in a talk on forestry.

The officers of the association are: A. S. Ray, Chicago, president; James E. Tyler, Baltimore; J. R. Kelly, Kansas City, Kan., and W. J. Murray, St. Paul, vice-presidents, and Walker L. Wellford, secretary and treasurer. Sixty delegates are present.

All whisky equally pure, whether straight, blendid, rectified, or mixed, consists only of ethyl alcohol and water plus a flavor, and with the limitation that the things used to produce the flavor shall not be harmful or deleterious, the interest of the public is fully protected.

My purpose in this matter is that any law enacted shall be made to apply to all whiskies equally and to discriminate against none. This Congress should not take a stand for or against the distillers of whisky known as "straight whisky" or the rectifier of the blended or compounded article.

No provision is made to prevent the sale of new straight whisky, that is concededly unfit for consumption. Whisky of the bottled-in-bond variety can not be put up and placed on the market unless it is 4 years old, but straight whisky in barrels can be put on the market at the owner's discretion.

All of the articles made of silent spirits, water, and the so-called "aging oil," "beading oil," and the various essences, and put on the market as whisky are not the blended or rectified article and should not be confounded with it.

The paragraph in this bill in relation to whisky as reported to the House by the committee is, I believe, the best solution of the question.

Mr. RYAN. Mr. Chairman, in order that another phase of the question may be discussed, I yield the balance of my time to my colleague from New York [Mr. COCKRAN].

Mr. COCKRAN. Mr. Chairman, I venture somewhat reluctantly and quite unexpectedly to obtrude myself in this debate, owing to the direction which it has taken. I shall address myself particularly to this side of the House in an endeavor to point out the reason why I do not believe the Constitution should be invoked, especially by Democrats, against such a measure as this.

I am one of the firmest believers in State rights upon this floor. I believe that our Constitution is the most perfect product of human capacity. But why? Because its operation has resulted in the most perfect scheme of government ever established on this earth. Now, what is a perfect government? A perfect government manifestly is one which affords complete—absolutely complete—protection to the life, the health, the liberty, and the property of every person subject to its jurisdiction. To the extent that it fails in furnishing this complete protection it falls short of excellence. Wherever through any complexity in its structure a wrong is shielded or a rogue sheltered from punishment, then an injury to justice is perpetrated by the very agency established to protect justice, and that government stands discredited. When gentlemen, without the slightest attempt to meet or explain these evidences of crime and fraud placed upon that table by the gentleman from Illinois [Mr. MANN], yet declare that this measure, by which it is proposed to deal with those abuses effectively, is unconstitutional, and that the police power of the State, which has not been able to prevent these wrongs, is the only power to which we can appeal, they write down a condemnation of our whole constitutional system graver than any I have ever heard leveled against it.

Mr. Chairman, I do not believe that our Constitution was intended by the framers to furnish an effective shield for wrong or a refuge for criminals, and yet for the last twenty years (I think since the Supreme Court acted upon the reconstruction laws) I do not remember having heard the Constitution invoked upon this floor except to obstruct some measure of redress against a wrong that all conceded to exist and which no one could venture openly to defend.

The late Speaker Reed, who had an epigrammatic way of stating philosophic truths, used to say when any person declared a measure was unconstitutional, that meant he did not like it; when there was no reason that one could afford to avow for opposing a bill, it was always safe to try and block its progress by declaring that it violated the Constitution. And recent experiences all prove the truth of that statement. Every rogue at the head of a railroad system who gave rebates, and shared them, always insisted that he railway rate bill was unconstitutional. Not one of them would venture to defend the villainies which perverted the naturally beneficent operations of commerce into schemes by which some men plundered all their fellows, but every one begged you to consider the Constitution. When pursued in the State courts they profess the most tender concern for the integrity of the Union, begging us to guard jealously the authority of this Federal Government, whose existence had been maintained in blood and carnage on every battlefield from Bull Run to Appomattox. When the Federal Government pursues them then they profess deep, tearful, and vociferous concern about State rights, declaring that for themselves they care nothing—their rogueries are, of course, not to be excused—but what is the roguery of one rascal, however

depraved, when weighed in the balance against the reserved powers of the States which would be invaded and imperiled if these infamies were checked and their perpetrators punished. No one on this floor denies that these outrages on health and these wrongs on common honesty described by the gentleman from Illinois [Mr. MANN] have been perpetrated, but several gentlemen declare that the States alone have the power to deal with them, and all this in the face of these impressive and numerous evidences that the States have actually failed to prevent them piled up before our eyes on yonder table.

Mr. Chairman, if the arguments in opposition to this measure be well founded, if the Constitution is indeed a bar to the redress of these grievances and the prevention of these crimes, then the Constitution itself stands discredited. If every contention of the gentleman from Texas were sustained by the decisions of the Supreme Court, the result would be conclusive proof that a change or amendment of the Constitution was absolutely necessary to the safety of the citizen. I don't believe any change is necessary, advisable, or permissible. I believe the Constitution as it stands approaches perfection already, because I believe its distribution of powers, instead of being pitfalls for justice and sanctuaries for criminals, is the most effective scheme ever devised for preventing wrong by assigning to each Department the jurisdiction which it can exercise most effectively, and placing in the arsenal of each the weapon it can wield with greatest effect for the protection of the citizen in all his rights of life, health, and liberty. For that reason, sir, I believe the Federal Government has ample authority to deal with everything by which citizens of one State can affect the well-being of citizens in another through the operation of commerce. And there is not a decision of the Supreme Court in conflict with that position. That feature of the Constitution constitutes its chief title to excellence. When you deny it you impeach the Constitution, and declare it to be not an agency of civilization, but a barrier to progress, not a protection to life, a shield to health, and a rampart to property, but a disturbance to order and a menace to morals.

Mr. Chairman, let us examine closely the contention of opponents to the bill. The gentleman from Texas [Mr. HENRY], in voicing the opposition, has quoted certain decisions of the Supreme Court which have established beyond all question the power of a State to take any measures inside its own borders that it may deem essential to the safety and welfare of its own people. That is what is known as the police power of a State. But while the State is absolutely free to deal with its own internal concerns as it pleases, it is an essential feature of our system that no State can by law or otherwise interfere with commerce or restrict communication between its citizens and those of all other States. The citizen of each State and the products of his industry can circulate in every other State on exactly the same terms as its own citizens and their property. No discrimination can be made, either in the laws or the enforcement of laws by any State between its own citizens and those of other States or their wares. The gentleman has quoted a case where a certain quantity of coffee which had been brought into a State and found to be discolored was condemned by a State official under authority of a State law and destroyed with the sanction of the United States Supreme Court. Why, of course, any article found inside a State is subject to its laws no matter from whence it may have come. The source of its origin does not give it any right to exceptional treatment. But it must be treated exactly the same as any other coffee or meat within the borders of the same State. But, suppose the State of Texas or the State of New York to-day, finding that the inspection of meat products established by the State of Illinois was inadequate, or finding that although the provisions of law in Illinois were adequate yet, nevertheless, corruption on the part of the local official nullified the restraining statute and permitted goods that were poisonous to be sent from Chicago into either State, neither State could exclude from its territory canned goods prepared in Illinois.

Now, my friend from Texas [Mr. HENRY] will say, "Why can not the State of New York examine these products when they come into its borders?" I answer because effective examination at that stage is wholly impracticable. There is only one place where inspection can be made effective, and that is at the source of the danger. Canned goods when opened are destroyed. There is no way by which you can examine the contents without opening the cans, and therefore you can not inspect them except by destroying them. Suppose now—and I put it to my friend from Texas, who is so good a lawyer that even his ardor in controversy could not betray him into the assertion of an unsound legal principle—suppose that the State of New York, in view of recent exposures in Chicago, should pass a law—he has admitted that no State could pass a law excluding goods coming from another State merely because the system of inspection in that other State was considered imperfect, but the State could investigate, he says, each separate package—suppose New York State should pass a law based on that theory, providing that every kind of meat entering its limits—not necessarily from Chicago, but from any foreign city—should be opened and examined, while meat prepared in its own canning factories, under an inspection at the time and place of preparation by its own officers, should be exempt from any further examination, does anybody believe the Supreme Court of the United States would tolerate such a law? Would it not be held upon this mere statement of its character a restraint, a prohibition of this branch of commerce between New York and Illinois, and under the doctrine laid down by Marshall, which has been the strongest force in maintaining peace between the States——

Mr. HENRY of Texas. Will the gentleman yield?

Mr. COCKRAN. With great pleasure.

Mr. HENRY of Texas. Does the gentleman contend that the State of New York would not have the authority to provide for the punishment of any individual in New York who should import or sell an article of impure food or poisonous matter?

Mr. COCKRAN. But, Mr. Chairman, we are not speaking here of punishment, but prevention.

Mr. HENRY of Texas. That is prevention.

Mr. COCKRAN. Now, the gentleman must excuse me——

Mr. HENRY of Texas. That is the identical question you asked me. And if you will yield to me one moment I will give you an instance.

Mr. COCKRAN. I do not want a colloquy with the gentleman; I can not allow an extraneous discussion between him and me to be interposed in an argument which I am addressing to the committee. The gentleman has made a splendid argument, and I am trying in less time and with much less ability to make an imperfect one. When the gentleman realizes how I am handicapped in time and qualification——

Mr. HENRY of Texas. I will not interrupt the gentleman, because he evidently does not wish to answer.

Mr. COCKRAN. You have asked me a question, and I have answered. The gentleman evidently regards prevention and punishment as synonymous. I hold them to be radically different, absolutely incompatible and inconsistent with each other. Prevention obviates any necessity or reason for punishment. Punishment is inflicted only where prevention has failed. I will ask you this question now, and you can answer it, yes or no.

Suppose canned meats were prepared in New York City; could the State of New York, having established a system of inspection at the time and place of preparation which it believed entirely sufficient for the safety of its own citizens, pass a law declaring that every package of canned meat coming into that State from any other State should be opened and inspected in order to make sure that it conformed to the standard established for similar products in its own jurisdiction?

Mr. HENRY of Texas. I will answer that question this way—by saying that the State of Massachusetts passed a law prohibiting the importation or sale of oleomargarine in Massachusetts, and the Supreme Court sustained that law of Massachusetts; which answers your question.

Mr. COCKRAN. Well, if the gentleman please, he does not answer my question. The case which he quotes has no relevancy whatever to the situation, I am assuming. If the State of Massachusetts had permitted the manufacture of oleomargarine inside its own limits, and then had undertaken to prohibit such merchandise coming in from another State, that would be unconstitutional, and the gentleman knows it. Where a State prohibits the manufacture of goods, it can of course prohibit importation of the same goods. Whatever system a State establishes for its own products it can apply to the products of other States within its own borders. The commodity it will not allow to be produced within its own borders it can prevent being brought into its limits from without its borders. Canned meats prepared in its own territory it can inspect at the time of preparation. Canned goods brought from other States it can inspect only by opening each can, and such inspection is destruction, as the gentleman knows. The brilliant rhetoric of the gentleman from Texas invites us to vindicate the Constitution by destroying the commerce which the Constitution is established to protect. Canned meats have become an important feature of food supply in every State of the Union. The development of that industry has cheapened the cost of living and largely improved its condition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I yield the gentleman the balance of my time.

The CHAIRMAN. The gentleman is recognized for seventeen minutes more.

Mr. COCKRAN. I do not know that I will need that much

time. But I would like to say to the gentleman from Texas and to other gentlemen who have taken a similar position that as no effective precaution can be taken by one State against poisonous or dangerous canned meats coming from other States—except an inspection of each package, which would involve destruction of the commodities against which the precaution is taken—that fact alone justifies this measure. Nay, more, it makes the passage of this bill an imperative necessity of our national well-being. The gentleman knows that if the State of New York had a law permitting meats to be canned under conditions of inspection considered adequate to protect the health of the State and its people, it could not constitutionally provide that similar goods coming in from outside should be opened for inspection when the opening would destroy their value, for that would be a discrimination against foreign commerce. Yet, that is the only method of inspection that could be effective, for clearly one State can not enter another for the purpose of inspecting the manner in which food products are prepared by its citizens even when they are intended for interstate commerce. I ask again, Is there any other way by which we in New York can protect ourselves? There is but one, and that is for the Federal Government itself to undertake inspection at the time and place of preparation of all canned meats or inclosed packages of food intended for commerce between the States. Yet this system the opponents of the measure insist is in violation of the Constitution. Are we to be told that one city, through the avarice of its government, or the corruption of its officials, can imperil the health of every other community because the Constitution of the United States limits the power of any State to impose restrictions on commerce with another State? That salutary restraint made effective on each State by the decision of John Marshall was one of the most valuable among the four leading principles established by him, which furnish foundations for the four constitutional pillars that sustain this noble governmental structure under which we live.

Mr. HENRY of Texas rose.

The CHAIRMAN. Does the gentleman yield to the gentleman from Texas?

Mr. COCKRAN. I yield to a question, if the gentleman will put it.

Mr. HENRY of Texas. I hold, briefly, that the inspection laws do not come from the commerce clause of the Constitution——

Mr. COCKRAN. I do not yield to the gentleman to answer a question and ask it afterwards.

Mr. HENRY of Texas. If you are unwilling for me to ask it in my own way, I will adjust myself to that.

Mr. COCKRAN. If you wish to ask a question, put it; but I beg that you will not answer it first and ask it afterwards.

Mr. HENRY of Texas. I yielded to you.

Mr. COCKRAN. I yield if you are ready to put the question.

Mr. HENRY of Texas. Now, the inspection laws do not come from the Constitution, but they were reserved to the State. My contention is that in the inspection the State has the right to provide for the inspection of any article that is deleterious to the health of the people that come into that State, and by absolutely destroying that article if necessary; but they have no power to put unreasonable impediments on the commerce coming from another State. That fairly states my position.

Mr. COCKRAN. I am delighted to hear this account of the gentleman's position. His statement has probably shed some light upon his own mind, but I do not know that it has helped make clear my pathway.

Mr. HENRY of Texas. I have been endeavoring to state my position for the benefit of the committee, not exclusively for the benefit of the gentleman.

Mr. COCKRAN. I have no doubt at all that it will edify the committee to understand the gentleman's position. I resume now the effort to state mine. The gentleman insists the State should exercise the power of inspection and the only mode of effective inspection open to it is one that involves destruction of the commodity inspected. If such a method of inspection would not be an unreasonable impediment on commerce I am a poor judge of impediments. If this view of the gentleman from Texas be sound, our Government in its distribution of power, instead of being the most efficient plan ever devised for the suppression of wrong and the vindication of justice, is a complex, puzzling, incomprehensible series of labyrinths where the footsteps of justice when pursuing crime go astray, and where the wrongdoer finds an asylum where he can plan in security the perpetration of fresh enormities. [Applause.] That is not my conception of the Constitution under which I live, and which I love. We all believe that the State can do what it pleases inside its limits on all matters affecting its own citizens. But when by the corruption of its officers or the laxity of its laws any State through its commerce endangers you in Texas or me in New York, if we admit there is no power anywhere adequate to our full protection, then we write down the condemnation of our whole system.

But, sir, I believe that the power exists and that it is ample. I believe it is at our hands here in this body and in the Senate. Wherever the Constitution denies a State the right to exercise any power for its own protection it is always because the protection can be secured more completely by the Federal Government. If my State has not itself power to take effective precaution against the rottenness of Packingtown, it is because the Federal Government steps in with its own legislation for my protection, and when it throws the shield of its protection around me I feel vastly more secure than if New York were exhausting all its power in my behalf. For the sword wielded by the United States is long enough to reach from the banks of the Hudson or of the Rio Grande to Chicago, or anywhere else within the country, and is strong enough to thwart, defeat, strike down any nefarious enterprise conceived in cupidity, maintained in corruption, and menacing your safety or mine. [Applause.] Mr. Chairman, I protest against any narrow, short-sighted conception of our Constitution which, while professing reverence for its words, thwarts its purpose and by making it a barrier and an obstacle rather than an effective aid to justice, perverts its spirit and discredits its character. If the Federal Government should undertake to interfere with the personal conduct of the citizen, to declare what I may eat or do personally in my own city of New York, it would be an invader and an intruder in the lawful domain of the State, and that stretch of its power would destroy or at least impair its value. But while it stands at the frontier of every State leaving it absolutely free to regulate all its internal affairs, but preventing it from impairing by the operations of commerce the security of health or property in any other State—while it occupies that attitude, I admire its perfection as much as I appreciate its protection.

The legislation proceeds exactly upon these lines. I am sure every Democrat believing in States rights should be the first to sustain and assert every lawful power of the Federal Government, as he should be the last to sanction any stretch of its authority beyond those bounds fixed by the Constitution to maintain State and nation as agencies of the highest efficiency for the protection of every citizen in the safety of his life, health, liberty, and property. And the limits of each are not difficult to ascertain or define. As I said in the course of a colloquy here this morning, wherever a condition affects the people of a State, the government of that State must deal with it. Wherever, by the disposal of its products through trade, it affects directly the conditions of people in other States, it touches that commerce between States which the Constitution empowers the Federal Government to regulate, and which it must have full power to regulate, or else its authority is a sham and a snare. The gentleman admits the Federal Government can regulate interstate commerce. Surely he will not pretend that it can regulate commerce between the States so as to require railways to put brakes on certain trains and to fix rates for the transportation of goods for the promotion of my convenience and yet be without power to regulate it for the protection of my existence. I submit, Mr. Chairman, that this statement of the proposition renders further argument in its favor entirely superfluous.

Mr. HENRY of Texas. Will the gentleman allow me to ask him a question?

Mr. COCKRAN. With pleasure. I yield to the gentleman for a question.

Mr. HENRY of Texas. Then you say that Congress has the power to regulate interstate commerce. If it has (and I admit that it has to regulate interstate commerce), has it the power to send into another State an article admitted to be poisonous and injurious?

Mr. COCKRAN. Has Congress the power to do it?

Mr. HENRY of Texas. Yes.

Mr. COCKRAN. I do not think Congress has any such thing as a poisonous article of food within its possessions.

Mr. HENRY of Texas. Under the power to regulate, I contend——

Mr. COCKRAN. Why, certainly it has. You can not give power to anybody, that it may not be possible——

Mr. HENRY of Texas. I thought a moment ago you argued that it had not the power to poison the people, and yet you admit it has the power to send in a poisonous article under its power to regulate.

Mr. COCKRAN. I do not know how anyone can draw such an inference from anything that I said; but much that has occurred in the course of the day has given me a high opinion of the luxuriance of the gentleman's imagination. [Laughter.] I do not say this in disparagement or criticism. The orator

must be luxuriant in imagination or he could not be so fervid in speech. I do not think anything that I said justifies his statement. But misapprehension of my words has been so persistent I will repeat the proposition I have been trying to establish. The State being without power to interfere with interstate commerce, and being also without power to protect its citizens against the invasion of poisionous goods by inspection at the place where they are canned, which is the only protection that would be effective, the power to protect it must be in Congress, or else the whole constitutional system is radically and fatally defective. You and I believe that perfection in any constitutional system must consist in its adequacy to protect every essential right of the citizen. The gentleman asks if Congress itself could permit poisonous articles to be sent through the channels of commerce. Since Congress has the power to protect, of course it can abuse this power. All power may be abused. The possibility of abuse is an essential and available incident of government. You can not place a gentleman in the chair of this House to enforce order but that he himself may become an agent of disorder. You can not establish a court to administer justice between parties but that it may become corrupt and make itself an engine to perpetrate the grossest injustice. This power of Congress to regulate commerce between States so that it may not be perverted from a beneficent system of mutual cooperation and improvement into a scheme of mutual injury and wrong may be abused. To say that is simply to say that our Government is the product of imperfect human nature and necessarily shares the limitations of its source. But it is the best system ever yet established by the ingenuity of man. It never yet has sent a poisoned article into any State, as the gentleman seems to apprehend it may. It sees poisoned articles now on their way into all the States from many different sources of fraud, injury, and poison flourishing in several States either by toleration of the State governments or by laxity in the enforcement of their laws. By this bill the Federal Government standing at the frontier of each State will say to the sender of goods from other States: "Hereafter when you undertake to enter these markets with a package about the contents of which there is any mystery you must do so with its character written plainly over its surface." [Applause.] That is the sum total of this legislation, and we who support it are the true upholders of State and National rights, for by asserting each to the widest limit we uphold the power and maintain the complete security of both. [Applause.]

Mr. MANN. Mr. Chairman, I yield six minutes to the gentleman from Massachusetts [Mr. SULLIVAN].

Mr. SULLIVAN of Massachusetts. Mr. Chairman, no man can attempt to discuss the Constitution in two or three minutes, but I think I shall be successful in that brief space of time in disposing of at least one of the arguments of the gentleman from New York [Mr. COCKRAN]. I have heard only two reasons advanced for this bill. One is the convenience of manufacturers who, by reason of conflicting State laws, would be obliged to put up goods in different ways in order to meet the requirements of these States. That is an argument of convenience only. The other argument has been made by the gentleman from New York [Mr. COCKRAN], and it is this, that with respect to one class of goods, namely, canned goods, the States have no power to protect themselves against the impositions of canners in other States, because he asserts that if such canned goods are opened for inspection they will be destroyed. He asserts that as a consequence that would be regarded as a discrimination by the law of one State against the citizens of another which would not stand the test of the Constitution.

Mr. COCKRAN. Provided——

Mr. SULLIVAN of Massachusetts. I must decline to yield, as I have only three minutes.

The CHAIRMAN. The gentleman declines to yield.

Mr. SULLIVAN of Massachusetts. Now, then, let us analyze the argument of the gentleman from New York. He must concede that the canner in the State of New York selling his goods to the inhabitants of New York can lawfully be subjected to an inspection of such goods. The State of New York may place its inspectors in his factory, thus compelling him to put up and sell pure goods to the people of New York.

The argument of the gentleman from New York [Mr. COCKRAN] therefore amounts to this, that although the citizen of New York engaged in the packing or canning business must submit to inspection, his competitor in the State of New Jersey need not, forsooth, because to inspect his canned goods is to destroy them and therefore to discriminate unlawfully against him! By what logic can it be maintained that a State may discriminate against its own citizens in that manner? If you concede the argument of the gentleman from New York you must admit that any goods coming from one State into a second State in a can, in a bottle, in any package of that kind, can not be inspected, and therefore that the State is powerless to resist the frauds of canners, packers, and shippers in other States. To state the proposition is to answer it. It is simply monstrous. I do not believe that the Supreme Court would hesitate for a single moment to uphold a law of the State of New York which submitted canned goods from other States to inspection by the officers of the State of New York at some point of time in order to protect the health of the inhabitants of the State of New York.

Mr. COCKRAN. Mr. Chairman, I will ask the gentleman from Illinois to yield to me for a moment.

Mr. MANN. I yield to the gentleman the balance of the time.

The CHAIRMAN. The gentleman has two minutes remaining.

Mr. COCKRAN. Mr. Chairman, the gentleman from Massachusetts [Mr. SULLIVAN] has made a most admirable argument against a thing I did not say. It is the easiest thing in the world to establish a man of straw and then, without serious damage to your shoe leather, kick him into the gutter. I did say this, and the gentleman, by his evasion of the question, confesses the strength of the position. I said that if the State of New York established a system of inspection for canned goods—for goods canned inside its own limits—at the time and place of preparation, and then provided that every article of canned goods entering its borders should be opened for inspection, that in effect would be ordering them destroyed, and the Supreme Court would hold such a provision to be a restriction upon commerce with another State, and therefore unconstitutional. If the gentleman, weighty though his authority may be, should dissent from this view, I must still hold to the same opinion, and I do not believe any lawyer beside himself would differ from me.

Mr. SULLIVAN of Massachusetts. Mr. Chairman——

Mr. MANN. Mr. Chairman, if I have any further time I shall be very glad to add to the gayety of nations by yielding it to the gentleman from Massachusetts.

The CHAIRMAN. The time fixed by the rule adopted by the House for general debate in the committee has expired, and under the rule the bill will be read through as a single paragraph. At the conclusion of the reading amendments will be in order to any part of the bill. The Chair desires to state that if gentlemen desire to make points of order against any part of the substitute they should do so immediately upon the conclusion of the reading and before amendments are acted upon, since after an amendment has been offered and acted upon it will be too late to make a point of order. The Clerk will report the bill.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Under the rule adopted, is it necessary to read the bill, or only the committee amendments?

The CHAIRMAN. The Chair thinks the rule provides that the committee amendment in the nature of a substitute shall be read. Without objection, it will be read.

Mr. ADAMSON. What is the proposition, Mr. Chairman?

The CHAIRMAN. That the substitute be read in lieu of reading the Senate bill, and the Chair is of the opinion that the rule so provides.

Mr. GAINES of Tennessee. I understood the Chair to say that this whole amendment would be read as one section.

The CHAIRMAN. The Chair so stated, and the Chair understands that it is required by the rule.

Mr. GAINES of Tennessee. Will it be read as one paragraph?

The CHAIRMAN. Yes; as one paragraph.

Mr. COOPER of Wisconsin. Mr. Chairman, I would like to ask the gentleman from Illinois a question.

The CHAIRMAN. Without objection, the gentleman may proceed.

Mr. COOPER of Wisconsin. I notice that there are two prints of the proposed committee amendment—one begins on page 18, lines 8 and 9, and the other begins on page 19, line 3. Which of these is the correct print?

Mr. MANN. The one that begins on page 19, line 3.

Mr. SHERLEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHERLEY. At what time will points of order to amendments be in order?

The CHAIRMAN. When the amendments are offered.

Mr. SHERLEY. Are they to be offered at any time after the reading?

The CHAIRMAN. Only one amendment is to be pending at a time.

Mr. TALBOTT. Are they to be offered as the paragraphs are read?

The CHAIRMAN. No; not until the reading of the substitute is concluded. Then gentlemen will be recognized to offer amendments to any part of the substitute.

Mr. TALBOTT. I understood the Chair to say that the bill would be read through as one paragraph.

The CHAIRMAN. The Chair so stated.

Mr. TALBOTT. When will points of order to the sections be in order?

The CHAIRMAN. Points of order should be made immediately upon the conclusion of the reading of the whole bill.

Mr. CLARK of Missouri. Mr. Chairman, is the substitute going to be read clear through and then be read again by sections for amendment?

The CHAIRMAN. No; the amendments will then be in order to any part of the bill.

Mr. GROSVENOR. Mr. Chairman, I suppose that following the usual custom, these amendments that are proposed by the committee will be first in order.

The CHAIRMAN. The members of the committee will be first recognized, as usual. The Clerk will read the substitute.

The Clerk read as follows:

That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drugs which is adulterated or misbranded, within the meaning of this act, is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to a foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, or who, having received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or the Territories of the United States any such adulterated or misbranded foods or drugs, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding $200 for the first offense, and upon conviction for each subsequent offense not exceeding $300 or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided, however,* That no person shall be liable to the penalty of imprisonment as provided herein unless he knowingly committed the offense charged: *Provided further,* That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of all the other provisions of this act.

SEC. 2. That the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of foods and drugs manufactured or offered for sale in the District of Columbia, or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country, or intended for shipment to any foreign country, or which may be submitted for examination by the chief health, food, or drug officer of any State, Territory, or the District of Columbia, or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country.

SEC. 3. That the examinations of specimens of foods and drugs shall be made in the Bureau of Chemistry of the Department of Agriculture, or under the direction and supervision of such Bureau, for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens is adulterated or misbranded within the meaning of this act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis or the examination of such article, duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

SEC. 4. That it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this act, or to whom any health or food or drug officer or agent of any State, Territory, or the District of Columbia, shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the penalties as in such case herein provided.

SEC. 5. That the term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. The term "food," as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound.

SEC. 6. That for the purposes of this act an article shall be deemed to be adulterated:

In case of drugs:

First. If, when a drug is sold under the standard recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of the investigation.

Second. If its strength or purity differ from any other professed standard or quality under which it is sold.

In the case of confectionery:

If it contain terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health.

In the case of food:

First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: *Provided,* That when in the preparation of food products for shipment they are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, the provisions of this act shall be construed as applying only when said products are ready for consumption.

Sixth. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

SEC. 7. That the term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement regarding the ingredients or substances contained in such article, which statement shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

That for the purposes of this act an article shall also be deemed to be misbranded:

In case of drugs:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the original package shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any alcohol therein, or of any opium, cocaine, or other poisonous substance which may be contained therein.

In the case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so.

Third. If in package form, the quantity of the contents of the package be not plainly and correctly stated in terms of weight or measure, on the outside of the package.

Fourth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular: *Provided,* That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends: *Provided,* That the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients: *And provided further,* That nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding.

SEC. 8. That no dealer shall be convicted under the provisions of this act when he is able to prove a guaranty of conformity with the provisions of this act in form approved by the rules and regulations herein provided for, signed by the manufacturer or the party or parties from whom he purchased said articles: *Provided,* That said guarantor resides within the United States. Said guaranty shall contain the full name and address of the guarantor making the sale to the dealer, and said guarantor shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach in due course to the dealer under the provisions of this act.

SEC. 9. That it shall be the duty of the Secretary of Agriculture to fix standards of food products when advisable for the guidance of the officials charged with the administration of food laws and for the information of the courts, and to determine the wholesomeness or unwholesomeness of preservatives and other substances which are or may be added to foods; and to aid him in reaching just decisions in such matters he is authorized to call upon the committee on food standards of the Association of Official Agricultural Chemists and the committee of standards of the Association of State Dairy and Food Departments, and such other exports as he may deem necessary. And upon request made to the Secretary of Agriculture prior to reaching any decision as provided for in this section, by any manufacturer or other person interested, asking for the appointment of a board to determine the wholesomeness or unwholesomeness of any preservative or other substance which is or may be added to foods, and concerning the use of which the person making the request has an interest, it shall be the duty of the Secretary of Agriculture to appoint a board of disinterested experts, which board shall consist of five members, one of whom shall be an expert toxicologist, one an expert physiological chemist, one an expert bacteriologist, one an expert pathologist, and one an expert pharmacologist, which board shall meet at the city of Washington, D. C., or elsewhere, at the call of the Secretary of Agriculture, and pass upon such questions after proper notice and hearing granted to the person

making such request. The compensation of the members of such board shall be fixed by the Secretary of Agriculture.

SEC. 10. That every person who manufactures or produces for shipment and delivers for transportation within the District of Columbia or any Territory, or who manufactures or produces for shipment or delivers for transportation from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, any drug or article of food, and every person who exposes for sale or delivers to a purchaser in the District of Columbia or any Territory any drug or article of food manufactured or produced within said District of Columbia or any Territory, or who exposes for sale or delivers for shipment any drug or article of food received from a State, Territory, or the District of Columbia other than the State, Territory, or the District of Columbia in which he exposes for sale or delivers such drug or article of food, or from any foreign country, shall furnish within business hours and upon tender and full payment of the selling price a sample of such drug or article of food to any person duly authorized by the rules and regulations herein provided for to receive the same, and who shall apply to such manufacturer, producer, or vendor, or person delivering to a purchaser, such drug or article of food, for such sample for such use, in sufficient quantity for the analysis of any such drug or article of food in his possession.

SEC. 11. That any manufacturer, producer, or dealer who refuses to comply, upon demand, with the requirements of section 10 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding $100, or imprisoned not exceeding one hundred days, or both. And any person found guilty of manufacturing or offering for sale, or selling, an adulterated or misbranded article of food or drug in violation of the provisions of this act may, in the discretion of the court, be adjudged to pay, in addition to the penalties hereinbefore provided for, all the necessary costs and expenses incurred in inspecting and analyzing such adulterated articles which said person may have been found guilty of manufacturing, selling, or offering for sale.

SEC. 12. That this act shall not be construed to interfere with commerce wholly internal in any State, nor with the exercise of their police powers by the several States; but foods and drugs fully complying with all the provisions of this act shall not be interfered with by the authorities of the several States when transported from one State to another so long as they remain in original unbroken packages, except as may be otherwise defined by law or provided by statutes of the United States.

SEC. 13. That any article of food or drug that is adulterated or misbranded within the meaning of this act, and is transported or being transported from one State to another for sale, or if it be sold or offered for sale in the District of Columbia or any Territory of the United States, or if it be imported from a foreign country for sale, or if intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same is found and seized by a process of libel for condemnation. And if such article is condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of as the said court may direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any State contrary to the laws of that State. The proceedings of such libel cases shall conform as near as may be to proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in such case; and all such proceedings shall be at the suit of and in the name of the United States.

SEC. 14. That the Secretary of Agriculture is authorized to investigate the character and extent of the adulteration of foods and drugs, and whenever he has reason to believe that articles are being imported from foreign countries which by reason of such adulteration are dangerous to the health of the people of the United States, or are of kinds which are forbidden entry into or forbidden to be sold or restricted in sale in the countries in which they are made or from which they are exported, or which shall be falsely labeled in any respect, either by the omission of the name of any added ingredient or otherwise, or in regard to the place of manufacture, or the contents of the package, shall make a request upon the Secretary of the Treasury for samples from original packages of such articles for inspection and analysis; and the Secretary of the Treasury is hereby authorized to open such original packages and deliver specimens to the Secretary of Agriculture for the purpose mentioned, giving due notice to the owner or consignee of such articles, who may appear before the Secretary of Agriculture and have the right to introduce testimony; and the Secretary of the Treasury shall refuse delivery to the consignee of any of such goods which the Secretary of Agriculture reports to him have been inspected and analyzed and found to be any of the kinds mentioned in this section: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods, pending examination and decision in the matter, on execution of a penal bond of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for other purposes, said consignee shall forfeit the full amount covered by the bond.

SEC. 15. That the term "territory" as used in this act shall include the insular possessions of the United States.

SEC. 16. That this act shall be in force and effect from and after its passage: *Provided, however*, That no penalites herein named shall be imposed until after the expiration of one year from the passage of the act.

The CHAIRMAN. The Chair will first recognize gentlemen who desire to make points of order.

Mr. TALBOTT. Mr. Chairman, I intended to make a point of order against the paragraph, or section 7, but I shall not do so now. I desire to state, however, that at the proper time I will move to amend by striking out the paragraph.

The CHAIRMAN. The gentleman will be recognized for that purpose.

Mr. ADAMSON. Mr. Chairman, I understand that all points of order were reserved.

The CHAIRMAN. No points of order are reserved at all. Unless points of order are made before the first amendment is acted upon, the points of order will not be considered.

Mr. ADAMSON. Then, if it is necessary, I desire to reserve all points of order.

The CHAIRMAN. The Chair does not think that that can be done, unless by unanimous consent.

Mr. MANN. I object.

Mr. ADAMSON. I have no points of order myself; I only desire to hold it open for my colleague.

Mr. MANN. Mr. Chairman, by direction of the committee, I offer the following amendment:

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 19, line 3, after the word "health," insert "or any vinous, malt, or spiritous liquor or compound or narcotic drug.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. CLARK of Missouri. Mr. Chairman, I want to find out what it is.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again reported.

Mr. MANN. Mr. Chairman, I can explain the amendment in a word. This is the provision of the bill that relates to confectionery, and the amendment which I offered, by direction of the committee, will forbid putting into confectionery or candy vinous or spirituous liquors or narcotics.

Mr. FITZGERALD. Is it for the purpose of doing away with the so-called "rock-and-rye drops?"

Mr. MANN. I do not know whether they are "rock-and-rye drops," but I have here a collection, which I will be glad to let the gentlemen of the House sample, where intoxicants are sold to children in the form of candy, which ought not to be tolerated. This amendment is also offered at the request of the Treasury Department, which has called attention to the considerable importation of candies recently filled with alcoholic spirits in bonbons and chocolate candies, and the committee thought it was desirable not to permit the children to eat candy containing narcotic drugs, cocaine, opium, or alcohol in any form.

Mr. GROSVENOR and Mr. GAINES of Tennessee rose.

Mr. MANN. Does the gentleman from Ohio wish to ask a question or to take the floor?

Mr. GROSVENOR. To take the floor.

Mr. GAINES of Tennessee. One moment, then. Does this bill prohibit the making of candy, say, in the city of Nashville, containing these ingredients, or does it prohibit such candy from being sent from one State to another?

Mr. MANN. It simply forbids sending it from one State to another.

Mr. GROSVENOR. Mr. Chairman, the very interesting debate which has progressed in this House for six hours has developed some singular and phenomenal ideas in regard to the operation of the Constitution of the United States and its effect upon interstate commerce and is effect upon intrastate commerce. The gentleman from New York [Mr. COCKRAN], who is always eloquent and sometimes logical [laughter], has planted himself upon a proposition that is far-reaching and in the highest degree important if true. The proposition is that if there is carried on in one State of the Union a business in the form of manufacturing or any other business that in its consequences is likely to be deleterious and injurious to the common weal of the country in the matter of health or peace or any of the interests of citizenship, and the legislature of that State fails to suppress the evil and fails to prevent the spread of that evil to other States, then it is the duty of Congress to legislate for the destruction of the evil and to invade by law the State which is delinquent and put an end by legislation to the wrong being done. If that be so, Mr. Chairman, then we are truly at the end of even the police power by the State being exclusive. It has occurred to me to give an illustration of where the gentleman has landed in the pursuit of this eloquent chimerical proposition of his. There is carried on in the city of New York a business that is recognized by civilization as an evil and vice that permeates its victims and carries evil and contamination in its wake wherever it goes.

These houses in New York are contiguous to the States of Connecticut and New Jersey. The State of New York fails in its duty to suppress those houses, and that business is spreading disease into the States of New Jersey and Connecticut that are entitled to be protected by the General Government under the proposition of the gentleman from New York, but the State of New York is delinquent. It does not suppress the wrong or does not shut up those houses. It does not prevent the spread of that contamination of morals and health, and therefore, said the gentleman from New York logically, because that is the inevitable logic to which he is driven, it is the duty of the

Congress of the United States to at once proceed to regulate that business in the city of New York and to suppress the places and destroy the evil.

Now, there is the whole of it and that is where we are inevitably driven to by such logic as the gentleman has used.

Mr. COCKRAN. I would like to ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. GROSVENOR] has expired.

Mr. COCKRAN. Mr. Chairman, can I move to strike out the last word?

The CHAIRMAN. The gentleman can not. The substitute we are considering is an amendment in the first degree; the amendment proposed by the committee is an amendment in the second degree, and a motion to strike out the last word would be an amendment in the third degree.

Mr. GROSVENOR. Mr. Chairman, I ask unanimous consent that my time may be extended for two minutes so that I can answer that question.

The CHAIRMAN. The gentleman from Ohio [Mr. GROSVENOR] asks that his time may be extended two minutes. Is there objection?

There was no objection.

Mr. COCKRAN. I did not hear the beginning of the gentleman's remarks, but as to the portion I did hear, I desire to ask him if he does not make a distinction between the personal conduct of individuals and the commerce between States as affecting the jurisdiction of the Federal Government?

Mr. GROSVENOR. I do not when it comes to applying it to the logic of the gentleman from New York [Mr. COCKRAN]. I do not believe any of it, not only of the gentleman's argument, but what I argued myself.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] offers an amendment which the Clerk will report.

The Clerk read as follows:

On page 20 strike out lines 16, 17, 18, 19, 20, and 21 and insert in lieu thereof the following:

"Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if, when the article contained be not described in the United States Pharmacopœia or National Formulary, and be not the prescription of a regular licensed physician, the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any of such substances contained therein: *Provided, however,* That it may be proven as a complete defense to any accusation or prosecution for failure to state the quantity or proportion of alcohol as above required that the quantity or proportion of alcohol contained in any package does not exceed the quantity or proportion prescribed by the United States Pharmacopœia or the National Formulary as a solvent or preservative of the active necessary constituents of the medicine or preparation in such package."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. BRICK. Mr. Chairman, I move to amend the amendment proposed by the committee.

The CHAIRMAN. The amendment of the gentleman from Indiana [Mr. BRICK] is not in order. The gentleman's amendment would be an amendment in the third degree. He can be recognized later on to offer his amendment.

Mr. GAINES of Tennessee. I want to make an inquiry of the gentleman from Illinois [Mr. MANN].

Mr. PAYNE. I suppose this amendment is debatable?

The CHAIRMAN. The gentleman is not in order to make an amendment.

Mr. PAYNE. I asked if the amendment was debatable.

The CHAIRMAN. The Chair will first recognize the gentleman from Illinois [Mr. MANN].

Mr. PAYNE. The Chair was about to put the question, and that was the reason I took the floor.

The CHAIRMAN. Nobody had risen when the Chair put the question.

Mr. MANN. Mr. Chairman, this amendment provides that in all medicines not included in the Pharmacopœia or National Formulary there shall be on the package or label the quantity or proportion of the narcotic or habit-forming drug. The National Formulary is made up each year by committees of the various medical and pharmaceutical societies of the United States and is a recognized standard, recognized by statute in almost if not every State of the Union. The Pharmacopœia is the decennial report covering the same substance, and in the Pharmacopœia and the National Formulary appear the records of these distinguished gentlemen constituting this commission or board making up the Formulary as to the value of these different medical properties for different things, and among other things the necessary amount of alcohol as a solvent or preservative.

Mr. GAINES of Tennessee. Who appoints them?

Mr. MANN. They are appointed by the medical societies and the pharmaceutical board, not Government appointees in any sense whatever, although some of the Government officials are on the board. But all of the State statutes recognize the Pharmacopœia, and we thought it was proper that Congress should follow the same line and also recognize it. The vital feature of the proposition is that morphine, opium, cocaine, choloroform, cannabis indica or hasheesh, choloral hydrate, and other remedies named therein shall be made known if included in the article.

I inserted in the RECORD of yesterday a large number of cases, partly of deaths caused by opium in medicine and partly of habit formed by the use of medicine where the person had no knowledge that opium, morphine, or cocaine was included in the medicine. I think it is only fair to the public that all of these substances shall be made known in these remedies. We do not provide that they shall be made known in the pharmacopœial remedies, because they are all published and fully known to the trade, and it is only the trade which makes use of these pharmacopœial remedies.

Mr. BRICK. May I interrupt the gentleman for a question?

Mr. MANN. I yield to a question.

Mr. BRICK. As I understand the gentleman from Illinois, this amendment would allow a proprietary medicine to be made from the Pharmacopœia and from the National Formulary, and that when they are so made they need not be published on the label, even though they contain opium or anything else of the character mentioned in this amendment. Is that true?

Mr. MANN. That is true, Mr. Chairman, and it is also true that it can only be sold under the name in which it appears in the Pharmacopœia, and can not be sold as patent medicines are often now sold, under high-sounding names, tending to make the people believe that there are substances in them which will cure the disease, when it is pure fancy. We do not want to interfere with the sale of proprietary pharmacopœial remedies under their own proper names. That is all.

Mr. BRICK. But a person might have taken opium and cocaine or any of these deleterious drugs and not know it if the patent medicine used was constructed out of the Pharmacopœia. Is that true?

Mr. MANN. Well, the gentleman——

Mr. BRICK. Is not that the fact?

Mr. MANN. There is no doubt that people can buy cocaine and buy opium in pharmacopœial remedies; but it is practically impossible for them to use pharmacopœial remedies as proprietary. Nobody, in the first place, will pay four prices for a pharmacopœial remedy because it happens to be sold as a patent medicine, when at the first drug store they meet they can find identically the same thing under the same name at 25 per cent of the cost of the proprietary article. Now, the gentleman comes in here, not himself, but his proposition, from the people engaged in the proprietary-medicine business, wishing to prevent what they think would be an injury to their business.

Mr. BRICK. I ask the gentleman this question: Would it not be a benefit for any proprietary medicine, whether it was made from the pharmacopœial remedies or from any other remedy, that the amounts of these drugs should be put upon the label, and without injuring anybody? Would it not be good for everybody to have that upon the label, and would it not be fair to everybody? I ask the gentleman from Illinois that.

Mr. MANN. It would be of benefit if the amount of opium contained in every proprietary medicine is put upon the label, and I believe it will be if this provision becomes law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I ask five minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. PERKINS. I would like to ask the gentleman this question: His provision provides that if it be a prescription of a regular physician, then, as I understand, this section does not apply?

Mr. MANN. It does not apply.

Mr. PERKINS. Well, now, of course, there are regular licensed physicians by hundreds of thousands.

Mr. MANN. We put the provision in reference to regular licensed physicians in because the only place where it would affect

anybody is either the District of Columbia or the Territories of the United States. It does not affect and could not affect the regular trade in cities. It would not affect putting up a prescripion in New York, St. Louis, or any other town in the country, because it is not interstate commerce. We did not think there was any reason for making a different rule in reference to the District of Columbia or with reference to the Territories. We found no special reason for requiring that the amount of narcotics should be put upon every physician's prescription. It would be a matter of considerable burden both to the pharmacist and the physician and without any practical value; and we did not believe there was any occasion for making an exception with reference to the District of Columbia.

Mr. PERKINS. I should like to ask another question.

Mr. MANN. Certainly.

Mr. PERKINS. Suppose a man makes a patent medicine and sells it largely, but the prescription for it is prepared by a regular licensed physician. Why, under this provision, could he not sell it, not one prescription, but hundreds of thousands of prescriptons, and be protected, because his patent medicine would be the prescription of a regular licensed physician?

Mr. MANN. Oh, not at all.

Mr. PERKINS. Why not?

Mr. MANN. Simply because it is not the prescription of a regular licensed physician.

Mr. PERKINS. A regular licensed physician makes the prescription for a cure for consumption, we will say. Can not that be sold to a thousand people as well as to one person?

Mr. MANN. It can not. A physician's prescription is the prescription in a particular case. That has been decided in the State courts.

Mr. FINLEY. I should like to ask the gentleman from Illinois, in charge of the bill, Do you think it would be a hardship on the maker of proprietary and patent medicine to print on the label the ingredients contained in the medicine?

Mr. MANN. We gave consideration to that question, as to whether we should report in favor of requiring that every proprietary medicine offered for sale should contain a printed statement of the formula. We did not see any reason why it should be done, and we could see a number of reasons why it should not be required that a man who had a proprietary medicine should disclose to his competitors and to the trade his formula.

Mr. FINLEY. Is it not true that in some countries, notably in Germany, this is required to be done in all cases?

Mr. MANN. I am not able to inform the gentleman.

Mr. FINLEY. That is my information, and I only wished to draw out the fact if the gentleman did not think that the policy was a good one.

Mr. MANN. Well, personally, I do not know, but I would think so. Personally, I do not know but what I would stop most doctors' prescriptions; but I am very confident that the country has not yet reached the point where it wishes to have that done.

Mr. JONES of Washington. What is the real purpose of having this statement on the label? Is it to advise the purchaser as to the amount of alcohol or these different ingredients contained in the package?

Mr. MANN. Undoubtedly.

Mr. JONES of Washington. Why is it that if this article is contained in the National Formulary you do not require the ingredients to be stated on the outside? Not one person in a thousand will ever see the National Formulary. I never saw one.

Mr. MANN. I presume not, and probably the gentleman never bought a National Formulary article.

Mr. JONES of Washington. I do not know whether I did or not.

Mr. MANN. No; that is something that is sold to the trade. The medicine is bought by the druggists. They know what they are. The gentleman does not buy those except on a physician's prescription.

Mr. JONES of Washington. Oh, I see. I wanted to understand it.

Mr. UNDERWOOD. What is the objection to having a statement of the contents on these National Formulary articles as well as the others?

Mr. MANN. I do not know that there is any special objection. The pharmacists have a national association. They have a council, and that council has agreed to require that there shall be stated upon the label of the packages, not only these narcotic medicines, but a great many other articles, so that the physician and the druggist may know what is contained in the article. I am not certain but that ought to be in the law, but it is a great deal broader than the provision we have brought in, and the provision we have brought in is exciting more opposition than anything else we have had.

[Here the hammer fell.]

Mr. PAYNE. Mr. Chairman, I think this is the most important subject in this bill. I refer to the adulteration of drugs, more particularly to what are known as "patent medicines." The revelations made by Mr. Samuel Hopkins Adams, who has thoroughly investigated this subject, are simply appalling. I know the man very well. He is a constituent of mine, and he is a reliable man as well as a most thorough and painstaking investigator.

Mr. MANN. Will the gentleman permit me to interrupt him long enough to add my voice to indorse his sentiment upon that question?

Mr. PAYNE. I am most glad to get the gentleman's indorsement. Now, the original text of this bill is plain. We can all understand what it means:

> Second. If the contents of the original package shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any alcohol therein, or of any opium, cocaine, or other poisonous substance which may be contained therein.

There is no loophole there. It seems to me that there are some loopholes in the committee amendment. For instance:

> And be not the prescription of a regular licensed physician.

Now, I understand the gentleman from Illinois to state that it had been held over and over again that that meant a personal prescription to a patient and nothing more. But it seems to me we can not assume that. There are doctors and doctors. There are some rascals among the most noble of professions, the profession of the law. [Laughter.] There are doctors that will do most anything for money. There are doctors that will make most any kind of prescription, and in the investigation that Mr. Adams made he showed that when these patent medicine vendors needed somebody to testify as to their respectability or to testify as to the propriety of the remedies which they were advertising they found doctors not only willing to testify that they were adequate and not harmful remedies, but to come up and father the prescription by which the remedies are foisted on the public. People take these without knowing what substances are contained in them or how much poison. They take it sometimes for the alcohol contained in it, and they found that there was more alcohol in the medicine than in the ordinary bottle of whisky of the same size.

Here they leave a loophole by the committee amendments for the prescription of a physician. Why not adhere to the original language of the bill, which seems to be plain and fully covers this proposition, rather than go out into the unknown field? I do not believe that these amendments were suggested by anyone who was anxious to have proper remedies when advertised as medicines.

I do not believe these amendments were suggested by those friendly to the medical profession; they were suggested by the friends of these infamous remedies that are often advertised and foisted on the public. I do not know where they came from, but I fear—the gentleman from Illinois points to his own brain. I can hardly credit his statement; and still he is the last man in the world whose statement I would not take. If he is the author of this, I hope he understands it fully, and I hope he is prepared, as far as he is concerned, to show that it fully covers the subject. I appeal again to the sober moment when he first framed the second section of this committee substitute, because I believe he has a plainer bill and has one that will cover and answer all the purposes, and in which there is no apparent loophole. [Applause.]

Mr. MANN. Mr. Chairman, I ask unanimous consent for five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that he have five minutes. Is there objection?

There was no objection.

Mr. MANN. The original provision in the bill which the gentleman praises was one which I drew. After it was drawn, it seemed to me at first, as it does now to the gentleman from New York, to be unequivocal, to be without question or without doubt, and yet when I commenced to make inquiries of people who are not interested in the matter in any way as to what a poison was, I ascertained that no one knew what "other poisonous substances" would cover. Doctor Wiley, of the Bureau of Chemistry, and other gentlemen high in the profession told me that the expression was one itself of doubt, which from the start would lead not only to litigation unending, but to a confusion worse confounded in the drug trade; that nobody would know what was covered by the words "other poisonous substances," because the question of a substance being poisonous or not might depend on the quantity which was taken.

Mr. PAYNE. That explains the first part of the gentleman's amendment, but it does not throw any light on the other.

Mr. MANN. I haven't got to that yet.

Mr. HUMPHREY of Washington. Mr. Chairman, if there is so much difficulty in determining what poisonous substances are, why not strike out the word "poisonous" and let everybody know all the substances in medicine, whether poisonous or otherwise. The gentleman made the assertion that we want to know what we are drinking and what we are eating. Why not let us know what we take for medicine?

Mr. MANN. Well, Mr. Chairman, permit me to say that this is the first time that any provision looking in this direction has ever been brought before the House. There never has been a suggestion made, so far as I know, in Congress covering this question until this provision was brought in. All at once some of our good friends who have had their attention called to it want to go to the ends of the earth when they ought to know that reforms like this move somewhat slowly and that the attempt to get too much means that you get nothing. I would rather have the substance of the meat than to drop my meat while seeking for the shadow in the waters beneath me. [Laughter and applause.]

The other provision was suggested to me by an inquiry as to the effect when I asked various pharmacists of the city in reference to a provision of this sort, without their knowing anything about what was in the bill or what was proposed to be in the bill, and they said in making up the ordinary physician's prescription it would be practically impossible to place upon the little box or the label the whole quantity or contents each time, and that there was no occasion for it, in their judgment.

Mr. PAYNE. There would not any of that go into interstate commerce; that would be entirely local.

Mr. MANN. It would be controlled in the District of Columbia. The gentleman could not get a physician's prescription filled in the District of Columbia without having stated on the box or the label all of these things. And I say to the gentleman that that is the only reason this appears.

Mr. PAYNE. Why not, then, put in the language limiting it to physicians' prescriptions in the District of Columbia?

Mr. MANN. I don't know that there would be any objection to that.

Mr. PAYNE. That would carry out the gentleman's idea, and it would close this loophole which I think exists.

Mr. MANN. Mr. Chairman, I am frank to say to the gentleman that I did not believe personally, and I hardly believe yet, there is any loophole there. I certainly have no desire to leave any loophole of that kind, if there be such.

Mr. PAYNE. Of course the gentleman does not. We all understand that.

Mr. MANN. I may say to the gentleman on that point that that part of the amendment did not come from anybody interested in the matter of proprietary medicines. The Proprietary Medicine Association did present to the committee an amendment which would have permitted them to use any of these narcotics in small quantities without placing that fact upon the label. We declined to accede to that request, but the rest of the amendment was never suggested by the association, and the Proprietary Medicine Association is bitterly opposed to that provision in the proposed amendment.

Mr. PAYNE. Will the gentleman modify his amendment by inserting the words "in the District of Columbia?"

Mr. MANN. Oh, I do not think so at this time. Let that wait until we see what we can do in conference.

Mr. PAYNE. After this amendment is voted in there is no power to amend it. It would not then be in order. If it is done at all, it must be done now.

Mr. MANN. I think it is safer to let that wait. I am willing to consider the matter. It can be fixed in conference, if necessary.

Mr. PAYNE. It should be considered now.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PAYNE. Mr. Chairman, I ask unanimous consent to proceed for two minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Chairman, if the gentleman from Illinois refuses to accept that amendment, I submit to the committee that there is no other way except to vote his amendment down, and then he can offer it again with those words excluded, because if we vote this amendment into the bill it is out of order to try to amend it afterwards. A motion could be made to strike it out, but no other motion would be in order, and it can not be amended. If we accept the amendment just as the gentleman has written it, and he will not agree to modify it, the only way is to vote it down and see if the committee can not amend it.

Mr. GAINES of West Virginia. Mr. Chairman, I ask unanimous consent to be permitted to offer a suggestion to the gentleman from New York.

The CHAIRMAN. The gentleman from West Virginia asks unanimous consent to proceed for a moment. Is there objection?

There was no objection.

Mr. GAINES of West Virginia. Mr. Chairman, I would like to offer this suggestion to the gentleman from New York, as to whether an amendment of this sort would meet his objection, to insert, after the words "licensed physician," the words "to a person actually his patient?"

Mr. PAYNE. Possibly that would cover it.

Mr. MANN. Mr. Chairman, I will ask unanimous consent to modify my amendment by inserting the words just suggested by the gentleman from West Virginia.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment by inserting the words suggested by the gentleman from West Virginia, and the Clerk will report the amendment.

The Clerk read as follows:

Insert, after "licensed physician," the words "to a person actually his patient."

The CHAIRMAN. Is there objection to the gentleman's modifying his amendment as requested? [After a pause.] The Chair hears none, and it is so ordered.

Mr. ADAMS. Mr. Chairman, I want to say just a word to the House about the committee amendment. I appreciate the good work which has been done by the committee, and I appreciate the intelligence and industry and the ability which the gentleman from Illinois has manifested; but it seems to me that his first opinion was far better, as the gentleman from New York [Mr. PAYNE] has said, than his last. That is a perfectly simple, straightforward amendment, designed to compel every manufacturer of patent and proprietary medicines in the United States to put labels upon the packages stating that they contain poison, if they do contain poison. I desire to add to the tribute which the gentleman from New York [Mr. PAYNE] has paid to Samuel Hopkins Adams, who, in Collier's Weekly, has given the result of the most careful, painstaking, intelligent, and valuable work in the study of a great evil that has ever been given to any similar subject in the history of the United States.

I know Mr. Adams. I know that he indorsed this bill in the language in which it came from the committee. As dairy and food commissioner of our State, I have had some experience in analyzing these medicines, and had occasion to know something about them, and I know that it is absolutely true that many of them were worthless, and a great number of them are of great damage to the public health, and that hundreds and thousands of the graves of this country have been filled because of the use of poisons which they contained, which the people have taken not knowing that they contained them. The general purpose of this bill is to protect the public health, and it is to secure honesty in trade and to enable people to know just exactly what they get.

This bill as originally reported from this committee provides for that, and I want to say another thing, that of the numerous poisons which are given in the committee amendment now before the House, not all the poisons that enter into these medicines are named. I have the authority of one of the best chemists in the United States for this statement. This bill as a whole is infinitely superior to the Heyburn bill, as the gentleman has said. Let us not take from it one atom of its excellence and virtue, and I ask this committee to vote down the committee amendment and accept the phraseology of the bill as the Interstate Commerce Committee first framed it in wisdom and in good faith.

Mr. UNDERWOOD. Mr. Chairman, I think that the present section of the bill that the House is considering is the most important section in the whole bill. There is nothing that the people of the United States need protection against more than they do the poisons in proprietary medicines. Now, I think the gentleman from Illinois, in offering his amendment, has weakened his bill. I think it is leaving the door wide open to deceive the people and allow the people of the United States to be sold poisonous drugs. Now, as the matter has been illustrated to me, and as I understand it, it is simply this: That if a woman goes to a drug store to get medicine for her child and the druggist offers to sell her, after the passage of this bill, Mrs. Winslow's soothing sirup that has got opium in it, he would have to paste across that bottle a label stating that there is

opium in that bottle, and she will refuse to buy it because she will not give the child opium, but the druggist will turn around and say, "Here is paregoric, which is just as good." Paregoric is one of those formulas that he can sell that is made up by the National Formulary.

Under the terms of the amendment of the gentleman from Illinois, although paregoric has opium in it, the very substance she does not want to give to her child, yet under the terms of this amendment there will be no guard against that; there will be nothing on the bottle to warn her that if she gives the child paregoric she will be giving it opium, and I say this amendment ought to be voted down and the door closed to any deception of that kind.

Mr. BRICK. Mr. Chairman, I understand, as a parliamentary inquiry, that if this amendment is adopted, presented by the committee, that no other amendment can be made under the rule. Is that right?

The CHAIRMAN. If this amendment is voted in, then this particular amendment can not be amended.

Mr. BRICK. Then it must stand as voted.

The CHAIRMAN. It stands unless that, including other distinct matter, should be stricken out.

Mr. BRICK. Under those circumstances, Mr. Chairman——

Mr. KEIFER. Mr. Chairman, in the same line I want to make an inquiry. I want to know if the Chair's attention has been specially called to the special rule under which we are acting when he suggests we can not offer any amendment except such as comes from the committee? The Chair has already held we are to consider the committee amendments first, but shuts off our offering any amendment at all until they are through, and when they are through we will have confirmed that part of the bill and that will shut out offering any amendment unless to some other part of the bill. Now, that is not contemplated. I understand by the rule that we are to be allowed to try first and perfect the substitute. My point is, we are to perfect a substitute and then have the right (I agree we may do it in this way) to offer amendments.

The CHAIRMAN. The Chair will state after the committee amendments are offered, after members of the committee have been recognized who desire to offer amendments, the Chair will recognize any other gentleman desiring to offer an amendment.

Mr. KEIFER. To any part of the bill?

The CHAIRMAN. To any part of the bill.

Mr. KEIFER. Well, I have no objection to that.

The CHAIRMAN. The Chair can not recognize gentlemen to offer amendments to strike out language that has been inserted in an amendment from the floor.

Mr. KEIFER. That would be the general rules, Mr. Chairman, but under the rule that we are acting we are shut out from offering an amendment. We have either got to vote it in or vote it out when it comes from the committee.

The CHAIRMAN. The Chair is of that opinion.

Mr. KEIFER. That excludes us in having any voice at all in perfecting any amendment coming from the committee, which I think is not contemplated by the rule of day before yesterday.

Mr. DALZELL. It is very easy for the committee to vote down this certain amendment, and then the original text may be perfected as the committee may see fit.

Mr. BRICK. That was just what I was asking the question about, which I think the House fully understands at the present time, and while one particular item here might have been perfected, there are several others, so for that reason I ask that the House vote down this amendment.

The CHAIRMAN. If the amendment should be voted down, other amendments may be offered.

Mr. OLMSTED. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. OLMSTED. This amendment is to strike out lines 16 to 21 and substitute other matter in the place of those lines. Now, that being done, would it be in order to strike out all from lines 11 to 21, including the part amended, and insert new matter?

The CHAIRMAN, The Chair is of the opinion that it would.

Mr. HEPBURN. Mr. Chairman, I think that if the gentleman from New York [Mr. PAYNE], who criticised the committee amendment, had given more attention to this subject he would not have been so hurried in his commendation of the text and his reprobation of the amendment. The trouble with the gentleman is that he has only taken a cursory glance at the text of this amendment. It provides:

> Or if it fails to bear a statement on the label of the quantity or proportion of any alcohol therein.

Every tincture that is to be found in a drug store contains alcohol. Alcohol is necessary for the preservation of the drug. It is necesary as a solvent, in order that solution may be had. Now, under the original provision that the gentleman thinks is so admirable it was necessary to state the quantity or proportion of that alcohol in every one of those tinctures. Do you desire that? In the great majority of instances it is entirely unnecesary.

Probably the gentleman has in mind the purpose of preventing the sale of those drugs that beget and create the alcoholic habit. Under the provision as we have it in the amendment it seems to me that we can accomplish that purpose without putting the druggist and chemist to the necessity in every instance of stating the quantity of alcohol that is in the tincture, yet, if we follow the advice of the gentleman from New York [Mr. PAYNE], that is what will have to be done.

Mr. DALZELL. Will the gentleman allow me?

Mr. HEPBURN. Certainly.

Mr. DALZELL. Would not the objection the gentleman now suggests be met by adding the proviso contained in the committee amendment to the original text?

Mr. HEPBURN. No; I think not, for the reason that was given by the gentleman from Illinois. Who is to define what is a poison? The dangerous poisons, those that we most frequently come in contact with, are named in this amendment of the committee, and we will have the good result of having them named here.

Mr. PAYNE. Now, they might be named in the original text and they might be inserted by the committee in the original text and still not leave this loophole about physicians.

Mr. HEPBURN. That is one of the difficulties which the committee met. All of the physicians jumped onto the other provision at once, and said that we were putting upon the chemists the necessity of stating the contents of their prescriptions in every case.

Mr. PAYNE. Would any physicians put it on?

Mr. HEPBURN. Very few, I think.

Mr. DALZELL. Why not insert in the original text the poisons that are named in your committee amendment?

Mr. HEPBURN. There is still another objection to the provision of the amendment. The burden of proof will be upon the defendant to establish the fact that no more of alcohol is used than is necessary as a solvent of the real ingredients.

Mr. PAYNE. I want to suggest to the gentleman—he has seen advertisements, and I have, of people selling patent medicines who desire the people to write to them confidentially, state their symptoms, etc., and they will prescribe. It is very easy to have a physician to prescribe, and prescribe the formula that is meant by the advertisement, which is a patent medicine. Now, under this provision, I do not see why they would not go on without any label showing what the contents are.

Mr. HEPBURN. Well, is not the number of those cases very rare?

Mr. PAYNE. Oh, I do not know but one single manufacturing house of that kind doing that kind of business now, but if they have got to say that on the label before going into business, why, there may be a great many of them.

Mr. COOPER of Wisconsin. Mr. Chairman, I would like to make a suggestion to the committee. Before the gentleman from Pennsylvania and the gentleman from New York made their suggestions covering this paragraph, I had written out an amendment which I think will meet every objection. Vote down the committee amendment—the last amendment—and adopt the following in its stead:

> Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it shall fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucane, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivation or preparation of any of such substances contained therein: *Provided, however,* That it may be proven as a complete defense to any accusation or prosecution for failure to state the quantity or proportion of alcohol as above required, that the quantity or proportion of alcohol contained in any package does not exceed the quantity or proportion prescribed by the United States Pharmacopœia or the National Formulary as a solvent or preservative of the active necessary constituents of the medicine or preparation in such package.

Mr. Chairman, this amendment would preserve all of the better features of the last amendment proposed by the committee, and it would also remove from it the vitally objectionable feature relating to physicians' prescriptions, so forcibly pointed out by the gentleman from New York [Mr. PAYNE]. I can not conceive of a valid reason why any physician in the United States should be permitted upon his mere prescription to send to anybody anywhere cocaine or cannabis indica, or chloral hydrate, or acetanilide, or any other of the drugs which are lumped under the general head of poisons in the bill as originally presented unless there be a label on the package telling exactly what it contains. The trouble with the original bill is that it contains the words "or other poisonous sub-

stances." It thus leaves the prosecuting officer, or the jury, or somebody else to determine what would be properly included under the expression "other poisonous substances." The last amendment proposed by the committee omits the general language "other poisonous substances" and specifies what these substances are. Now, strike out "physicians' prescriptions," which words, in my judgment, should never have been in the bill, enumerate these poisons, and put in the proviso concerning the quantity or proportion of alcohol prescribed by the Pharmacopœia or the National Formulary as a solvent or preservative, etc., and you have what would help to make an effective law.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was rejected.

Mr. MANN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any of such substances contained therein: *Provided, however,* That it may be proven as a complete defense to any accusation or prosecution for failure to state the quantity or proportion of alcohol as above required that the quantity or proportion of alcohol contained in any package does not exceed the quantity or proportion prescribed by the United States Pharmacopœia or the National Formulary as a solvent or preservative of the active necessary constituents of the medicine or preparation in such package.

Mr. PAYNE. I notice that you leave out the words "or other poisonous substances." I presume there is a good reason for it.

Mr. MANN. Mr. Chairman, the amendment which I have now offered is the same amendment which I offered before, leaving out the provision with reference to the Pharmacopœia and prescription of a regular licensed physician, so that it will provide that the label must state the quantity or proportion of the drug contained. The gentleman from New York inquired why we leave out the words "other poisonous substances." I will say to the gentleman from New York that I have asked a great many persons who are familiar with such matters, who gave me a list of all the drugs the taking of which becomes a habit. These names include that entire list.

The reason we did not insert "other poisonous substances," as I have said before, is because no one knows what are poisonous substances. It might and would give rise to a great deal of litigation, not about anything that injures anyone at all, but possibly in the prosecution of the law, for the purpose of defining what were the poisonous substances. It could do no good. We have included by name all those which are habit forming, as I believe; at least, I consulted with the distinguished gentleman referred to by the gentleman from New York, Mr. Samuel Hopkins Adams, and have inserted more names of medicines than he could furnish to me. I consulted with a member of the National Council of Pharmacists in reference to the same matter. The number has been somewhat enlarged beyond the number of poisons originally given to us by the Bureau of Chemistry, and I think it includes all those which in any way become deleterious by their use.

Mr. PAYNE. I am well satisfied with the explanation of the gentleman.

Mr. ADAMS. I hope that the House will stay by the original language of this act. There is on reason on earth why that law can not be enforced. There are no practical difficulties in the way. I want to say to my friend from Wisconsin [Mr. COOPER] that the method of procedure, under this bill as originally drawn, is this: That an officer of the Government arrests somebody engaged in interstate commerce selling a proprietary medicine which contains poison of some kind, and he must go into court and establish that fact, and you have got to establish any fact in court when you take a man there.

Mr. COOPER of Wisconsin. The language of the original act is—

Or any opium, cocaine, or other poisonous substance.

Mr. ADAMS. That is correct.

Mr. COOPER of Wisconsin. Do you not think it is a great deal better to make the enumeration?

Mr. ADAMS. I do not think it is when the enumeration does not cover all possible contingencies, and the phrase "or other poisonous substance" does cover it; and if the administrative officers of this law have reason to believe that some article not enumerated here is poisonous, and they think they can prove it in court, then we have a law which can be enforced.

Mr. MANN. The gentleman from Wisconsin [Mr. ADAMS] is one of the strongest advocates of pure food and drugs, not only in this House, but in the country; but in this case he is mistaken. The original provision of the bill as we reported it, before we had given it as full consideration as we did afterward, is:

Opium, cocaine, or other poisonous substance.

Now, the patent medicine men claim that the amount of these other substances which they use in their medicines is not poisonous, and it would become the duty of the Government under the original bill not only to establish the amount in them, but to establish, for instance, that the one-sixteenth of a grain of heroin to the ounce, which patent medicines use, is poisonous. They would need to establish that before each jury that tried a case, whereas, as the provision which we propose reads, the fact of guilt is established when you establish by analysis the presence of any portion of the drug in the medicine. That was the reason for the change; and although I know that the gentleman from Wisconsin [Mr. ADAMS] has no heart or sympathy with the proprietary medicine people engaged in the sale of opium or cocaine and these other poisonous substances, the people who are now selling acetanilid as headache medicine pray that the original amendment shall prevail.

Mr. YOUNG. I should like to ask the gentleman a question for information. As I understood the reading of this amendment, it went into the bill at page 21, at the end of line 2. Is that correct?

Mr. MANN. No; at page 20, line 16.

Mr. YOUNG. Then it is in lieu of the amendment that you formerly offered?

Mr. MANN. Yes.

Mr. ADAMS. I want to say that the statement of the gentleman from Illinois [Mr. MANN] with reference to the attitude of the proprietary-medicine and patent-medicine people of the United States regarding this clause is a very great surprise to me. I know absolutely that if there is anything they fear in this bill it is the clause under discussion as first reported. There is no reason why an officer of the Government, administering that law, if he has reason to believe that any medicine of any kind contains poison, can not produce the specific evidence upon which he bases that reason, and there is no reason why he should not go into court and give it; and if he is right, the court will sustain him, as it should, and if he is wrong, the court will turn down his case, as it ought to do. This language is simple, direct, specific, possible of enforcement, will do injustice to no particular interest, and I hope every amendment will be voted down and the language of the original bill enacted into law.

Mr. OLMSTED. I should like just a moment to ask the gentleman from Illinois, the member of the Interstate Commerce Committee in charge of the bill, as it does not seem likely that within the time allowed under the rule any of us outside of that committee will have the opportunity to offer any amendments——

Mr. MANN. I think there will be opportunity.

Mr. OLMSTED. Not at this place in the bill, if the committee amendment shall be adopted. I ask whether you would have any objection to incorporating this as a part of your amendment:

That the quantity or proportion of opium or morphine need not be stated unless the proportion in such package contains more than two grains of opium or one-fourth grain of morphine to a fluid ounce, or, if a solid preparation, to an avoirdupois ounce.

I will say that this was suggested to me by an eminent and respectable druggist, for whose judgment and fairness I have a very high regard.

Mr. MANN. I will say to my friend from Pennsylvania that that amendment, and even more along the same line, have been suggested to a great many people by a great many very eminent and respectable people engaged in the making of proprietary medicines, each one satisfied if the proportion of narcotics which he puts in his medicine is excepted from the bill. The committee is not willing to agree to the amendment which the gentleman suggests or to anything along that line.

Mr. OLMSTED. Where the amount is so small that it would do no harm, my proposition is to specify so small a proportion that any statement would be unnecessary.

Mr. MANN. That is exactly what the proprietors of these medicines say. Acetanilide would be another, and they claim that that is not a poison and it is used in more than 300 different remedies.

Mr. OLMSTED. My suggestion relates only to opium and morphine. It is a little unjust to the proprietors of medicines to say, in broad terms, that this contains poison if there is only a trace of it in it, and the limit can readily be so fixed.

Mr. MANN. We do not require them by the bill to say—although I am not sure that we ought not to do so—that it contains poison; we only require them to say that it contains, say, opium, and state the amount or proportion that they put in the medicine.

Of all the drugs of this kind put in medical preparations the two worst by long odds are morphine and opium, which the gentleman's amendment would except.

Mr. OLMSTED. Well, that depends on the quantity—on the proportion contained in the medicine.

Mr. KEIFER. If the gentleman will allow me, I understand that strychnine is a poison.

Mr. MANN. Yes; I believe so.

Mr. KEIFER. Would it be governed by your amendment as it is now? If anyone wanted to fall into the strychnine habit, would it be covered by this amendment?

Mr. MANN. One never falls into the strychnine habit unless he is getting ready to go to the grave.

Mr. KEIFER. Oh, yes; they take it for the complexion, and use it all over the country. [Laughter.]

Mr. MANN. It is certain that the gentleman from Ohio does not need to use either strychnine or arsenic for the best complexion in the House. [Laughter.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I offer the following committee amendment:

The Clerk read as follows:

On page 21, at the end of line 2, insert "or, if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or, if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any of such substances contained therein."

Mr. MANN. Mr. Chairman, this is simply a proposition to insert practically the same amendment as to narcotic drugs, so as to provide that if they are put in food they shall be labeled to show the contents, it being feared that if they were driven out of the medical field they might attempt to put it up in the form of food and sell it in that way.

The CHAIRMAN. The question is on the amendment.

The question was taken; and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

On page 22 strike out lines 19 and 20 and insert in lieu thereof the following:

"That for the purpose of carrying out the provisions of this act it shall be the duty of the Secretary of Agriculture, from time to time, to determine and make known standards of the various articles of food in compliance with the definitions and provisions of this act."

Mr. MANN. Mr. Chairman, most of the Members on the floor have a copy of the committee amendments. I did not offer the package amendment next because that would give rise to considerable debate, and I thought it might be well to run through some of the other amendments that probably would not cause debate.

The provision in the bill makes it the duty of the Secretary of Agriculture to fix standards of food products when advisable for the guidance of officials. Now, there was a fear that that provision of the bill as it was framed was conferring a legislative authority upon the Secretary which might render the provision unconstitutional, and hence we propose to say, following the opinion of the Supreme Court in the tea case, that for the purpose of carrying out the provisions of the act the Secretary shall fix the standards in accordance with the provisions of the bill.

The CHAIRMAN. Does the gentleman from Illinois ask that the amendment which has been reported shall stand over?

Mr. MANN. Oh, no; I offer the amendment to be considered now.

Mr. CRUMPACKER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CRUMPACKER. Is it in order to offer a substitute for the amendment proposed by the gentleman from Illinois?

The CHAIRMAN. The Chair thinks not. The matter that we are considering is a substitute for Senate bill No. 88.

Mr. CRUMPACKER. It is a motion to strike out and insert.

The CHAIRMAN. A motion to strike out and insert is in order.

Mr. CRUMPACKER. The amendment, I understood, offered by the gentleman from Illinois is a motion to strike out and insert, and my recollection is that under the rule an amendment in the form of a substitute in the third degree is in order.

The CHAIRMAN. It is not in order.

Mr. CRUMPACKER. I desire to be recognized in opposition to the amendment, just briefly. Mr. Chairman, the substitute I proposed to offer, if it had been in order, would have provided that the food provisions contained in the bill shall relate only to food for human consumption. I do not believe that the stringent provisions of this bill ought to be extended to hay and corn and oats, and numerous other kinds of foods for cattle, horses, hogs, dogs, and cats. Now, there is a provision in the bill that makes a bale of hay, for instance, that may contain any percentage of decomposed hay or any small percentage of decomposed oats adulterated within the meaning of the law. In section 5, page 18, in defining the term "food," defines it as follows:

The term "food" as used herein shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound.

It seems to me that provision will bring on all kinds of embarrassment. Among other provisions an article is declared to be adulterated if any substance has been mixed or packed with it so as to lower or reduce its quality or strength. I know something about the science of farming. If a little oat straw should be mixed in with a bale of hay, the food would be adulterated, and the farmer who produced it would be liable to prosecution under the provisions of this law, if he undertook to ship any of it out of the State. The sixth subdivision provides that if a product consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, etc.

Now, if there should be a small percentage of hay decomposed, like all farmers find at the bottom of a stack when they get ready to bale their hay, or in the threshing, it is adulterated within the meaning of this law, and the farmer that undertakes to send hay out of the State prepared in bales of that kind would be guilty of a crime. I do not believe this bill, with its stringent provisions, ought to be made applicable to food for horses, cattle, dogs, and hogs. I do not believe that the situation in the country requires any such drastic legislation to protect the food for farm animals, live stock, other animals aside from man. I was somewhat surprised to find that provision in the bill—"by man or other animals," and subsequent provisions seemed to lose sight of "other animals," but no exception whatever is made. I shall at the proper time offer a motion to strike out the words "or other animals," in the fifth section of the bill, and it was my purpose when I rose in opposition to this amendment to attempt to work in a substitute providing that the food provisions of the bill shall not be applicable to any kinds of foods except those for human consumption.

Mr. MANN. Mr. Chairman, the argument of the gentleman has nothing to do with this amendment, and I call for a vote.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

Mr. SHERMAN. Mr. Chairman, I do not know what the gentleman is about to amend, but I submit that he should take these amendments up in order. The rule under which we are operating says we should operate under the five-minute rule, and therefore except by unanimous consent the gentleman can not go from page 22 to page 21 and then to 19 and then to some other page. I submit they should be taken up seriatim.

Mr. MANN. I understand the gentleman to be wrong.

The CHAIRMAN. Under the rule, as the Chair understands it and as the Chair has suggested, the gentleman can do that.

Mr. MANN. If it be the desire of Members of the House to take up the package amendment now, I am perfectly willing to do so, but I did not think the House would care to take that up to-night.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 23, in line 13, after the word "Agriculture," insert the following: "for the purpose of aiding him in determining as to the wholesomeness or unwholesomeness of any such preservative or substance."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. CRUMPACKER. Mr. Chairman, I would like to know the scope of the amendment.

Mr. MANN. Mr. Chairman, there was some question as to whether under the bill as it stood it became the duty of the board provided for in the bill to determine and finally settle the question as to the wholesomeness of preservatives or whether that board was merely advisory. It was the intention of the committee when first reporting the bill that the language meant that the special board appointed was merely advisory to the Secretary of Agriculture. The amendment that I offer now simply provides that without question.

Mr. CRUMPACKER. This is a very important section—one of the most important administrative sections in the bill—and I would like to know whether it is the understanding of the gentleman in charge of the bill that the standards provided in

section 9, the section under consideration, are to be accepted as official and constitute the basis of criminal prosecution in the courts, or is the question of fact open for consideration in the courts?

Mr. MANN. Why, it is certainly open for consideration in the courts, but this is the basis for the criminal prosecution. It is absolutely necessary that there should be some standard fixed before anybody can determine on the part of the Government whether prosecution shall be inaugurated or not, but, of course, it finally rests with the court to determine whether, as a matter of fact, the article is adulterated or is unwholesome, under the provisions of the act.

Mr. CRUMPACKER. Then, an indictment or information would not be good under this bill, if it charged simply that a person failed to comply with the food or drug standard, as fixed by the law?

Mr. MANN. It would not.

Mr. CRUMPACKER. What does the phrase mean, in line 22, "and for the information of the courts?". If the standard is to be fixed officially and it is not to constitute a basis of an indictment or a penal prosecution, why do you say "for the information of the courts?"

Mr. MANN. That it may be introduced in evidence in the courts.

Mr. CRUMPACKER. It is to be admissible in evidence, is it?

Mr. MANN. That is what it amounts to.

Mr. CRUMPACKER. I do not believe this section makes it admissible. It does not provide it shall be admissible in evidence.

Mr. MANN. I think "for information of the courts" will admit it in evidence when presented in proper form. I have no doubt of that.

Mr. CLARK of Missouri. I would like to ask the gentleman, Does the gentleman undertake to make a certificate of the Secretary of Agriculture evidence against a defendant in a criminal case?

Mr. MANN. Evidence that that is the standard which has been fixed by the Secretary of Agriculture; not evidence that the person is guilty of a misdemeanor.

Mr. PAYNE. That is not involved in this amendment, is it?

Mr. MANN. It is not particularly involved in it.

Mr. PAYNE. Now, the gentleman from Indiana is talking about that which seems to be harmless. See if we can not get time to amend the other part of it.

Mr. CRUMPACKER. That is not harmless; it has a good deal of significance when read in connection with other provisions.

Mr. PAYNE. It does not make much difference whether we get at this or not if we leave the other in——

Mr. CLARK of Missouri. Mr. Chairman, if the gentleman will permit me, when we get to that part of the bill I will move to strike it out, because it is contrary to the Constitution of the United States and the constitution of every State in the Union.

Mr. CRUMPACKER. And of every individual in the country.

Mr. GROSVENOR. If the gentleman will allow me a word, I think I can say to my friend——

The CHAIRMAN. The time of the gentleman has expired.

Mr. CRUMPACKER. I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GROSVENOR. The text as it stands; I would like to have the gentleman from Missouri take a copy of the bill and look at page 23: "It shall be the duty of the Secretary of Agriculture, for the purpose of aiding him in determining as to the wholesomeness or unwholesomeness of food." Now, that is all there is of it. It need not have been put there at all. He might have used their advice for any purpose. But in order to limit the Secretary of Agriculture so that he should not permit the board to become a finality the limitation is put and——

Mr. CRUMPACKER. It seems, by implication at least, to provide that the Secretary of Agriculture is to fix a standard which shall be a basis for criminal prosecutions——

Mr. GROSVENOR. That is true.

Mr. CRUMPACKER. The text as it stands will not bear that construction, in my judgment—will not bear that interpretation. I certainly do not believe we ought to confer upon the Secretary of Agriculture the power to fix a standard and then convict a man of crime, fine him, and send him to prison because he does not comply with the standard. That would be department-made law.

Mr. ADAMS. Will the gentleman permit me?

Mr. CRUMPACKER. I believe the law ought to provide that whoever sells forbidden kinds of foods or drugs or medicines may be amenable to the penal provisions in the bill.

Mr. ADAMS. Will the gentleman allow me to offer a suggestion?

Mr. CRUMPACKER. I will.

Mr. ADAMS. The object of this bill is to frame a law which will enable the Secretary of Agriculture to get all possible information, so that when he desires to prosecute he will have all of the information he can get. It does not confer any additional authority of law upon him.

Mr. CRUMPACKER. It authorizes the Secretary of Agriculture to collect this information and fix standards for foods and drugs, among other things, for the information of the courts. What is the business of the courts in this connection? To try criminals, men who are put on trial for violating its provisions.

Mr. ADAMS. Will the gentleman permit me to answer the question? It does not make any difference whether the phrase "for the information of the court" goes in or not. This commission is established for the purpose of endeavoring to arrive at a series of correct standards as nearly as possible by scientific judgment for the information of the Secretary and for the purposes of prosecution. Now, when the Secretary of Agriculture goes into court and undertakes to try a case, the opinion of that commission comes in there simply as a part of the evidence, just as the gentleman from Illinois says. It is not conclusive. You can not make it conclusive.

Mr. CRUMPACKER. If the gentleman from Wisconsin is correct in his interpretation of the law, I have no criticism to make of it, but if this section of the bill will authorize the Secretary of Agriculture to fix a standard, the violation of which shall subject citizens to fine and imprisonment, then I object to it.

Mr. ADAMS. It does not.

Mr. PAYNE. Why does not my friend from Indiana [Mr. CRUMPACKER] let the amendment pass? It has no effect upon his proposition. After the committee amendments are agree to he can then make a motion.

Mr. CRUMPACKER. I will let it pass. I do not think I can help it in any way.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 23, at the end of line 23, insert the following:

"Foods complying with the standards fixed by the Secretary of Agriculture, as provided in this section, may bear upon the label the inscription 'United States Standard,' but such inscription, or words of similar import, shall not be used as descriptive of any article of food which does not comply with the standard so fixed, under penalty of being deemed misbranded under the provisions of this act."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 26 strike out section 14 and insert as section 14 the following:

"The Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request from time to time, samples of foods and drugs which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony, and if it appear from the examination of such samples that any article of food or drug offered to be imported into the United States is adulterated or misbranded within the meaning of this act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee."

Mr. MANN. Mr. Chairman, the amendment is substantially an amendment that is already in the bill, but redrafted in conformity with the opinion of the Treasury Department in connection with various provisions.

Mr. CRUMPACKER. I understand under this provision the Secretary of Agriculture has power to decide whether a cargo of goods imported from a foreign country is adulterated or misbranded, that his decision is final, and that the goods must be destroyed or exported and returned without any further investigation or power of review. That is true, is it not?

Mr. MANN. The gentleman has about the same understanding of the matter that I have. That is the existing law.

[Cries of "Vote!"]

Mr. COOPER of Wisconsin. Who fixes the invoice value?

Mr. MANN. The invoice value is first fixed by the person who makes the entry and, second, by the board of appraisers, which determines the invoice value if it is requested.

Mr. COOPER of Wisconsin. Then, if he gives a bond for the invoice value with the duty added, he takes the goods and sells them, provided he will pay the bond?

Mr. MANN. He may.

Mr. COOPER of Wisconsin. Although the goods are misbranded and fraudulent in every way, as well as poisonous?

Mr. MANN. It is within the discretion of the Secretary of Agriculture to advise that that be done.

Mr. COOPER of Wisconsin. Does not the gentleman think that that bond, in view of the fact that the undervaluation was apparently indulged in by the importer's false invoicing, ought to be very much larger than the face value, when it will permit him to take false, fraudulent, and poisonous goods and sell them at that invoice value?

Mr. MANN. I do not think that if it were made ten times more than the value we could recover any more than the value. The amount was stated by the Agricultural officials who have charge of the existing law which covers the case, and the form of the proposition was suggested by the Treasury Department, which deals with the matter.

Mr. PAYNE. If the gentleman will allow me to suggest, "appraised value" would be better than "invoice value."

Mr. MANN. The "invoice value" is the suggestion of the Treasury Department.

Mr. PAYNE. With all due deference, "appraised value" would be better.

Mr. MANN. I am not familiar with that.

Mr. FITZGERALD. In the investigations the gentleman made, does he know of any instance in which food was delivered under the provisions of this existing law, the bond given, and the product sold, and the goods were afterwards adjudged to be improperly imported?

Mr. MANN. The law as it now exists does not provide for the delivery of the goods; but the Agricultural Department requested that provision be inserted in the law, because they said in many cases it was a great hardship to hold goods in storage instead of delivering them to the parties.

Mr. HINSHAW. I would like to ask the gentleman a question, because I do not know that I understand this provision yet. If these goods are refused admission, then the entryman may give a bond, and the bond stands in lieu of the goods. Now what may he do with the goods?

Mr. MANN. He may do whatever he pleases with them.

Mr. HINSHAW. He can not bring them into this country.

Mr. MANN. They are already in the country, provided the Secretary of the Treasury delivers them to him, which he is not required to do, and probably will not do, unless it is suggested that it should be done by the Department which has charge of that matter; and the Agricultural Department and the Treasury Department have authority under this section to stop the goods. If the Agricultural Department advises the goods be turned over by the Secretary of the Treasury to the consignee, it will be done upon giving a bond; and if the goods finally, for any reason—usually misbranding—are held not to be subject to import, the man must either return the goods or pay to the Government the full value. I think it sufficiently guards against bringing goods into the country which are adulterated.

Mr. HINSHAW. In the meantime the adulterated goods may have been sold.

Mr. MANN. That is true.

Mr. HINSHAW. As pure goods.

Mr. MANN. That is true. We take that chance.

Mr. HINSHAW. This is simply a penalty, but that does not protect the man that bought them.

Mr. MANN. That is true.

The question was taken and the amendment was agreed to.

Mr. MANN. I offer the following amendment.

The Clerk read as follows:

On page 28 strike out section 16 and insert as section 16 the following:

"SEC. 16. That this act shall be in force and effect from and after its passage: *Provided, however,* That no penalties herein named for misbranding shall be imposed until after the expiration of eighteen months from the passage of the act, except the penalties provided in section 14."

Mr. GAINES of Tennessee. I would like to ask the gentleman a question about a provision here. The section, in effect, says that when the goods have been properly examined and passed with the regular label on the package, and the package gets into the State and comes in there in the regular, original, unbroken package, would it interfere with the power of the State to take charge of it if it had spoiled? Suppose that in transmission it becomes deleterious; suppose it has undergone some change by reason of the atmosphere or otherwise; suppose it is in a condition of fermentation, or from any condition that you may discover by looking at it or otherwise examine it it had become deleterious. Is there anything in this bill that prevents the State from absolutely taking charge and destroying it?

Mr. MANN. I would suggest to my friend from Tennessee that if it becomes fermented or deleterious to health it at once becomes subject to the provisions of the act, and is covered by that provision of the section.

Mr. GAINES of Tennessee. What provision?

Mr. MANN. It is deleterious goods.

Mr. GAINES of Tennessee. Suppose it becomes deleterious of its own act while in transmission?

Mr. MANN. Then it does not fully comply with the provisions of the act.

Mr. GAINES of Tennessee. In that condition, does the State take charge of it, or the Federal Government?

Mr. MANN. Either one.

Mr. GAINES of Tennessee. I am afraid your section does not say that.

Mr. MANN. We do not need to say that to the State authorities. They have control, although the section does expressly provide against interfering with the police powers of the State. The United States authorities would have control of it if they obtain possession of it first. It would be a violation of both the Federal and State law, if there be a State law on the subject. It is a violation of this law, in any event.

Mr. GAINES of Tennessee. With that explanation I feel more satisfied than I was. I want to help the gentleman.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the amendment was agreed to.

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. CURRIER, chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 88, and had come to no resolution thereon.

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. 16290. An act to modify the requirements of the act entitled "An act to promote the education of the blind," approved March 3, 1871;

H. R. 15513. An act to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States;"

H. R. 20210. An act to authorize the city of St. Louis, a corporation organized under the laws of the State of Missouri, to construct a bridge across the Mississippi River;

H. R. 118. An act to amend sections 713 and 714 of "An act to establish a code of law for the District of Columbia," approved January 31 and June 30, 1902, and for other purposes;

H. R. 20119. An act to authorize the village of Oslo, Marshall County, Minn., to construct a bridge across the Red River of the North;

H. R. 19181. An act to grant a certain parcel of land, part of the Fort Robinson Military Reservation, Nebr., to the village of Crawford, Nebr., for park purposes; and

H. R. 16785. An act giving preference right to actual settlers on pasture reserve No. 3 to purchase land leased to them for agricultural purposes in Comanche County, Okla.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4109. An act to increase the efficiency of the Bureau of Insular Affairs of the War Department; and

S. 6146. An act to authorize the Back River Bridge Company to construct a bridge across the west or smaller division

of the Ohio River from Wheeling Island, West Virginia, to the Ohio shore.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 544. An act to provide for the erection of a public building in the city of Great Falls, Mont.—to the Committee on Public Buildings and Grounds.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 3459. An act for the relief of John W. Williams;

H. R. 4580. An act for the relief of Blank & Parks, of Waxahachie, Tex.;

H. R. 5221. An act for the relief of Edward King, of Niagara Falls, in the State of New York;

H. R. 18600. An act to amend section 10 of an act of Congress approved June 21, 1898, to make certain grants of land to the Territory of New Mexico, and for other purposes;

H. R. 18536. An act providing for the subdivision of lands entered under the reclamation act, and for other purposes;

H. R. 9343. An act providing for the resurvey of certain townships of land in the county of Baca, Colo.; and

H. R. 16472. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes.

MASSACRES OF JEWS IN RUSSIA.

Mr. COUSINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table for present consideration Senate joint resolution 68, expressing the sympathy of the people of the United States with the Hebrews on account of the massacre of members of their race in Russia.

The SPEAKER. The gentleman from Iowa asks unanimous consent to take from the Speaker's table the following Senate joint resolution and consider the same at this time. The Clerk will report the joint resolution.

The Clerk read as follows:

Resolved, etc., That the people of the United States are horrified by the report of the massacre of Hebrews in Russia, on account of their race and religion, and that those bereaved thereby have the hearty sympathy of the people of this country.

Mr. COUSINS. I move the adoption of the joint resolution.

The SPEAKER. Is there objection to its present consideration?

There was no objection.

The joint resolution was ordered to a third reading; and it was accordingly read the third time.

[Mr. GOLDFOGLE addressed the House. His remarks will appear hereafter.]

The joint resolution was passed.

On motion of Mr. COUSINS, a motion to reconsider the last vote was laid on the table.

WATER SUPPLY, BUFFALO, N. Y.

The SPEAKER laid before the House the bill (S. 6493) to authorize the city of Buffalo, N. Y., to construct a tunnel under Lake Erie and Niagara River, to erect and maintain an inlet pier therefrom, and to construct and maintain filter beds for the purpose of supplying the city of Buffalo with pure water; a similar House bill being on the Calendar.

The bill was read, as follows:

Be it enacted, That it shall be lawful for the city of Buffalo, in the State of New York, to construct and maintain a tunnel under Lake Erie, Niagara River, Black Rock Harbor, and the United States lands known as Fort Porter, extending from a point 1,000 feet, more or less, southeasterly of the Horseshoe Reef light 11,000 feet to the present pumping station of the city of Buffalo, and to erect and maintain an inlet pier therefrom, said inlet pier to be located not more than 1,100 feet southeasterly of the present Horseshoe Reef light. Also to construct and maintain filter beds between the new channel in Black Rock Harbor and Bird Island pier, and extending from the northerly line of Hudson street produced, along the line of the new channel not more than 3,300 feet: *Provided*, That the top of the said tunnel shall be located at least 40 feet below mean lake level, and that the city of Buffalo shall maintain a light from sunset to sunrise on the inlet pier at its own expense.

Mr. BURTON of Ohio. I should like to ask by what committee that bill is reported?

Mr. RYAN. It is reported by the Committee on Interstate and Foreign Commerce, and is approved by the Secretary of War.

Mr. BURTON of Ohio. Are the suggestions of the Department embodied in this bill?

Mr. MANN. They are.

Mr. BURTON of Ohio. And there were no objections by the War Department?

Mr. MANN. There were none.

Mr. ALEXANDER. The bill was put in form by General Mackenzie, the Chief of Engineers.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

On motion of Mr. ALEXANDER, a motion to reconsider the last vote was laid on the table.

By unanimous consent, the corresponding House bill (H. R. 20248) was ordered to lie on the table.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. GILLETT of Massachusetts. Mr. Speaker, I present a conference report and statement on the District of Columbia appropriation bill (H. R. 18198) for printing in the RECORD under the rule.

The SPEAKER. The conference report and statement will be printed under the rule.

FORTIFICATIONS APPROPRIATION BILL.

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the fortifications appropriation bill (H. R. 14171) and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Iowa calls up the conference report on the fortifications appropriation bill and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the 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," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 4.

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 5, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "five hundred thousand dollars;" and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum named in the last line of said amendment insert "one hundred and sixty-five thousand dollars;" and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "four hundred thousand dollars;" and the Senate agree to the same.

WALTER I. SMITH,
J. WARREN KEIFER,
JOHN J. FITZGERALD,
Managers on the part of the House.

GEO. C. PERKINS,
F. E. WARREN,
JNO. W. DANIEL,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 14171) making appropriations for fortifications, submit the following written statement in explanation of the effect of the action agreed upon and submitted in the accompanying conference report on each of the Senate amendments, namely:

On amendment No. 1: Appropriates $500,000 instead of $600,000, as proposed by the Senate, and $310,000, as proposed by the House, for the purchase, manufacture, and test of mountain, field, and seacoast cannon.

On amendment No. 2: Inserts the provision proposed by the Senate, making available an unexpended balance of $39,302.16 for the alteration and maintenance of seacoast batteries.

On amendment No. 3: Appropriates $165,000 instead of $125,000, as proposed by the Senate, for the erection and equipment of a powder factory.

On amendments Nos. 4 and 5: Appropriates $260,000 for the

construction of seacoast batteries in the Hawaiian and Philippine islands, instead of $600,000, as proposed by the House, for seacoast batteries in said islands.

On amendment No. 6: Appropriates $400,000, instead of $565,000, as proposed by the Senate, and $200,000, as proposed by the House, for seacoast cannon for coast defense for the insular possessions.

The bill as finally agreed upon appropriates $5,053,993. being $215,000 more than as it passed the House, $225,000 less than as it passed the Senate, $1,693,900 less than the law for the current year, and $3,899,119.90 less than the estimates submitted to Congress.

WALTER I. SMITH,
J. WARREN KEIFER,
JOHN J. FITZGERALD,
Managers on the part of the House.

Mr. UNDERWOOD. Mr. Speaker, is this a complete and unanimous agreement?

Mr. SMITH of Iowa. It is.

The conference report was agreed to.

On motion of Mr. SMITH of Iowa, a motion to reconsider the last vote was laid on the table.

OSAGE INDIANS IN OKLAHOMA TERRITORY.

Mr. CURTIS. Mr. Speaker, I present conference report and statement on the bill (H. R. 15333) for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes, for printing in the RECORD under the rule.

The SPEAKER. The conference report and statement will be printed under the rule.

LANDS OF THE MENOMINEE INDIANS, WISCONSIN.

Mr. CURTIS. Mr. Speaker, I present conference report and statement on the bill (H. R. 13372) to authorize the sale of timber on certain of the lands reserved for the use of the Menominee tribe of Indians, in the State of Wisconsin, for printing under the rule.

The SPEAKER. The report and statement will be printed under the rule.

PURE-FOOD LEGISLATION.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent to print in the RECORD an opinion of the attorney-general of the State of New York on pure-food legislation.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The opinion is as follows:

STATE OF NEW YORK, ATTORNEY-GENERAL'S OFFICE,
Albany, March 21, 1906.

To the honorable the COMMISSIONER OF AGRICULTURE,
Albany, N. Y.

SIR: You have called to my attention the details concerning certain food products, and requested by opinion in regard to the provisions of article 11 of the agricultural law, familiarly known as the "pure-food law."

Several hearings have been held, at which your department has been represented, as well as attorneys for manufacturers and grocers, and also committees of wholesale and retail grocers' associations.

The interpretation of this statute is of importance for the purpose of appropriately enforcing the law, and also in order that the public, whether manufacturers, venders, or purchasers, may have settled rules by which they may be guided.

I may say at the outset that it is not possible to lay down any fixed rules of interpretation which would be applicable to every case, in connection with this statute, for the reason that in practical operation there are so many different propositions presented in relation to the adulteration or misbranding of food products.

However, I shall endeavor to analyze the statute to the extent, at least, of expressing my opinion on certain general lines, so that the uncertainty which now exists may in some degree be relieved.

The act is entitled "An act to amend the agricultural law relative to the sale, adulteration, or misbranding of food and food products." (Laws 1903, chapter 524.)

It deals with food which is adulterated and food which is misbranded.

It has for its two general purposes, first, the prevention of the manufacture and sale of food which is injurious or deleterious, and second, the safeguarding of the public against misrepresentation or deception.

ADULTERATION.

The statute describes an article of food shall be deemed to be adulterated. Briefly stated, the purpose is to prevent (1) the addition of injurious or deleterious ingredients; (2) the reduction in quality or strength of an article of food so that such product thus reduced shall deceive or tend to deceive the purchaser; (3) substitution for purposes of deception, and (4) the abstraction of a valuable constituent of an article of food for purposes of deception.

In other words, section 165, from subdivision "first" to "sixth," inclusive, has to do with the quality, strength, character, and genuineness of food. The subdivisions of the section to which I have just referred are not difficult of interpretation. If an article of food contains any added poisonous ingredient or any ingredient which may render such article injurious to the health of the person consuming it, or if it consists of decomposed animal or vegetable substance or contains methyl or wood alcohol or methylated preparations therefrom, such article is to be deemed adulterated under the statute, and it is necessary only to show the existence of these injurious ingredients or substances in order to establish an offense against subdivisions fourth, fifth, and sixth of section 165.

If the substance be reduced so as to injuriously affect its quality or strength, or be substituted wholly or in part for an article of food, or if any valuable constituent of an article has been wholly or in part abstracted, then, in order that an article of food shall be deemed adulterated within the meaning of the statute, it must also appear that the article or product, when sold or offered for sale, shall deceive or tend to deceive the purchaser.

Without giving an illustration under each of these subdivisions, I may call your attention to the case of People *v.* Park (60 App. Div., 255). Here a substance was sold under the name of Eiffel Tower Lemonade. The box, circulars, and advertisements were such as to lead purchasers to believe that they were buying a preparation which, when dissolved, would be a lemonade, and, therefore, that the juice of the lemon was a substantial ingredient of the preparation.

It appeared that such was not the case, and that there was but 5 per cent of oil of lemon, which is made from the yellow rind, and not made from the juice. Thereupon the court held that this preparation was "an imitation or simulation of lemonade" calculated to deceive the purchaser, and therefore adulterated within the provisions of section 41 of the health law then in force.

MISBRANDING.

The statute sets forth under what circumstances an article of food shall be deemed to be misbranded.

An article may be both misbranded and adulterated, but I shall consider under this heading only the question of misbranding.

The purpose of this part of the statute was to prevent fraud and deception in regard to articles which do not necessarily contain injurious or deleterious ingredients, but which are so placed before the public that the public is led to believe that it is purchasing one thing, when, in fact, it is purchasing something else, or something of the same kind, but inferior in character and quality.

After defining under what circumstances an article of food shall be deemed to be misbranded, the statute provides for certain exceptions in the following language:

"*Provided,* That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

"First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not included in definition first of misbranded articles of food in this section.

"Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are mixtures, compounds, combinations, imitations, or blends: *Provided,* That the same shall be labeled, branded, or tagged so as to show the character and constituents thereof: *And provided further,* That nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or imitation."

The difficult question, at the outset, is to determine the meaning of the exception numbered "first," and this involves an interpretation of the phraseology "their own distinctive names" when read with the rest of the statute.

It is a familiar rule of construction that the intention of the legislature must be ascertained from the whole structure of the act, and that is the rule which must be here applied.

It will be noted that this exception applies not only to mixtures or compounds, which may be now known as "articles of food" under their own distinctive names, but also to those which may be so known from time to time hereafter.

It is evident, therefore, that the legislature realized that, after the enactment of the law, names would be invented for compounds or mixtures which would designate a particular preparation which the public could distinguish by name from any other preparation. It is likewise to be remembered that the legislature was not referring to fundamental foods, such as milk, beef, fruit, vegetables, etc., but to compounds or mixtures of different articles of food.

It seems to me that the exception, therefore, was intended to apply to compounds or mixtures having arbitrary names of a character which would not, in any way, mislead, but which, by usage, were intended to indicate a food that could be distinctly identified by name in the public mind.

For instance, to coin a word for purposes of illustration, let us assume that "Sahara" was a name used for a powder. Assume that the ingredients of this powder were not harmful or deleterious in any way, and that, by the addition of some water, the powder could be made into a jelly dessert. The word "Sahara" would not deceive any person. It would not indicate the constituent parts of the food and the person purchasing "Sahara" would purchase merely a powder composed of harmless ingredients which could be made into a dessert upon the addition of water in the proportions and in the manner described upon the package.

It is urged that, assuming these premises to be correct, nevertheless, the public should be advised as to the contents of this powder. It is said, even though the powder may be composed of harmless ingredients, such, for example, as sugar, calves'-foot jelly, and a wholesome herb, that the public should know these ingredients, because, for instance, some person may be nauseated by anything containing sugar. (This combination may not be scientifically correct, but I use it for lay illustration.)

It seems to me, however, that a State health law can not be sustained upon any such theory. The police power of the State is exercied to safeguard public health and prevent deception, but that does not mean, where no misrepresentations are held out and no deception is practiced, that a statute can go to the extent of legislating for the exception rather than for the rule. In considering foods (as distinguished from medicines) we must have in mind that a food is regarded as healthful which can be safely eaten by the mass of the people, and although sugar, for instance, may be unhealthful or distasteful to some, it is recognized as healthful food for all but the exceptions.

When, therefore, a harmless article is sold under an arbitrary name and put up with labels or in packages in such a way as to make no misrepresentations, such an article is sold under "its own distinctive name" and comes within the exception of the statute.

At the time of the enactment of this statute many such foods, known to the public by their peculiar names, were on the market, and it was doubtless intended that the property rights thus acquired should not be disturbed wherever these foods were not composed of ingredients which were in any manner injurious or deleterious, and provided they were sold under names which were not misleading.

In any event, the question is not so clear as to authorize a construction which might do grave injustice in the case of products not misleading and not harmful to the public health.

So far as I can ascertain, the words "own distinctive name" in this connection have not been judicially construed. The same language is used in substance in the bill now pending in Congress, and even the committee to which it was referred has not a settled view of the meaning of this term. (See Report of Committee on Interstate and Foreign Commerce No. 2118, House of Representatives, 59th Cong., 1st sess., under date of March 7, 1906.)

It seems to me, therefore, that the interpretation to be given to the phrase "their own distinctive names" is the one which I have heretofore indicated.

The exception "Second," relating to articles labeled, etc., so as to plainly indicate that they are mixtures, etc., applies, in my opinion, to mixtures, compounds, combinations, imitations, or blends which have not a distinctive name in the sense of an arbitrary name, or which from their name, label, brand, or tag indicate that the constituent element of the mixture, compound, combination, imitation, or blend is some known substance.

The object of this portion of the statute was that where a person was buying a mixture, compound, etc., represented by label, brand, or tag to be composed in part of a known food, that such person should be informed as to the constituent elements of such mixture, compound, etc.

To illustrate, using the word "Sahara" above referred to: As I have previously stated, "Sahara" standing by itself could deceive no one, but if the preparation of "Sahara" was sold as "Sahara calves' foot jelly," and the labels or brands were calculated to convey to the mind of the purchaser that with the addition of water "Sahara" would make calves' foot jelly, then the purchaser should be informed that in addition to the calves' foot jelly there were also, as constituent elements of the food, sugar and a wholesome herb, naming it.

If goods are sold as "Sahara strawberry jam," and there was only a certain percentage of strawberry juice in the preparation, the intent of the statute was that the purchaser should know what other constituents entered into the compound or mixture, to wit, the jam.

Thus, for instance, it should be shown that the jam consisted of strawberries, granulated sugar, and apples. Some other strawberry jam, so called, might consist of strawberries, granulated sugar, and peaches, and the purchaser would thus be informed, in accordance with the statute, as to "the character and constituents" of the compound, mixture, etc.

The addition of the word "Sahara" to the other words "strawberry jam" does not make "Sahara strawberry jam" a distinctive name within exception "First" of the statute. The point is that strawberry jam, with whatever prefix or other description, conveys to the mind of the ordinary purchaser that the mixture or compound is made of strawberry juice and sugar, and does not convey to the mind of the purchaser that there is another constituent or ingredient, to wit, apple or peach or whatever it may be.

I have endeavored to make clear that when the public buys "Sahara," a jelly powder, no representation is made as to the contents of that food, and so long as the food is harmless it can be sold without disclosing the constituents thereof, because it has its own distinctive name within the meaning of the statute. When, however, the public buys "Sahara strawberry jam," the purchase is made because it is a strawberry jam, and the word "Sahara" merely indicates a particular brand of the compound or mixture, strawberry jam.

Let me illustrate further. Suppose that upon the package in which "Sahara," a jelly powder, is sold there is also added the word "strawberry" or the words "strawberry flavor." The intention is to convey to the public mind that the flavoring is obtained from the strawberry. If, as a matter of fact, no strawberry is used, but the flavoring is acquired through some vegetable compound or chemical process, then it becomes the duty of the vender to give the constituents of the flavoring or to otherwise make clear by label, etc., that the strawberry flavoring is artificial.

It is difficult to elaborate with illustrations. Suffice it to say, that the general rule on this branch of the subject may be stated as follows: That where the article of food is held out to the public in such manner that the ordinary purchaser would be deceived, then that such article is misbranded within the meaning of the statute.

In relation to the disclosures of trade formulas the statute provides that these formulas need not be disclosed in the case of proprietary foods which contain no unwholesome added ingredients, except in so far as the provisions of the act may require it to secure freedom from adulteration or imitation. A proprietary food may be defined as a food which is the property of a particular person or persons by virtue of character of combination, or name or method of presenting to the public by label, brand, tag, etc.

It is difficult to define under what circumstances it would be necessary, under the act, to disclose a trade formula. Such disclosure would depend upon the facts of each particular case. It might be that the food preparation had an acid, which in very small quantities might be harmless, and yet be harmful in large proportions, and it might be necessary, in order to protect the public, to require the disclosure of the formula.

There is another illustration of importance which may be made in connection with this part of the act. Let us take the constituent elements of "Sahara" above referred to, to wit, sugar, calves' foot jelly, and a wholesome herb. Suppose that the herb had the flavor of the strawberry and the preparation was sold as "Strawberrine." The public would be thus led to believe that the strawberry flavor in the preparation came from the strawberry fruit.

Although the preparation itself was not deleterious to health, yet there would be a deception, against which the statute is intended to safeguard, and thus the same preparation, which could be sold under the arbitrary name of "Sahara," could not be lawfully sold under the name of "Strawberrine" unless the character and constituents of "Strawberrine" were so clearly indicated upon the label, brand, or tag as to prevent deception.

PRESERVATIVES.

I am of the opinion that it was the intention of the statute that the character and constituents should be given of all preservatives.

COLORING MATTER.

When artificial coloring is used and such coloring is composed of harmless substances, I am of the opinion that the label, brand, etc., should show that the coloring is artificial, and that in such case the manufacturer has the choice of using some such phrase as "artificially colored," or of setting forth on the label, tag, etc., the constituents of the coloring matter. In any event, it must be made clear by either of the methods just referred to that the coloring is artificial and not natural.

I think that the foregoing sets forth with sufficient detail the general propositions in relation to the interpretation of this statute. Of course whether an article is misbranded within the terms of the statute, as construed herein, must depend upon the whole situation—the name, the label, the brand, the tag, the advertisement—in brief, the manner in which the article of food is held out to the public.

I may say, in conclusion, that, if it is practicable, it would be wise for your Department to pass upon the names, labels, brands, tags, etc., wherever request is made, in good faith, so to do by manufacturers or venders of foods.

In view of the uncertainty which has prevailed in regard to the interpretation of this statute, I think you are entirely justified in giving dealers a reasonable time to recall any misbranded goods, provided that such goods are not adulterated so as to contain ingredients harmful to health or are not imitations or substitutions of other foods calculated to deceive the public.

Opinions of this office from time to time in specific cases will serve to make clear the general propositions here set forth.

Yours, respectfully,

JULIUS M. MAYER,
Attorney-General.

NIAGARA FALLS.

Mr. BURTON of Ohio. Mr. Speaker, I ask for the reprint of the bill H. R. 18024, with Senate amendments numbered, the Niaraga Falls bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RIVER AND HARBOR IMPROVEMENTS.

Mr. BURTON of Ohio. Now, Mr. Speaker, I call up the bill H. R. 20266, an act to amend an act entitled "An act authorizing the condemnation of lands or easements needed in connection with works of river and harbor improvements at the expense of persons, companies, or corporations," approved May 16, 1906, on the Speaker's table, and I move that the House nonconcur in the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. BURTON of Ohio, Mr. BISHOP, and Mr. BANKHEAD.

REPRINT OF IMMIGRATION BILL.

Mr. HAYES. Mr. Speaker, I ask unanimous consent for the reprint of the bill H. R. 4403, as last reported, and of the last report. It is the immigration bill, and the supply is entirely exhausted.

The SPEAKER. The gentleman from California asks unanimous consent for the reprint of the bill and report referred to. Is there objection?

There was no objection.

LEAVE OF ABSENCE.

Mr. LITTLEFIELD, by unanimous consent, was given leave of absence indefinitely.

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 48 minutes p. m.) the House adjourned until to-morrow, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, transmitting a copy of the journal of the House of Delegates of Porto Rico, for the second session of the third legislative assembly—to the Committee on Insular Affairs.

A letter from the Commissioners of the District of Columbia, submitting a report on the improvement of the Anacostia Flats—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the brig *Delaware*, James Dunphy master—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the schooner *Nancy*, James Stephenson, master—to the Committee on Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the ———, ———, master—to the Committee on Claims, 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. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 6355) concerning licensed officers of vessels, reported the same with amendment, accompanied by a report (No. 4993); which said bill and report were referred to the House Calendar.

Mr. BURNETT, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16804) providing for the use of $3,000,000 of the money that would otherwise become a part of the reclamation fund for the drainage of certain lands in North Carolina and Virginia, and for other purposes, reported the same with amendment, accompanied by a report (No. 4994); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

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. ROBINSON of Arkansas: A bill (H. R. 20354) for the enlargement of the public building at Hot Springs, Ark.—to the Committee on Public Buildings and Grounds.

By Mr. VOLSTEAD: A bill (H. R. 20355) to authorize drainage of certain lands in the State of Minnesota—to the Committee on the Public Lands.

By Mr. HAMILTON: A joint resolution (H. J. Res. 178) providing for the improvement of the harbor at South Haven, Mich.—to the Committee on Rivers and Harbors.

By Mr. BURTON of Ohio: A joint resolution (H. J. Res. 179) providing for the improvement of a certain portion of the Mississippi River—to the Committee on Rivers and Harbors.

By Mr. GILL: A resolution (H. Res. 601) requesting the President of the United States to transmit to the House of Representatives such official information as he may secure concerning the details of the recent massacre of the Jews in Bialystok, Russia—to the Committee on Foreign Affairs.

By Mr. KENNEDY of Nebraska: A resolution (H. Res. 602) requesting the Secretary of State to obtain certain information touching operations of savings banks in foreign countries, for presentation at the second session of the Fifty-ninth Congress—to the Committee on Foreign Affairs.

By Mr. SOUTHARD: A resolution (H. Res. 603) providing for the consideration of the bill H. R. 8444—to the Committee on Rules.

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. AIKEN: A bill (H. R. 20356) granting an increase of pension to Mary T. Mathis—to the Committee on Pensions.

By Mr. BEALL of Texas: A bill (H. R. 20357) granting an increase of pension to Jane Auldridge—to the Committee on Pensions.

By Mr. BURKE of Pennsylvania: A bill (H. R. 20358) granting an increase of pension to Charles Rea—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: A bill (H. R. 20359) granting an increase of pension to Malissa Thomas—to the Committee on Invalid Pensions.

By Mr. GARBER: A bill (H. R. 20360) granting an increase of pension to Henry S. Webb—to the Committee on Invalid Pensions.

By Mr. HASKINS: A bill (H. R. 20361) granting an increase of pension to George T. Wetherell—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 20362) granting a pension to Hartford Matherly—to the Committee on Invalid Pensions.

By Mr. MOORE: A bill (H. R. 20363) granting an increase of pension to Otis E. Rush—to the Committee on Pensions.

By Mr. MURPHY: A bill (H. R. 20364) to correct the military record of V. B. Gatewood—to the Committee on Military Affairs.

By Mr. RHODES: A bill (H. R. 20365) for the relief of William Nevin—to the Committee on War Claims.

Also, a bill (H. R. 20366) for the relief of Adaline Cole—to the Committee on War Claims.

Also, a bill (H. R. 20367) granting a pension to John G. Schacht—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20368) granting a pension to Robert V. Brown—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20369) granting a pension to Willis Cole—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20370) granting an increase of pension to Jonas Mathews—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20371) granting an increase of pension to Thomas Russ—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20372) granting an increase of pension to Andrew J. Williams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20373) granting an increase of pension to Thomas H. G. Lester—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20374) granting an increase of pension to James Gillam—to the Committee on Invalid Pensions.

By Mr. SPIGHT: A bill (H. R. 20375) for the relief of the estate of William Joslin, deceased—to the Committee on War Claims.

By Mr. WALDO: A bill (H. R. 20376) granting an increase of pension to Michael McDermit—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20377) to correct the military record of Daniel Reardon—to the Committee on Military Affairs.

By Mr. WEISSE: A bill (H. R. 20378) granting a pension to Rosina Stoll—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. AIKEN: Paper to accompany bill for relief of Mary T. Mathis—to the Committee on Pensions.

By Mr. BARTHOLDT: Petition of Henry Donaldson et al., for Senate bill 3638, relative to retirement of noncommissioned officers, petty officers, and enlisted men of the Army, Navy, and Marine Corps—to the Committee on Military Affairs.

Also, petition of A. Gray, of St. Louis, Mo., for the heirs of Cyprian Claymorgan, praying for action to secure to these heirs the property ceded to said Claymorgan under Spanish land claims—to the Committee on Private Land Claims.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Jane Auldridge—to the Committee on Pensions.

By Mr. BENNET of New York: Petitions of several thousand persons in New York, New Jersey, and Pennsylvania, against the Dillingham-Lodge-Gardner bill—to the Committee on Immigration and Naturalization.

By Mr. BURKE of Pennsylvania: Petition of citizens of Pennsylvania, against additional restrictive legislation relative to immigrants—to the Committee on Immigration and Naturalization.

By Mr. CROMER: Petition of Joseph G. Leffler et al., of Muncie, Ind., for an amendment to Gardner bill, relative to restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DALE: Petition of Michael Bosak, against certain sections of the immigration bill—to the Committee on Immigration and Naturalization.

Also, petition of Chicago Federation of Labor, for bill H. R. 18752 (the Pearre bill)—to the Committee on the Judiciary.

Also, petition of Washington Camp No. 430, Patriotic Order Sons of America, Scranton, Pa., for the immigration bill—to the Committee on Immigration and Naturalization.

Also, petition of Municipal Art League of Baltimore, for a Federal art commission—to the Committee on the Library.

Also, petition of Chicago Federation of Labor, for anti-injunction laws—to the Committee on the Judiciary.

Also, petition of Fleetville (Pa.) Grange, No. 1199, for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of J. U. Hopewell, for amendment to post-office laws making legal all paid paper subscriptions—to the Committee on the Post-Office and Post-Roads.

Also, petition of Grange Association of Pennsylvania, for pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Master Plumbers' Association of Scranton, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of National German-American Alliance of Philadelphia, against further action on pending immigration bill—to the Committee on Immigration and Naturalization.

Also, petition of Hon. P. A. Philbin, publisher of the Citizen, for making all paid paper subscriptions legal—to the Committee on the Post-Office and Post-Roads.

Also, petition of The New Immigrants' Protective League, for better distribution of immigrants—to the Committee on Immigration and Naturalization.

By Mr. DAWSON: Petition of Hawarden (Iowa) Commercial Club, against the parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of United German Societies of New York, for furtherance of arbitration treaties—to the Committee on Foreign Affairs.

Also, petition of American citizens of German descent adopted at Cooper Union, New York, favoring negotiation of arbitration treaties—to the Committee on Foreign Affairs.

By Mr. DRISCOLL: Petition of New York State Canned Goods Packers' Association, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. FLOOD: Petition of Charles W. Straughan, for redress of grievances suffered in courts of the District of Columbia—to the Committee on the District of Columbia.

By Mr. FULLER: Petition of Grand Lodge, Independent Order Good Templars of the United States, for prohibition of liquor selling in all public buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of heirs of Alexander C. Stockard—to the Committee on War Claims.

By Mr. GOEBEL: Petition of citizens of Cincinnati, against the immigration bill—to the Committee on Immigration and Naturalization.

By Mr. GRAHAM: Petition of Order of Knights of Labor, against Senate bill 4403, relative to increase of head tax on immigrants—to the Committee on Immigration and Naturalization.

By Mr. GROSVENOR: Petitions, in form of letters, protesting against the passage of the eight-hour bill, from the following cities: Jacksonville, Fla., Chicago, Ill., and Battle Creek, Mich.—to the Committee on Rules.

By Mr. LAMB: Petition of Methodist Preachers' Meeting at Richmond, Va., and vicinity, East Hanover Presbytery, Baptist Conference in Richmond, Va., and Y. M. C. A. mass meeting, Richmond, Va., for Sunday closing of the Jamestown Exposition—to the Select Committee on Industrial Arts and Expositions.

By Mr. McKINLEY of Illinois: Petition of Ralph Jefferus et al., of Charleston, Ill., against pipe-line amendment to rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE: Paper to accompany bill for relief of Otis E. Rush—to the Committee on Pensions.

By Mr. SPIGHT: Paper to accompany bill for relief of estate of William Joslin—to the Committee on Claims.

By Mr. WEISSE: Petition of The New Immigrants' Protective League, for better distribution of immigrants—to the Committee on Immigration and Naturalization.

Also, petition of National German-American Alliance, for furtherance of treaties of arbitration—to the Committee on Foreign Affairs.

Also, petition of Board of Trade of Chicago, for efficient inspection of meat-packing products—to the Committee on Interstate and Foreign Commerce.

SENATE.

SATURDAY, *June 23, 1906.*

Prayer by Rev. JOHN VAN SCHAICK, Jr., of the city of Washington.

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

The VICE-PRESIDENT. The Journal stands approved.

UNLADING OF BONDED MERCHANDISE.

Mr. LODGE. I ask unanimous consent to take from the Calendar the bill (H. R. 7099) to amend section 2871 of the Revised Statutes.

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

The bill had been reported from the Committee on Commerce with amendments.

The amendments were, on page 1, line 7, after the word "steamship," to insert "or other conveyance;" in line 8, after the word "steamship," to insert "or other conveyance;" on page 2, line 1, after the words "license to," to insert "lade or;" in line 2, after the word "vessel," to insert "or other conveyance;" in line 5, after the word "vessel," to insert "or other conveyance;" in line 11, after the word "steamship," to insert "or other conveyance;" in line 12, after the words "from her," to insert "or other conveyance;" and, in line 22, after the words "superintend the," to insert "lading or;" so as to make the bill read:

Be it enacted, etc., That section 2871 of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 2871. Upon arrival at any port in the United States of a steamship or other conveyance from a foreign port or place, or upon the arrival of a steamship or other conveyance from another port in the United States belonging to a line designated by the Secretary of the Treasury as a common carrier of bonded merchandise, the collector of customs, with the concurrence of the naval officer, where there is one, upon or after the issuing of a general order, shall grant, upon proper application therefor, a special license to lade or unlade the cargo of said vessel or other conveyance at night—that is to say, between sunset and sunrise; but before any such special license is granted the master, agents, or consignees of the vessel or other conveyance shall execute and deliver to the collector a good and sufficient bond, to be approved by him, conditioned to indemnify and save the collector harmless from any and all losses and liabilities which may occur or be occasioned by reason of the granting of such special license. And any liability of the master or owner of any such steamship or other conveyance to the owner or consignee of any merchandise landed from her or other conveyance shall not be affected by the granting of such special license or of any general order, but such liability shall continue until the merchandise is properly removed from the dock whereon the same may be landed. The collector, under such general regulations as the Secretary of the Treasury may prescribe, shall fix a uniform and reasonable rate of compensation for like service, to be paid by the master, owner, or consignee whenever such special license is granted, and shall collect and distribute the same among the inspectors assigned to superintend the lading or unlading of the cargo."

The amendments were agreed to.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

JOURNAL OF PORTO RICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a copy of the journal of the house of delegates of Porto Rico for the second session of the third legislative assembly of Porto Rico; which was referred to the Committee on Pacific Islands and Porto Rico.

FRENCH SPOLIATION CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel schooner *Nancy*, James Stephenson, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel brig *Delaware*, James Dunphy, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bill and joint resolution:

S. 6493. An act to authorize the city of Buffalo, N. Y., to construct a tunnel under Lake Erie and Niagara River, to erect and maintain an inlet pier therefrom, and to construct and maintain filter beds for the purpose of supplying the city of Buffalo with pure water; and

S. R. 68. Joint resolution expressing the sympathy of the people of the United States with the Hebrews on account of the massacres of members of their race in Russia.

The message also announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

H. R. 13372. An act to authorize the sale of timber on certain of the lands reserved for the use of the Menominee tribe of Indians, in the State of Wisconsin;

H. R. 14171. An act 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;

H. R. 15333. An act for the division of the lands of the Osage Indians in Oklahoma Territory, and for other purposes; and

H. R. 16953. An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1907, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 20266) to