RHODE ISLAND.

Walter Price to be postmaster at Westerly, Washington County, R. I.

TEXAS.

John B. Baker to be postmaster at Haskell, Haskell County, Tex.

John W. Chichester to be postmaster at Eagle Pass, Maverick County, Tex.

Wesley J. Clarke to be postmaster at Dalhart, Dallam County, Tex.

David Doole, jr., to be postmaster at Brady, McCulloch County, Tex.

Gerhard Dube to be postmaster at Thorndale, Milam County, Tex.

R. G. Flato to be postmaster at Kingsville, Nueces County, Tex.

Howell D. Greene to be postmaster at Sanger, in the county of Denton and State of Texas.

Jesse H. Harrison to be postmaster at Daingerfield, Morris County, Tex.

John W. Hedley to be postmaster at Chillicothe, Hardeman County, Tex.

Frank Leahy to be postmaster at Rogers (late Rodgers), in the county of Bell and State of Texas.

Kate Nelson to be postmaster at Snyder, Scurry County, Tex.

Clarence R. Redden to be postmaster at De Leon, Comanche County, Tex.

George H. Sparenberg to be postmaster at Big Spring, Howard County, Tex.

WEST VIRGINIA.

John E. Houston to be postmaster at Davis, Tucker County, W. Va.

ARBITRATION WITH MEXICO.

The injunction of secrecy was removed April 2, 1908, from an arbitration convention between the United States and Mexico, signed at Washington on March 24, 1908.

ARBITRATION WITH ITALY.

The injunction of secrecy was removed April 2, 1908, from an arbitration convention between the United States and Italy, signed at Washington on March 28, 1908.

SETTLEMENT OF INTERNATIONAL DISPUTES.

The injunction of secrecy was removed April 2, 1908, from a convention signed by the delegates of the United States to the second international peace conference held at The Hague from June 15 to October 18, 1907, for the pacific settlement of international disputes.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April 2, 1908.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 1050. An act to repeal section 3480 of the Revised Statutes of the United States;

S. 5268. An act for the relief of J. de L. Lafitte; and

S. 2934. An act permitting homestead entries upon certain lands in Whatcom County, Wash., being a portion of the "Point Roberts Reserve."

The message also announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 7618. An act to authorize the Benton Water Company, its successors or assigns, to construct a dam across the Snake River, in the State of Washington.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 1815. An act for the relief of the estate of D. S. Phelan.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 1050. An act to repeal section 3480 of the Revised Statutes of the United States—to the Committee on the Judiciary.

S. 5268. An act for the relief of J. de L. Lafitte—to the Committee on Claims.

S. 754. An act for ascertaining the feasibility and probable cost of constructing a canal from the Tennessee River, at or near the city of Chattanooga, in the State of Tennessee, to the navigable waters of the Ocmulgee River, in the State of Georgia, by which there will be furnished adequate water communication by the shortest and most practicable route between the Atlantic Ocean and the navigable waters in the rivers of the Mississippi Valley—to the Committee on Railways and Canals.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, 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. 15444. An act extending the time for the construction of a dam across Rainy River;

H. R. 1815. An act for the relief of the estate of D. S. Phelan; and

H. R. 13735. An act to correct the military record of Micaiah R. Evans.

AGRICULTURAL APPROPRIATION BILL.

Mr. SCOTT. Mr. Speaker, I move now that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill.

The question was taken, and the Chair announced that the ayes seemed to have it.

On a division (demanded by Mr. WILLIAMS) there were—ayes 140, noes 55.

So the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 19158, the agricultural appropriation bill, Mr. FOSTER of Vermont in the chair.

The CHAIRMAN. Upon adjournment yesterday there was a point of order pending and reserved.

Mr. CRUMPACKER. Mr. Chairman, my purpose in reserving the point of order to the new language in the paragraph under consideration was to express my opposition to and protest against what seemed to me to be the almost inevitable tendency of this particular legislation toward ultimate Federal construction of public highways, and, of course, incidental control of the highways of the country by the Federal Government. It is an amendment that is fraught with great danger. I have no objection at all to the Federal Government making scientific experiments and giving expert advice upon the road question, and the language to which the point of order is directed simply enlarges the scope of the Agriculture Department in the work of making experiments and giving advice, and on consultation with the chairman of the Committee on Agriculture, and obtaining a more satisfactory and a fuller explanation of the purposes and intention of this new provision, I have concluded to withdraw the point of order.

The CHAIRMAN. The gentleman from Indiana withdraws the point of order.

Mr. SULZER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. There is an amendment pending——

Mr. SCOTT. I ask that the pending amendment be reported.

Mr. CRAWFORD. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by striking out all after the word "dollars," in line 11, down to and including the word "machinery," in line 13, page 44.

Mr. CRAWFORD. Mr. Chairman, the language proposed to be stricken out by my amendment reads as follows:

That no part of this appropriation shall be expended for the rent or purchase of road-making machinery.

I do not know what influence or reasoning controlled the Committee on Agriculture in placing this limitation on the appropriation bill. No preceding Congress has put such limitation on the power of the Secretary of Agriculture to use the money appropriated for the support and maintenance of the Bureau of Public Roads. I am at a loss to know what has come over the spirit of the dreams of this committee. I know there has been no demand coming from the farmers and the country people generally for this new policy. I undertook the other day to elicit from the chairman of the committee in his opening speech the reasons which controlled his committee in undertaking to impose this limitation upon the appropriation. The information which the gentleman gave was not satisfactory to me, and I am of the opinion it is not satisfactory to this House, and I am confident that it will not be satisfactory to

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the agricultural people of this country. But no doubt those who are in favor of prohibiting the Secretary of Agriculture and the Director of Public Roads from either renting or buying machines for the purpose of constructing sections of object-lesson roads, whether macadam, sand clay, or the ordinary dirt road, will say that they have done it in the interest and for the benefit of the farmers, and in their name they propose to stop educational work so well planned by the Secretary of Agriculture; in order to save this splendid scheme with all of its resulting benefits, they propose to destroy it. That is the logic of their contention.

Mr. Chairman, the Bureau of Public Roads was established in 1893, and the petition presented to Congress asking that the Department of Public Roads be founded at Washington for the purpose of promoting the art of constructing and maintaining public roads and teaching students, in order that they might become skilled as road engineers, and to establish a permanent exhibit of sections of road, illustrating various methods of construction and the best road materials and machinery, was signed by governors of various States, boards of trade, and chambers of commerce throughout the country. But only an Office of Road Inquiry was established, with an appropriation of $10,000. It became the duty of the Secretary of Agriculture, under the law, to make inquiries through the Road Office as to the system of road management throughout the United States and to make investigations in regard to the best methods of road making, to prepare publications on the subject of public roads, and to assist agricultural colleges and experiment stations on this subject. Annual appropriations of $10,000 were made until the fiscal year of 1896, when it was reduced to $8,000, and it remained at that until the year 1900, when it was increased to $14,000. Then it was that the work began to grow and expand, and the appropriation has been gradually increased from year to year, until it reached $70,000 last year. This bill carries an appropriation for the Bureau of $87,390—the largest in its history. It has twenty-three different classes of instruction, all of which are independent, and yet, in an important sense, dependent one upon another. But if one is more important than another, I say without hesitation that the object lesson in the construction of sections of road is the most important. The Bureau of Public Roads, under the direction of the Secretary of Agriculture, has built and constructed sections of roads as object lessons in thirty-four different States in the Union, and they have now 600 applications on file, from all sections of the country, urging the Department for object lessons in road building.

This gives a faint conception of the estimate the people who are interested in roads place upon this work. There is less politics in the Agricultural Department than in any other Department in the Government. I believe the office is administered with absolute fairness and impartiality and for the best interest of all the people. The establishment of the Agriculture Department was not the act of any political party, but was the joint work of both Republicans and Democrats, and neither party is now asking that the Secretary be hampered and limited in the use of the money appropriated for the support of the great work he is prosecuting in the interest of better and more scientific methods of agriculture in all of its relations. Strange to say, the committee, without consulting the Secretary as to the wisdom of this unexpected innovation, the chairman, Mr. SCOTT, frankly admits, inaugurated the policy of its own motion and comes into the House without giving a single reason in its report for destroying the efficiency of the Bureau of Roads in its important work of educating the people along the line of road building. This course of the committee, if adopted by Congress, can mean nothing more or less than that the Secretary shall dispose of the machinery on hand in the near future and that the scientific men of the Bureau, who have been especially educated in the science of building roads, will be called into the office in Washington to make maps, issue bulletins, and make reports to be sent out to the people through the mails as a practical method of teaching them the value of good roads and how to build them. In my judgment this would be a serious mistake.

Mr. Chairman, the building of roads is an expensive enterprise, and when the people's money is appropriated for such purpose, it is highly important that an improved method of construction be adopted in the outset, whether it be macadam, sand clay, or ordinary dirt road. It is necessary, in the first place, to have a proper location and survey, and everybody knows this can not be done by a scientific man in his office in Washington, nor can he give instruction at long range as to the proper method of the preparation of the material for macadam and the excavations and the processes of placing and adjusting the material according to the various grades necessary to make a complete and perfect road.

Mr. GAINES of Tennessee. I know near Jackson, Tenn., Mr. Lancaster, a local engineer, showed his people how to build good and lasting roads, and they went to building them. I have helped to build them myself. I did not have anybody to teach me. I made a bad road.

Mr. CRAWFORD. Do not take my time.

Mr. GAINES of Tennessee. I will get you more time. Will the gentleman tell the House how road building is taught by the Government?

Mr. CRAWFORD. I was coming to that when the gentleman interrupted me. In my judgment, the great value in constructing sections of road as object lessons lies in the fact that it builds road sentiment, and does it more effectually than all the speaking that can be done by all the employees of the Government until doomsday. In my judgment, if Congress adopts this committee's recommendation, it means the death of the public-road spirit as far as the Government is concerned, and I confess that I am sorry to see it. I sincerely hope that the House will overrule the committee. It is not the business of the committee to legislate, but to make recommendations in order to enlighten the House, so that we may have the reasons for the legislation proposed. The gentleman from New York [Mr. DRISCOLL] gave an excuse for the action of the committee, but he did not give the reason. I gathered from his speech yesterday that he greatly feared that the United States Government was going into the business of building roads in the States at great expense and great danger of getting outside of the Constitution. Does the gentleman know how much we have spent in constructing object-lesson roads? I am sure that he does not. In 1907 the Secretary of Agriculture expended the enormous sum of $5,921 in rental and purchase of machinery, and in 1908 he spent $1,006.35.

This looks like going to the extreme; extravagance out of reason. If this ratio is kept up, and if the gentleman's apprehensions are well founded, all the public roads will be improved before the people find it out. The contention is ridiculous and absurd. The report of the Bureau shows that there are 2,100,000 miles of public road in the United States, and only 7 per cent is improved. No sane person is thinking that the United States will undertake to improve these roads. It would cost more than $6,000,000,000. The States and the local communities will go forward with road improvements until the main thoroughfares between the centers of population have been made to meet the demands of the people who use them, and every community should have an up-to-date road to enable the people to put their products in the market at the least possible cost. No expenditure of money will bring greater returns to the people than——

Mr. DRISCOLL. Will the gentleman permit an interruption?

Mr. CRAWFORD. Yes; but be brief.

Mr. DRISCOLL. The gentleman said that the "gentleman from New York" feared larger appropriations. "The gentleman from New York" said that he feared that this was an entering wedge to commit this Government to the policy of building ordinary roads throughout the country; and what the gentleman has said now confirms that impression in my mind. He wants to get the United States Government to go down and fill the mud holes in the roads in his country. Make a beginning in this kind of work, and we can not stop it.

Mr. CRAWFORD. The gentleman is very much mistaken if he thinks that I want the Government to embark in a new policy in the way of building roads. I am only insisting that we continue the policy which has been in force for a number of years. But I would make the Bureau of Public Roads more efficient by giving it a larger appropriation, so as to thoroughly equip it, in that it might more speedily educate the people upon the important subject of good roads. Doubtless the gentleman has constitutional scruples. I observe that the Constitution gets very much in the way of some gentlemen when measures are proposed for the benefit of agricultural communities. Gentlemen have the capacity of contracting and expanding the Constitution so as to meet the emergency in particular cases. I am satisfied that the gentleman from New York and other gentlemen who are opposing this amendment are anxious and willing to vote enormous sums of money out of the Treasury to build up the merchant marine of this country, which the Republican party has destroyed in trying to protect it with tariff taxes. [Applause on the Democratic side.] The Democratic party from 1853 to 1861 built up our merchant marine, and the United States flag floated over our merchant ships in every harbor in the civilized world. These ships were manned

by American seamen, carried American products of field and factory to the enrichment of the American people. But, alas, the prestige and glory of that once splendid commerce has perished from the high seas, and to-day the United States has not a merchant ship passing through the Suez Canal loaded with American products for the markets of the Far East. [Applause.] And that, too, notwithstanding we have the largest export trade of any Government in the world. But our corn, wheat, and cotton and a hundred other things, amounting last year to the enormous sum of $1,800,000,000, were carried in English and German ships from our own ports and distributed throughout the world. That is the result of your policy. Now——

The CHAIRMAN. The time of the gentleman has expired.

Mr. CRAWFORD. Mr. Chairman. I ask unanimous consent that I proceed for five minutes.

The CHAIRMAN. The gentleman from North Carolina [Mr. CRAWFORD] asks the unanimous consent to continue his remarks five minutes. Is there objection? The Chair hears none.

Mr. CRAWFORD. I was just saying, Mr. Chairman, that the gentlemen who are unwilling to vote a few thousand dollars to aid the farmers in mastering their road problems are willing to vote subsidies to ship companies on the ground that it will increase commerce, forgetting, seemingly, that public roads are essential to commerce, primarily, as much so as transportation on the railroads and the steamship lines, for every pound of freight transported by rail and on the ships to the foreign markets has been hauled in wagons on country roads, and it is well known by those who are familiar with the transportation business that it often costs more to haul freight to the railroad than the railroads charge to a distant market.

Mr. Chairman, I discover that opposition to this amendment comes from some gentlemen whose States have been greatly aided by donations of the public lands to railroad companies as an inducement to extend their roads to the far West and on to the Pacific Ocean. Railroads are only another method of transportation, and, great and indispensable as they are, they would be absolutely worthless without the assistance and support of the wagons on the country roads. It is difficult to realize the value of a good system of public roads. In addition to the convenience and comfort of the people who use them, they add immensely to the wealth of the community and State. They draw to them enterprising and progressive people, and incidentally all the conveniences appear in due time. Really, there is an inspiration in a good road. No people have ever impoverished themselves by building roads. France has spent $600,000,000 in building public roads. She has 23,000 miles of the best road in the world, and has more money and wealth per capita than any other nation on the earth, and the wealth is more equally distributed among the people than it is in any other country. France has never sold a bond that was not purchased by her own people, and most of her bonds have been purchased by the peasants, so called, which means the country people.

Mr. Chairman, Buncombe and Mecklenburg counties in North Carolina have built more macadam road than any other two counties in the State, and these counties are at the head of the list in the way of progress and enterprise. They did not wait to become able to build roads, but, with a large faith in the wisdom of other people who have invested in good roads, they built, and found themselves able while building. It is only a question of a short time when every community of these counties will have a well-graded macadam road to their respective county towns. I desire to say that the Department of Agriculture gave these counties object lessons in road building a number of years ago.

Mr. Chairman, I hope to see the day come when this Department shall be sufficiently equipped to enable it to construct sections of road in every county of every State in the Union; then the people will fully appreciate the value of first-class roads, and the problem will be solved. Thomas Jefferson said:

> It is more remunerative, splendid, and noble to spend money in canals and roads that will build and promote social intercourse and commercial facilities than to expend it in armies and navies.

In conclusion, Mr. Chairman, I desire to say in this connection that the farmers have had less consideration in appropriations than any other class. There are 11,000,000 people directly and indirectly connected with the farm, and the value of their property, real and personal, is estimated by the Census Bureau at $20,000,000,000; and they produced $7,000,000,000 of farm and lumber products last year, and the balance of trade in favor of the United States on account of exports of various farm products was $444,000,000. Here lies the source of our prosperity, yet in the annual appropriations of a thousand million dollars we are giving to this great Department of Agriculture, which is willing and capable of putting the farming interests on a higher plane if fully equipped, the pitiable sum of $11,000,000. Congress should be more liberal in its dealings with these wealth producers and home builders on the farms. It should be remembered that in the millions of farm homes in this country lies the nation's security through all the years to come. [Applause.]

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HARRISON. Mr. Chairman, some of us who sat here yesterday afternoon and listened to the debate upon the subject of the United States Government constructing roads within the States of this country believed that the political antipodes had come. We heard the gentleman from New York [Mr. PAYNE], the leader of the Republican party on the floor, and the gentleman from Indiana [Mr. CRUMPACKER] both opposing the construction of roads within the States because it was unconstitutional and because it infringed on the rights of the States. We then heard the gentleman from Alabama [Mr. UNDERWOOD] and our leader on this side, the gentleman from Mississippi [Mr. WILLIAMS], defending the building of roads by the States out of money supplied by the National Government; in other words, trying to reach indirectly what has been directly advocated by some gentlemen upon this floor. Now, as a Democrat, I wish to say that, basing my stand on the traditions of the Democratic party, so long as I am a Member of this House I will never vote for the construction by the National Government of roads within the States [applause on the Republican side] whether such appropriation is direct or indirect, whether as an out-and-out appropriation or as a loan to the States, which is the same thing under another guise.

The gentleman from Mississippi said that he advocated such a bill because there is a surplus in the Treasury and that surplus should be devoted to this purpose. My friends, there is no surplus in the Treasury so long as a national debt exists. There is a surplus of daily balance, but no real surplus; and if we go back into our history to the time when there was a surplus in the Treasury, when the national debt had been wiped out and President Andrew Jackson attempted to give over to the States as a loan the surplus in the Treasury, the direct result was the panic of 1837, and I think that any gentleman upon this floor should hesitate to advance that as a precedent for similar action to-day.

Another excuse offered by way of precedent is the contribution by the Central Government to the building of the transcontinental railways. That, however, is no precedent, because the organic act in which the Government undertook to aid the transcontinental railways stated that it was done as a military necessity, and it furnishes no excuse for the Federal Government embarking to-day upon a general policy of internal improvements in our country.

Propositions of this sort have come up in the past and were vetoed by Presidents Madison, Monroe, and Andrew Jackson; and if those are not good enough Democratic names in opposition to such a course by the National Government, why, I should like to ask what has become of the Democratic party? [Applause and laughter.]

Here is what President Jackson said:

> If it be the wish of the people that the construction of roads and canals should be conducted by the Federal Government, it is not only highly expedient but indispensably necessary that a previous amendment to the Constitution, delegating the necessary power and defining and restricting its exercise with reference to the sovereignty of the States should be made.

Now, Mr. Chairman, the reason why the National Government is asked to build these roads is that some of the States will not or can not do it. My State (New York) is doing it, the State of Massachusetts is doing it, the State of New Jersey is doing it, and all the States ought to do it, and they ought not to make a practice of asking the Government of the United States to do everything for the domestic affairs of the people of those States, even to feeding and clothing them, for that is what is coming if we embark upon socialistic policies of this sort. [Applause.]

Mr. POLLARD. Mr. Chairman, the gentleman from North Carolina [Mr. CRAWFORD] seems to be very much exercised about the farmers of the country. He seems to be very anxious that legislation should be enacted in their favor. The facts are, Mr. Chairman, that the very object of this legislation is to enable the farmers of the country to get some benefit from the Bureau of Good Roads. That is the object of the limitation placed upon this paragraph. The purchase and use of machinery in the construction of country roads has been wholly devoted to the construction of macadam roads. Now, I do not know anything about the local conditions in the district of the gentleman from North Carolina, but I do know something about

the conditions in my own district, and I want to say that I represent one of the richest agricultural districts in the United States. I do not believe there is a single farming community in any district in the United States that can afford to build macadam roads. It costs all the way from $3,000 to $7,000 a mile to build these macadam roads, and the committee desire to prevent the use of money in their construction, so that the Bureau of Good Roads can exert its energies in enabling the farmers of the country to take advantage of the other information they are disseminating for the construction of roads that are within the reach of every farming community, no matter whether it is the richest or the poorest agricultural district in the country. Only those communities that are contiguous to a city can afford a macadam road, when it costs such a great amount of money, but the Department has discovered that sand-clay roads and burnt-clay roads can be constructed, and that they are applicable to all the great agricultural regions of the country, at a cost of from $100 to $500 a mile. The construction of these roads is easily within the reach of every community within the United States. Now, what the Committee on Agriculture wants is that this money shall be used in introducing the construction of burnt-clay and sand-clay roads, which are within the reach of the farmers of the country, and not permit the Bureau to expend the money in building macadam roads for the benefit of the cities and towns of the country. That is the proposition before the House in this amendment and that is the object of the limitation the committee places upon this paragraph.

Mr. SCOTT. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. Five minutes.

Mr. SCOTT. Mr. Chairman, it has been the opinion of the Committee on Agriculture ever since I have had the honor to be a member of that committee that it was not the function of the General Government to engage in the actual construction of public roads, and the committee was of the opinion that the language of the paragraph now under consideration had been so framed as not to admit of such road construction. It was therefore a matter of a good deal of surprise when the committee learned this year, upon interrogating the Chief of the Office, that actual construction was going on and that road machinery owned by the Government was being sent out for that purpose. The question was asked where he drew his authority for this action, and he stated that the word "illustrating" and the word "apparatus" were his authority. The word "illustrating" appears in connection with the following language: "For collating, digesting, reporting, and illustrating the results of such investigations and experiments." The word "apparatus" appears in this connection: "For necessary office fixtures and supplies, apparatus, and material." It is certainly the judgment of your committee that in neither of these connections does either word justify the purchase and use of road machinery. We do not want to strike out the words, because they are essential to the work of the Office, but we do not want to have them used to cover expenditures which the law never intended to authorize, and it was for that reason the proviso was inserted.

Now, Mr. Chairman, I want to call the attention of the House to what is being done by the Office of Public Roads at present. I read from a copy of the Washington Times of March 3, 1908, which reports the construction of a public road in the State of Wisconsin. It refers to an address by Samuel B. Lancaster, an official of the Road Office, on the improvement of highways, and states that as a result of that address the Bureau at Washington was prevailed upon to send an engineer with an outfit of road machinery to make three-quarters of a mile of highway. It was made in that particular county because that was the only county in Wisconsin which had made an appropriation for road building.

Does this House wish to authorize this Bureau to go into the country and send officials out to create a demand for the construction of public highways and then send the machinery to supply the demand? Three-quarters of a mile of road was built. Does not everybody know that the cost of that road, so far as it was carried on by the Department of Agriculture, was deducted from the amount which had been voted by the county for the purpose of constructing a road?

Now, what was the outfit sent out? "The Government outfit," this paper states, "consisted of a portable stone crusher, a revolving sieve which separates the rock after being crushed, a steam roller, a sprinkling wagon, bins, scrapers, and dumping wagons." Is there any Member of this House who thinks it is the business of the Government to own and operate machinery of that kind? There is nothing new or strange or complicated in that machinery. Any community can find men to operate it, and it seems to me as unreasonable that the Government should send this outfit and actually construct roads as it would be to have the Government go down into Texas, and, in order to instruct the people in growing cotton, should actually own the plows that turned the soil, own the planters that planted the seed, own the cultivators that cultivated the plants, and pay for the operation of all these implements.

Mr. GAINES of Tennessee rose.

Mr. SCOTT. I can not yield. We are willing to continue the investigations which go to increase our knowledge relating to public roads, but it is certainly not necessary, in order to diffuse that knowledge, that the actual work of road building should be done by the Office of Good Roads. I certainly hope, therefore, that the amendment will be voted down. Now, Mr. Chairman, if I have any time remaining, I yield it to the gentleman from Virginia [Mr. LAMB].

Mr. LAMB. Mr. Chairman, I will occupy the time of this House but a very few minutes. I want to answer the challenge that has been made to the Agricultural Committee on this floor, and particularly to the minority members of that committee. To reduce this thing to a practical question, if you strike out this language, you will have to quadruple this appropriation. Four times as much as we appropriate will be required if you have experiments in road building in all of the States of the Union. You can not differentiate between a demand that may come from the States, and the expenses of carrying this machinery from point to point in the United States will take an immense amount of money. It is unnecessary and it is not required in order to meet the work of this Bureau.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. LAMB. Mr. Chairman, I would like three minutes more.

Mr. SCOTT. As the gentleman from Virginia is a member of the committee, I ask unanimous consent that the time for debate be extended three minutes.

The CHAIRMAN. Is there objection to the request?

There was no objection.

Mr. LAMB. Now, one word in regard to the working of the roads in the States by appropriation by the General Government. There are 2,135,000 miles of road in the United States. One hundred and thirty-five thousand miles are improved, and that leaves in round numbers 2,000,000 miles of road in the United States. Suppose some such proposition as was suggested here yesterday, of appropriating $50,000,000 from the surplus in the Treasury, were put into effect and distribution made as proposed, have you any idea how much money it would give per mile? It would give $12 per mile for the roads in the United States. Why, Mr. Chairman, that would fill up about four mud holes in the South and perhaps mend one or two holes in these macadamized roads in the great North.

Mr. GAINES of Tennessee. How much does it cost to build this road a mile?

Mr. LAMB. Depends entirely upon the character of the road. From $2,000 to $3,000 a mile for the ordinary country road and from $4,000 to $7,000 a mile for the macadam road.

Mr. GAINES of Tennessee. The national road cost $20,000 a mile.

Mr. LAMB. That is an exception.

Mr. THOMAS of North Carolina. Mr. Chairman, the gentleman is mistaken about the great cost of these roads. It may cost a good deal of money to build a macadam road, but in the hearings he will find a number of sand-clay roads have been built through the work of this Office at a reasonable cost.

Mr. LAMB. I understand that a plain dirt road can be built for $1,800 or $2,000 per mile. This appropriation of $50,000,000 would not give over $25 a mile for a road. Now, how many years would it take to complete the work? The calculation I make is two hundred and forty years. Suppose you required the States to furnish one-half of the amount; then it would take one hundred years to do this work. There is no authority in the Constitution of the United States for the General Government to do any such work in the States. The Constitution says the General Government may establish post-roads. That is all. No matter what these lawyers may say, we men of common sense who are not lawyers can read the Constitution just as well as they can. [Applause.]

Mr. WEEKS. Will the gentleman permit an interruption?

Mr. LAMB. Yes.

Mr. WEEKS. I want to ask the gentleman from Virginia if any machinery is needed to build these sand-clay roads which the gentleman from North Carolina [Mr. THOMAS] just referred to?

Mr. LAMB. Not at all; and I am glad the gentleman interrupted me. They made one of these object-lesson roads in one of my counties, and the supervisors of that county themselves

told me that they knew more about working the roads than these people who came down there to teach them that lesson. [Applause.]

This was because local conditions are better understood by those who have lived all their lives in the community where the work is to be done. The Bureau of Good Roads is doing a good work along educational lines. The Chief of the Bureau is a well-equipped young man, and is an enthusiast in this work. The Committee on Agriculture has increased the appropriation this year. There is no necessity for this amendment. I hope you will stand by the committee.

The CHAIRMAN. The time of the gentleman has expired. Time for debate is exhausted.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I have listened with much interest and profit to the discussion of the general policy of Federal aid and Federal power in the construction and maintenance of public roads, and while this is most interesting and instructive, it is not my intention to take part in it, but rather to confine my remarks to the subject which is really before the House, to the paragraph now pending. No individual and no government can assume or accept power without taking with it the burdens and responsibilities that go with power, and Congress can not constitute itself an exception to this rule. The Constitution confers upon Congress the power to establish post-offices and post-roads, and with that power comes the burden which we must in proper measure and in proper fashion meet. There is nothing in this paragraph or in this bill which commits the Federal Government to any policy of road construction in the several States, and nothing that even points in that direction. The Government has, however, some duty to discharge in the matter as well as the local authorities, and when we establish rural mail routes over which the United States mails are to be carried to the people, we do and must assume in some measure the burden of providing a road over which the route is to be maintained. We have not gone far along this line yet, and I do not know that we shall ever go much further, but the limits to our burden which this bill sets are surely narrow enough. The local authorities are left to bear all the expense of constructing and maintaining the roads, and Congress up to now has gone no further than to furnish "expert advice." My friend from Tennessee [Mr. GAINES] asked a few moments ago how the Government furnishes this "expert advice," and I will answer that question by citing an individual instance as an example. Several years ago a distinguished civil engineer in my district, Major Dabney, asked the Office of Public Roads to make an experiment in burning a road in his county which ran over what we call "buckshot clay."

In some parts of the country it is called "gumbo," and many of you are familiar with it by that name. It is a very stiff and sticky clay, and in the dry seasons it makes an ideal road, never becoming dusty. When the winter rains set in, however, these buckshot roads become practically impassable. In the Delta country of the Mississippi there are many large areas composed of this buckshot, and the problem of road making becomes a most serious one. There is no stone or rock there, and for that reason to build macadam roads would involve such heavy expense as to make it altogether impracticable. Well, in pursuance of this request the Office sent Mr. Spoon, one of the most expert and competent road engineers in the country, to look into the matter. He secured types of this buckshot and analyzed it in the laboratory and subjected it to high temperatures and concluded that the test was worth making. Accordingly he went to Mississippi and burned a section of a road several hundred yards long and at the same time constructed a gravel road of about the same length. The local authorities, of course, paid all the expense, the Government simply furnishing the "expert advice;" that is, the expert from the Office supervised the work. That experiment proved so successful that the local authorities began a campaign for better roads, and the county issued $100,000 in bonds for that purpose, and I noticed in a local paper a few days ago the statement that they had spent in the past three years $200,000 on their roads, which are now the best in the Delta. Last summer the Office sent Mr. Spoon to Washington County, another county in my district, to make another experiment in this buckshot burning, and this has proven entirely successful also. I drove over this road in January last when the other roads were wet and muddy, and it was with difficulty that I could get over many parts of the road leading to the portion that had been burned, but that section of it, perhaps a half mile in length, was in perfect condition. I have some letters from people living near this road which I shall print in the RECORD, and which tell of the complete success of the experiment after the hard test of the past winter. One of the letters is from the mayor of Greenville, which is quite near to this road, and he says that the cost of keeping it in perfect condition to date has been $7.

OFFICE OF WILLIAM YERGER, MAYOR,
Greenville, Miss., March 14, 1908.

Hon. B. G. HUMPHREYS,
Washington, D. C.

DEAR SIR: I replied yesterday to your telegram of the 11th instant, asking condition of burnt road. I made a careful inspection of this road and found the road in perfect condition, hard and firm, with no indication of giving away. This is an ideal road to-day. As you know, I have taken great interest in this experiment. I have had the road rounded up with an Austin road grader and rolled once since its completion and have had the very few wagon ruts that have appeared filled with burnt buckshot. I have expended about $7 in this work. As you know, the heaviest traffic on our roads is during the fall and winter, when the cotton crop is being marketed, and this road has stood the test.

Yours, truly, W. YERGER.

GREENVILLE, MISS., *March 14, 1908.*

Hon. B. G. HUMPHREYS,
Washington, D. C.

DEAR SIR: Knowing the interest you have taken in our recent experiment of burnt buckshot road building, I thought you would like to know how it had stood the test up to date. As you know, I had charge of the labor during its construction and have, since its completion, watched the road to strengthen, if it was necessary, any weak points that might appear. I have at three different times during the winter run our grader over the line, keeping the center filled and rounded up. The cost of this work would not, I should say, exceed six or seven dollars. The road at this date is perfectly smooth and is thoroughly cemented. I am told that on account of the almost impassable condition of the old Wilczinski road, over which the Metcalfe neighborhood does its hauling to town, that much of this hauling has been diverted to our road, which means an additional strain and further test. My opinion is that the experiment is a success.

Yours, truly,

ALBERT S. OLIN,
Street Supervisor.

GREENVILLE, MISS., *March 15, 1908.*

Hon. B. G. HUMPHREYS, M. C.,
Washington, D. C.

MY DEAR SIR: I have been repeatedly asked regarding the condition of the burnt road east of town, and it has been suggested that I ought to write to you regarding it. I possibly travel over this road more than anyone else, and have been using it constantly from the time it was completed. It has had a very severe test this winter, as we have had a very open winter, with very heavy rains, and the road has been in perfect condition all the time; in fact, the road has had more travel than usual this winter, as a great deal of cotton was brought in this way just to get the benefit of the haul over this road.

The road has been kept in repair with almost no work or expense at all, and is to-day smooth and firm, and everything that a good road, I should say a perfect road, ought to be, and it is certainly a great object lesson to the people here, as beyond this the roads have been all but impassable for months.

Very sincerely, yours, W. G. STIMMEL.

An experiment was made in this burnt buckshot in Sunflower County last summer, and for some reason it did not prove successful. Another expert will be sent to look that over during the coming summer, however, and I believe it will yet be made a success.

Mr. SIMS. What is the cost of this burning process you are speaking of?

Mr. HUMPHREYS of Mississippi. That depends, of course, upon the cost of the fuel. If the road is through a wooded country where wood can be had for, say $1.25 a cord the road can be made for $1,500 a mile.

Mr. SIMS. How much wood is required to burn a mile?

Mr. HUMPHREYS of Mississippi. To burn a road 14 feet wide it will require between seven and eight hundred cords. That necessarily varies, of course, as the moisture in the soil to be burned varies. To make a comparative statement, I will say that it costs from one-half to one-fifth what a macadam road costs and is as easily and as cheaply maintained. In a country where the people have never gone into the building of good roads the thought of paying $2,000 a mile for a good road seems prohibitive. Where the experiment is once made, however, we all know that the people, and especially the farmers, who usually are at first the most violently opposed to the undertaking, demand that the roads be constructed and are most willing to bear the tax. As a rule the rate of taxation has to be increased an almost infinitesimally small degree to meet the new demands. For instance, in my own county in Mississippi there are, in round numbers, 10,000 men subject to road duty, and a road tax of $3 each would pay the interest at 6 per cent on a half a million of bonds. This would not involve the payment of any additional property tax whatever, and would construct a system of good roads for the county that would add immeasurably to the comfort of the public and to the values of all rural property. The truth is that no road can cost the farmer as much as a bad one. If instead of hauling six bales of cotton, as could be done with ease by two mules over the burnt road near Greenville any day during the past winter, he can only haul two, he is being taxed for a bad road at a higher rate than anybody was ever taxed for a good road, not counting the wear and tear of mules and wagon. I have seen seed cotton in the pens in July which had been picked after the

rains had begun to fall in the previous winter, and which had not been hauled out to the railroad, where the gin was located, because the roads were too bad to travel. Think of the tax that man was paying, and that, too, for a road he could not travel.

There is another method of improving clay roads in which the Office gives "expert advice," which they describe very fully in this bulletin, which is issued by the Department of Agriculture as Bulletin No. 27 of the Office of Public Roads.

Mr. RUSSELL of Missouri. What is the pamphlet you refer to?

Mr. HUMPHREYS of Mississippi. It is called the "Construction of Sand-Clay and Burnt-Clay Roads," and is written by Mr. Spoon, of the Office of Public Roads. It is issued as a bulletin, and is sent out on request of anybody who is interested enough in the subject to write and ask for it. It describes in detail the method of constructing the burnt roads I have just spoken of and the sand-clay roads also. The process of constructing these roads is simply to haul sand to a clay road or to haul clay to a sand road, as the case may be. The mixing or "puddling," as it is called, must of course be done by an expert who understands his business, so that the proportions of sand and clay may be properly adjusted. This is a very much cheaper process than the burning, the cost being from $300 to $600 a mile. Some of the best rural roads in this country have been made by this process. Now, under this paragraph which provides for "expert advice" these roads are constructed in exactly the same manner and under the same conditions as the road I have just told of in Mississippi. The local authorities furnish the money for the experiment and the Government furnishes the expert to advise them and really to supervise the building of the demonstration road, until they learn how themselves.

I can not, of course, give all the different ways in which the Office is furnishing "expert advice" to the local authorities, but I do want to mention just one more, and I believe it illustrates the thoroughly practical work of the Office and the great service which the people are receiving from it. I refer now to the latest bulletin gotten out by Mr. Page, who is one of the most competent men in the service of the Government and ought to be the chief of a bureau instead of the director of an office. It is issued as Farmers' Bulletin No. 321, and is written by Mr. King on the "Use of the Split-Log Drag on Earth Roads." It is an account of the simplest, cheapest, and yet the most useful and effective implement for the improvement of earth roads ever invented. If I can get the consent of the Committee on Printing I shall put into the RECORD a cut of this drag, a mere glance at which will enable any practical farmer to make one. In some States the farmers by common agreement drag the road along their own fronts after every rain, and the results are almost unbelievable. I have seen its workings myself both on country roads and on the streets of small towns where there was no paving, and I wish to commend in the strongest terms the wisdom of the director in getting up this bulletin and sending it out as a public document. This drag is particularly effective in buckshot or gumbo. I have some letters here which I shall print in my remarks, which I take from a most instructive article on the "Split-Log Drag," written by Mr. Henry Wallace, editor of Wallace's Farmer:

SOME PRACTICAL EXPERIENCE.

To the testimony of the photographs we might add any amount of testimony from farmers in Missouri and other States who have used the drag. For example, F. M. Joslyn, editor of the Missouri Mail, writes to George B. Ellis, secretary of the Missouri State board of agriculture with regard to the bottomless roads on the Missouri bottom:

"I wish to say that for several years I lived in the Missouri bottoms in Atchison County, and was frequently obliged to travel the road from my farm to the county seat, some 7 or 8 miles. Nothing but the most emphatic language and the latest improved epithets could do justice to the condition of the roads, especially during the winter and spring months. Frequently three or four hours were required to make the trip, and a spade was necessary to clean the gumbo from the wheels.

"During the latter part of March in this year (1903) I was visiting in Atchison County and one afternoon Mr. J. T. Johnson, of Rockport, the county seat of Atchison, proposed driving me over to the old farm where I formerly lived. He hitched one horse to a buggy, and at a time when the roads there should have been almost impassable and the other roads in the bottom actually terrible, but we drove on a trot the entire distance without a break.

"When we struck the bottom the beautiful, smooth appearance of the road, slightly elevated in the center, slightly sloping at the sides, and as smooth as a floor, struck me as something out of the ordinary. Mr. Johnson informed me that a public-spirited farmer had dragged the road in conjunction with some of the neighbors.

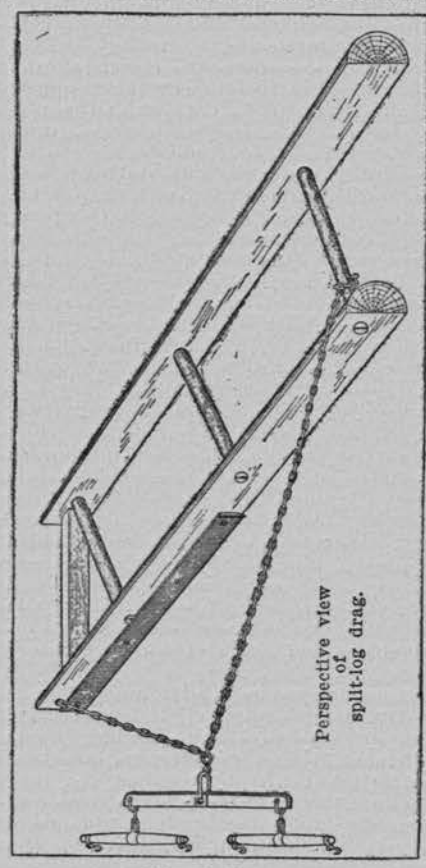
"There was no mud in the road, neither was there as much as a pint of water in the roadway from one end of the dragged portion of it to the other. It was a revelation to me and made me a convert of the King system of dragging."

Dr. C. N. Scott, of Mound City, Mo., writes to Mr. Ellis:

"In my practice as a veterinary surgeon I have occasion to travel the gumbo road between here and Bigelow very often. I have been here five years and I never saw that road as good as since they began to drag it. I go there to speed my horses. It is as smooth as a race track. I have many times driven over this 2 miles at a three-minute clip." (This letter is dated November 22, 1902, and after six months of almost continuous rain.)

THE SPLIT-LOG ROAD DRAG.

The only tool necessary is the drag. By the drag we do not mean a harrow, as so many people understand the term, but a drag made of a split log. It is made by taking a straight-grained log from 7 to 9 feet in length and about 10 or 12 inches in diameter. This log is split or sawed lengthwise and the two halves set on edge, 30 inches apart, the flat sides facing forward, and firmly fastened together by three bars made of oak, osage hedge, or other hard wood. The illustration and description beneath it shows how the drag is constructed. The log should be of light timber; box elder, cottonwood, beech, or something of that sort. It is better not to have it of oak. Mr. King says that the best split log drag he ever used was made of red elm. After using the drag for some time it will be found necessary to shoe the front log with a piece of iron three or four inches wide. An old wagon tire makes a good shoe for this purpose. The iron should be put on the right side of the front log and extend not more than three-fifths of its length. It should not project more than a fourth of an inch below the edge of the log. Do not face the entire front log with the iron. The length of the drag can be anywhere from seven to nine feet. The longer it is, the heavier it will pull. One good farm team of horses weighing from 1,100 to 1,200 pounds will handle a seven-foot drag nicely. A heavier team will be required for a heavier drag.



The cut shows in itself how the drag is constructed. The logs are 7 to 9 feet long and 10 to 12 inches in diameter. They are set on edge, flat side to the front, 30 inches apart and fastened together with three strong pins wedged in. Note particularly the way the hitch is made—the chain running through the center of the log at the right end and over the log (looping around the pin) at the left end; this is important. The point of attachment for the doubletrees depends upon the condition of the road and the work to be done. The farther to the right the hitch is made the greater the angle at which the drag will be drawn. Place a movable cleated platform on the cross pins to stand on when using the drag. You will find by experience that by shifting your weight on the drag you can change the angle and the amount of dirt it will move.

HOW TO USE THE SPLIT-LOG DRAG.

First make it, and have a four-horse evener ready for use the first time. Wait until your roads are very soft, the wetter and softer the better. Then attach four horses. Begin at your front gate, straddle the right-hand rut, and go to your neighbor's front gate in the direction of your nearest market town. Then turn and come back along the other rut. This is enough for the first day; but while you are about it you had better go the whole length of the road along your farm, as well as a portion of your neighbor's. Do not be in a hurry; drive slowly; the slower the better. You can not finish this road in a day. You are simply making a beginning. The effect of this first dragging will be to fill up the ruts with this puddled earth and to make a moderately smooth surface, on which it is possible to make three tracks—one on each side, and one where the old track used to be, in the middle. This smooth surface will shed water, partially at least, and will give free access to the sun and wind, causing it to dry off quicker than the rough surface on either side of the smoothed space. Then wait until it begins to dry off. Take two horses and go over the same track again. This will still further puddle the clay and carry a little more into the middle of the road, which every passing team will both puddle and compact still more.

If it is thought best to widen the road, which it usually is, the best way to do it is to wait until another rain, and then, when it has dried off sufficiently to plow readily, plow one furrow along the outer mark of the drag; take the drag and spread this smoothly over the surface of the road. In this way the road will be widened by the width of the furrow and will gradually become oval—that is, higher in the middle—and each time the drag is used will become a little smoother and a little harder. If the road is still too narrow, plow another furrow, and so on until the road has been widened as much as desired.

It is not only useful on country roads, but in towns where the streets are of buckshot it is equally effective. This is taken from a statement of Mr. Henry Harlow, mayor of Onawa, Iowa:

About a month ago I received word that the Northwestern Railroad would bring D. Ward King to our city. I had heard Mr. King at St. Louis, and when I received the railroad poster, I immediately made

a drag, building it precisely as directed. I finished it before noon and put it to work at 1 o'clock on a single block of our main street. The soil is gumbo, and the street was almost impassable, the mud being hub deep in some places.

We put the drag right into the mud and kept it going. At 5 o'clock, just four hours after beginning to use the drag, wagons loaded with 4,000 pounds of baled hay were being drawn over one block and were making a scarcely perceptible rut. But when they went over the crossing the wheels again sank nearly to the hubs in the mud.

I had a good deal of faith in the drag from what I had heard and read, but I was not prepared for such an astonishing change as was made. Our people are all thoroughly convinced that the drag will revolutionize the method of caring for earth roads.

Last fall Mr. Gid Montjoy, sr., the very enterprising street commissioner of the city of Greenwood, in my district, began the use of this split-log drag on the streets of that city. I was there in January and was surprised at the good results which had followed his experiments. Since this bill has been under consideration I wired a prominent physician of that city, asking him how the drag was working, and received this telegram in reply:

Hon. B. G. HUMPHREYS,
House of Representatives, Washington, D. C.:

Split-log drag as used in Greenwood has brought streets naturally soft and muddy to high state of solidity, supporting trucks and wagons. Produces perfect drainage from center of street to gutters. One treatment after each rain sufficient, drying streets very rapidly.

D. S. HUMPHREYS.

Mr. Chairman, in view of the fact that the discussion had taken a rather wider scope than was altogether pertinent to this paragraph, I thought it desirable to confine my remarks more closely to the provisions of the bill itself and to explain somewhat the actual workings of the Office. The subject of good roads is a very interesting one, and one that is of tremendous importance to all of our people. The cost of bad roads, of roads that can only be used when weather conditions are favorable, is appalling. All the world is ahead of us in this particular. We are properly and wisely devoting much of our time to the discussion of the question of transportation, both by rail and water. We are providing at great expense the machinery necessary to administer the rate-regulation laws which we are passing from time to time, and we are spending millions annually upon our waterways. All this is well, but we ought not to forget that of the inland traffic of the United States, which in its billions exceeds the aggregated international commerce of the world, more than 60 per cent is hauled over our public roads. We are therefore bearing but a small share of the burden when we appropriate $90,000 annually for this purpose, while the States are spending as many millions. I will now ask unanimous consent to print the letters and papers to which I have referred.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. DAVIS of Minnesota. Mr. Chairman, I make the same request, including a letter from the city of Redwing, Minn., as part of my remarks.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. WILLIAMS. Mr. Chairman, if the gentleman's remarks are to be confined to this subject of road discussion I shall not make any objection.

Mr. DAVIS of Minnesota. Absolutely, a history of this road proposition.

The CHAIRMAN. The Chair hears no objection, and it is so ordered.

Mr. DAVIS of Minnesota. Mr. Chairman, from the discussion thus far it is quite apparent that the subject of good roads is a vital one, at least to the major portion of the United Staes, and particularly to the rural sections. It is apparent, however, that some of the older and wealthier States which have heretofore built their roads without any particular governmental aid or advice seem determined that the less fortunate and less populous of the agricultural regions, covering large areas, should do likewise—that is, exclusively at their own expense. The particular subject under discussion deals with the Office of Public Roads as heretofore established in the Department of Agriculture about fifteen years ago, and having for its object to enable the Secretary of Agriculture to make inquiries in regard to systems of road management throughout the United States; to furnish expert advice on road building; to make investigations in regard to the best methods of road making and the best kinds of road-making materials in the several States; to investigate the chemical and physical character of road materials; for the employment of local and special agents, clerks, assistants, and other labor required in the city of Washington and elsewhere; for collating, digesting, reporting, and illustrating the results of such investigations and experiments, and also to enable the Secretary of Agriculture to assist the agricultural colleges and experiment stations in disseminating information on this subject.

Heretofore this Bureau, in connection with the many other useful means of illustrating and disseminating this knowledge, has inaugurated in a large number of instances the very useful and instructive method of engineering the construction of small sections of object-lesson roads, such as macadam, sand-clay, earth roads, and others. In all instances, however, wherever an object-lesson road had been constructed, which is usually limited from one-half a mile to 1 mile in length, the Department has required that the locality desiring this object-lesson road shall furnish the necessary means to pay all expense thereof, except in a few instances where the Department would furnish certain road-making machinery, consisting of a steam roller and occasionally a rock crusher, and an expert engineer to handle the same, and it is now particularly against the furnishing of this machinery by the Government, either by purchase or rent, that the present attack is made by certain Members of the House. The desirability of this method of instruction and the large demand for it is shown in the numerous applications from rural communities which have been made and acceded to in previous years, as well as by those which are now pending.

Before I proceed further I desire to state that from the official records the total sum expended by the Office of Public Roads since its organization up to the present time, in furnishing by purchase, rental, and otherwise, of machinery, by the Government in this object-lesson work is the paltry sum of only $7,000, and that the Government has only purchased three steam rollers altogether, but has rented three others. This certainly shows the economical methods pursued by the Office of Public Roads in the last fifteen years, and certainly does not warrant the statement, which has been frequently made, that the Government is attempting to generally engage in the construction of roads at its expense throughout the United States.

Mr. Chairman, I apprehend that the people at large are not familiar with the origin, purpose, or general working of the present Office of Public Roads, with the struggle that it has had in order to obtain its present efficiency, and I might add that, judging from the remarks that have been made, this lack of knowledge is not confined to the people generally, but might be applied to some of the honorable Members of the House, who have not taken the trouble to investigate the subject. Briefly, I will say that the movement for concerted action on behalf of the public roads prior to the establishment of the Office of Road Inquiry found expression in a bill passed by the Senate of the United States in July, 1892, and favorably reported to the House of Representatives, providing for a National Highway Commission, to be composed of two Senators, five Members of the House of Representatives, and five citizens appointed by the President for the purpose of making a general inquiry into the condition of highways in the United States and means for their improvement. In October of the same year, a National League for Good Roads was formed at Chicago, having the same general purpose, the organization having for its president Hon. Charles F. Manderson, and on its executive committee, Judge E. H. Thayer, Philip D. Armour, Leland Stanford, Clem Studebaker, Samuel W. Allerton, Chauncey B. Ripley, Alexander J. Cassatt, W. Seward Webb, Albert A. Pope, and Charles L. Burdett.

In March, 1893, a petition was presented to Congress asking that a road department similar to the Agricultural Department be founded at Washington for the purpose of promoting the art of constructing and maintaining roads and for teaching students so that they may become skilled road engineers, and to establish a permanent exhibit of sections of road illustrating various methods of construction and the best road materials and machinery. This petition was signed by the governors of many of the States, including Governor McKinley, of Ohio, and the chambers of commerce in many of the cities, including Los Angeles, Seattle, Milwaukee, Jacksonville, Boston; and by universities, including the University of Georgia, University of Louisiana, Cornell University, Franklin Institute; and indorsed by resolutions of legislatures, including the Massachusetts house of representatives.

The Office of Road Inquiry was established under authority of an act of Congress, approved March 3, 1893, making appropriation for the Department of Agriculture. The clause relating to this work provided that the Secretary of Agriculture should make inquiries in regard to systems of road management throughout the United States, make investigations in regard to the best methods of road making, prepare publications on this subject, and assist agricultural colleges and experiment stations in disseminating information on this subject. The appropriation was $10,000.

During the next two fiscal years the appropriations and the wording of the bill remained the same. The appropriation for the fiscal year 1897 was reduced to $8,000, and a provision was added authorizing the investigation of road-making materials in the several States. The appropriation remained $8,000 annually during the fiscal years 1898, 1899, and 1900, and no change was made in the wording of the bill, although the name of the office was changed from "Road Inquiry" to "Public Road Inquiries" in the fiscal year 1899.

The agricultural bill for 1901 carried an appropriation for $14,000, and provided for conducting experiments in the city of Washington and elsewhere, and collating, digesting, reporting, and illustrating the results of such experiments. The appropriation for 1902 was $20,000, and the bill provided for the investigation of the chemical and physical character of road materials. The language of the appropriation bills has remained practically unchanged up to the present time, except that the name of the office was changed from "Public Road Inquiries" to the "Office of Public Roads" and a statutory organization was provided in the agricultural bill approved March 3, 1905. The following is a table of the appropriations to the fiscal year 1908, inclusive:

Appropriations for public road inquiries from 1893–94 to 1907–8.

1893–94	$10,000
1894–95	10,000
1895–96	10,000
1896–97	8,000
1897–98	8,000
1898–99	8,000
1899–1900	8,000
1900–1901	14,000
1901–2	20,000
1902–3	30,000
1903–4	35,000
1904–5	35,000
1905–6	50,000
1906–7	70,000
1907–8	70,050
Total	386,050

Since its establishment the Office has issued 32 bulletins, 88 circulars, 5 farmers' bulletins, 19 yearbook reprints, and 14 annual reports, a total of 158 publications. It has directed the construction of 145 object-lesson roads in 34 States, illustrating macadam, brick, gravel, sand-clay, shell, and earth construction, in addition to roads of an experimental character. The approximate expenditure on these object-lesson roads by local authorities has been $500,000, and the subsequent road work due directly to the object-lesson roads undoubtedly represents expenditures running well up into millions. Lectures and personal advice by engineers and experts have constituted a prominent feature of the work of this Office since its establishment. The road-material laboratory was installed December, 1900, and from that time to February 20, 1908, 2,478 samples of road material have been received from practically every State in the Union and tested to determine their character and value for road building.

Experiments have been conducted in the burning of clay, or gumbo, for building roads in districts where hard material is lacking. These experiments have proven successful and may result in practically solving the road problem in large areas of the country.

Experiments have been conducted with oils, tar, rock, asphalt, and various preparations for the purpose of preventing dust and preserving macadam roads from destruction under modern traffic conditions. At present the Office is arranging to conduct investigations to determine the feasibility of the sand-clay method of road building in the prairie States, the use of slag as a road material, the construction of roads of natural soils by treatment with asphaltic oils, and the improvement of sand roads in parts of the country where clay is not accesssible. Practical efforts have been made toward bringing about the more general use of the split-log drag in the maintenance of earth roads.

Under a cooperative arrangement with the Geological Survey, entered into in February of this year, road materials are being investigated in the various States, and physical tests made in the laboratory of this Office to determine their value as road materials, these results to be published in the form of joint bulletins.

Graduates in engineering are appointed from colleges each year after a competitive examination, and are given thorough training while rendering practical services to the Government. In this way an efficient corps of engineers is being built up, which will aid the development of road building along proper lines, both during and after their connection with the Government service. This work was begun in the fiscal year 1905.

Investigations into the decomposition of rock powders under the action of water have led to important discoveries with reference to increasing the cementing value of road materials. The investigation into the corrosion of iron and steel culverts has brought out important results. The generally accepted theories regarding the rusting of iron have been demonstrated to be incorrect, and it has been shown that by treating the surface of the iron with a strong oxidizing agent the rusting can be inhibited.

In May, 1907, the Office inaugurated a project designed to introduce the best possible systems of construction, maintenance, and administration of roads in the various counties. Under this plan, engineers are assigned to make thorough investigation on all phases of the road work of the county to which they are assigned and prepare exhaustive reports giving plans, estimates, and recommendations.

The number of the employees of the Office has increased from 1 on July 1, 1893, to 56 on July 1, 1907. It should be borne in mind that the present appropriation of the Office is $70,050, out of which $2,000 is paid for rent, leaving $68,050 to pay the salaries of these 56 employees, as well as traveling expenses, the purchase of equipment and supplies, and the usual running expenses.

Since July 1, 1905, the most thorough and systematic methods of organization have been introduced into the administration of the Office, each and every employee is given specific duties to perform, a careful system of reports and records is kept of work done and expenditures made on every project, the most approved system of filing is in use, and a library has been formed, comprising unquestionably the best and most complete collection of periodicals, manuscripts, pamphlets, and books on all phases of road work to be found in the Western Hemisphere, and this library is being added to constantly. Thirty-nine periodicals are regularly received, of which 15 are donated.

The policy of the Office in recent years has been to cooperate with the officials in charge of road work in the various States as closely as possible, and the endeavor is being made to so correlate road work in each State by voluntary cooperation as to constitute one great movement along uniform lines and make the progress and methods of each State known to every other State through the medium of this Office. In furtherance of this object a comprehensive investigation was begun early in 1905 to ascertain the mileage of improved and unimproved roads, the character of improvement, the amounts expended, rates of levy, and sources of revenue in every county in the United States. This work was finished in June, 1907, and the results published in the form of a bulletin, which shows that there are over 2,100,000 miles of road in the United States, of which only 7.14 per cent were improved in 1904, and that the expenditure in money and labor for that year was nearly $80,000,000. This bulletin comprises the first complete data ever assembled on this subject.

Now, Mr. Chairman, if the Office of Public Roads is prohibited from hereafter purchasing or leasing any road machinery whatever, in carrying out what I consider to be the legitimate work of the Bureau, the object-lesson road work in the future will be greatly curtailed, if not almost entirely eliminated. I find, upon investigating the reports and records of the Office of Public Roads, that by far the most effective work under the object-lesson method has been in counties which did not possess any road-building machinery prior to the object-lesson instruction. Many counties which now have excellent systems of highways started with an object-lesson road built with Government machinery. Those sections of country which have not progressed in road building have profited and are profiting by the object-lesson method.

Mr. Chairman, I desire, in this connection, to have read and included in my remarks a letter which I recently received from the Red Wing Manufacturers' Association, of Red Wing, Minn.:

RED WING MANUFACTURERS' ASSOCIATION,
Red Wing, Minn., February 27, 1908.

Hon. C. R. DAVIS, M. C., *Washington, D. C.*

DEAR SIR: The Red Wing Manufacturers' Association have appointed the writer as a committee to take up with you the question of securing the cooperation of the Department of Agriculture in building an object-lesson road out of Red Wing this season. The city council has already passed a resolution to appropriate money necessary for the purpose, and have the funds on hand to build a mile of road, or such part thereof as may seem desirable by the Department.

The members of our association, as well as the citizens of Red Wing, as a whole are very much interested in securing favorable action by the Department in this matter, and trust you will use your best efforts to secure the same.

Thanking you very much for your prompt attention to our request and assuring you that such action will be thoroughly appreciated by every member of the association, I am,

Yours, truly, W. R. PUTNAM.

Since the receipt of this letter I am informed that the city of Red Wing has appropriated the sum of $3,000 for the construction of an object-lesson road extending from this city of Red

Wing into the rural portion of the county, and that formal application has been made to the Office of Public Roads for their aid in this construction. Now, Mr. Chairman, if the prohibitive clause in this bill is retained I am informed that it will require the abandonment of plans for work in rural communities in almost all sections of the country, including Red Wing and Redwood Falls, Minn.; various points in North Dakota; Boise, Idaho; Stockton, Cal.; various points in Nebraska; Emporia, Kans.; points in Missouri, Oklahoma, Arkansas; Kosciusko and other points in Mississippi; points in Alabama and Georgia; Sumter, S. C.; points in North Carolina, Tennessee; Philipi, W. Va.; and several points in Indiana and Pennsylvania.

The instruction of engineer students, which has become an established and successful feature of the work of the Office of Public Roads, is much more thorough and efficient as a result of the ownership or control of road machinery by the Government, as these young engineers are taught not only mechanical features in the operation of various items of machinery, but learn all about loading and unloading machinery, setting up the plant, and superintending its operation.

Without a modification of this prohibitive clause, the Office of Public Roads would be prevented from incurring any expense in designing, constructing, or improving special apparatus or equipment which might prove of incalculable advantage to the people of the United States in solving some road problems. As an example of this, it might be mentioned that in the experiments for dust prevention and the preservation of macadam roads equipment for applying special materials and preparations is of the utmost importance, and the Office of Public Roads is conducting investigations with a view to perfecting and improving such equipment. Certainly every facility should be given for working out all phases of every road problem, whether it applies to road management, road construction, maintenance, equipment, materials, or special investigation. The amount involved is trivial. The Director of the Office of Public Roads informs me that this prohibitive clause in the pending agricultural bill will not curtail the work of the Office of Public Roads in general, as its field of usefulness is so broad, and that he has so stated his position to the Committee on Agriculture. He states, however, that this clause will undoubtedly curtail the object-lesson road work and make necessary the canceling of many of his plans for such work in counties which undoubtedly need it.

I trust, Mr. Chairman, that the Members of this Congress will not allow this prohibitive clause to remain in the bill, but strike it out and thus enable the Office of Public Roads to proceed unhampered with the good work in which it is now engaged.

Mr. GAINES of Tennessee. Mr. Chairman, I will ask to have the amendment reported again.

The CHAIRMAN. Without objection, the amendment will be again reported.

There was no objection, and the Clerk again reported the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and on a division (demanded by Mr. CRAWFORD) there were—ayes 57, noes 138.

Mr. CRAWFORD. Mr. Chairman, I demand tellers.

The CHAIRMAN. As many as are in favor of demanding tellers will rise and stand until counted. [After counting.] Two gentlemen have arisen, not a sufficient number, and tellers are refused.

So the amendment was rejected.

Mr. SULZER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New York moves to strike out the last word.

Mr. SHEPPARD. Mr. Chairman, I have a bona fide amendment, and the gentleman's amendment is a mere formal amendment. Which has precedence?

The CHAIRMAN. The Chair can not distinguish between the two amendments. The Chair will recognize the gentleman from New York.

Mr. SULZER. Mr. Chairman, this proposition of good road building is a live question, and will continue to be a matter of much concern to all the people of the country until it is settled and settled right. I take a deep and an abiding interest in the matter and have given it considerable study. I was very much impressed with all that was said in the House yesterday and to-day for and against the proposition of Government aid to good road building. In the last Congress I introduced a bill for Government aid to good road building, and I reintroduced the same bill in this Congress. It is in the pigeonholes of the Committee on Agriculture, and I can not get it reported. I believe if the Committee on Agriculture had reported this bill of mine, it would have gone far to solve the problem of good road building and made much of this discussion unnecessary. I send this bill to the Clerk's desk and ask to have it read in my time, so that it may be printed in the RECORD as a part of my remarks.

The CHAIRMAN. The Clerk will read the bill in the time of the gentleman from New York.

The Clerk read as follows:

A bill (16627) to promote the construction of good roads and the efficiency of the postal service in the States and Territories of the United States.

Be it enacted, etc., That upon the application of the proper authorities representing any State or Territory of the United States, the Secretary of the Treasury shall loan to such State or Territory for the construction or improvement of post-roads within such State or Territory and outside the limits of any city or incorporated village the actual cost of such construction or improvement: *Provided*, That the construction or improvement of said post-roads shall be under the general supervision of the Post-Office Department and according to specifications approved by it, and the Postmaster-General is hereby authorized and directed to make all needful rules and regulations relating thereto: *Provided further*, That one twenty-fifth part of all money received from the United States Government under the provisions of this act shall be each year returned to the Treasury of the United States by the State or Territory receiving the same until the whole amount received by such State or Territory shall have been returned.

SEC. 2. That no interest shall be charged upon money loaned under the provisions of this act when return to the Treasury is promptly made as provided for by this act, but a 5 per cent per annum interest charge shall be added to all deferred payments. And the Secretary of the Treasury is hereby authorized and directed to make all necessary arrangements with the States and Territories with respect to said loan.

SEC. 3. That the President is directed to cause to be laid before Congress, as soon as convenience will permit after the commencement of each session, a statement of all proceedings under this act.

SEC. 4. That this act shall take effect immediately.

Mr. SULZER. Mr. Chairman, that bill speaks for itself, and is a simple, comprehensive, and constitutional measure for Government aid in good-road building. It is the first proposition of its kind that has ever been introduced in Congress, and if it became a law it would promote the general welfare, not take one dollar in its last analysis out of the Federal Treasury, and yet it would aid the State that can not now afford to appropriate the money. The money loaned the States would all be returned to the Government, and in twenty-five years we would have the best roads in the world. We loan money to the national banks, then why not to the States to build good roads that will directly or indirectly benefit all the people? To-day there is deposited by the Government over $200,000,000 of the people's money in the national banks, not drawing a dollar's interest, and benefiting no one except the stockholders of the national banks. If some of this money were loaned the States to build good roads, as contemplated in my bill, it would give employment to thousands and thousands of honest workmen now idle, promote prosperity, and ere long secure for all the people splendid national highways.

Now, I heard the gentleman from New York [Mr. PAYNE] say yesterday that the State of New York was spending $50,000,000—$5,000,000 annually—to build good roads. That is true, and I am glad to say that I did all I could to bring it about. It is money well spent and will redound in material benefits to the credit of the Empire State. But there are States which can not afford to appropriate money to build these good roads, and I am broad-minded enough, and I am liberal-spirited enough to do all in my power as a Member of the National Legislature to have the Federal Government aid the less fortunate States. In this matter of good-road building what benefits one State will benefit all the other States. This bill of mine will do this and will also avoid the constitutional objection, if such there be, to which reference was made this morning by my colleague from New York [Mr. HARRISON]. My bill will aid all the States to construct good roads, to put the unemployed men in their own States to work on these roads, and the maintenance and care of the roads will at all times be a State matter, pure and simple, thus avoiding every objection on account of doubtful constitutionality or centralization of power.

Mr. Chairman, I represent on the floor of this House a great district in the very heart of the city of New York—a great patriotic people, of whom I am justly proud—but I am farseeing enough to realize that what will help one part of our country will benefit every other section of our land, and I deprecate the narrow view of that is often expressed concerning the local character of this important question of good-road building. It is not local or sectional. It is national in all its aspects; it is for the public weal; it will promote the general welfare, and the Government should give its legislative sanction to the project and render all the aid within its power.

Good roads, sir, are the arteries of the industrial life of a great and powerful people. In a Government such as ours all sorts and conditions of men and women are more or less ab-

solutely dependent upon the best and speediest means of communication and transportation. If you say good roads will only help the farmers, I deny it. The farmers who produce the necessaries of life are less dependent than the millions and millions of people who live in our cities and towns. The most superficial investigation of this subject will clearly prove that good roads are just as important to the consumers, if not more so, than they are to the producers of the country.

The burdens of life fall hardest on the farmer. The least the Government can do for him is to help him get decent highways. I am with the farmers in this fight for good roads. I am with the rural districts of our land in their struggle for better transportation facilities, and in Congress or out of Congress I shall do all in my power to hasten the consummation they desire—the ability to go and come along decent roads without exhausting the time and the effort and the utility of man and beast. I know farm life. My boyhood days were spent on a farm doing farm work. I know the farmer's joys and sorrows—his trials and his troubles, and I know that we owe much to the farmers and producers of our country—much that we can never repay. Whatever will aid them will benefit the people in every community.

The fathers of the Republic wisely recognized the importance of this question. Washington and Jefferson advocated good roads and projected the construction of a great highway from the Capital to the Mississippi Valley. The farseeing statesmen of the early days of our national existence championed and passed measures to better the means of transportation. They knew that of all human agencies the one which has done most for humanity and civilization has been the building of good roads—the abridgment of distance in the facility of communication. They realized the necessity of good roads—how important they were to the country—to its growth and its development, and to mankind, morally, physically, intellectually, and industrially, removing national and provincial antipathies and binding together all the branches of the great human family.

The farsighted wisdom of Julius Cæsar built from the imperial exchequer the magnificent roads that led in all directions to eternal Rome. The great Napoleon—Cæsar like—built the roads of France that center in Paris from the general funds of the Government, and these French roads have done more than any other single agency to encourage the thrift and increase the industry and insure the contentment of the people of France. Cæsar and Napoleon were the great road builders of ancient and modern times, and their foresight and their judgment demonstrated the beneficent results that follow, as the night the day, the construction of governmental highways.

Sir, the people of the country know the importance of good road building. They are familiar with the truths of history. They know the past. They realize that often the difference between good roads and bad roads is the difference between profit and loss. Good roads have a money value far beyond our ordinary conception. Bad roads constitute our greatest drawback to internal development and material progress. Good roads mean prosperous farmers; bad roads mean abandoned farms, sparsely settled country districts, and congested populated cities, where the poor are destined to become poorer. Good roads mean more cultivated farms and cheaper food products for the toilers in the towns; bad roads mean poor transportation, lack of communication, high prices for the necessaries of life, the loss of untold millions, and idle workmen seeking employment. Good roads will help those who cultivate the soil and feed the multitude, and whatever aids the producers of our country will increase our wealth and our greatness and benefit all the people of the land. We can not destroy our farms without general decay and final deterioration. They are to-day the heart of our national life and the chief source of our material greatness. Tear down every edifice in our towns and labor will rebuild them, but abandon the farms and our cities will crumble away and disappear forever.

Now, Mr. Chairman, I want to say again that I take an abiding interest in this all-absorbing question for better highways throughout the land by some plan of governmental assistance. I am for the cause, and in the fight to stay. I am now, always have been, and always will be, a friend of good-road building. It means progress and prosperity, a benefit to the people who live in the cities, an advantage to the people who live in the country, and it will help every section of our vast domain. Good roads, like good streets, make habitation along them most desirable; they enhance the value of farm lands, facilitate transportation, and add untold wealth to the producers and consumers of the country; they are the milestones marking the advance of civilization; they economize time and labor and money; they save wear and tear and worry and waste; they beautify the country, bring it in touch with the city, and aid the social and religious and educational and industrial progress of the people; they make better homes and happier hearthsides; they are the avenues of trade, the highways of commerce, the mail routes of information, and the agencies of speedy communication; they mean the economical transportation of marketable products—the maximum burden at the minimum cost; they are the ligaments that bind the country together in thrift and industry and intelligence and patriotism; they promote social intercourse, prevent intellectual stagnation, and increase the happiness and the prosperity of our producing masses; they contribute to the glory of the country, give employment to our idle workmen, distribute the necessaries of life—the products of the fields and the forests and the factories—encourage energy and husbandry, inculcate love for our scenic wonders, and make mankind better and greater and grander. Good roads have made the glory of the nations of the past, and good roads will add to our greater glory and make us all that we hope to be, the most beneficent power that ever blessed progressive humanity.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SHEPPARD. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment.

Mr. SCOTT. Mr. Chairman, I move that all debate on this paragraph and on all amendments thereto close in ten minutes.

The CHAIRMAN. The gentleman from Kansas moves that all debate upon this paragraph and the amendments thereto close in ten minutes.

The question was taken, and the Chair announced the ayes seemed to have it.

On a division (demanded by Mr. WILLIAMS) there were—ayes 96, noes 61.

Mr. WILLIAMS. Mr. Chairman, let us have tellers on this proposition.

Mr. GAINES of Tennessee. If you keep on chopping off debate over there, we will keep this up for a year, and on this very important question, too.

The question was again taken, and the tellers [Mr. SCOTT and Mr. WILLIAMS] reported that there were—ayes 106, noes 65.

So the motion was agreed to.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by inserting after the word "State," in line 24, page 43, the following:

"To cooperate with the Post-Office Department in suggesting methods for maintenance and improvement of the rural road routes."

Mr. SCOTT. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. Does the gentleman from Texas desire to be heard upon the point of order?

Mr. SHEPPARD. Certainly. I introduced a similar amendment during the short session of the last Congress, and the point was raised and the Chair overruled it. I have the page of the RECORD and citation.

Mr. MANN. Well, that ought to be pretty good authority.

Mr. SHEPPARD. Shall I read it, Mr. Chairman?

The CHAIRMAN. The Chair would like to ask the chairman of the committee as to the point of order.

Mr. SCOTT. The point of order, Mr. Chairman, is, that the cooperation asked for in this amendment is not now authorized by law. If it were, I do not concede that there would be any point in the amendment. Certainly it must be a change of existing law.

Mr. SHEPPARD. Mr. Chairman, there is no law on the subject at all, and if the gentleman desired to raise that point, he ought to have raised the point of order on the whole paragraph.

Mr. SCOTT. May I ask the gentleman from Texas a question? If there is no law upon the subject now at all, does not the gentleman seem to create law?

Mr. SHEPPARD. The entire paragraph was subject to the point of order—that there was no law on the subject—and since you failed to raise the point of order against the paragraph, you can not raise the point of order against an attempt to perfect it. The amendment is something entirely germane to it.

Mr. GAINES of Tennessee. Mr. Chairman, I want to argue the point of order.

The CHAIRMAN. The Chair is prepared to rule.

Mr. GAINES of Tennessee. We will have the Constitution itself, which empowers Congress to establish post-offices and post-roads, and we have all our rural laws.

The CHAIRMAN. It seems to the Chair that this paragraph was itself subject to the point of order had the point been raised. As the point of order was not made against the paragraph, the Chair holds that this amendment is not subject to the point of order. [Applause on the Democratic side.] The Chair therefore overrules the point of order.

Mr. SHEPPARD. Mr. Chairman, I can not permit to pass unchallenged——

Mr. SCOTT. Mr. Chairman, may I suggest that the debate on this paragraph had closed?

Mr. SHEPPARD. You said in ten minutes.

The CHAIRMAN. The gentleman from Texas [Mr. SHEPPARD] is recognized for five minutes.

Mr. SHEPPARD. Mr. Chairman, I can not permit to pass unchallenged the statement of the gentleman from New York [Mr. HARRISON] that the good-roads bills introduced by the gentleman from Mississippi [Mr. WILLIAMS] and others represent a departure from Democratic ideals and traditions. John C. Calhoun, one of the most powerful logicians of all time, whose name will be forever associated with the strictest doctrines of States rights, who regarded with jealousy and opposed with vehemence every unwarranted extension of Federal power, introduced his famous bonus bill in Congress in 1817, setting aside a fund for roads and canals. In a remarkable speech in support of the bill he expressed so felicitously the function and importance of good roads in the United States that a quotation will doubtless be of interest at this stage of the present debate.

The manner—

He said—

in which facility and cheapness of intercourse add to the wealth of a nation has been so often and ably discussed by writers on political economy that I presume the House to be perfectly acquainted with the subject. It is sufficient to observe that every branch of national industry—agricultural, manufacturing, and commercial—is stimulated and rendered by it more productive. The result is to diffuse universal opulence. It gives to the interior the advantages possessed by the parts most eligibly situated for trade. It makes the country price, whether in the sale of the raw product or in the purchase of the articles for consumption, approximate to that of commercial towns. In fact, if we look into the nature of wealth we find that nothing can be more favorable to its growth than good roads and canals. Let it not be said that internal improvement may be wholly left to the enterprise of the States and of individuals. I know that much may be justly expected to be done by them, but in a country so new and so extensive as ours there is room enough for all—the General and State governments and individuals—to exert their resources.

Discussing the constitutional phase of the question, Mr. Calhoun held the power of appropriation to be independent of the enumerated powers in the Constitution and capable of application to any general or national purpose. Clay and Webster were in agreement with him. The House amended the bill so as to enable the National Government to exercise rights of eminent domain in connection with the projects involved and to have general superintendence over them. President Monroe vetoed the bill on account of the amendment, conceding that had the bill gone no further than the mere act of appropriation it would have been constitutional. The veto messages of Presidents Madison and Jackson and the veto message of President Monroe on the subject of the Cumberland road, to all of which the gentleman from New York [Mr. HARRISON] alluded in support of his startling proposition, involve practically the same distinction. The bills they vetoed went beyond the mere act of appropriation and endeavored to give the General Government active participation in the construction of certain roadways.

Mr. WILLIAMS. Or their control.

Mr. SHEPPARD. Yes; or their control. I now quote at length from the message of President Jackson, referred to by the gentleman from New York [Mr. HARRISON], in order to show that Jackson considered it settled doctrine that the right of appropriation was not limited by the specified powers of the Constitution:

Independently of the sanction given to appropriations for the Cumberland and other roads and objects under this power the Administration of Mr. Madison was characterized by an act which furnishes the strongest evidence of his opinion of its extent. A bill was passed through both Houses of Congress and presented for his approval, "setting apart and pledging certain funds for constructing roads and canals and improving the navigation of water courses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense." Regarding the bill as asserting a power in the Federal Government to construct roads and canals within the limits of the States in which they were made, he objected to its passage on the ground of its unconstitutionality, declaring that the assent of the respective States in the mode provided by the bill could not confer the power in question; that the only cases in which the consent and cession of particular States can extend the power of Congress are those specified and provided for in the Constitution, and superadding to these avowals his opinion that "a restriction of the power to 'provide for the common defense and general welfare' to cases which are to be provided for by the expenditure of money would still leave within the legislative power of Congress all the great and most important measures of government, money being the ordinary and necessary means of carrying them into execution." I have not been able to consider these declarations in any other point of view than as a concession that the right of appropriation is not limited by the power to carry into effect the measure for which the money is asked, as was formerly contended.

The views of Mr. Monroe upon this subject were not left to inference. During his Administration a bill was passed through both Houses of Congress conferring the jurisdiction and prescribing the mode by which the Federal Government should exercise it in the case of the Cumberland road. He returned it with objections to its passage, and in assigning them took occasion to say that in the early stages of the Government he had inclined to the construction that it had no right to expend money except in the performance of acts authorized by the other specific grants of power, according to a strict construction of them, but that on further reflection and observation his mind had undergone a change; that his opinion then was "that Congress have an unlimited power to raise money, and that in its appropriation they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defense, and of general, not local, national, not State, benefit." And this was avowed to be the governing principle through the residue of his Administration. The views of the last Administration are of such recent date as to render a particular reference to them unnecessary. It is well known that the appropriating power, to the utmost extent which had been claimed for it in relation to internal improvements, was fully recognized and exercised by it.

This brief reference to known facts will be sufficient to show the difficulty, if not impracticability, of bringing back operations of the Government to the construction of the Constitution set up in 1789, assuming that to be its true reading in relation to the power under consideration, thus giving an admonitory proof of the force of implication and the necessity of guarding the Constitution with sleepless vigilance against the authority of precedents which have not the sanction of its most plainly defined powers; for, although it is the duty of all to look to that sacred instrument instead of the statute book, to repudiate at all times encroachments upon its spirit, which are too apt to be effected by the conjuncture of peculiar and facilitating circumstances, it is not less true that the public good and the nature of our political institutions require that individual differences should yield to a well-settled acquiescence of the people and confederated authorities in particular constructions of the Constitution on doubtful points. Not to concede this much to the spirit of our institutions would impair their stability and defeat the objects of the Constitution itself.

The bill which President Jackson vetoed authorized the Government to become a stockholder in a road company, and the road involved was entirely within the limits of a State. Of course if the Government became a stockholder, it would acquire certain active powers of construction and control, and the bill therefore went distinctly beyond the naked act of appropriation. President Jackson suggested in this message that if the people desired the Federal Government to enter upon the actual work of constructing roads, an amendment of the Constitution would be necessary. Indeed, he favored in this same message a constitutional regulation of the mere act of appropriation with reference to roads in order to secure an equitable division of funds among the States and to confine beyond question the exercise of the function of appropriation within constitutional limits.

Eleven years before the introduction of the Calhoun bonus bill, Thomas Jefferson, the founder of the Democratic party, the father of strict construction, the most watchful guardian of popular rights and constitutional limitations in our political annals, approved a bill appropriating money from the National Treasury for the construction of a road from Cumberland to Wheeling. Jefferson's position is further shown in a letter to Lieper, in 1808, in which he said:

Give us peace until our revenues are liberated from debt. * * * and then during peace we may checker our whole country with canals, roads, etc.

And in a letter to J. W. Eppes, in 1813, in which he said:

The fondest wish of my heart ever was that the surplus portion of the taxes destined for the payment of the Revolutionary debt should, when that object is accomplished, be continued by annual or biennial reenactments and applied in times of peace to the improvement of our country by canals, roads, and useful institutions.

In a letter to Humboldt he said:

It is more remunerative, splendid, and noble to spend money in canals and roads that will build and promote social intercourse and commercial facilities than to expend it in armies and navies.

[Applause.]

The Cumberland-Wheeling road was paid for out of the proceeds of Federal land sales in the States through which it passed. Similar donations were made to Louisiana in 1811, to Indiana in 1816, to Mississippi in 1817, to Illinois in 1818, to Alabama in 1819, to Missouri in 1820, and to Iowa in 1825. Twelve or fifteen great national roads were projected in the early days, with a view to the formation of a great system.

From 1806 to 1838 over $1,600,000 was expended by the National Government for good roads in addition to the Cumberland road, $200,000 being expended in Florida, $286,000 for roads from Detroit to Chicago and elsewhere, and $206,000 for a road from Memphis to a point in Arkansas on the St. Francis River. The Federal Government appropriated funds to be used in the construction of roads long before its power to improve rivers and harbors was admitted or assumed. The situation is

the reverse to-day. The advent of the railway diverted attention from road building, and it became the general impression that railways would entirely supplant the common roads. Not until within the last two decades have we recovered from the railway fascination sufficiently to see that dirt roads are as necessary as railroads. The sum of seven millions was appropriated altogether for the maintenance of the Cumberland road. President Monroe vetoed the annual appropriation for the Cumberland road in 1822 on the ground that it went further than the mere expenditure of money and provided for the collection of tolls and the protection of the road by penal laws.

While admitting that Congress had the power to appropriate money for road building in States that had given their consent, President Monroe held that it did not have the power to collect tolls and to police the road independently of the States. Subsequent appropriations were modified accordingly. The Cumberland road was finally surrendered to the States through which it passed; all eyes were centered on the steam engine and the railway.

When we speak of the facilities of modern transportation we have a vision of the fast freight train and think but little of that other vision of the farmer struggling with heavy load and tired team along inferior roads. And yet every pound of produce in the cars must first be carried to the railway on wagon roads. The recent revival of interest in the subject of good roads has found expression in the efforts of Representatives BROWNLOW, CURRIER, WILLIAMS, UNDERWOOD, MOON, CRAWFORD, and many others.

One of the everlasting monuments to the memory of Senator Latimer, of South Carolina, is his work in behalf of good roads. Gentlemen of both parties have introduced bills in this Congress for national aid that have attracted universal attention, bills that do not go further than the mere act of appropriation and that are entirely within the constitutional limits prescribed by Monroe in his famous veto message. They provide a fund from which national donations are made on the application of the States or subdivisions thereof. The Government's authority ceases with the appropriation and the delivery of the money.

It is said that the National Treasury is already overburdened. If this be true, let unnecessary and lavish expenditures cease. The cost of one first-class battle ship would build a thousand miles of first-class macadam road, figuring the cost at $7,000 a mile, or over 3,000 miles of the best gravel roads, placing the cost at $2,000 a mile, roads which would be thronged with traffic long after the battle ship had outlived its usefulness. The sum of $100,000,000 has been appropriated for the Navy in a single year, a sum which, supplemented by a similar amount from the States, would erect nearly 29,000 miles of permanent macadam roadways, nearly one-seventh of the total railway mileage of the United States. Former Congressman Vandiver, of Missouri, has made the calculation that the forty-five States have an average of sixty-one counties each, and that an appropriation of $100,000,000 a year, with a like amount from the States, would in two years build 100 miles of good roads, putting the cost at $1,500 a mile, in every county in the Union. The Government has already expended over $500,000,000 for rivers and harbors—for water roads. It has expended $500,000,000 in a single year on account of the Philippines. It has given enormous land grants to railroads. Our Congresses are expending nearly a thousand millions every year on objects of no greater importance, and on many objects of far smaller importance, than good roads. I have mentioned these amounts for purposes of comparison; the amendment I have introduced does not appropriate an additional dollar.

While this movement for good roads will develop the general wealth to an immense degree, it will especially benefit the rural communities. The farmer contributes 60 per cent of the national appropriations, 90 per cent of which is expended in the cities. The farmer is the basis of national prosperity. The total capital employed in manufacturing in the United States, according to the census of 1900, was nearly ten billions; the total in agriculture nearly twenty billions. We boast of a favorable balance of trade. And yet, if in computing the balances with the world the products of the farm had been omitted, the balance of trade would have been against us at the rate of over fifty millions annually for the last decade and a half. If the farmer thus preserves the prestige of the country, despite the burden of miserable roads, what a mighty figure this country would present with modern methods of rural transportation!

My amendment carries no appropriation. It authorizes the Federal Office of Good Roads to cooperate with the Post-Office Department in suggesting methods for the improvement and maintenance of rural-route roads. Many rural routes have been discontinued on account of impassable roads. If the attention and energy of the Good Roads Office is concentrated particularly upon the rural-route roads, its work will be systematized and rendered far more beneficial to the people. I trust that my amendment will be adopted.

Mr. SCOTT. Mr. Chairman, there is nothing in the present law which excludes the Post-Office Department from taking advantage of all the information that is accumulated by the Office of Public Roads. Not only every citizen, but every department of the Government has that privilege. I can see no possible good, therefore, to be obtained from the passage of this amendment unless it may serve as an entering wedge for the actual construction or improvement by the Government of rural-route roads. Therefore I feel sure that the amendment will be voted down by the good sense of this House. I yield the remainder of my time to the gentleman from California [Mr. MCLACHLAN.]

Mr. MCLACHLAN of California. Mr. Chairman, on the 30th of March, when this bill was under discussion, my associate from California [Mr. SMITH] made some observations upon this bill which, in my judgment, placed the Forestry Department in a false light.

Some two years ago the city of Los Angeles, which is located in the district that I have the honor to represent, made application here for the right of way to take water from the Owens Valley, situated among the mountains about 120 miles northeast of Los Angeles, and conduct it to that city for domestic and other purposes. That right was given. During the last summer the city of Los Angeles, by a vote of 10 to 1, voted to bond itself in the amount of $23,000,000 to carry out this project.

A forest reserve, known as the Sierra National Reserve, is located along the western boundaries of Owens Valley. Subsequently the authorities of Los Angeles located a line for an aqueduct to conduct this water through and from Owens Valley to the city of Los Angeles, and in order to have that line protected and the water conserved and kept uncontaminated, requested the President of the United States to withdraw from settlement certain lands along the eastern boundary of the said reservation that would include this aqueduct and the river through that valley. An application was made in January, 1907, for the extension of this reservation to include these lands. That was acted upon by the President, who temporarily withdrew the public land along said route from settlement in February, 1907.

My colleague [Mr. SMITH], in describing this transaction on the floor the other day, contended that the Forestry Department was attempting to extend its forest reserves in this particular without justice or without cause. The gentleman from Nebraska [Mr. POLLARD] stated on the floor of this House that he had just called upon Forester Pinchot, who stated that he urged that such action be taken, at the request of the California delegation. The delegation then present in the House—Messrs. NEEDHAM, KNOWLAND, and ENGLEBRIGHT—were asked if they had made any such request, and stated that they had not been to the Department to make such a request of the Forester. It transpires now that every member of the California delegation, including both Senators, with the exception of Mr. NEEDHAM, Mr. SMITH, and Mr. KAHN, had written to the President of the United States asking that this territory in question be permanently included within said Sierra Reserve, and that the United States Forester, Mr. Pinchot, was acting in accordance with the specific request of a majority of the California delegation in Congress.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of California. Mr. Chairman——

The CHAIRMAN. All debate has expired.

Mr. SMITH of California. I ask unanimous consent that I may be permitted to make a statement in addition to that made by the gentleman from Los Angeles——

Mr. WILLIAMS. Regular order!

Mr. SMITH of California. This raises somewhat a question of veracity.

The CHAIRMAN. Regular order is called for.

Mr. WILLIAMS. I called for the regular order in view of the vote taken a little while ago.

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from Texas.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. SHEPPARD. Division!

The committee divided, and there were—ayes, 45; noes, 82.

So the amendment was rejected.

Mr. COOK of Colorado. I move to strike out the last word.

The CHAIRMAN. All debate upon this paragraph and amendments thereto is closed, and the Clerk will read.

The Clerk read as follows:

Total for Office of Public Roads, $87,390.

Mr. COOK of Colorado. I move to strike out the last word. Mr. Speaker, on page 291 of the hearings before the Committee on Agriculture, in reply to my question, Mr. Pinchot said the receipts of the Forestry Bureau for the fiscal year ending June 30, 1907, were:

For grazing fees	$863,000
For timber sales	603,000
Total	1,466,000

while the expenditure of the Forestry Bureau for the same time was $1,530,000, or $64,000 in excess of the receipts. Mr. Pinchot has stated publicly the receipts of his Bureau were slightly in excess of the receipts for the year, which does not agree with the statement made by the gentleman before the Committee on Agriculture.

Mr. Pinchot, in his statement before the Committee on Agriculture, estimated the receipts of his Bureau for the coming fiscal year at $2,000,000. This estimate is unreasonably high. As I stated to our committee, on page 292 of the hearings, there is now and has been for some months a large falling off in the consumption of lumber and mining timber, and cited that prior to the late financial trouble an average of fifty cars per day was consumed at Leadville, mostly for square sets and props in the mines, but owing to our largest silver, lead, zinc, and copper mines being closed down, owing to the low price of metals, the consumption was at present quite small.

Without the least reservation, Mr. Speaker, I say, and challenge Mr. Pinchot to deny the statement, our mines and mills in Colorado, for the reasons hereinbefore stated, are using less than 50 per cent of timber for the past four months, as compared with December, 1906, January, February, and March of 1907, and December, 1907, January, February, and March, 1908, with no immediate prospect of the price of metals advancing. Therefore the mines will remain closed. The conditions in Colorado as to silver, lead, and zinc mining are worse now than in the year 1893.

Mr. Speaker, the Members of this House have no conception of the conditions which the citizens of Colorado and the entire Rocky Mountain region have to endure under the arbitrary and dictatorial management of the Forest Bureau.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COOK of Colorado. Mr. Chairman, I ask for three or four minutes more. I have not been heard much on this floor, and I ask for a few minutes more.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent for four minutes more. Is there objection?

There was no objection.

Mr. SCOTT. I move that debate close in five minutes on this question.

The motion was agreed to.

Mr. COOK of Colorado. You may be surprised, gentlemen, when I say that in the Leadville Forest Reserve the average cost of mining timber and lumber from the Forest Bureau is $5 per thousand feet. This is a most unreasonable tax upon our people.

Mr. Pinchot, claiming the right to make any price he sees fit, has recently charged as high as $2.60 per thousand feet for timber located on the main Continental Divide of the Rocky Mountains, at an elevation of 11,000 feet. In addition to this charge the buyer is required to pile the brush and construct wagon roads at his own expense, the wages of the men for this labor being $50 per month and board. You must understand, gentlemen, that to reach this timber the topography of the country could not be worse.

Another arbitrary ruling by the Forestry Bureau is that our people are required to remove this timber in one year. You can all readily understand that in that high elevation of a rough and mountainous country they require to have snow on the ground in order to move the timber. Sometimes there is not sufficient snow and at other times there is too much. Now, what we want in Colorado, in the management of the Forest Bureau, is less sentiment and more practicability, less Harvard graduates and rough riders, and some practical lumber and mill men who know something about the business from experience, and that the Forestry Bureau shall comply strictly with the law. [Applause.]

Mr. GAINES of Tennessee. Is the debate closed on this amendment?

The CHAIRMAN. It is not.

Mr. GAINES of Tennessee. Then I move to strike out the last word.

The CHAIRMAN. That amendment is now pending. The gentleman is recognized for the remainder of the time, three minutes.

Mr. GAINES of Tennessee. Mr. Chairman, the rural-delivery system was borrowed by Congress from the Old World. Neither the people nor Congress knowing whether this system would prove successful over our country roads impelled Congress to direct the Post-Office Department to experiment with the service from the very first act, March 3, 1893, appropriating $10,000 for "experimental" rural delivery, down to the act of April, 1892, which took effect the following July. Then Congress made the system permanent. Nothing was done toward even experimenting with this system from 1893 to October 1, 1896, when the first "experimental" route was inserted.

Now, gentlemen, we went along with this system, Congress growing in knowledge from year to year through the experiments of the Department, and as we grew in knowledge we increased the appropriation and extended the service through the country, until from $10,000 appropriated by the first act, March 3, 1893, with no routes until 1896, we have expanded this service and enlarged the appropriation, until a few days ago the House appropriated $35,000,000 for the rural system, having now 38,000 carriers and about 40,000 routes. Would any Member of Congress, on March 3, 1893, have appropriated that amount for the rural service? Did not the great leaders of this House protest against the increase of the appropriation reported in the postal bill in 1898 because my now lamented friend, Dr. J. William Stokes, offered an amendment increasing the appropriation to $300,000. Did not the gentleman from New York [Mr. PAYNE] then say:

> Now, let us not proceed too fast in this business. Let us not break down this system by going along too rapidly. Let us move carefully and see whether we can not establish a system that shall be a staple system, and shall help effectually the extension of this service in your district and mine. * * * It seems to me that there is not the shadow of an excuse for any gentleman to ask for more than $150,000—the full amount asked for by the Department and the amount which this bill proposes to appropriate.

And now, gentlemen, I say that we should experiment, go at it in a businesslike way, with some kind of a sane system by which we can improve our rural-route roads. There are roads and roads. There are good and bad roads over which this system now extends. In my own district, as in others, routes have been discontinued because of the bad roads and the inability of the local people to make them good roads. Now, why not allow the Agricultural Department to go down amongst the people and teach and show them how to build not simply a road, but a road that will last, and that will build up and make more serviceable a rural system and add to the wealth and happiness of our people and our country?

Congress has built railroads to carry the mail, and for that purpose it has built canals and bridges to aid in carrying our mail. It has spent millions of dollars to facilitate the rapid and faithful transportation of the mail. It has subsidized railroads and steamboat lines and improved our harbors and rivers, and before we had railroads it built national roads costing $20,000 per mile for the purpose of transporting our Army and supplies and the mails, and yet, gentlemen, we are spending $35,000,000 annually for the rural-delivery system and are discontinuing routes because of bad roads. The moment a Member in this House suggests even showing or teaching the people how to build rural-route roads, Members in the very wealthy districts raise up their hands in holy horror and shout "unconstitutional," and criticise and doubt the sincerity of Members from rural sections, who want more routes and better rural-route roads, and want the Government to at least inaugurate an experimental system of some sort by which better rural-route roads can be had.

I have not worked out a plan, but it can be worked out and we should start. I have not the time to discuss this question further, but I submit for the consideration of the Members and the people several opinions on the subject of the power of Congress to build railroads, canals, and other highways for the purpose of carrying the mail of the Government of the United States and of the people. The power can not be any longer doubted.

Associate Justice Brewer, speaking for the whole court in 1906, in the case of Wilson *v.* Shaw (204 U. S. Rep.), removes all doubt on this subject in deciding that great lawsuit, where the power was squarely challenged. Justice Brewer said:

POWER OF CONGRESS.

> Again, plaintiff contends that the Government has no power to engage anywhere in the work of constructing a railroad or canal. The decisions of this court are adverse to this contention. In California *v.* Pacific Railroad Company (127 U. S., 139) it was said:
>
> "It can not at the present day be doubted that Congress, under the power to regulate commerce among the several States, as well as to provide for postal accommodations and military exigencies, had authority to pass these laws. The power to construct, or to authorize individuals or corporations to construct, national highways and bridges from State to State, is essential to the complete control and regulation of interstate commerce. Without authority in Congress to establish and maintain such highways and bridges, it would be without authority to regulate one of the most important adjuncts of commerce. This

power in former times was exerted to a very limited extent, the Cumberland and National road being the most notable instance. Its exertion was but little called for, as commerce was then mostly conducted by water, and many of our statesmen entertained doubts as to the existence of power to establish ways of communication by land. But since, in consequence of the expansion of the country, the multiplication of its products, and the invention of railroads and locomotion by steam, land transportation has so vastly increased, a sounder consideration of the subject has prevailed and lead to the conclusion that Congress has plenary power over the whole subject. Of course the authority over the Territories of the United States, and its power to grant franchises exercisable therein, are, and ever have been, undoubted. But the wider power was very freely exercised, and much to the general satisfaction, in the creation of the vast system of railroads connecting the East with the Pacific, transversing States, as well as Territories, and employing the agency of State as well as Federal corporation." (See Pacific Railroad removal cases, 115 U. S., 1, 14, 18.)

In Luckston *v.* North River Bridge Company (153 U. S., 525, 529), Mr. Justice Gray, speaking for the court, said:

"Congress, therefore, may create appropriations as appropriate means of executing the powers of government, as, for instance, a bank for the purpose of carrying on the fiscal operations of the United States, or a railroad corporation for the purpose of promoting commerce among the States. (McCulloch *v.* Maryland, 4 Wheat., 316, 411, 422; Osborn *v.* Bank of the United States, 9 Wheat., 738, 861, 873; Pacific Railroad removal cases, 115 U. S., 1, 18; California *v.* Pacific Railroad, 127 U. S., 1, 39.) Congress has likewise the power, exercised early in the century by successive acts in the Cumberland or National road from the Potomac across the Alleghenies to the Ohio, to authorize the construction of a public highway connecting several States." (See Indiana *v.* United States, 148 U. S., 148.)

(See also Monongahela Navigation Company *v.* United States, 148 U. S., 312.)

These authorities recognize the power of Congress to construct interstate highways. *A fortiori* Congress would have like power within the Territories and outside of State lines, for there the legislative power of Congress is limited only by the provisions of the Constitution, and can not conflict with the reserved power of the States. Plaintiff, recognizing the force of these decisions, seeks to obviate it by saying that the expressions were *obiter dicta*, but plainly they were not. They announce distinctly the opinion of this court on the questions presented, and would have to be overruled if a different doctrine were now announced. Congress has acted in reliance upon these decisions in many ways, and any change would disturb a vast volume of rights supposed to be fixed; but we see no reason to doubt the conclusions expressed in those opinions, and adhere to them.

The court of appeals was right, and its decision is affirmed.

CONGRESSIONAL STATUTES.

In the case of the Illinois Central Railroad against Illinois (163 U. S., 149), decided in 1895, Mr. Justice Gray, after stating the case, delivered the opinion of the court and gives an interesting history and the reasons why Congress has from time to time aided in building railroads. He states it was for the purpose of carrying mail, and for military and for other Federal purposes. Mr. Justice Gray in part said:

The line of railroad communication, crossing the Ohio River at Cairo, and of which the Illinois Central Railroad forms part, has been established by Congress as a national highway for the accommodation of interstate commerce and of the mails of the United States, and as such has been recognized and promoted by the State of Illinois. This will clearly appear by a brief recapitulation of the acts of Congress and the statutes of Illinois upon the subject.

Congress, in the act of September 20, 1850, chapter 61, granted a right of way and sections of the public lands to the State of Illinois to aid in the construction of a railroad in that State from the southern termination of the Illinois and Michigan Canal "to a point at or near the junction of the Ohio and Mississippi rivers," with branches to Chicago and Dubuque, "to be and remain a public highway, for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States," and on which the United States mail should "at all times be transported, under the direction of the Post-Office Department, at such price as the Congress may by law direct," and in order "to aid in the construction of said Central Railroad" made like grants to the States of Alabama and Mississippi, respectively, for the purpose of aiding in the construction of a railroad from the city of Mobile "to a point near the mouth of the Ohio River." (9 Stats., 466.)

THE PURPOSES OF THE GOVERNMENT.

The manifest purpose of Congress was to establish a railroad in the center of the continent, connecting the waters of the Great Lakes with those of the Gulf of Mexico, for the benefit of interstate commerce as well as of the military and postal departments of the Government of the United States.

The State of Illinois by a statute of February 10, 1851, chartered the Illinois Central Railroad Company and ceded to it the rights and lands granted to the State by the act of Congress for the purpose of constructing and maintaining within the State such a trunk line and branches, describing its southern terminus as "a point at the city of Cairo," and declaring "said road and branches to be free for the use of the United States, and to be employed by the Post-Office Department, as provided in said act of Congress;" and, as if that were not sufficient, by another statute, a week later, the State expressly accepted the act of Congress and agreed to be bound by the condition expressed therein.

By the statute of Illinois of February 2, 1855, all railroad corporations of the State were empowered to make contracts with each other, and with railroad corporations of other States, for leasing, or running, or connecting their railroads; and by the statute of Illinois of February 25, 1867, railroads terminating at a point at which there was a railroad bridge on a line of continuous railroad thoroughfare were required to be connected by rail, as to make "an uninterrupted communication over such railroads and bridge as public thoroughfares."

A REPUBLICAN LAW.

By the act of June 15, 1866, chapter 124, Congress, for the declared purpose of facilitating commerce among the several States and the postal and military communications of the United States, authorized every railroad company in the United States, whose road was operated by steam, to carry over its road, bridges, and ferries, as well as passengers and freight, Government mails, troops, and supplies, from one State to another; and to connect, in any State authorizing it to do so, with roads of other States, so as to form continuous lines of transportation. (14 Stats., 66.)

By the acts of Congress of December 17, 1872, chapter 4, and February 14, 1883, chapter 44, bridges were authorized to be built across the Ohio River by any person or corporation having lawful authority therefor and with the approval of the Secretary of War; and were declared to be lawful structures and post routes for the transportation of the mails and the troops and munitions of war of the United States. (17 Stats., 398; 22 Stats., 414.)

The "national road," which, I again repeat, cost $20,000 a mile. It was built primarily for military purposes, but it was used for postal purposes and also by the people of the States. The whole history that is useful is set in the very interesting opinion of the Court of Claims in the case of Indiana against The United States, which opinion was affirmed by the Federal Supreme Court and is found in 148 United States, page 148, and I submit the opinion of the Court of Claims for the valuable history it contains on the subject of the national road, what it cost, the conditions of the many statutes appropriating money therefor, and so forth, trusting that Congress and the people at large may read it.

STATE OF INDIANA *v.* THE UNITED STATES.

[No. 16677. Decided November 9, 1891.]

On the proofs.

This case grows out of the statutory compact between the United States and Ohio, Indiana, and other States when they entered the Union, whereby the one agreed to reserve 2 per cent of the net proceeds of the public lands sold in each and apply that fund to the making of a road leading to the State in consideration of the other suspending taxation on the land sold for five years, and out of the subsequent statutes and proceedings of the United States in performing their part of the compact by the construction of the National or Cumberland Road.

I. The *Act 19th April, 1816* (3 Stat. L., p. 289), admitting Indiana to the Union, contained a compact that the United States should reserve 2 per cent of the net proceeds of the public lands within the State and apply that fund "*to the making of a road or roads leading to said State.*" This bound the defendants to expend the fund for that purpose, but not to complete and maintain a road at their own cost.

II. The *Act 3d March, 1857* (11 Stat. L., p. 200), required the Commissioner of the General Land Office to state an account between the United States and Mississippi and other States, and to "*allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at $1.25 per acre.*" This entitled each State, including Indiana, to the balance found due, but not to the whole of the 2 per cent fund irrespective of the expenditures made for a road "*leading to said State.*"

III. The *Act 2d March, 1855* (10 Stat. L., p. 630), requiring the Commissioner of the Land Office to state an account between the United States and Alabama, established no principle which when extended to the other States would compel the United States to expend or pay the 2 per cent fund a second time.

IV. The construction of the national road from Cumberland westward was in accordance with the obligation of the act 1816 to apply the 2 per cent fund to "*the making of a road or roads leading to said State*" of Indiana; and the appropriation acts directing the expenditure to be charged to the 2 per cent fund were a proper application of the fund to its intended purpose.

V. Where a statute directs a public officer to state an account and allow and pay the amount found due, his allowance is either the award of an arbitrator or the accounting of a ministerial officer. If the former, his jurisdiction is exclusive, and an action will lie only on his award; if the latter, the statute of limitations will run from the time the statutory claim accrues irrespective of the accounting.

The Reporter's statement of the case:

The following are the facts of the case as found by the court:

I. After the admission of the State of Indiana to the Union the Cumberland or National Road was completed from Cumberland to Wheeling; and under the provisions of the Acts of May 15, 1820, and March 3, 1825, there was laid out and located a continuance of the road from the right bank of the Ohio River, opposite Wheeling, through the States of Ohio, Indiana, Illinois, to the seat of government in the State of Missouri. It was graded, bridged, and made a public road and highway from the Ohio River, opposite Wheeling, Va., to its western terminus, and upon it was transported the Government mail, and it was opened to and used by the public. But this was not accomplished until after tollgates had been erected and tolls imposed by the States of Ohio and Virginia pursuant to the Acts 2d March, 1831, and 2d March, 1833.

II. In 1872 the Commissioner of the General Land Office stated the account annexed to and forming part of these findings, and the amount of $6,380.85 by him allowed to the State of Indiana has been paid to the claimant, though the claimant did not accept it as a final settlement of the demands. But it does not appear, either from the said account or from the evidence in the case, what part of the expenditures upon the National road was properly chargeable "to making a road to the said State," nor does it appear what proportion of such expenditures for making a road to the said State of Indiana was properly chargeable to the States of Ohio, Illinois, and Missouri.

III. The account referred to in the preceding finding was allowed and certified by the Comptroller of the Treasury, but the questions now involved in this suit were reserved by the Comptroller for future consideration, as appears by the certificates attached to said account, hereinafter set forth. In 1873 the Secretary of the Treasury made an order that the account be reëxamined, which is likewise annexed to these findings; and on the 17th October, 1889, the claimant, by the governor of the State, made a formal demand upon the Commissioner of the General Land Office to state an account between the United States and the State of Indiana in accordance with the Act 3d March, 1857. No further account than that above referred to has been stated by the Commissioner of the Land Office.

IV. The following are the account, certificates of the Comptroller and order of the Secretary of the Treasury referred to in the preceding findings:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
December 4, 1872.

SIR: Pursuant to the requirement of 2d sec. of the act of Congress approved 3rd March, 1857, entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States, I have examined an ac. between the United States and the State of Indiana for the five per cent accruing under act of 19th April, 1816, upon the net proceeds of the sales of the public lands to 31st December, 1871, and under act of 3rd March, 1857, upon the cash value of lands within her limits embraced by permanent Indian reservations, and find that there is due to said State as follows, viz:

Amount of balance due her 31st December, 1856, per report No. 13457, on ac. of 3 per cent fund, as per certificate of the Register of the Treasury dated 1st July, 1872	$47.12
Amount of 2 per cent on $20,678,430.71, the net proceeds of the sales of the public lands from the 1st December, 1816, to 31st December, 1856, inclusive, as shown by the several adjustments of the 3 per cent ac. specified in statement A, hereto annexed	413,568.61
[NOTE.—In consequence of the expenses incident to the sale of the public lands in Indiana from the 1st January, 1816, to the 31st December, 1856, inclusive, having been in excess of the gross receipts, nothing has accrued to the State during that period, as shown by statement C.]	
Amount of 5 per centum on $126,674.52, the cash value of 101,399.62 acres, at $1.25 per acre, of lands, situated within the limits of Indiana embraced by *permanent* Indian reservations, as per statement B	6,333.73
	419,949.46

As will appear from the certificates of the Register of the Treasury and statement hereto annexed. By reference to the third article of the sixth section of the Act of 19 April, 1816 (3 Stat. L., p. 289, ch. 57) it will be seen that two-fifths of the 5 per cent accruing upon sales of the public lands in Indiana were to be reserved and applied, under the direction of Congress, to the making of a road or roads leading to said State; and by statement D, hereto annexed, it will be seen that the pro rata of the sums from time appropriated for the construction of the Cumberland Road, which by law were to be replaced in the Treasury out of the 5 per cent accruing in Ohio, Indiana, Illinois, and Missouri, would more than absorb the entire amount of the 2 per cent which has accrued upon the sales of lands in Indiana. Hence, in the absence of special legislation authorizing the 2 per cent to be paid over, there would appear to be at *present* nothing payable to Indiana except $47.12, the balance due her the 31st December, 1856, on the 3 per cent account, and $6,333.73, being the 5 per cent on $126,674.52, the cash value, at $1.25 per acre, of 101,339.62 acres of land within the limits of the State embraced by permanent Indian reservations, which, pursuant to the ruling of the Comptroller in the case of the account for Illinois, the former is entitled to under act of 3d March, 1857. In consequence of the expenses incident to the sales of the public lands from 1st January, 1857, to 31st December, 1871, inclusive, being in excess of the receipts, nothing accrued to Indiana during that period.

WILLIS DRUMMOND,
Commissioner.

Hon. R. W. TAYLER,
First Comptroller, U. S. Treasury.

EXHIBIT D.

Statement exhibiting the dates of certain acts of Congress making appropriations for the construction of the Cumberland Road.

Class No. 1.—By the terms of the acts making the appropriations embraced in this class the sums thereby appropriated are to be replaced in the Treasury out of the fund, two per cent, reserved for laying out and making roads to the States of Ohio, Indiana, and Illinois, by virtue of the acts admitting said States into the Union, viz:

First section, act 14th April, 1818, U. S. Stat., V. 3, page 426	$52,984.60	
Second section, act 14th April, 1818, U. S. Stat., V. 3, page 426	260,000.00	$312,984.60
Second section, act 3 March, 1819, U. S. Stat., V. 3, page 500	250,000.00	
Second section, act 3 March, 1819, U. S. Stat., V. 3, page 500	285,000.00	535,000.00
Second section, act 2 March, 1831, U. S. Stat., V. 4, page 469	100,000.00	
Second section, act 2 March, 1831, U. S. Stat., V. 4, page 470	950.00	
Second section, act 2 March, 1831, U. S. Stat., V. 4, page 470	2,700.00	
Second section, act 2 March, 1831, U. S. Stat., V. 4, page 470	265.85	
Second section, act 2 March, 1831, U. S. Stat., V. 4, page 470	75,000.00	
Second section, act 2 March, 1831, U. S. Stat., V. 4, page 470	66,000.00	244,915.85
Second section, act 3 March, 1832, U. S. Stat., V. 4, page 457	100,000.00	
Second section, act 3 March, 1832, U. S. Stat., V. 4, page 457	100,000.00	
Second section, act 3 March, 1832, U. S. Stat., V. 4, page 457	70,000.00	270,000.00
First section, act 24 June, 1834, U. S. Stat., V. 4, page 680	200,000.00	
First section, act 24 June, 1834, U. S. Stat., V. 4, page 680	150,000.00	
First section, act 24 June, 1834, U. S. Stat., V. 4, page 680	100,000.00	450,000.00
First section, act 3 March, 1835, U. S. Stat., V. 4, page 772	200,000.00	
First section, act 3 March, 1835, U. S. Stat., V. 4, page 772	100,000.00	300,000.00
First section, act 3 March, 1837, U. S. Stat., V. 4, page 195	$190,000.00	
	100,000.00	
	100,000.00	$390,000.00
		2,502,900.45

Class No. 2.—By the terms of the acts making the appropriations embraced in this class the sums thereby appropriated were to be replaced in the Treasury out of the fund, two per cent, reserved for laying out and making roads under direction of Congress, to the States of Ohio, Indiana, Illinois, and Missouri, pursuant to the acts admitting the said States into the Union, viz:

First section, act 3d March, 1825, U. S. Stat., V. 4, page 128		$150,000.00
First section, act 25 March, 1826, U. S. Stat., V. 4, page 151		110,000.00
First section, act 2 March, 1827, U. S. Stat., V. 4, page 215		170,000.00
First section, act 19 March, 1828, U. S., Stat., V. 4, page 275		175,000.00
First section, act 2 March, 1829, U. S. Stat., V. 4, page 351		100,000.00
First section, act 2 March, 1829, U. S. Stat., V. 4, page 351, &c		50,000.00
Second section, act 31 May, 1830, U. S. Stat., V. 4, page 427	$100,000.00	
Second section, act 31 May, 1830, U. S. Stat., V. 4, page 427	60,000.00	
Second section, act 31 May, 1830, U. S. Stat., V. 4, page 427	40,000.00	200,000.00
First section, act 2 July, 1836, U. S. Stat., V. 5, page 71	200,000.00	
First section, act 2 July, 1836, U. S. Stat., V. 5, page 71	250,000.00	
First section, act 2 July, 1836, U. S. Stat., V. 5, page 71	150,000.00	600,000.00
		1,555,000.00

TREASURY DEPARTMENT,
Comptroller's Office.

I admit and certify the above balance of $6,380.85 this 25th day of January, 1873. Payable to Thomas A. Hendricks, governor of the State, at Indianapolis, Indiana, $47.12 from the 3 per cent fund, and the residue, $6,333.73, from the 5 per cent fund.

WM. HEMPHILL JONES,
Acting Comptroller.

JOHN ALLISON, Esq.,
Register, etc.

FIRST COMPTROLLER'S OFFICE,
February 12th, 1873.

Under the re-reference of this report by the Secretary of the Treasury, and in accordance with his request indorsed on these papers, the preceding certificate of the Acting Comptroller is hereby set aside and vacated, and the account will be held for further consideration as if such certificate had not been made.

R. W. TAYLER,
Comptroller.

JOHN ALLISON, Esq.,
Register of the Treasury.

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
5th Feby., 1874.

On further consideration I now re-affirm the decision and certificate of the Acting Comptroller, dated 25 January, 1873, as to the sum of $6,380.85, which is to be paid as therein stated; *but all questions as to the further claim made by the State are reserved for future consideration.* The sum certified to be paid to the Hon. Thos. A. Hendricks, Governor of Indiana, at Indianapolis.

R. W. TAYLER,
Comptroller.

TREASURY DEPARTMENT,
February 10, 1873.

SIR: In pursuance of the authority given to the Secretary of the Treasury by the proviso to the act of March 30, 1868 (15 Statutes, page 54), I have to request that the account stated between the United States and the State of Indiana by report No. 23447 of the General Land Office, certified by the Acting Comptroller, January 25, 1873, be re-examined by the Comptroller, and such action taken thereon as he may now deem proper. This request is made because, as I am informed, the statement of the account in said report and the certificate of the same conflicts with a former decision of the Comptroller, to which he adheres. The questions presented, as I learn, are pending in Congress, and I deem it proper to await legislative action before a final disposition be made of the claims of the State.

GEO. S. BOUTWELL,
Secretary.

(J. A. S.)
R. W. TAYLER, Esq.,
First Comptroller.

Mr. William E. Earle (with whom were *Messrs. L. T. Michener and William B. Hord*) for the claimant:

After reviewing the history of the legislation in relation to the provisions as to the public lands in Ohio, and then in Indiana, in connection with the history of similar provisions in the States of Alabama and Mississippi, Mr. Earle called attention to the fact that whilst the building of the Cumberland Road or National Turnpike was incidentally connected with this case, it was an incident merely. The long delay in the construction of that enterprise and the fact that in various ways it became involved in party politics had so delayed the work, that the general introduction of steam and the building of railroads

superseded the importance and desirability of completing it. The compact with Ohio was to build a road through the State of Ohio and to the Indiana line, connecting with the navigable waters flowing into the Atlantic Ocean. The compact with Indiana was practically to the same purpose, as it was to build a road to Indiana connecting with the same waters in the east. So that it was practically two compacts on the part of the United States with these separate States to do one and the same thing. The money expended in building the road in Indiana, whatever it might have been, was not in anywise a fulfillment of any part of the compact with Indiana, but that was done under subsequent compacts with the States of Illinois and Missouri. Instead of completing the road to Indiana in accordance with the compact, the United States had turned over to Maryland, Virginia, and Pennsylvania, within which by far the largest amount of money had been expended and which States had contributed nothing towards the expense of construction, the portions of the road in them respectively, with the privilege of collecting tolls thereon. Subsequently all work upon the road and all purpose of completing it were entirely abandoned, and thus of carrying out the obligation.

In consequence of this changed condition of affairs, the United States having reserved 2 per cent out of the 5 per cent to which Indiana by common consent, with all new States of that time, were entitled out of the public lands sold within their borders, there was a solemn obligation resting upon Congress, which it fully recognized, to do something towards making this good to the State of Indiana, especially as, in consideration of this 2 per cent reserved to be expended on the "National Road," the United States had in the compact secured an exemption from any taxation of all public lands sold in the State of Indiana for five years after their sale, and the lands of the United States had thus been brought into greater demand and were more marketable.

Under the compacts by which Alabama and Mississippi were admitted there were similar provisions for the construction of public roads leading to these States as to the new States of Ohio and Indiana, and that by the sixteenth and seventeenth sections of the act of 1841 Congress had remitted to these States the 2 per cent reserved from them, and authorized them to expend it upon railroads leading to said States without requiring them to account to the Secretary of the Treasury for the manner of expending it, which under the decision of the Supreme Court is equivalent to an absolute release of the fund. Fourteen years thereafter, to wit, in 1855, Congress passed an act requiring the Commissioner of the General Land Office to state an account with Alabama, and pay over to it such sums as should be due on account of this 2 per cent fund. And sixteen years after the passage of the act of 1841, to wit, in 1857, Congress passed an act requiring the Commissioner of the General Land Office to state an account with the State of Mississippi "upon the same principles," and to include all Indian reservations therein, rating them at $1.25 per acre. In the second section of this act there was an express condition that he should also state a similar account with all other States in similar condition upon the same principles.

There were no other States at the time of the passage of this act of 1857 to which this second section could apply except the States of Ohio, Indiana, Illinois, and Missouri, and necessarily they were the "other States" referred to in the language of the act requiring the Commissioner of the General Land Office to state "an account between the United States and each of the other States upon the same principles." This act therefore, as is expressly shown by the petition filed in the case, is the basis of this action. By a well-settled rule of construction the sixteenth and seventeenth sections of the act of 1841 and the act of 1855, as well as the first section of the act of 1857, are to be read and construed *in pari materia* with the second section of the act of 1857, and become incorporated into it as part of the law applicable to the State of Indiana.

The right of the petitioner became vested upon the passage of the act of 1857, and this right essentially involved a trust on the part of the United States; because when one party, whether an individual, a corporation, or government, is bound to do a particular thing for the interest of another the law raises a trust; or where the transactions between the parties are such that a legal duty is devolved upon one for the benefit of another the law implies a trust. The United States had sold these lands in Indiana and had the records of those sales, and its officers alone knew how much had been sold, how much had been realized therefrom, and how much the expenses of the sales had been (for it was 2 per cent upon the net proceeds), and it alone had the whole data and machinery in its own possession and control by which the account could be stated, and by the act of Congress this duty was devolved upon one of the United States' own officials.

Being a trust fund, it is unaffected by the statute of limitations until the trust is repudiated. It is not competent and is not within the power of any save the Congress of the United States, representing its political power, to repudiate a trust which it by legislation has created. (*State of Louisiana* v. *United States*, 123 U. S. R., 37; *United States* v. *Taylor*, 104 U. S. R., 222.)

No laches can be imputed to Indiana. She has continuously and persistently urged the execution of this trust. The action of said commissioner on December 4, 1872, rejecting this claim was vacated and set aside by the First Comptroller of the Treasury on February 12, 1873, under an order of reference to him by the Secretary of the Treasury dated February 10, 1873. The matter was under advisement in the Department until February 5, 1874, when the First Comptroller of the Treasury reaffirmed the decision and certificate of the Acting Comptroller dated January 25, 1873, as to one claim embraced therein which was ordered to be paid as therein stated. But the questions as to this particular claim for the 2 per cent fund "made by the State are reserved for future consideration," and the questions involved in the trust now being prosecuted were held under consideration by the agents and officers of the trustee from that date until, on specific application and demand made by the governor and State officers of Indiana, on October 3, 1889, it was refused by the Commissioner of the General Land Office. This refusal put the statute in motion, and until that date it was dormant.

Mr. W. J. Rannells (with whom was *Mr. Assistant Attorney-General Cotton*) for the defendants.

I. The petition of the claimant does not state a cause of action. The following facts and propositions are deducible from it:

First. That the 2 per cent fund was reserved to the control of Congress, was interstate in character, and could be applied anywhere toward the construction of a road or roads which Congress would direct that led to or toward Indiana.

Second. The control of this fund was absolute in Congress and remained with it forever until voluntarily relinquished by it, and this it has not done.

Third. That an analysis of the acts of 1816 and 1841 in connection with those of 1855 and 1857 will show (*a*) that Congress only intended to relinquish its control of the 2 per cent fund so far as the States of Alabama and Mississippi were concerned; (*b*) that said fund was to be handed over to the control of those States upon the performance of certain specified conditions; (*c*) that the original end sought to be accomplished by the use of said fund was rigidly held in view by Congress in specifying the purposes for which said fund was to be used.

Fourth. That even on the theory that the conduct of Congress was such in its management of the fund for the benefit of Indiana that that State has a right to assert a claim against the defendant as such trustee, yet to sustain an action for said fund there should be an allegation in the petition that Indiana had expended a sum equal to the sum prayed for on a road or highway leading to or toward said State of an interstate character, or at least had a clearly projected plan for such road which would require the expenditure of a sum equal to or greater than the amount claimed. This fund was stamped with an inflexible purpose. The defendant, without legislative permission, was powerless to divert it. Can this court by its judgment divert it? If a judgment as prayed for is given, the logical effect is to do so. The benefit to be derived from this fund was primarily to the United States and but to incidentally benefit the claimant.

Fifth. There is no sufficient allegation of a breach of the alleged contract set out in claimant's petition. The claimant, after having admitted that the Cumberland Road was projected through the State of Indiana, and that the work had been begun thereon, and consequently money expended thereon, it fails to allege that said fund was not duly expended by the defendant.

II. The compact between the defendant and claimant did not create the relation of trustee and *cestui que trust*, because the fund to be expended by Congress was one in which the claimant was not solely interested, but was only interested in common with the other States from which the road came upon which the expenditures were to be made. Maryland, Pennsylvania, and Virginia were equally interested. The 2 per cent fund was reserved for their benefit, and as much belonged to them as it did to the claimant.

2. If the relation of trustee and *cestui que trust* subsists between the defendant and claimants, it is one implied from the language of the acts enabling them to enter the Union, and if it is true the defendant has failed to expend the 2 per cent fund according to the terms of said compact, and that therefore the claimants, and each of them, became entitled upon such failure to the money accruing from said fund, the action of each of the claimants nevertheless is barred by the statute of limitations, the right of action in each case having accrued more than six years prior to the commencement of the same in this court. (Rev. Stat., 1069.)

(See reports from the Department of the Interior and from the Treasury Department.)

All trusts arising by operation of law, whether implied, resulting, or constructive, are subject to the statute. (Rev. Stat., sec. 1069; Perry on Trusts, sec. 865; *Wilmerding* v. *Recss*, 33 Conn., 77; *Haynie* v. *Hall*, 5 Hump., 290.)

3. If the trust created by the compact between claimant and defendant is an express trust, is it withdrawn from the operation of the statute of limitations?

All express trusts are not subject to that rule. First. It will be contended that this rule only obtains in those classed as *technical* and *continuing* trusts which *alone* are *cognizable in equity*, and that claimants' cases can not be classed as either a technical or continuing trust. The claimant brings his action at law.

(Wood on Limitations, 414, and note citing numerous authorities: *Van Rhyn* v. *Vincent*, 1 McCal. Ch., 310; *Kane* v. *Bloodgood*, 7 Johns. Ch. 89, 109).

4. But the doctrine that the statute of limitations will never bar an express trust in equity is subject to exceptions, and the authorities subjoined are relied upon and are conclusive as the facts present themselves in these cases.

The reports from the Interior and Treasury Departments evidence a condition of affairs absolutely incompatible with the idea that defendant was claiming to hold the 2 per cent fund as and for the claimant State. They show the defendant was for twenty years before the commencement of this action claiming every dollar of that fund as its own, to reimburse it for expenditures as it claimed were lawfully made on behalf of the claimant States.

Sollee v. *Croft* (7 Rich. S. C. Ch. Repts., 34) cited and made a part of the text in Tiffany and Bullard on trusts, 716; *The United States* v. *Taylor* (104 U. S. R.); a very important case; *Kane* v. *Bloodgood* (7 Johns. Ch. 90); *Oliver* v. *Platt* (3 How., 335); *Railroad* v. *Robinson* (35 O. S., 483); *Bacon* v. *Rives* (106 U. S. R., 99); *Baker* v. *Whiting* (3 Sum., 486); *Angell on Limitations*, sec. 174; *Davis* v. *Coburn* (123 Miss., 377); *Spiedel* v. *Henrico* (120 U. S. R., 377); *Farnam* v. *Brooks* (1 Pick., 242). The court say in this case: "The statute of limitations therefore operates with us *ex vigore suo* in equity as well as at law, and not by the discretion of the court." (49 Iowa, 251.)

5. If the construction of the act of March 3, 1857, is as claimed by the claimants, they, from the moment of the approval of that act, became entitled to demand and receive payment of the 2 per cent fund. The trust was practically brought to a close by this act. Congress ceased to have further control of it. It became a money demand on the Treasury of the United States, and if the Commissioner of the Land Office did not within a reasonable time make the statement of account required by that act, they could at least, after the organization of this court in 1863, have brought their action here to recover, without waiting longer on the Commissioner. Their failure to do so was their own fault, for which no excuse in the way of disability has been or can be urged.

But if action upon the part of the Commissioner of the Land Office was necessary before the claimant's rights would accrue to said fund, then this was had almost 20 years prior to the beginning of this suit. (*Taylor's Case*, 104 U. S. R., 216.)

III.—1. The scope of the obligation assumed by the defendant with regard to the 2 per cent fund was that Congress should apply it toward the construction of a public road to or into the State of Indiana, and that by the word "road," as used in the third clause of the sixth section of the Indiana enabling act, meant nothing more than a general public road or passageway through the country for the use of the people. That the National Road, known as the Cumberland Road, was not only duly surveyed, laid out, and located continuously from Cumberland, Md., to and through that State, but the same was graded and bridged throughout said State, and used as a public highway to, into, through, and beyond the western boundary for the transportation of mails and for the use of the public for all purposes. That $700,000

more than the amount realized from the net proceeds of the sales of public lands of Indiana were applied by Congress to the construction of said road after it had been constructed to its eastern boundary.

The reports from the Interior Department and vol. 1 Roads and Canals, pp. 671, 672, 838, 848 abundantly show these facts:

2. The construction of the acts of March 2, 1855, and March 3, 1857, as claimed by the plaintiff, would have the effect to repeal by implication the third clause of section 6 of the act admitting Indiana into the Union and all of the numerous statutes which provided for the reimbursement of appropriations made for the construction of the Cumberland Road from the 2 per cent fund. To warrant such a construction it must inevitably follow from the language of those acts and be incapable of any other. There are others far more satisfactory. The most natural one is, that a new basis of accounting was given by those acts to the States of Alabama and Mississippi, which by sections 16 and 17 of the act of September 4, 1841, has previously been given the whole of the 2 per cent fund derived from the sales of lands of these States respectively, and that was, that the Indian reservation should be accounted as land sales at the rate of $1.25 per acre.

"Upon the same principles," if it had any meaning, simply meant that all the other States should be placed upon the same footing by accounting for all Indian reservations within the boundary of each of them in the same way. But there is another very satisfactory construction to be given those acts. By the terms of the act of March 5, 1857, the Commissioner of the General Land Office was required to state an account for the purpose of ascertaining what sum of money *was due Mississippi*. In stating that *account* it would be expected that all moneys paid on account of the 2 per cent fund or any expenditures to be charged to that fund made by the United States should appear upon the debit side against that State, and that at the end of the account would appear the balance, if any, due said State for it will be remembered that sixteen years had elapsed since the act of 1841 giving to it the disposal of said fund. The second section of the act of 1857 simply gave to each of the other States a like accounting, the only object of which was to ascertain and pay over the sum found due the State. To find the sum due, it therefore became absolutely necessary to charge the State with all expenditures on behalf of said fund, and that the unrepealed scores of statutes which directed a reimbursement from the fund were never intended to be disturbed by this act.

A careful perusal of the act of 1841 ought to set at rest all doubt about this being the true exposition of the act of 1857. Its policy, which was to parcel out the net proceeds of the public lands among all the States with due regard to equality; the handing over to the States of Alabama and Mississippi the 2 per cent fund to be applied to purposes of a kindred character with that originally intended; and the careful direction that the disbursements made upon the Cumberland Road should remain chargeable upon the 2 per cent fund provided by the compacts with the several States make plain the obscure language of the second section of the act of 1857.

The Attorney-General of Illinois, Mr. George Hunt, and *Mr. Robert A. Howard* were heard in the similar case of the State of Illinois while the present case was under advisement; and a written argument was also filed by the *Attorney-General of Ohio, Mr. David K. Watson.*

NOTT, J., delivered the opinion of the court:

This is an action brought by the State of Indiana to recover certain proceeds of the public lands pledged and set apart for its benefit, as is alleged, by the organic act for its admission to the Union. The facts are chiefly facts of which the court can take judicial notice, excepting the amounts of certain receipts, payments, and expenditures, and those amounts are practically undisputed, being shown by the accounts of the Land Office and Treasury Department. The questions in the case, therefore, are substantially questions of law, and they will be better understood by segregating them within certain chronological periods.

1. The first period extends from the admission of Ohio in 1802 to the admission of Indiana in 1816.

The *Act 30th April, 1802* (2 Stat. L., p. 173, § 7), to enable the people of Ohio to form a constitution and State government and for the admission of such State into the Union, contained the following provision:

"That the following propositions be, and the same are hereby offered to the convention of the eastern State of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States. * * * Third. That one-twentieth part of the net proceeds of the lands lying within the said State sold by Congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making *public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same*, such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass: *Provided always*, That the three foregoing propositions herein offered, are on the conditions that the convention of the said State shall provide by an ordinance irrevocable, without the consent of the United States, that every and each tract of land sold by Congress, from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township or any other purpose whatever, for the term of five years from and after the day of sale (section 7)."

This proposition was accepted by the convention of Ohio, and the State entered the Union, having thus given and received the prescribed pledge. The next year this "one-twentieth part," or five per cent, of the net proceeds of lands which might be sold within the State was divided; three per cent of the proceeds was to be paid directly to the State, to be, however, applied to the laying out, opening, and making of roads within its borders (*Act 2d March, 1803*, 2 Stat. L., p. 225). From that time on the "one-twentieth part" of the proceeds remained thus divided, and these two divisions of it have been familiarly known as the "3 per cent fund" and the "2 per cent fund;" the former being disbursed by the State, the latter remaining in the custody and under the control of the General Government.

In 1806 Congress passed an act for the building of the National Road from Cumberland to the Ohio through the States of Maryland, Pennsylvania, and Virginia (*Act 21th March, 1806*, 2 Stat. L., 357). Thirty thousand dollars was appropriated, to be paid out of the 2 per cent fund, or, if that was not sufficient, out of any money in the Treasury not otherwise appropriated. But to the latter alternative was attached the condition that money paid out of the public funds should be reimbursed out of the 2 per cent fund as it might accrue. At the time of this $30,000 appropriation there was in the Treasury to the credit of the 2 per cent fund $12,652.

In 1808 the construction of the road was begun, and between that time and the admission of the State of Indiana there was appropriated for that purpose, including the $30,000 previously appropriated, $710,000, as shown by the following table:

Act of March 24, 1806 (vol. II, Stat. L.)	$30,000
Act of February 14, 1810 (vol. II, Stat. L., p. 555)	60,000
Act of March 3, 1811 (vol. II, Stat. L., p. 661)	50,000
Act of May 6, 1812 (vol. II, Stat. L., p. 730)	30,000
Act of March 3, 1813 (vol. II, Stat. L., p. 829)	140,000
Act of February 14, 1815 (vol. III, Stat. L., p. 206)	100,000
Act of April 16, 1816 (vol. III, Stat. L., p. 282)	300,000
Total	710,000

All of these appropriations were for the building of a road to the State of Ohio, and every act provided in substance that money paid out of the public funds should be reimbursed from the 2 per cent fund.

At the time the expenditures upon the National Road were largely in excess of the moneys credited to the 2 per cent fund, which in 1825 amounted to only $200,000. Such was the condition of affairs when Congress passed the act for the admission of Indiana to the Union.

2. The second period extends from the admission of Indiana, in 1816, to the abandonment of the National Road in 1835.

The act for the admission of Indiana to the Union, the *Act 19th April, 1816* (3 Stat. L., p. 289), like the Ohio act, proffers to the State the one-twentieth part of the proceeds of the public lands, and upon the same condition, that lands sold by the United States should be exempt from State taxation for a period of five years. The proposition differs from that of the Ohio acts, 1802, 1803, in only one particular, that it does not refer to "navigable waters emptying into the Atlantic" as the eastern terminus of the road, but simply declares that two-fifths of the one-twentieth part, that is to say, the 2 per cent fund, "*shall be reserved*" and applied "*to the making of a road or roads leading to said State under the direction of Congress.*" The language of the act is as follows:

"Third. That 5 per cent of the net proceeds of the lands lying within said Territory, which shall be sold by Congress from and after the 1st day of December next, after deducting all expenses incident to the same, shall be reserved for the making of public roads and canals, of which three-fifths shall be applied to *those objects within the said State*, under the direction of the legislature thereof and two-fifths to the making of a road or roads leading to said State, under the direction of Congress.

"Fourth. That one entire township which shall be designated by the President of the United States, in addition to the one heretofore reserved * * * for the use of a seminary of learning, * * * to be appropriated solely to the use of such seminary by the said legislature.

"Fifth. That four sections of land be * * * granted to the said State, for the purpose of fixing their seat of government thereon, which four sections shall * * * be located at any time, in such township and range, as the legislature aforesaid may select.

"That the five foregoing provisions, herein offered, are on conditions that the convention of said State shall provide by ordinance irrevocable, without the consent of the United States, that every and each tract of land sold by the United States, from and after the 1st day of December next, shall be and remain exempt from any tax, laid by order or under any authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years, from and after the day of sale."

Subsequent to the admission of Indiana the States of Illinois, Missouri, Alabama, and Mississippi came into the Union, and each State entered into an agreement with regard to the public lands that might be sold within its territory which was identical in terms with the foregoing statute so far as it relates to the two per cent fund; and indeed the only variation in the disposition of the "one-twentieth part" of the proceeds of the public lands was that in the State of Illinois the three per cent fund was to be applied to the encouragement of learning within the State instead of to the making of roads. In 1818 Congress appropriated money for completing the National Road between Cumberland and Wheeling (*Act 14th April, 1818*, 3 Stat. L., p. 426), and in 1820 began a series of enactments and appropriations for the construction of the road from the Ohio to the Mississippi through the States of Ohio, Indiana, and Illinois (*Act 15th May, 1820*, 3 Stat. L., 604). These acts are thus analyzed by the counsel for the State of Illinois, Mr. Howard, in another case:

"After the admission of Missouri the appropriations are limited and restricted in different and curious manners. Commencing with the act of March 3, 1825, and going on regularly, March 25, 1826, March 2, 1827, March 19, 1828, March 2, 1829 (two acts), and May 31, 1830, the provisions are that the moneys shall be replaced out of the two per cent funds of *Ohio, Indiana, Illinois*, and *Missouri*. Then follows a series of acts, viz, March 2, 1831, March 3, 1832, June 24, 1834, March 3, 1835, in which the moneys are to be replaced out of the reserved funds of *Ohio, Indiana*, and *Illinois*, not mentioning Missouri. Then on July 2, 1836, the moneys were to be replaced out of the reserved funds of the four States, including Missouri again. Then come the last acts, March 3, 1837, and May 25, 1838, which provide that the several sums appropriated should be replaced by the States, respectively, out of the fund reserved for each. We have thus five kinds of appropriations—first, generally out of moneys in the Treasury not otherwise appropriated; second, charged to the State of Ohio fund; third, charged to the fund of the States of Ohio, Indiana, and Illinois; fourth, charged to the fund of Ohio, Indiana, Illinois, and Missouri; fifth, charged to the fund of the State in which work was done. Some of these come within the terms of the original compacts; some do not."

In 1822 the road had been finished from Cumberland to Wheeling, 132 miles, at a cost of nearly $20,000 a mile, and was in process of construction through the State of Ohio. Congress were then face to face with the fact that a great highway, covered by endless wagon trains, which passed over it ceaselessly day and night, required superintendence, repairs, and constant expenditures. The public at large were unwilling to maintain at what was then deemed great expense a free road for the benefit of a few States. The remedy of the time was to impose tolls upon the traffic of a road. Accordingly a bill passed both Houses for the erection of tollgates and the imposition of tolls, but it was vetoed by President Monroe, because he doubted the constitutional power of Congress to impose tolls within the territory of a State.

The action of the President left the Government and people of the United States in the unpleasant position of owning a road (with the consent of the several States through which it ran) upon which they could constitutionally expend money to any amount, but from which they could not constitutionally derive anything. Notwithstanding this constitutional light upon the subject, the people at large were not willing to continue the policy of expenditure, and a policy of abandonment necessarily set in.

That policy gradually took form and effect in the provisions of numerous statutes, the general purpose of which was that the Government should complete the National Road from the Ohio to the capital of Missouri, but that as fast as completed it should be surrendered to the States through which it ran. The following are the statutes referred to:

Act of March 2, 1829 (Vol. IV, Stat. L., pp. 351, 352).
Act of March 3, 1829 (Vol. IV, Stat. L., pp. 363, 364).
Act of May 31, 1830 (Vol. IV, Stat. L., pp. 427, 428).
Act of March 2, 1831 (Vol. IV, Stat. L., p. 469).
Act of March 2, 1831 (Vol. IV, Stat. L., pp. 483, 486).
Act of March 2, 1833 (Vol. IV, Stat. L., p. 665).
Act of June 24, 1835 (Vol. IV., Stat. L., pp. 680, 681).
Act of March 3, 1835 (Vol. IV, Stat. L., p. 772).
Act amendatory (Vol. IV, Stat. L., p. 772).
Act of July 2, 1836 (Vol. V, Stat. L., pp. 71, 72).
Act of March 3, 1837 (Vol. V, Stat. L., pp. 195, 196).
Act of May 25, 1838 (Vol. V, Stat. L., p. 228).
Act of September 4, 1841 (Vol. V, Stat. L., p. 457).
Act of August 11, 1848 (Vol. IX, Stat. L., p. 283).
Act of January 20, 1853 (Vol. X, Stat. L., p. 152).
Act of May 9, 1856 (Vol. XI, Stat. L., p. 7).

But so far as the present cause of action is involved, which relates to the supposed obligation of the Government to build a road "leading to said State" of Indiana, it is sufficient to say that before such a road was completed Congress, by the *Act 2d March, 1831* (4 Stat. L., pp. 483, 486), authorized the State of Ohio to assume control of a portion of it and to erect tollgates thereon, and by the *Act 2d March, 1833* (ib., p. 655), granted similar powers to the State of Virginia; that, on the completion of the road in the States of Maryland, Pennsylvania, and Virginia, Congress surrendered it to those States by the *Act 24th June, 1834* (ib., p. 680); and that by the *Act 3d March, 1835* (ib., p. 772), appropriations were provided for the completion of the road in the States of Ohio, Indiana, and Illinois, and for repairs on the road east of the Ohio, but the act forbade that the money so appropriated for repairs should be expended until the road east of the Ohio had been surrendered to and accepted by the States through which it passes.

Finally, it is to be said that the appropriations continued after the recessions to the different States until the road was completed across the State of Ohio and to the State of Indiana; that it was not equal in construction or quality to the road east of the Ohio, but nevertheless had been graded, bridged, and made a public highway; and that its cost exceeded all of the moneys which the Government has received from the 2 per cent funds of all the States which have thus contributed to its construction.

3. The third period extends from the abandonment of the National Road as a national work, in 1831, 1833, and 1835, to the final legislation of Congress in regard to the 2 per cent. fund.

There are but three acts of Congress in this period which can affect the rights of the present claimant. The first of these is the *Act 4th September, 1841* (5 Stat. L., p. 453, §§ 1, 16, 17), *"An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights."* It provides for the distribution of the proceeds of the public lands among the States and Territories of the Union, with a special reservation in favor of some of them, among which is Indiana, but nevertheless with this proviso:

"That the sum so allowed to the said States, respectively, shall be in nowise affected or diminished on account of any sums which have been heretofore, or shall be hereafter, applied to the construction or continuance of the Cumberland Road, but that the disbursements for the said road shall remain, as heretofore, *chargeable on the two* per centum fund provided for by compacts with several of the said States."

After many other provisions of a general nature the statute proceeds to deal specially with the cases of Alabama and Mississippi by the following enactments:

"SEC. 16. *And be it further enacted*, That the two per cent. of the net proceeds of the land sold, or that may hereafter be sold, by the United States in the State of Mississippi, since the first day of December, eighteen hundred and seventeen, and by the act entitled 'An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States,' and all acts supplemental thereto reserved for the making of a road or roads leading to said State, be, and the same is hereby relinquished to the State of Mississippi, payable in two equal installments; the first to be paid on the first of May, eighteen hundred and forty-two, and the other on the first of May, eighteen hundred and forty-three, so far as the same may then have accrued, and quarterly, as the same may accrue, after said period: *Provided*, That the legislature of said State shall first pass an act, declaring their acceptance of said relinquishment in full of said fund, accrued and accruing, and also embracing a provision, to be unalterable without the consent of Congress, that the whole of said two per cent. fund shall be faithfully applied to the construction of a railroad, leading from Brandon, in the State of Mississippi, to the eastern boundary of said State, in the direction, as near as may be, of the towns of Selma, Cahaba, and Montgomery, in the State of Alabama.

"SEC. 17. *And be it further enacted*, That the two per cent. of the net proceeds of the lands sold by the United States, in the State of Alabama, since the first day of September, eighteen hundred and nineteen, and reserved by the act entitled 'An act to enable the people of the Alabama Territory to form a constitution and State government and for the admission of such State into the Union on an equal footing with the original States,' for the making of a road or roads leading to the said State, be, and the same is hereby, relinquished to the said State of Alabama, payable in two equal installments, the first to be paid on the first day of May, eighteen hundred and forty-two, and the other on the first day of May, eighteen hundred and forty-three, so far as the same may then have accrued, and quarterly, as the same may thereafter accrue: *Provided*, That the legislature of said State shall first pass an act, declaring their acceptance of said relinquishment, and also embracing a provision, to be unalterable without the consent of Congress, that the whole of said two per cent. fund shall be faithfully applied, under the direction of the legislature of Alabama, to the connection, by some means of internal improvement, of the navigable waters of the bay of Mobile with the Tennessee River, and to the construction of a continuous line of internal improvements from a point on the Chattahoochee River, opposite West Point, in Georgia, across the State of Alabama, in a direction to Jackson in the State of Mississippi."

The second statute in this period is the *Act 2d March*, 1855 (10 Stat. L., p. 630), which directs the Commissioner of the Land Office to state an account of the one-twentieth part or five per cent. fund with the State of Alabama, and requires him to include in it the lands appropriated for Indian reservations.

The third and last statute is the *Act 2d March*, 1857 (11 Stat. L., p. 200), which directs the Commissioner to state an account with the State of Mississippi "*upon the same principles of allowances and settlement*," and also (by a subsequent section) to state an account with "*each of the other States upon the same principles*" and "*allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at $1.25 per acre.*"

Under the statute last cited the Commissioner of the General Land Office stated an account in 1872 and allowed a balance of $6,380.85, which was paid to the claimant. But it is proper to add that the claimant did not accept that amount as a final settlement, and that the Comptroller of the Treasury, when admitting and certifying the balance allowed by the Commissioner, expressly "reserved for future consideration" the questions which are now presented by this suit. In 1889 the governor of Indiana made a formal demand upon the Commissioner to state an account in accordance with the Act 1857, but the Commissioner has rested upon the account previously stated. Many other statutes and proceedings and facts were cited or adverted to by counsel on one side or the other in the progress of the argument, but in the view of the case taken by the court, the foregoing, it is believed, are all which bear directly upon the questions to be decided.

The position maintained by the counsel for the claimant, as understood by the court, may be summarized in the following propositions:

(1) That the two per cent fund created by the Indiana Act, 1816, was irrevocably pledged to an expressed purpose, and the purpose could not be modified or abandoned without the consent of the State.

(2) That the release from State taxation of lands which the Government might thereafter sell constituted a good and valuable consideration.

(3) That the Indiana Act must be read *in pari materia* with the Ohio Act, and so read they bound the Government to construct a road from navigable waters on the Atlantic coast to the State line, and of the quality and excellence prescribed by law for the road then in process of construction.

(4) That such a road has never been constructed, Cumberland, the eastern terminus not being on navigable waters, and the road west of the Ohio not coming up to the standard prescribed by law for the section between Cumberland and Wheeling.

(5) That the abandonment of the road as a natural highway, its surrender to the several States through which it passes, and the permission given to some of the States to erect tollgates and exact tolls constituted a breach of the compact, rendering the Government liable to the State for all of the moneys reserved for the two per cent fund.

And, finally, that the Act of 1857 was intended to accomplish this restitution, or at least to operate retroactively so far as to place "the other States" on a footing with Alabama and Mississippi as effectually as if they had been included in the Act 1841, at the same time, in effect, creating a trust, which relieved the claim from the operation of the statute of limitations. These positions have been maintained with great ability, not only by the learned counsel in this case, but by the counsel in the kindred cases of Ohio and Illinois, and they have been fortified by a comprehensive review of many statutes and decisions, of many legislative resolutions and reports, and the opinions of eminent statesmen and well-known lawyers and jurists.

But the position of the claimant will perhaps be more accurately and tersely defined by an extract from the petition:

"The defendant agreed to pay your petitioner 3 per cent of the 5 per cent of the net proceeds of the sale of lands, and to expend the remaining 2 per cent. thereof in the making of a road or roads leading to the said State, under the direction of Congress."

And by an extract from the claimant's proposed findings of fact:

"The 5 per cent fund was the property of the individual States, and Congress but the trustee to direct the expenditure of two parts of it to an express object—'*the making of a public road leading to the State*' of Indiana."

And by an extract from the opinion of an eminent lawyer, Ex-Attorney-General Cushing:

"It is plain to see that Congress, by enacting the laws in question, did, in effect, as we have previously shown, solemnly recognize and proclaim its abandonment of all claim to these *trust funds*, and the *surrender* thereof to the respective States."

The first question which the court designs to consider is the responsibility of the Government under the Act 1816, and its consequent liability to the claimant at the time when the Act 1857 was passed. In this inquiry we shall assume that the claimant's position is correct; that the 2 per cent fund "was the property of the individual States, and Congress but the trustee to direct the expenditure."

Conceding substantially all of the minor positions taken by the claimant; conceding that the Act 1816 created an irrevocable compact, obligatory upon the Government, and supported by a good and valid consideration; conceding that the road contemplated was to run from navigable waters on the Atlantic coast, and that Cumberland was not a proper terminus within the intent of the compact; conceding that the Government abandoned the undertaking before completion, and surrendered the unfinished road to the different States in which it was situated, and authorized them to assume the management of it, and impose tolls upon interstate traffic over it; conceding all of these things, it does not follow that there was such a perversion of the trust as to make the Government liable for the moneys which it received or to entitle the State to recover them to its own use.

The Government did not agree, through the medium of these statutes, to build and complete a road from one point to another at its own cost and charge in consideration of the renunciation of taxation and of the moneys reserved from the sales of public lands. If there had been such an agreement there would have been no trust. The compact would have been a simple contract to do a specific thing for a specific consideration, and the amount which one contracting party might acquire from the sales of its own lands would not concern the other. If there be a trust in this case, it is simply to receive and disburse the money of the other party; *i. e.*, the money of the *cestui que trust;* and if there be any responsibility attached to such a trust, it is merely to disburse the money in reasonable time, honestly, disinterestedly, and for the declared purposes of the trust.

If the Government by the Act 1816 agreed to do more than this—if it agreed for a valuable consideration to do a specific thing and did not, its failure to perform was a plain breach of contract, and the claimant in 1857 was only a contractor, seeking damages for the breach. What, then, was it that the Government agreed to do? It agreed that "five per cent of the net proceeds of the lands lying within the said territory" should be "*reserved*," and that much of the agreement

has confessedly been performed. It agreed that three-fifths of this five per cent should be paid to the State, and that obligation has been discharged. It also agreed that two-fifths should be "*applied to the making of a road,*" and if there be any trust it is in the application of that money to that purpose.

That purpose was a public highway which should connect certain of the inland States with the Atlantic seaboard. Manifestly such a road could not be begun and finished by one operation from end to end. Manifestly there had to be a beginning long before there could be a completion. In the absence of specific instructions in the terms of a trust, to say nothing of the provision that this should be done "under the direction of Congress," the trustee would be invested with all needful discretion. Whether the road should be begun at the eastern terminus and built westward, whether it should be begun at the western terminus and built eastward, or whether it should be built by intermediate sections where it was most needed, were questions inevitably involving discretion, and upon which the discretion of a trustee could be properly exercised.

All that a trustee would be bound to do in such a case would be to expend the trust fund without unreasonable delay, according to his best judgment, for the good of the *cestui que trust*. Cumberland may not have been a proper terminus for the National Road within the intent of the trust as defined in the Ohio Act (1802), but the section between Cumberland and Wheeling certainly was within the contemplation of the statute, and if it absorbed all of the trust fund properly applicable thereto, assuredly that discharged the trustee. Not until it appears that the Government has money in its Treasury which should have been "*applied*" to the object of the trust, or until it appears that its expenditures of the fund were a perversion of the trust, can it be held accountable as a trustee. A trustee can not be held responsible because a trust fails to accomplish all that was hoped or promised.

The court can perceive no perversion of the trust in the manner in which the National Road was laid out; and, on the contrary, the manner in which the work was prosecuted through the States of Maryland, Virginia, and Ohio, so far as the facts are known to the court, seems to have been a sound exercise of a reasonable discretion.

Neither can the court regard the methods adopted for maintaining the road after it was constructed by its surrender to the different States through which it passed as an illegal abandonment of the trust, negativing everything that had been done, and rendering the Government liable for everything that it had received.

The statutes which contemplated the construction of a national road did not provide for its maintenance after its completion. They may have created a trust fund founded upon a valuable consideration, but they certainly did not require the trustee to maintain a free road at its own, the trustee's, cost. The funds derived from the sale of public lands in Indiana and other designated States merely contributed toward the cost of building the road: yet, if it had been built wholly by those funds, the discretion would still have remained in Congress of determining whether it was so far national, was so much for the general welfare, that it should be kept free at the public expense, or whether it should be maintained, as most thoroughfares were at that day, by imposing tolls upon those who used it.

If the road had been built entirely out of these so-called trust funds, and Congress had then sold it to the highest bidder for more than it had cost, the trustee making money out of the trust, and had authorized that bidder in turn to charge exorbitant tolls and make more money out of it, a question would be presented which is not now involved. Here the trustee made nothing out of the trust; the road to be useful had to be maintained; there was no fund wherewith to maintain it; there was no obligation to maintain a free road; the cost of keeping a much-traveled road in order was well known to be a large percentage of its prime cost, and Congress assuredly, without a breach of faith, might make the proper State governments the custodians of the road and authorize them to maintain it by the customary expedient of imposing tolls.

Neither can the court regard the appropriations for the National Road as an inoperative application of the trust funds to their legitimate object. A trustee in such a case would not be bound to keep the trust moneys in a separate parcel and pay them out *eo nomine* as he received them; the advancing of money before it was received was no injury to the *cestui que trust* nor advantage to the trustee; and the directions in the appropriation acts that this appropriation and that appropriation be paid out of any money not otherwise appropriated, but be charged as a payment on account of the 2 per cent fund, was a mere matter of bookkeeping. As legislation, the appropriation acts expressed the legislative intent that the avails of the public lands—the 2 per cent fund—should be applied to that object and in that way. The object was avowedly the one for which the trust, if any, was created; the method was one which could not injure the *cestui que trust* nor benefit the trustee, and which effected the purpose of the trust in the most direct manner. Whether there are still funds in the Treasury derived from the sales of public lands in Indiana which have not been applied to the object of the trust is another question, which will now be considered.

The Government, as has been said, was not bound to build the National Road out of public funds, and can not be deemed to have misapplied the moneys which it received in trust by the methods of construction and maintenance which it adopted; but, at the same time, a trustee can not throw half a dozen trusts into hodge podge and set up a general defense against his liability in each. The object here was a common one—the building of a road; but not altogether a common one, for a State was only interested in the application of the 2 per cent fund toward a road east of its own boundary line, and was not responsible for what had been built or done before it entered the Union. The compact with the Government was prospective, not retroactive, that the 2 per cent fund should thereafter be "*applied*" "*to the making of a road.*" Each State was entitled to have all of its 2 per cent fund invested in the road, irrespective of what others were doing or had done; and if the Government mingled the trust funds, each State is entitled now, under the Act 1857, to its due proportion of whatever balance may remain unexpended. The Government could not receive $100,000 from Ohio, $100,000 from Indiana, and $100,000 from Illinois without expending $300,000 on the road. From 1802 to 1816 Ohio had been the only party to the arrangement, and during that period the Government had expended much more upon the road than it had received from the sale of lands within the State; but the moneys received from Indiana lands can not now be applied upon that deficiency. The State of Indiana was entitled to have all of the 2 per cent fund derived from lands within its borders expended, not for the payment of old debts or the making good of an overdrawn account, but for the construction of a road. The account to be stated must begin when that State entered the Union.

From the time when Ohio and Indiana became joint contributors to the common object, the question for an accountant is whether the joint contributions exceeded the expenditures of the Government. As each new State came into the arrangement, its contributions, would in like manner swell the responsibility of the Government and be taken into the account until the road reached the State line, *i. e.*, until a road was made "*leading to the said State.*" Then the account so far as Indiana was concerned would stop, and the road constructed westward of its eastern line would be chargeable only to the States toward which it led. Chronologically the account must open when a State entered the Union, geographically it must close when the road arrived at its boundary line. Such an account will involve an accounting with all the States; for while the Government has advanced much more than it has received, yet nevertheless it is possible that there is one or more States whose 2 per cent fund was larger than the expenditures properly chargeable to it.

No such account was presented by either party upon the argument, and it is too involved to be framed by the court from an inspection of the statements of the Land Office; but at the same time the court must infer, from the concessions of counsel and the returns of the Land Office and Treasury Department, that the expenditures exceeded the receipts in all cases, and that if a proper account were made up no surplus would appear in which the State of Indiana would be entitled to participate by virtue of the original trust as defined in the organic act.

The ultimate question before the court, accordingly, is whether the State of Indiana acquired a new right to these proceeds of the public lands by virtue of the final legislation of Congress; or, stated more specifically, whether the intent of the Act 1857 was, that an account should be stated *de novo*, in which all of the credits to the State from the 2 per cent fund should remain, and all of the debits for expenditures made by direction of the various appropriation acts be expunged?

There is no obligation in the case, moral, legal, or equitable, leading the court toward this as the true intent of the legislative action. The government had done all that it had agreed to do and more; and had the right to continue to apply the 2 per cent moneys upon its own advances until it should fully reimburse itself. But Congress also had the power to wind up this business of road-building, to close the account, to carry the deficit to profit and loss, and relinquish the diminished avails of the public lands to the States directly interested in them, or to make a gift of all that had been received since the States entered the Union without an obligation legal or equitable to do so. Whether the relinquishment should date from one day or another, from 1816 or from 1857, was equally within the power of Congress, and alone by Congress could be determined.

The first renunciation by the Government of its right to control and disburse the 2 per cent fund was by the *Act September 4, 1841* (5 Stat. L., p. 453, §§ 16, 17). The counsel for the United States has contended that this was not a relinquishment of the fund to the States named in the act in their own right, but that they were merely substituted as custodians of the fund upon certain conditions, which were that they should agree to expend it in designated improvements of a public nature. This is conceded, but it is averred in reply, that nevertheless the Government relinquished its right to repayment of advances from that fund and that the relinquishment was irrevocable. The relinquishment, however, was only to the States of Alabama and Mississippi, and the statute did not extend directly or by implication to the other States. There may have been reasons why this favor should have been extended exclusively to those two States, such as their greater need, that they had received less benefit from the public expenditures than the other States, and the like, and such reasons can not be questioned here; they are legislative, not judicial.

In 1855 a dispute apparently had arisen between the State of Alabama and the General Land Office as to the proceeds of the public lands; and it appeared that the Government, instead of selling all of the public lands within that State, had appropriated portions of them to its own uses and purposes by ceding them as Indian reservations. Accordingly the *Act 2d March, 1855* (10 Stat. L., p. 630) was passed, which required the Commissioner of the Land Office to state an account between the Government and the State of Alabama, and "*to include in said account the several reservations under the various treaties with the Chickasaws, Choctaws, and Creek Indians within the limits of Alabama.*" No "principle" for stating such an account is prescribed by the act, unless it be the declaration that Indian reservations shall be regarded as sales and credited to the State in the account.

Such was the state of the case when the final statute was passed, the *Act 3d March, 1857* (11 Stat. L., p. 200). Its primary purpose was to extend to the State of Mississippi the additional favor which had been extended to Alabama by the statute of the preceding Congress. So far it was clear and consistent, for Alabama and Mississippi stood upon precisely the same footing, under the Act 1841, and in the fact that large quantities of the public lands within their territorial limits had been ceded to the Chickasaw and Choctaw Indians. The first section of the act accordingly provided:

"That the Commissioner of the General Land Office be and he is hereby required to state an account between the United States and the State of Mississippi, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled, on account of the public lands in said State, and *upon the same principles of allowance and settlement* as prescribed in the "Act to settle certain accounts between the United States and the State of Alabama," approved the 2d March, 1855; and that he be *required to include* in said account *the several reservations* under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to said State 5 per centum thereon, as in case of other sales, estimating the lands at the value of one dollar and twenty-five cents per acre."

But the words "*and other States*" were added to the title, and a second section was appended to the enactment. It is in these words:

"SEC. 2. *And be it further enacted*, That the said Commissioner shall also state an account between the United States and *each of the other States upon the same principles*, and shall allow and pay to each State such amount as shall thus be found due, estimating *all lands and permanent reservations* at one dollar and twenty-five cents per acre."

This second section, therefore, in the use of the words "*upon the same principles*," refers to the first, and the first in the same manner refers to the Act 1855; and the Act 1855 specifies no "principle" for the statement of an account other than that the reservations ceded to Indians should become an item of credit to the State; and neither statute indicates an intent to prescribe any other change in the account, or to create a new liability on the part of the United States by revoking all the charges for moneys advanced which had been expressly ordered, not by the Land Office or the accounting officers, but by nearly all the appropriation acts authorizing expenditures upon the National Road.

Having thus directed the Commissioner of the Land Office to state an account and instructed him as to the principle upon which he should proceed, the Act 1857 commands "*and* [he] *shall allow and pay to each State such amount as shall thus be found due.*" Finally, it adds to the foregoing instruction and mandate another, "*estimating all lands and permanent reservations* [instead of reservations for the Chickasaw and Choctaw Indians] *at one dollar and twenty-five cents per acre.*"

Up to this time the States referred to as "*each of the other States*" had had no legal right to an accounting; for the administration of the fund rested exclusively with the Government, and these States were not entitled to recover or receive the money which such an accounting might show to the credit of the fund still unexpended for the purposes of the trust.

The Act 1857, therefore, seems to the court to have accomplished three things: 1st, by directing the Commissioner of the Land Office to state an account it provided a remedy, such as it was, for the several States, which, moreover, was the only remedy within their reach, this court not then having power to adjudicate claims; 2d, it created a new liability on the part of the Government, by making the permanent reservation of the public lands equivalent to a sale, and the Government a purchaser at the usual price per acre; 3d, it created a new or statutory right of action, by making the *cestui que trust* a beneficiary at law, in authorizing the States to receive directly the money which theretofore had been held in trust for their benefit.

It is not thought by the court that this statute did more, or that it could have been intended to do more. The advantages which the States of Alabama and Mississippi acquired over "the other States" was not by virtue of the Act 1857, nor by virtue of the Act 1855, but by virtue of the Act 1841, which changed the relations of the parties and substituted those States as trustee, giving them a legal right to the custody of the fund under certain specified conditions, which have never been extended to the other States.

There is no "principle" indicated in the Act 1855 which could possibly operate upon such expenditures for the National Road as had become charges against the 2 per cent fund under the authority of the appropriation acts. The sole benefit which the beneficiary, the State of Alabama, acquired by virtue of that statute was a credit for the lands taken for Indian reservations. The same thing is true of the Act 1857 when applied to the State of Mississippi. That State derived no benefit from that statute beyond the credited item of Indian lands. It therefore seems impossible that the "principle" which gave nothing to Alabama and Mississippi but a new item of credit for Indian reservations, could confer, when extended to "the other States," another and distinct benefit upon them, and, by retroactive operation, practically work a repeal of all the legislation which had made the appropriations for the National Road a charge upon the 2 per cent fund.

If it was so intended by Congress, there should have been added to the second section the words, "And the Commissioner shall also allow and pay to each State two per cent of the net proceeds of the public lands since such State entered the Union, notwithstanding the various provisions of law which direct that such two per cent shall be applied to the construction of the National Road or to the reimbursement of the Government for moneys advanced for that project." The judiciary can not import such a provision into a statute by inference or interpretation. To state an account implies a statement of debits and credits. To command a public officer "*to state an account*" and pay "*such amount as shall thus be found due,*" is a very different thing from making a gift to the other party *ex gratia* of all the moneys that happen to appear on one side of it.

As it is possible that a balance may be due to the claimant on a proper accounting, we proceed to the consideration of a question which has been elaborately argued, the question of the statute of limitations.

As has been said, the only remedy which the States possessed in 1857 was the authority conferred on the Commissioner of the General Land Office to state an account and pay over the balance which he might find to be due. In 1863 Congress provided another remedy, an action in this court. If the accounting of the Commissioner of the Land Office was not essential, or a prerequisite to a right of action, the claim accrued as soon as the Act 1857 was passed, and accruing then, necessarily became barred by the statute of limitations on the 3d March, 1866 (12 Stat. L., p. 765, § 10). If, on the contrary, the accounting of the Commissioner was a prerequisite to an action in this court, and no claim existed on which an action could be brought until his account was stated, and he had "*allowed*" and "*found due*" a certain "*amount,*" then, from the nature of things, his proceeding was judicial, and his jurisdiction exclusive, and the "amount" which he might "allow" was an award, and the only action which could be maintained would be an action upon it for the "amount" "found due."

Either of these alternatives is fatal to the claimant's case, if that case rests on the Act 1857. The trust was then at an end; the State of Indiana was then authorized and empowered to act on its own behalf and in its own right; a new cause of action was then created and a new right of action given. We can perceive no reason why the action could not have been brought as well in 1864 as in 1889, unless it be the reason that the court did not have jurisdiction of the claim; and if the court did not then have jurisdiction of the claim, it was because an exclusive jurisdiction was vested in the Commissioner of the Land Office.

In the earlier part of this decision we have considered the case as if a trust existed, but it is by no means clear that the agreement or compact between the Government and the State of Indiana, as declared by the act of admission, amplified by the Act 1857, constituted a trust which would take the claim out of the operation of the statute of limitations within the intent of the leading case of *Kane* v. *Bloodgood* (7 Johns. Ch. R., 69) and the case most relied upon, *Irene Taylor* (104 U. S. R., 216).

The money termed a trust fund was not money of the State of Indiana confided to the Government for a purpose, nor was it money of a third person paid to the Government for the use and benefit of the State. On the contrary, the 2 per cent fund was always the money of the Government, derived from the sale of its own property, and the statute creating the fund was in terms but an agreement that the Government should expend a designated, though indeterminate, amount of its own money in the construction of a public work more or less beneficial to the other party.

The State of Indiana never had an exclusive interest in the fund or in the work which was the purpose and object of the trust. The road to be constructed—the road "leading to the said State"—would not lie within its territory; the State would not be entitled to rents, issues, or profits therefrom; the utmost legal interest which could be possessed in the thing itself was a right of free transit for its citizens and agents; a right which would be shared by all the world. If the purposes of the trust had been fully carried out, and a road had been completed from Baltimore to Indiana, according to the extremest view of the obligation resting on the Government, the State as a body corporate would not have had therein the shadow of a property right. The trust has been ascribed to the Act 1857, but an agreement to pay money does not make the amount specified the money of the other party, and a gift of money, though by statute, does not pass a property in it till the money be paid. In the case of Mrs. Taylor (*supra*) the realty which was sold was her property, and the surplus which was in the Treasury was her money, and the statutory declaration that the Government would hold it until demanded by the owner necessarily created a trust.

In speaking of the Act 1841, and the course pursued by Congress in relation to the States of Alabama and Mississippi, the court has spoken in this opinion upon the assumption that the condition of the 2 per cent fund in those States was substantially the same as that of "the other States" referred to in the Act 1857. The argument pressed upon the court was that the public land laws are to be read *in pari materia;* that it has never been the policy of Congress to grant exceptional favors to single States and deny them to others in like circumstances; that by the Act 1841 there was inaugurated a policy of restitution, and by the Act 1857 this policy was extended to all "the other States" which in like manner had been entitled to the percentage of the public land sales erroneously or improperly expended on an unfinished road; and that "*upon the same principles*" which governed the restitution of the fund to Alabama and Mississippi, it must be restored to the other States. But as a matter of fact the cases are not parallel, and "the same principles" which govern the payments to Alabama and Mississippi are fatal to a recovery in this suit. The difference between the two classes of States is that the fund of Alabama and Mississippi was never expended on their behalf, and no appropriations were ever made chargeable against it. The payment under the Act 1841 was payment for the first time. They were then entitled to have the fund expended; not to expend it themselves, but to have it expended; their right to that was unquestioned, for Congress had never assumed to expend it, or made an expenditure chargeable against it. The acts 1841, 1855, 1857 repealed no statute by implication, and did nothing more than carry out for the first time the obligations assumed by the General Government when the two States were admitted to the Union, and no principle embodied in those statutes by any possible construction would compel the Government to pay or expend for those States the 2 per cent fund a second time. By the fact that the Government had expended nothing on their behalf when the acts 1841, 1855, 1857 were passed the analogy between them and "the other States" is destroyed.

The judgment of the court is that the petition be dismissed.

The Clerk read as follows:

PAPER MAKING.

To enable the Secretary of Agriculture to inquire into additional sources of raw materials for making paper, and processes of manufacture, in cooperation with the several bureaus of the Department and the paper mills, $10,000, or so much thereof as may be necessary, including the employment of labor in Washington or elsewhere.

Mr. CLARK of Missouri was recognized.

Mr. CRUMPACKER. Mr. Chairman, I reserve a point of order against the paragraph just read.

Mr. CLARK of Missouri. Mr. Chairman, I have an amendment which I wish to offer.

The CHAIRMAN. Amendments are not in order until the point of order is disposed of.

Mr. CRUMPACKER. Mr. Chairman, I reserved the point of order, for I want to find out the purpose of the paragraph. I may be in favor of the legislation when I hear it explained.

Mr. CLARK of Missouri. Mr. Chairman, I would like to inquire if I have not the floor?

The CHAIRMAN. The gentleman from Missouri has the floor, but the gentleman from Missouri has not the floor to offer an amendment, because no amendment is in order until the point of order is disposed of.

Mr. CLARK of Missouri. Then I will make my amendment a part of my speech. I want to offer an amendment, on page 44. Amend by adding after the word "elsewhere" the following: "Wood pulp and white print paper and all ingredients used in the making thereof are hereby placed on the free list."

Mr. SCOTT. To that, Mr. Chairman, I make a point of order.

Mr. CLARK of Missouri. The gentleman can not make the point of order until I get through.

Mr. LITTLEFIELD. He is bound to make the point of order in the very beginning.

Mr. CLARK of Missouri. But I have not offered any amendment; I am making a speech. [Laughter.] Mr. Chairman, I do not want that taken out of my time. That paragraph as it stands in the bill goes to this extent: That Congress has made up its mind to find out if there is any new thing out of which paper can be made successfully and profitably. That being the case this amendment would be germane in this way: A penny made is a penny saved. This tariff on wood pulp and white print paper forces a rapid and unnatural consumption of our own forest reserve by shutting out the timber from other countries.

The situation is this: The newspaper men and publishers in the United States are almost unanimous in favor of this proposition. The other day every Member of this House was flooded with letters and telegrams asking that wood pulp and white print paper be put on the free list. There are just thirteen men in this House who prevent the editors and publishers realizing their wishes by the immediate passage of this bill.

There are twelve Republicans on the Ways and Means Committee and the Speaker of this House; they are responsible, and we might as well understand it. [Applause on the Democratic side.] There are only seven Democrats on the committee, and all seven of us are in favor of my proposed amendment. The editor of the New York Staats-Zeitung, Herman Ritter, has been visiting this capital off and on for the last three or four weeks, trying to induce the President and Senate and the Ways and Means Committee and the Speaker of this House to report this bill favorably.

He evidently had some effect on the President because your own President recommended it; but when Mr. Ritter talks to the Speaker I do not know what he hears. When he talks to the chairman of the Ways and Means Committee of this House, that distinguished functionary, with a smile that is childlike and bland, tells him that he can not get any relief while he is chairman of the Ways and Means Committee. [Laughter and applause on the Democratic side.]

I want to say one word more about it. I am not any more in favor of putting wood pulp and white print paper on the free list than I am in putting other necessaries of life on the free list. [Applause on the Democratic side.] The chief reason why I urge this in preference to the rest is that the Republican editors in the United States, if they are worth the powder and lead that it would take to kill them, will lash the chairman of the Ways and Means Committee and the Speaker of this House into reporting the bill, and if they do not, they ought to hold their peace forever after in this matter.

Mr. BATES. Will the gentleman yield for a question?

Mr. CLARK of Missouri. I will.

Mr. BATES. The numerous editors who have petitioned for what they call relief on the subject of the tariff on wood pulp have been led to believe that it is for their interest to do so.

Mr. CLARK of Missouri. Certainly they have, and for the interest of their customers and numerous readers.

Mr. BATES. Does the gentleman from Missouri believe that the abolition of the duty on wood pulp would reduce the price of news paper?

Mr. CLARK of Missouri. I do.

Mr. BATES. If it would, why has the price of news paper declined and come down to the lowest price in the history of the world some years after the imposition of the present duty?

Mr. CLARK of Missouri. It did not. That is the way to answer that question. And I do not believe a word of these figures that are sent in here by the Census Bureau—not a single one. [Applause on the Democratic side.]

Mr. BATES. One other question. Does the gentleman from Missouri speak from practical knowledge or from experience?

Mr. CLARK of Missouri. Why, I speak from the evidence of the editors of the United States, who are supposed to be amongst the most intelligent citizens of the Republic.

Mr. BATES. Does the gentleman know that the price of news paper about seven years ago was down to $1.85?

Mr. CLARK of Missouri. No; I do not know that.

Mr. BATES. Well, I know that it was.

Mr. CLARK of Missouri. How does the gentleman know it?

Mr. BATES. Because I bought some.

Mr. CLARK of Missouri. Is the gentleman an editor?

Mr. BATES. I was at that time half owner of a daily newspaper and bought it by the carload.

Mr. CLARK of Missouri. Mr. Chairman, the gentleman from Nebraska [Mr. HITCHCOCK] has demonstrated here over and over again that those figures sent in here are not true.

Mr. BATES. I am not counting on those, but upon actual experience and knowledge, and that was four or five or six years after the imposition of the duty.

Mr. CLARK of Missouri. If that is true, the gentleman must admit that putting it on the free list will not do any harm.

Mr. BATES. No; I will not admit that. It may be wise to put it on the free list, but I doubt if it will lessen the price at all. I do not admit it.

Mr. CLARK of Missouri. No; I suppose the gentleman would not.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BATES. I want to state that that was the lowest price ever quoted in history, and that was several years after the imposition of the duty.

Mr. CLARK of Missouri. Are all the editors liars or not?

Mr. BATES. There are some of them who are not. I believe none of them are.

Mr. SMITH of California. Mr. Chairman——

The CHAIRMAN. The gentleman from California.

Mr. LITTLEFIELD. Mr. Chairman, I would like to inquire what the parliamentary status is.

The CHAIRMAN. A point of order has been reserved, and under that reservation debate is proceeding by unanimous consent.

Mr. LITTLEFIELD. A point of order on the paragraph has been reserved?

The CHAIRMAN. Yes.

Mr. LITTLEFIELD. And under that, by unanimous consent, general debate is proceeding?

The CHAIRMAN. Yes.

Mr. SCOTT. Mr. Chairman, I move that debate on this paragraph and all amendments thereto close in five minutes.

Mr. MANN. Is that motion in order? Why does not the gentleman insist that the point of order be disposed of?

Mr. CRUMPACKER. Mr. Chairman, I reserved the point of order against this paragraph with a view of knowing what was contemplated under the authority that is carried.

Mr. SCOTT. Mr. Chairman, I will withdraw my motion until I have given the gentleman the information he desires, if I can do so.

Mr. SMITH of California. Mr. Chairman, I think I have the floor, have I not?

Mr. CRUMPACKER. I would like to hear from the chairman of the Committee on Agriculture as to its real purpose, so as to be able to determine whether I shall insist upon the point of order or whether I shall withdraw it. I think it ought to be disposed of now.

Mr. MANN. I will ask the gentleman from Maine if he is going to make the point of order.

Mr. LITTLEFIELD. Yes, if the gentleman from Indiana does not.

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. How long can a point of order be reserved?

The CHAIRMAN. Oh, it can be reserved until it is disposed of.

Mr. LITTLEFIELD. Mr. Chairman, I will make the point of order now, and ask that it be passed on by the Chair now, so that that ends it.

Mr. CLARK of Missouri. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CLARK of Missouri. Is the gentleman from Maine talking about my supposed amendment or about the paragraph?

Mr. LITTLEFIELD. The "gentleman from Maine" is raising a point of order to the only question before the House, and that is this paragraph of the bill. I understand that the gentleman from Missouri has not presented his amendment as yet.

Mr. CLARK of Missouri. No; I have not.

Mr. LITTLEFIELD. Then, I can not make a point of order on that now. I rise to make the point of order on the pending paragraph.

Mr. KAHN. Mr. Chairman, a parliamentary inquiry. The Chairman recognized the gentleman from California [Mr. SMITH] to discuss the matter then pending. Can the gentleman from California be taken off his feet for the purpose of insisting on the point of order?

Mr. PERKINS. Mr. Chairman, in answer to that, the point of order was pending and was insisted upon, and that had the effect of stopping general debate and taking the gentleman from California off his feet.

The CHAIRMAN. Does the gentleman from Maine desire to be heard on the point of order?

Mr. LITTLEFIELD. No; the gentleman from Maine only says that this paragraph is an extension of the powers of the Department of Agriculture, and vests in that Department an authority that it does not now by law possess, and that therefore it is subject to a point of order as new legislation, and I insist on that point of order at this time.

Mr. SCOTT. Mr. Chairman, I have but a very words to say in opposition to the point of order. I beg again, however futile such appeals have been heretofore, to call the attention of the Chair to the organic act creating the Department, which authorizes the Secretary of Agriculture to conduct any investigations that may be of interest or that may develop information which will be of interest to agriculture in the broadest and most comprehensive sense of that term.

Now, if one or more plants could be discovered which would be suitable for use in the manufacture of paper as a substitute for wood pulp, I respectfully submit that it would be of vast interest to agriculture in the United States.

Mr. WILLIAMS. Will the gentleman permit me? If it would be of vast benefit to see if any other material could serve as a substitute for wood pulp in order to make paper cheaper, why would it not be of equal benefit to provide that

wood pulp itself might come into the United States cheaper from other countries?

Mr. SCOTT. The gentleman from Mississippi does not expect a serious answer to that question. I have said all I desire to say on the point of order, Mr. Chairman.

The CHAIRMAN. It seems to the Chair this proposition goes beyond the provision in the original law under which the Department was organized, and therefore the Chair sustains the point of order.

The Clerk read as follows:

LEAVE OF ABSENCE.

The employees of the Department of Agriculture, outside of the city of Washington, may hereafter, in the discretion of the Secretary of Agriculture, be granted leave of absence not to exceed fifteen days in any one year, which leave may in exceptional and meritorious cases where such an employee is ill be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year.

Mr. HITCHCOCK. Mr. Chairman, I move to strike out the last word.

Mr. SMITH of California. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Nebraska——

Mr. SMITH of California. Mr. Chairman, I made the first motion to strike out the last word.

Mr. HITCHCOCK. Mr. Chairman, I do not think the gentleman can take me off my feet by that amendment. Mr. Chairman, I rise for the purpose simply of reiterating proof which I produced here a short time ago, that the market price of print paper before the Dingley bill was passed in 1897 was only $1.75 a hundred, and in making that proof and incorporating it in the RECORD, Mr. Chairman, I take it from the mouths of witnesses who appeared ten years ago before the Committee on Ways and Means. And, Mr. Chairman, while I shall not read this testimony at any length, I quote here from the statement of ex-Senator Warner, of New York, who six months after the Dingley bill passed became an officer of the paper trust, and who at the time these hearings were being had before the Dingley committee, in 1897, denied that he and others proposed to form a paper trust. In his testimony at that time before the committee he used this language, Mr. Chairman:

To-day we are selling a much better article of paper, I dare not say how cheap with Mr. Norris in the room, but less than 2 cents per pound.

Now, Mr. Chairman, that is evidence of record in the proceedings of the Committee on Ways and Means. It is evidence in the nature of an admission from a great paper manufacturer who six months later became an officer of the paper trust. It bears out the further testimony introduced before that committee from the mouth of that same Mr. Norris, of the New York World, that the price of paper was $1.75 per hundred. This record testimony utterly refutes the statement that paper has been lower since the Dingley bill was passed than it was before the Dingley bill was passed. As to the present market price of paper, Mr. Chairman, it is not necessary for me to state the price. The figures as to present prices have been introduced here by the gentleman from New York [Mr. PAYNE] and the gentleman from Pennsylvania [Mr. DALZELL] from the Census Bureau, and an admission is made that the present price of paper is $2.50 a hundred as against $1.75 a hundred before the Dingley bill was passed. Now, Mr. Chairman, this small paragraph which has been stricken from this bill by the point of order raised by a representative Member of this House would only be a trifle. It would be next to nothing. Even that appears to be too much for the Republican majority. In striking it from the bill you have not only notified the newspapers of the United States that you do not propose to reduce the tariff nor to compel the paper trust to reduce their prices, but that you also stand against making the slightest effort whatever to discover if any other methods or processes of paper manufacture can be found.

Mr. WILLIAMS. And brought in competition with the trust.

Mr. HITCHCOCK. You take the position that you are willing to allow the paper trust to continue to force the papers of the land to reduce their enterprise, to discharge their men, and cheapen their product. By your policy you are not only making war upon the newspapers, but you are making war upon the great army of men whom the newspapers employ. You are bearing down in a severe manner upon hundreds of thousands of wage-earners who, directly and indirectly, are supported by the papers, without any protective tariff to help them. Yes, gentlemen of the Republican majority, of the thousand millions you appropriate for all purposes, you are refusing to expend $10,000 in an attempt to discover whether anything can be done to save the destruction of our forests at the hands of the paper trust and wood-pulp monopoly and give to the people of the country cheaper print paper. That is your position. [Applause on the Democratic side.]

Mr. SMITH of California rose.

Mr. SCOTT. If the gentleman will yield one moment, I wish to move that debate on this paragraph and all amendments thereto close in five minutes.

The motion was agreed to.

Mr. SMITH of California. I think I owe it to the House, and particularly to my colleagues from California, to say a word in explanation of this question that has arisen with reference to this forest extension, concerning which I spoke a few days ago. In the debate on March 30 the gentleman from Nebraska [Mr. POLLARD], returning from the telephone and saying that he had just had a communication with Mr. Pinchot, said this:

Mr. Pinchot has stated that the entire California delegation, including the Senators, except Mr. SMITH, in a body requested and almost demanded that this forest reserve be created for the purpose of furnishing a water supply to the city of Los Angeles.

And so forth.

Thereupon four of the gentlemen from California arose in their place and denied that they had visited that Office. That was literally correct.

Mr. POLLARD. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. SMITH of California. I decline to yield. To-day the gentleman from California [Mr. MCLACHLAN], who was not present on that occasion, brings forward the statement that, as a matter of fact, a number of members of the California delegation have subscribed to a letter addressed to the President requesting that the forest reserve be extended. Now, I should not like to have my colleagues rest under that rather doubtful position, and I will, with your permission, give you the history of the transaction.

During the summer of 1907, in the month of July or August, each one of the members of the California delegation received a letter from Mr. Olmsted, of San Francisco, who is a subordinate in the Forest Service, asking their opinion as to the extension of the forest reserve over a portion of townships 17 to 21. Now, bear those figures in mind. There was nothing at all said in the letter about any other forest extension. Townships 17 to 21 do not lie in the Owens River Valley at all, but immediately south of it, where the country begins to rise, and are therefore beyond the irrigable area of the Owens River Valley.

Mr. LITTLEFIELD. Are they a part of the watershed?

Mr. SMITH of California. No water originates on that. They lie in the bottom of the depression at the foot of the hills and extending out into——

Mr. LITTLEFIELD. But if there was water originating in that vicinity that would be a part of the watershed?

Mr. SMITH of California. I do not quite understand what you mean by "the watershed."

Mr. LITTLEFIELD. Contributing to the Owens River.

Mr. SMITH of California. Not at all. The Owens River rises in the northern part of Inyo County or in Mono County and flows south into Owens Lake, to which there is no outlet at all. It is a lake that is absolutely unfit for any domestic or agricultural use. Senator NEWLANDS and others have a plant on the banks of that lake evaporating water for the borax that they secure in commercial quantities, and I am told if a dog should leap into the lake he would lose his hair—it is so mineralized and contaminated, and therefore is of no value.

The point is, though, the letter addressed to the Representatives was with reference to a body of land not along the banks of the Owens River and not in the Owens River Valley at all. I saw the correspondence on that subject a day or two ago, and my remembrance is that three, at least, of the Members said in reply, "This is a matter in SMITH's district, and we express no opinion. Refer it to him and take his judgment."

And I filed my protest. A little later in the year another letter was sent around to all the members of the California delegation except myself, in which it was stated in a general way, without reference to any particular land, that it was desired "to extend the eastern and southern" boundary of the Sierra Forest Reserve; that it was approved by the Chief Forester and some others, and asking that they sign a letter which was inclosed, and in all cases the letter furnished us is in the identical language and does not refer to any particular land, and several members of the California delegation, largely as a matter of personal compliment to the gentleman who solicited it, signed that letter, and it is here. I have seen copies of it to-day. Many of the letters, some of them at least, do not bear a date, it was so entirely informal, and all are in exactly the same language. I should say, in explanation, that they now claim the right, under this second series of

letters, to withdraw the heart of the valley, 25 or 30 miles north of the tract of land to which I refer, and about which I was never consulted at all.

Here is Owens Lake [indicating on map]. This is the lowest part of Owens River Valley, from which there is no outlet [indicating]. The tract of land to which attention was called in the letter of July and August was along the lake, extending a little to the south, in townships 17 to 21. The matter in controversy, to which I addressed myself two days ago, was that part of the valley [indicating] extending over seven townships.

Now, there is the situation. Under the pretense——

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of California. I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman asks unanimous consent that he may proceed for five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. SMITH of California. Under the pretense that the second series of letters which was sent out, as I have said, already written and ready to sign, covered this new proposition to extend the forest reserve across the valley, there is an attempt to make it appear that the California dtlegation is responsible for the extension of the forest reserve to that agricultural valley. I think, without entering further into an explanation, that makes it plain that they did not intend to convey any such impression at all. But I will say one word more, that if every member of the California delegation, and every Member of this House, without knowing what was being talked about, or otherwise, had said or had intended that the Department should include that fertile valley in a forest reserve, it would not constitute a sufficient justification to make an order that such fine land as that should be included, or that one should be created when made under such circumstances.

Mr. McLACHLAN of California. I move to strike out the last word.

Mr. SCOTT. I shall object to that. I wish the gentleman from California will use the remainder of the five minutes.

The CHAIRMAN. The question is on agreeing to the motion.

Mr. McLACHLAN of California. I hope the House will not get the impression——

The CHAIRMAN. Debate is closed upon this paragraph. The Clerk will read.

Mr. MANN. Mr. Chairman, I desire to offer a new paragraph.

The Clerk read as follows:

Insert as a new paragraph the following:

"To enable the Secretary of Agriculture to test by cultivation such plants as may require test to ascertain if they be suitable for making paper, $10,000, or so much thereof as may be necessary, including the employment of labor, in Washington and elsewhere."

Mr. PERKINS. I make the point of order against that.

Mr. MANN. Mr. Chairman, the organic act provides "that the Secretary of Agriculture," among other things, "shall test by cultivation the value of such of them," referring to seeds and plants, "as may require such tests, or propagate such as may be worth propagation," etc. This is an authorization to him to test certain classes of plants, making an appropriation to test a certain class of plants, where he is now authorized to test all classes of plants worthy of test, and in the form that it is in practically follows the form of the organic act. It does not confer any additional authority upon him. It only appropriates the money with which to make tests of particular plants. It seems to me that it is in order.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order? The Chair is prepared to rule.

Mr. PERKINS. I would like to ask that the amendment be again reported.

The amendment was again reported.

Mr. LITTLEFIELD. So far as I can see without stopping to consider it, and on account of the lack of order not having clearly heard the gentleman, it is exactly the same proposition in a little different guise.

Mr. MANN. Oh, it is a very different proposition. The original proposition authorized the Secretary of Agriculture to make tests in regard to paper making. Under the original proposition he might have made tests of gold bricks, sand, or anything else. The matter was not limited at all to the testing of plants. Now, the Secretary of Agriculture is authorized to test all kinds of plants that he may deem worthy of test, and this is simply an appropriation giving him the means, under the original authority, to make tests of a particular kind of plants which he has now authority to test, but has not the money to make the tests.

Mr. PERKINS. Will the gentleman permit me to ask him a question?

Mr. MANN. Certainly.

Mr. PERKINS. Do I correctly understand his amendment that it does not authorize the Secretary of Agriculture to make any investigation in relation to the process of manufacture?

Mr. MANN. Not anything.

Mr. PERKINS. Or to go into the paper mills?

Mr. MANN. Nothing of that is in the amendment.

Mr. PERKINS. It is solely to ascertain whether, from certain plants, material may be obtained for making paper?

Mr. MANN. Solely to test plants to ascertain if they are suitable for paper making.

Mr. PERKINS. I would like to ask the gentleman whether there is any reasonable probability suggesting that such tests would be productive of results, or is it a mere jump in the dark; or is there occasion to believe that this $10,000 would have some useful result?

Mr. MANN. Upon that point I may say I was informed some time ago by some officials of the Department of Agriculture that they believe that with a very small expenditure of money it will be possible to ascertain that certain fibrous plants could be cultivated in sufficient quantity, and with a small expense it would be perfectly feasible to use them for paper making, as against wood pulp.

Mr. PERKINS. I would state, Mr. Chairman, that although I did not make the point of order, yet I was opposed to this paragraph as it was reported, because it seemed to me it laid open the way for the Department to investigate the processes of making paper, and to go into the mills of this country to investigate those processes, and might sooner or later lead to the Department itself engaging in the business of making paper, instead of buying paper as it now does, which I should very much disapprove of; but with the understanding that it is purely an investigation as to whether there may be fit material to be used in the process of making paper by those who manufacture it, I think I will myself leave it to the gentleman from Maine to say whether he insists on the point of order to the amendment in the shape it now is. The feature that was objectionable to me has been removed.

The CHAIRMAN. The Chair did not understand the statement of the gentleman from New York.

Mr. PERKINS. I withdraw the point of order myself, and leave it to the gentleman from Maine [Mr. LITTLEFIELD].

Mr. LITTLEFIELD. I renew the point of order.

The CHAIRMAN. The Chair is prepared to rule. The Chair overrules the point of order. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent to return to page 41 for the purpose of offering some amendments.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent to return to page 41 for the purpose of offering an amendment which the Clerk will report.

The Clerk read as follows:

In line 15, page 41, after the word "Hawaiian," insert the word "and."

In line 18, page 41, after the word "provided," insert the word "that."

In line 19, page 41, after the word "Guam," strike out the word "and."

In line 24, page 41, after the word "Hawaii," insert the word "and."

Mr. SCOTT. These amendments are merely to make the necessary verbal corrections.

Mr. WILLIAMS. I shall not make any objection to that.

Mr. McLACHLAN of California. I desire to reserve the right to object.

The CHAIRMAN. The gentleman from California is recognized for five minutes.

Mr. McLACHLAN of California. Mr. Chairman, I hope the impression will not go abroad that there is any serious difficulty between the members of the California delegation, for there certainly is not. I desire the House distinctly to understand that, personally, I do not blame my colleague [Mr. SMITH] in so far as he attempts to properly defend the interests of the valley which happens to be in his district. It is a small valley, but nevertheless the people there desire that the water in that valley shall be retained in that section, and therefore I can see his embarrassment. But I contend that he is going too far when he contends that it is a heinous crime that the city of Los Angeles is attempting to perpetrate upon his people by taking this water 220 miles to the south.

Mr. Chairman, I contend that the people of that marvelously progressive city that have voluntarily voted $23,000,000 to bring the water from that valley have proven their good faith and should receive due consideration from the Forestry Department.

When my colleagues in the House stated the other day that they did not go in a body to Mr. Pinchot to ask that this reservation be made, they stated exactly the truth, and I do not care to cast any reflections upon them, but by making that truth-

ful statement those gentlemen created a wrong impression in this House and cast a reflection upon the Forester. They did in fact file letters with the Forestry Department and the President of the United States asking that this watershed be included in the reservation——

Mr. KAHN. Will the gentleman yield?

Mr. McLACHLAN of California. With the exception, of course, of the three gentlemen, Messrs. KAHN, NEEDHAM, and SMITH, whom I excluded in my original remarks.

Mr. KAHN. That is all right.

Mr. POLLARD. May I interrupt the gentleman?

Mr. McLACHLAN of California. Not now. Mr. Chairman, this request was made for the addition of this land along this watershed by the people in the valley in which I live, a people who have gone to enormous expense to provide an indispensable necessity, which nature failed to provide. That request was made in January, 1907.

This land was temporarily withdrawn in February, 1907, and included the land along this river up through Owens Valley for 30 or 40 miles, as my colleague [Mr. SMITH] well said. In October of that same year the gentleman from California, including the majority of the delegation, made a formal request, over their own signatures, to the President of the United States, asking that this land be included in the reservation along that river for the purpose of conserving the water and preventing the contamination of the water that was to supply this great city and the surrounding country

Mr. KAHN. Will the gentleman yield for a question?

Mr. McLACHLAN of California. I will yield to my colleague.

Mr. KAHN. Is it not a fact that all of these letters that were written were written in response to a letter that was sent out by the Bureau asking the Members of the California delegation for their views?

Mr. McLACHLAN of California. No, sir; they were written in response to a letter sent out by Senator FLINT, who initiated this movement, at the instance of the Forestry Department, away back in January, 1907, and subsequently the forester in that section did send letters out referring to other reserves which he was urging to be set aside for the same purpose, but these reserves were not made until November, 1907. The letters in response to Senator FLINT, asking the President to withdraw the watersheds through this valley, were filed in October, 1907. Therefore the Chief Forester, Mr. Pinchot, was acting in harmony with and upon the specific request of the California delegation, and there is not a representative of California on this floor to-day, either in the House or in the Senate, that will not contend that this action is for the best interest of the people, excepting always my colleague [Mr. SMITH], and, as I said before, I can see some apology for him in contending for what he considers to be the rights of the few people in that small valley, but I can not allow his zeal for them to becloud the real issue. Mr. Chairman, I desire to print as part of my remarks the letters which I hold in my hand bearing upon this subject:

OCTOBER 9, 1907.

Hon. DUNCAN E. MCKINLAY,
Santa Rosa, Cal.

MY DEAR MCKINLEY: I inclose you herewith letter to the President, requesting certain changes in the boundaries of the Sierra National Forest Reserve for the benefit of the city of Los Angeles in the construction of its aqueduct system.

This matter has the approval of Mr. Pinchot, of the Forest Service, and a similar letter has been signed by Senator PERKINS and myself and Congressmen MCLACHLAN and KNOWLAND.

I will be obliged to you if you will sign the inclosed letter and return it to me.

Yours, truly,

FRANK P. FLINT.

COMMITTEE ON THE GEOLOGICAL SURVEY,
SENATE OF THE UNITED STATES,
Washington, October 9, 1907.

Hon. GIFFORD PINCHOT,
Forester, Forest Service, Washington, D. C.

MY DEAR MR. PINCHOT: I inclose you herewith request for certain changes in the boundaries of the Sierra Forest Reserve, addressed to the President, and signed by Senator PERKINS, myself, and Congressmen MCLACHLAN and KNOWLAND. I have been unable to reach the other Congressmen, but will obtain the signature of at least two or three more and send them to you within a short time.

Yours, truly,

FRANK P. FLINT.

The PRESIDENT, *Washington, D. C.*

SIR: We request that the eastern and southern boundaries of the Sierra Forest Reserve as temporarily extended be permanently established, so as to protect the city of Los Angeles in the construction of its aqueduct system, by conserving the water both in quantity and against contamination.

FRANK P. FLINT,
United States Senator.
GEO. C. PERKINS.
JAS. MCLACHLAN.
J. R. KNOWLAND.

COMMITTEE ON THE GEOLOGICAL SURVEY,
SENATE OF THE UNITED STATES,
Washington, October 24, 1907.

Hon. GIFFORD PINCHOT,
Forester, Forest Service, Washington, D. C.

DEAR SIR: I inclose herewith letter signed by Hon. D. E. MCKINLAY, Members of Congress, Second District, California, recommending the extension of the boundaries of the Sierra Forest Reserve, which I informed you recently I would send to your office upon receipt.

Yours, truly,

FRANK P. FLINT,
United States Senator.

P. S.—I also inclose letter from Congressman HAYES.

The PRESIDENT, *Washington, D. C.*

SIR: We request that the eastern and southern boundaries of the Sierra Forest Reserve, as temporarily extended, be permanently established, so as to protect the city of Los Angeles in the construction of its aqueduct system by conserving the water, both in quantity and against contamination.

(Signed) D. E. MCKINLAY,
Second District, California.

The PRESIDENT, *Washington, D. C.*

SIR: We request that the eastern and southern boundaries of the Sierra Forest Reserve, as temporarily extended, be permanently established, so as to protect the city of Los Angeles in the construction of its aqueduct system by conserving the water, both in quantity and against contamination.

E. A. HAYES.

COMMITTEE ON THE GEOLOGICAL SURVEY,
SENATE OF THE UNITED STATES,
Washington, October 28, 1907.

Hon. GIFFORD PINCHOT,
Forester, Forest Service, Washington, D. C.

DEAR SIR: I inclose you herewith another letter, to wit, from Hon. W. F. ENGLEBRIGHT, Member of Congress from the First California District, recommending the change in the boundaries of the Sierra Forest Reserve, concerning which we have had correspondence.

Yours, truly,

FRANK P. FLINT,
United States Senator.

The PRESIDENT, *Washington, D. C.*

SIR: We request that the eastern and southern boundaries of the Sierra Forest Reserve as temporarily extended be permanently established, so as to protect the city of Los Angeles in the construction of its aqueduct system, by conserving the water both in quantity and against contamination.

W. F. ENGLEBRIGHT,
Member of Congress, First California District.

NEVADA CITY, CAL., *October 21, 1907.*

Mr. POLLARD. Mr. Chairman, I simply want to be put right in this matter, and I want Mr. Pinchot to be put right. I have been quoted by several gentlemen from California as having said that Mr. Pinchot told me that the delegation went to the Department in a body and requested the reserve to be created. He said nothing of the kind, and I made no statement of that kind. The language I used is, "The entire delegation, including the Senators, excepting Mr. SMITH, in a body requested the action." I did not make the statement that they went to the Department. I simply want to say that for the protection of Mr. Pinchot.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

EMERGENCY APPROPRIATIONS.

Prevention of spread of moths: To enable the Secretary of Agriculture to meet the emergency caused by the continued spread of the gypsy and brown tail moths, $250,000, or so much thereof as may be necessary, is hereby appropriated and made immediately available. And the Secretary of Agriculture is hereby authorized to expend said appropriation by establishing a quarantine against such further spread in such manner as he shall deem best, in cooperation with the authorities of the different States concerned and with the State experiment stations.

Mr. MADDEN. Mr. Chairman, I make a point of order to that clause in the paragraph, line 12, "and made immediately available."

Mr. ROBERTS. Mr. Chairman, do I understand the gentleman to make it or to reserve it?

Mr. MADDEN. I will reserve it if the gentleman wishes.

Mr. ROBERTS. I would like to ask the gentleman if he intends to insist on the point of order after the explanation is made?

Mr. MADDEN. I can not promise.

Mr. ROBERTS. If he does it is no use to make it, because the point of order is good; but if argument will prevail, I would like to make it.

Mr. MADDEN. I would not like to promise.

Mr. ROBERTS. Mr. Chairman, unquestionably the point of order reserved by the gentleman from Illinois is good. But I want to call his attention to the appropriation bill of last year, in which almost the same language appears, "of which sum $40,000 shall be immediately available." The language is not

new in the appropriation bill. Now, here is the point exactly in regard to making the money immediately available. If the money can be used as soon as the appropriation bill becomes a law, it will enable the authorities of the Department of Agriculture to proceed at once to the further work of restricting the spread of this dangerous insect, and I want to say to my friend from Illinois that a dollar spent now before the foilage appears is worth $3 expended in this work after the vegetation has come out. My colleague from Massachusetts says it is worth $10 expended after vegetation comes out.

Before the leaves are out, before vegetation has come up enough to hide the nests and egg clusters of these insects, it is comparatively easy to discover and destroy them. If they are not destroyed now, when they can be destroyed to the best advantage, the egg clusters hatch out, and we have millions upon millions of these insects which it will be impossible to destroy after the foliage is out, and which will, in their turn, lay new clusters of eggs and make the work all the more difficult in the succeeding year.

Now, in the interests of the economical expenditure of this money, I trust the gentleman from Illinois will not insist on his point of order. The language is put in merely for the purpose of enabling the Government to get the very best results from the appropriation carried in this bill.

Mr. MADDEN. Mr. Chairman, the point that I had in mind was that this was one way of providing for a deficiency that exists in this branch of the Department. The way ordinarily provided to obtain deficiencies is to come before the Committee on Appropriations and ask for a deficiency appropriation.

Mr. KELIHER. Mr. Chairman, I would like to say to the gentleman from Illinois that there is no doubt that his point will be declared in order, if insisted upon. A similar point of order was made by the gentleman from New York last year and obtained, but it handicapped the work tremendously, and I sincerely trust that the gentleman will not press his point of order. There is no doubt that there is merit in it, and ordinarily would command my support, but it will work a great hardship in this case and will cause us in Massachusetts to spend more money upon this meritorious work than we will be compelled to expend if we get at the work in proper time. For this reason I join in the plea of my colleague to the gentleman from Illinois that he do not press his point of order.

Mr. MADDEN. Mr. Chairman, there is no reason why there should be any such language in this paragraph, except that there is a deficiency in the Department. If there were no deficiency, the money appropriated last year would be available now for the work that is to be done at this time. If this language is necessary here, in order that they may be able to go on with the work, that is notice to the House that a deficiency exists and that more than the amount of money appropriated for this purpose last year has already been expended; but if the character of the work is of such a nature as to demand immediate action on the part of the Secretary of Agriculture, and if the interests of the State of the gentlemen are to suffer if this appropriation is not to be made immediately available, I should very much dislike to think that it was through any action taken by me that an injustice was done to the State of Massachusetts. I therefore withdraw the point of order.

The CHAIRMAN. The Clerk will read.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. I want to know whether these moths are interfering with the rural routes; and if so, I want to kill them.

The Clerk read as follows:

Eradicating cattle ticks: For Bureau of Animal Industry: To enable the Secretary of Agriculture to continue work in cooperation with State authorities in eradicating the ticks transmitting Southern cattle fever, $250,000, of which sum $25,000 shall be immediately available.

Mr. MADDEN. Mr. Chairman, simply for the purpose of getting an explanation as to the enormity of this disease known as "cattle tick," I desire to reserve the point of order.

Mr. BURLESON. Mr. Chairman, I desire to state to the gentleman from Illinois that below the fever line, the line fixed by the quarantine authorities in the South, there are about 15,000,000 cattle, worth approximately $200,000,000. It has been estimated that the value of those cattle has been depreciated fully 20 per cent by reason of the existence of the presence of the *Boophilus annulatus*, or cattle tick. The death rate of cattle below the fever line as compared with the death rate above the fever line is very much greater, in fact, expressed in percentage, is twice as great below the line as it is above, being about 4 per cent above the line and 8 per cent below. It is a matter of the greatest importance to the owners of cattle in the South that this item be continued in the bill. I hold in my hand a resolution adopted by the Cattle Growers' Association of Texas, from which I read:

Resolution adopted by the thirty-second annual convention of the Cattle Raisers' Association of Texas, March 18, 19, 20, 1908, San Antonio, Tex.

Whereas the Southern cattle owners are suffering annually great losses, resulting from the presence of the fever tick (*Boophilus annulatus*); and

Whereas the work already done has demonstrated beyond any doubt the feasibility of the eradication of the fever tick and the progress made with funds heretofore appropriated by Congress has been satisfactory; and

Whereas the known facts regarding the life history of the tick and the methods of its destruction justify the prosecution of the work of eradication on a more comprehensive and extensive scale: Therefore be it

Resolved by the Cattle Raisers' Association of Texas, in convention assembled at San Antonio, Tex., March 18, 19, and 20, 1908, That the appropriation made for this work by the Congress of the United States for this year should be increased to an amount commensurate with the magnitude and importance of the work to be done, which, in our opinion, should not be less than $300,000, and we respectfully request the honorable Secretary of Agriculture and the Representatives in Congress from our respective States to use their best efforts to secure such Congressional appropriation: Be it further

Resolved, That the secretary of this association be directed to forward a copy of this resolution to the honorable Secretary of Agriculture, Washington, D. C., and to each Senator and Congressman from our respective States; also to the chairmen of the Committees on Agriculture of the Senate and House of the United States: Be it further

Resolved, That we urge upon our State legislature a liberal appropriation by the State of Texas to aid in this work through the live-stock sanitary board.

You will note that this great association insists that the appropriation for this purpose be increased to $300,000. Now, as I understand it, the Committee on Agriculture has increased this item in the bill by approximately $100,000, but still it is not as large as the cattle growers who are injuriously affected by this pest think it should be. After a conference with the chairman of the committee, however, I will make no motion to increase the amount, as I understand from him that the bill carries every dollar that can be profitably expended during the next fiscal year, but I sincerely hope that the gentleman from Illinois will not make any point of order against this paragraph.

In connection with this subject, I desire to submit a very interesting address by Dr. J. H. Wilson, chairman of the live-stock sanitary commission of my State. Doctor Wilson has rendered great service in connection with this important work, and what he has said is entitled to great weight. His address was delivered before the Cattle Raisers' Association, and was as follows:

Texas produces more cattle and finishes less cattle than any other State in the Union. Texas sells more calves and young cattle than any other State. We are the real incubators. According to the report of Comptroller Stephens for 1906, there was rendered for taxation in this State 6,000,000 cattle, at a valuation of $54,990,000. This, too, you must remember was not under the full rendition law. With this number of cattle, more than we can graze and feed, it is necessary for us to have markets—markets for our young stuff as well as for our older cattle. They are expected to go to other States for grazing and feeding. The States that received them have the last say; and they fix the rules and regulation under which our cattle may enter those States. The majority of the States are anxious to have our cattle. They realize that we have well-bred cattle—steers that mature rapidly, and are good money-makers. The rules and regulations adopted by the various States prescribing the conditions and requirements under which our cattle may come into those States are reasonable, in that they require that our cattle shall be in good health.

Realizing the necessity of furnishing cattle in good health, the State of Texas in 1893 enacted a law creating the live-stock sanitary commission and defining its duties, etc. The commission is well named in that its duties are to look after the public health of the live-stock interests of the State. This was a real need—one that our live-stock interests could not afford to longer delay. With the entire State shut out from the markets, except for immediate slaughter, it would have practically destroyed the cattle industry of our State, and the prices for which cattle could have been sold would have been so low that no one could afford to engage in the cattle business.

THE QUARANTINE LINE.

Advising and cooperating with the honorable Secretary of Agriculture, it was agreed that a line across the State, beginning at Red River in Wilbarger County, and extending to the Rio Grande in Brewster County, should be adopted as a quarantine line; and that no cattle from south or east of this line should be permitted to cross to the north or west of said line, except under the conditions prescribed by the commission. Cattle from the north or west of this line, accompanied by a certificate or bill of health, are received in any State or Territory, and thus have the advantage of a market which our unfortunate brother below the line does not have. He can only gain access to portions of the Indian Territory, and it looks very much at the present time as if he will soon be shut out of that territory.

This brings us to the subject:

The benefits of the commission to the cattle interests: We propose to furnish to the purchaser of Texas cattle, cattle that are in good health. How are we to do this? By maintaining quarantine rules and by enforcing the rules and regulations of the commission, thus making our cattle what we propose for them to be—that is, free from any infectious or contagious disease. This work devolves upon the State; and it is very necessary that we honestly do what we represent.

Our cattle above the quarantine line are acceptable to other States. Below they are not. One very naturally asks: "Why is this?" It is because of that awful pestiferous pest, the "fever tick." This is the real objection to cattle below the line.

The amount of money it costs the Southern States to harbor the "fever tick" is not easily estimated. But from observation and experience we can form some estimate of this loss with some degree of assurance of approximating a correct estimate. Below the quarantine line we have something like 15,000,000 cattle, of a valuation of something like $180,000,000. The dairy cattle are valued at about $58,000,000, the other cattle at $122,000,000. It is estimated the shrinkage in value of cattle other than dairy cattle occasioned by the presence of the fever tick is something like 20 per cent. In round numbers, this would mean a loss of $24,000,000. This loss is truly appalling. We can not sit idly by and let such waste of wealth continue.

The average death rate among cattle for the years 1904 and 1905 in the tick-infected area was about 8.33 per cent; in the tick-free area, 3.12 per cent. In the tick-free area, where the winters are more severe, in the States of Illinois, Ohio, Iowa, Wisconsin, and Kansas, the death rate was about 2.4 per cent, while in the State of Louisiana it was nearly 9 per cent. This proves conclusively that in the tick-infested area, although having much milder winters, the death rate is much greater than in the tick-free area.

TICKS PREVENT BABY BEEF.

This is not all. There is another charge to be made against the tick. With tick infestation during babyhood, the only time the animal may with any degree of safety pass the ordeal, there is very little chance of bringing cattle to early opportunity. The stunting which they receive usually necessitates carrying them until they are 3 years old or older.

Under the present conditions, where can the south Texas cattle go for grazing? You are all familiar with the Osage matter and the unsettled conditions existing in that territory for the past few months. Heretofore you have used that section, but now they say, "Furnish us clean cattle." The State of Kansas has prohibited the introduction of south Texas cattle for grazing and feeding purposes. Oklahoma and other grazing and feeding States have practically the same rules and regulations.

He closed with an urgent appeal to the stockmen to cooperate for the general good of all.

In order for that portion of Texas lying above the quarantine line to continue to receive the benefit of the cattle markets, it is absolutely necessary for us to maintain quarantine rules and regulations, and to have a commission to see to their enforcement. And when that portion of the State below the line shall have eradicated the ticks, they will be entitled to and will receive the same privileges and benefits in all cattle markets as are now received and enjoyed by that portion of the State above the line.

In order to maintain and enforce quarantine rules and regulations, it is necessary to have the cooperation and assistance of the cow man, for without the support of local interests it is impossible to enforce any law. Ask any cattle dealer from Colorado, Kansas, Oklahoma, or the Northwest why south Texas cattle are not desired in those States. His answer is always the same: "Your ticks." If the tick is the only objection, and it is, why not do away with it? Drive the tick into the Gulf. When there is a will a way can be found. What is the way? Eradicate your ticks. The tick is the only obstacle in your way. With the tick a matter of history, your cattle would have the benefit of the markets of the world.

PEST CAN BE ELIMINATED.

The past year's work of this commission has demonstrated that we can eradicate this pest. We have been able to save the cattle interests contiguous to the quarantine line thousands of dollars. You understand that this line is the picket line. An ordinary wire fence does not always shut out the tick. Naturally, cattle will drift over. Then the trouble begins. By following the advice of the commission in dipping their cattle, the death rate in this area has been reduced to a minimum. We can do just as much for the cattle interests below the line. Already some portions of your territory are practically free from ticks. The owner of any ranch can clean his cattle of ticks.

Baby beef industry, with tick infesting our cattle, is an impossibility.

Instead of exporting, as we now do, to foreign countries over 1,000,000,000 pounds of cotton-seed products yearly—which if converted into beef at home would bring us from $6,000,000 to $10,000,000 more than we receive for it from abroad—we would feed our cattle, and thus keep at home this enormous amount. Besides securing this profit we would fertilize our lands. So, by failing ourselves to feed the cotton-seed product which we send to foreign cattle feeders, thus enabling them to compete with us, we sustain a direct loss of millions of dollars yearly. To eradicate the cattle tick from the Southern States means to a large extent the preservation of the supremacy of American agriculture; and, above all, it means increased prosperity and happiness to millions of our people.

The average value of Southern cattle per head is $7 less than that of Northern cattle. In Arkansas the value of beef cattle is estimated at $7.50 per head; in Iowa, $19.42—almost three times as much.

Another item of loss chargeable to the fever tick is the cost of special transportation, special yards, inspections, etc., which are rendered necessary by its presence and which loss must come out of the pockets of Southern cattle owners.

It is readily seen that the annual losses to the Southern States occasioned by the presence of the fever tick must be something like the enormous sum of $100,000,000. Since we have no cattle industry in the South, outside of Texas, to speak of, see what Texas pays to harbor the tick.

It has been stated by an expert that ticks will withdraw 200 pounds of blood from a cow in one year. Several broods of ticks mature in one season. It will be seen that the tick may deprive the animal while it is on pasture of several hundred pounds of substance.

TICKS PREVENT FATTENING.

We may expect an animal in good health to increase in weight something like 300 or 400 pounds on grass in one season. It can be readily perceived why even the best of cattle, on the richest pasture, when they are grossly infected with ticks, may grow poorer from day to day, or even starve to death.

In addition to the actual loss of blood, the constant irritation caused by the ticks, the sores which their bites induce, the screw worms invited thereby, and the resulting lack of rest prevents the animal from thriving and gaining flesh as it otherwise would.

Cows heavily infected with ticks often fail to bring calves or become irregular breeders. And this condition prevails especially as to heifers. In many instances abortion follows.

The Department of Agriculture has conducted many experiments and has expended thousands of dollars with the view of discovering a feasible method of eradicating ticks. After all these experiments and investigations, the arsenol dip has been demonstrated to be the most successful and the best method yet discovered, and your commission will continue to recommend its use until something better is offered. We have in this dip a preparation that will kill the ticks without injury to the cattle. If properly used, there is no injury whatever to the animal. We would advise that the pastures be divided; that is, into two or more pastures. The vat and pens should be properly constructed, the cost of which is nominal. We recommend the following prescription:

Arsenic, commercial	pounds	10
Sal soda	do	24
Pine tar	gallons	1
Water	do	40

In order to dissolve the arsenic it is necessary to have boiling water. Procure a galvanized iron pan capable of holding about 60 gallons. (Do not use an iron vessel.) Arrange for fire. To the 40 gallons of water add the sal soda. As the heat increases stir until the sal soda is dissolved. Add the arsenic; bring the mixture to a boiling temperature, stirring until all the arsenic is dissolved. Withdraw the fire, so as to have the solution below boiling temperature. Add tar by pouring in a small stream, stirring constantly. This will make a perfect mixture. To this add 460 gallons of water, making 500 gallons of the dip. This can be repeated sufficient to fill the vat. Dip your cattle from one pasture to the other, allowing sufficient time for all ticks to hatch and die before placing cattle again on the same pasture. It is very necessary for all cattle to be dipped. By "all" I mean every animal, for if a few are not dipped, they will continue to infect the pasture. These directions, if strictly followed, will clean your pastures of ticks in one year.

This commission is pledged to assist the cattlemen in this work. We offer at all times and in any and all possible ways to assist you to this end. We believe that it is a real benefit.

Mr. LEVER. Mr. Chairman, I am glad the gentleman from Illinois [Mr. MADDEN] is kind enough to reserve the point of order that we of the South may be heard in explanation of this very important provision of the bill appropriating $250,000 to enable the Department of Agriculture to continue its most admirable work in the eradication of the cattle tick, the immediate cause of the Texas fever, which for years has seriously interfered with the cattle industry of our section. I call to the gentleman's attention the fact that we made no protest against a half a million appropriation, several years ago, to stamp out the foot-and-mouth disease, which threatened the cattle industry of the New England States, nor have we raised our voices against the appropriations which have been made for many years to rid the sheep industry of the West of its greatest scourge—the "sheep scab." The gentleman will notice also that just a moment ago we joined with our New England friends in passing the item in the bill appropriating $250,000 for the prevention of the spread of the brown-tail and gypsy moth, which, unless controlled, promises the destruction of the New England forests. I mention these facts as an appeal to the fairness and broad-mindedness of gentlemen on that side of the aisle, and, parenthetically, I think it only right to say that I have always found them, in matters of a nonpartisan character, willing to meet us on halfway ground.

The Texas fever among Southern cattle caused by the bite of the cattle tick has existed in the South for many years, but it was not until 1905 that the Federal Government took cognizance of it by the enactment of legislation establishing a quarantine against the shipment of Southern cattle into Northern and Western markets. The quarantine line as established runs in a zigzag line from Virginia across the country to California. Cattle coming from the sections below this line must be conveyed in cars placarded as containing "Southern cattle," and must be placed in pens, when they reach the markets, reserved for such animals only and a large sign with the words "quarantined pens" must be placed on all such inclosures. Let it be borne in mind that this is a Federal, not a State, regulation, and we feel justified, therefore, in coming to the Federal Government for appropriations to enable us to stamp out this disease, to help us raise this quarantine, and to give Southern cattle an equal chance in the markets of the country. I am sure this must appeal to my friend from Illinois [Mr. MADDEN] as entirely just and fair.

Mr. Chairman, the presence of the cattle tick has been most disastrous to the Southern cattle industry and the losses from it are so enormous as to be almost beyond computation. Below the quarantine line there are between fifteen and sixteen million cattle, with an approximate value of $200,000,000. Those familiar with the subject estimate an annual loss of the enormous sum of $100,000,000 to this industry on account of the presence of the cattle tick and the existence of the quarantine. This is the direct loss; presently I shall discuss the indirect loss. I want to read from the hearings before the Committee on Agriculture a part of the statement of Dr. R. A. Ramsay, of the Bureau of Animal Industry, made in January, 1907. Dr. Ramsay was speaking of the losses suffered by the cattle industry because of the cattle tick, and the chairman of the committee asked:

How do you make up these figures?

Doctor RAMSAY. Well, I could not tell you all the corners, but there is a bulletin gotten out by our Pathological Division that explains that. It is made up by the loss in milk and meat, and the loss from being

unable to get Northern cattle down there to improve the breeds of cattle in the South, so that the cattle there have become deteriorated and run down. They can not get a bull there to cross on them to improve their herds in any way, and they are not making the money out of their cattle that they ought to make. The South should be a good cattle country.

Mr. LEVER. What is the difference in price of cattle above and below the quarantine line?

Doctor RAMSAY. Just about half.

Mr. LEVER. About half?

Doctor RAMSAY. I do not know that it would be quite that.

The CHAIRMAN. That is almost as much due to the quarantine line as to the quality of the cattle.

Doctor RAMSAY. That is due to the quality of the cattle, as I said.

The CHAIRMAN. The great cattle country in this country is north of the quarantine line, except in Texas.

Mr. LEVER. But the quality of the cattle is largely affected by the presence of the cattle tick?

Doctor RAMSAY. Yes.

Mr. Chairman, this is a most interesting statement and it shows under what a tremendous handicap the Southern cattle industry labors. No one familiar with Southern conditions doubts for a moment that the cattle industry, if given a fair showing, may be made most profitable. Our seasons are long and mild, our forage crops and grasses abundant and the local demand for dairy and beef products is large. The South is importing beef, butter, cheese, milk, and cream from Northern and Western markets, spending millions of dollars per year for these necessities of life which can be produced at home. The only bar is the cattle tick, which carries with it the odium of the quarantine against Southern cattle. We are practically shut out of the markets of the country as far as our beef cattle are concerned, while at the same time we are shut in as against the introduction of the better breeds of cattle and the improvement which must result to our herds from such an introduction. The dairy industry is making great strides under the direction of the Department of Agriculture. It will be remembered that several years ago I had the honor of securing an appropriation of $20,000 to enable the Secretary of Agriculture to employ expert dairymen to teach the Southern dairymen the best and most improved methods of that business. The result of that work is shown in the report of the Secretary of Agriculture for 1907, in which he says:

The results from sixteen herds have been compiled for illustration and show an average increase of $3.75 in the monthly production of each cow.

This, Mr. Chairman, is an indication of what can be done in the dairy business of the South even under present conditions. The same thing can be done with respect to beef cattle. Why should the Southern States ship their cotton-seed meal, the best beef-cattle ration known, to the Northern States, where it is converted into the finest beef and at the same time goes to enrich the soil of those States? Why should we pay tribute to the Northern cattle industry in the sum of millions of dollars yearly when this might be saved by building up an industry of our own? The answer is, We have the cattle tick with us, and the Federal Government has surrounded us with a deadly quarantine line. As a matter of right, we demand that the Federal Government help us deal with this problem.

The industrial welfare of the South goes to swell the national wealth and power, and whatever affects our interest affects the interests of the whole country. Our problems are your problems; we are back in the Union; our fortunes are linked with yours; we contribute our support to the National Government, out of proportion to our strength, and we ask only fair treatment from you.

I will say to my friend from Illinois [Mr. MADDEN] that, unfortunately, in the South we have the one-crop system. Cotton is all important; everybody raises it. The more thoughtful men are bending their every effort to bring about a diversification of our agriculture and our industries. We have the possibilities, and all we need to do is to take advantage of them.

We know what the live-stock industry has meant to the agriculture of every country; we know that it is the basis of real agricultural success; we know that it is the bed rock of diversified agriculture, and we want to remove every handicap to its upbuilding in the South. Give this important industry a fair deal, unshackle it, and its success is assured.

The friendly nods of the gentleman assure me that he will not insist upon the point of order, and further debate is unnecessary. [Applause.]

Mr. MADDEN. Mr. Chairman, I withdraw the point of order.

Mr. BURLESON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by adding after line 23, on page 45, the following:

"That it shall be unlawful for any person or association to send or cause to be sent from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or to any foreign country, or knowingly to receive or knowingly to cause to be received in any State or Territory of the United States or the District of Columbia from any other State or Territory of the United States or the District of Columbia or from any foreign country, by a telegraph or telephone line, any message relating to a contract for future delivery of cotton without intending that the cotton so contracted for shall be actually delivered or received, or relating to a contract whereby a party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or the delivery of cotton without being thereby obligated to deliver or to accept said cotton. Any person, whether acting individually or as a member, officer, agent, or employee of any person or association, who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than $1,000 nor less than $500 and shall be imprisoned for not more than six months nor less than one month, and the sending or the causing to be sent or the receiving or the causing to be received of each message shall constitute a separate offense.

"SEC. 2. That it shall be the duty of any person or association sending or receiving by means of a telegraph or telephone line any message relating to a contract or the making of a contract for the future delivery of cotton to furnish, upon demand, to the sender or recipient of such message an affidavit stating that he is the owner of the cotton so being contracted for, and that he has the intention to deliver said cotton, or that said cotton is at the time in actual course of growth on land owned or occupied by him and that he has the intention to deliver said cotton, or that he is at this time legally entitled to the right of future possession of said cotton under and by virtue of a contract for the sale and future delivery thereof previously made by the owner of said cotton, giving the name of the party or the names of the parties to the contract, the time when, the place where the contract was made, and the price therein stipulated, and that he has the intention to deliver said cotton, or that he has the bona fide intention of producing and delivering said cotton, or that he has the bona fide intention of acquiring and delivering said cotton, or that he has the bona fide intention of receiving and paying for said cotton. In an indictment brought under section 1 of this act the failure to make promptly such affidavit on request shall be prima facie evidence that the message sent related to a contract or the making of a contract for future delivery of cotton without the intention actually to deliver or receive the said cotton.

"SEC. 3. That it shall be unlawful for any person owning or operating any telegraph or telephone line, or acting as officer, agent, or employee of such person, knowingly to use his property or knowingly to allow his property to be used for the transmission from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or to any foreign country, or knowingly to receive or knowingly to cause to be received in any State or Territory of the United States or the District of Columbia from any other State or Territory of the United States or the District of Columbia or from any foreign country, of any message relating to such contracts as are described in section 1 of this act. Any person, whether acting individually or as a member, officer, agent, or employee of a telegraph or telephone company, who shall be guilty of violating this section shall, upon conviction thereof, be punished for each offense by a fine of not more than $1,000 nor less than $500, and the sending of each message in violation of the provisions of this section shall constitute a separate offense.

"SEC. 4. That it shall be unlawful for any person owning or operating any telegraph or telephone line, or acting as officer, agent, or employee of such person, knowingly to use his property or knowingly to allow his property to be used for the transmission from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or to any foreign country, or knowingly to receive or cause to be received in any State or Territory of the United States or the District of Columbia from any other State or Territory of the United States or the District of Columbia or from any foreign country, of any message presented by a person engaged in a commission or brokerage business, or presented by a produce exchange corporation or association, relating to a contract for the purchase or sale of cotton unless the person engaged in a commission or brokerage business or the produce exchange corporation or association shall have filed, either personally or through the manager of such person or association, with the telegraph or telephone company an affidavit stating that the message or messages being sent and to be sent for the six months next ensuing by such person or association do not and will not relate to any such contracts as are described in section 1 of this act. A similar affidavit shall be filed before the end of the six months covered by the first affidavit. Any person owning or operating a telegraph or telephone line, or officer, agent, or employee of such person, who knowingly is a party to a violation of this section shall be punished for each offense by a fine of not more than $1,000 nor less than $500. Any person or association required to file the affidavit herein provided for who shall make a false statement in said affidavit shall be punished by a fine of not more than $5,000 nor less than $1,000 and shall be imprisoned for not more than two years nor less than one year.

"SEC. 5. That every book, newspaper, pamphlet, letter, writing, or other publication containing a notice, account, or record of the transactions of any produce exchange wherein such contracts as are described in section 1 of this act are made is hereby declared to be nonmailable matter and shall not be conveyed in the mails of the United States or delivered from any post-office by any letter carrier. Whoever shall knowingly deposit or knowingly cause to be deposited for mailing or delivery any matter declared by this section to be nonmailable, or shall knowingly take or cause the same to be taken from the mails for the purpose of circulating or disposing thereof or of aiding in the circulating or disposition thereof, shall be fined not more than $5,000 nor less than $1,000 or shall be imprisoned not more than five years nor less than one year, or both.

"SEC. 6. That the Postmaster-General may, upon evidence satisfactory to himself that any person or association is sending through the mails of the United States any mail containing a notice, account, or record of the transactions of any produce exchange wherein such contracts as are described in section 1 of this act are made, instruct the postmasters in the post-offices at which such mail arrives to return all such mail to the postmaster in the post-office at which it was originally mailed, with the word 'unlawful' plainly written or stamped upon the outside thereof, and all such mail when returned to said postmaster shall be returned to the sender or publisher thereof, under such regulations as the Postmaster-General may prescribe."

Mr. MADDEN. Mr. Chairman, I reserve the point of order.

Mr. BURLESON. Mr. Chairman, this amendment is quite lengthy, but its purpose can be summed up in very few words. It is a bill introduced by me and is intended to abolish gambling in cotton on the exchanges by prohibiting the use of the mails, the telephone, and telegraph lines to those who deal in contracts for future delivery of cotton, with no intention on the part of the buyer to receive or the seller to deliver the actual cotton. A number of bills to accomplish the same purpose have been introduced by others. Recently members of this body have been showered through the mails with pamphlets, circulars, leaflets, and letters, setting forth in most plausible form the arguments of the defenders and apologists for the practices of the cotton exchanges, and in nearly every instance or particular, assault is directed against the bill introduced by me. It is evident to my mind that the reason this policy is pursued is the fear on the part of those well advised that my bill would, if enacted into law, completely destroy or prevent the continuation of those hurtful practices of the exchanges, against which the producers of cotton and the consumers of cotton have been crying out for so many years.

Mr. Chairman, I do not care to discuss at this time the details of the bill introduced by me, but I would like to discuss in a broad way the necessity for some legislation of the character proposed in this amendment and to answer as far as possible in the limited time at my command the principal reasons and arguments set forth in these pamphlets and circulars against the Congress taking action on my bill or any other bill having for its purpose the accomplishment of the same end.

I anticipated that my alert friend from the metropolis of the West [Mr. MADDEN] would make the point of order upon this amendment, and if by chance it escaped him I was sure my ever-watchful friend from Greater New York [Mr. FITZGERALD] would block its course. In fact, I had no expectation of engrafting my bill as an amendment upon this appropriation bill, and I only offer it in order to secure an opportunity to discuss it. I recognize the fact that this is a matter of great importance and do not hesitate to say that every interest affected by the proposed legislation should be given a full hearing before any action is attempted by the Congress. And, speaking for the producers of cotton, Mr. Chairman, I want to state that they have no desire, they have no purpose, of making an effort to have legislation of any character enacted here that would in the remotest degree affect injuriously any legitimate interest connected with the cotton trade. Now, as it will be impossible for me to discuss this proposed legislation in the limited time fixed by the rules, I ask that I may be permitted to continue my remarks upon this nonpartisan subject for thirty minutes, at the expiration of which time I may ask the further indulgence of the committee.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to continue his remarks for thirty minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SIMS. Mr. Chairman, I would like to make it one hour.

The CHAIRMAN. The gentleman from Texas is recognized for thirty minutes.

Mr. BURLESON. Mr. Chairman, the New York Cotton Exchange was organized in 1870. Three years thereafter the Liverpool Cotton Exchange was brought into existence, and in 1880 the New Orleans Cotton Exchange was incorporated. Since that time the volume of operations upon these exchanges has become so tremendous that they exert a far-reaching influence upon every line of the cotton business. I thoroughly understand that the passage of a bill of the character that I have offered or the amendment here proposed, if adopted, would materially reduce the operations of these exchanges; would, in fact, strike down fully 90 per cent of the transactions taking place on the New York Cotton Exchange, and undoubtedly this result would create temporarily, at least, a widespread disturbance in trade conditions throughout the cotton-consuming and cotton-producing world. I also recognize the fact that the burden rests upon me to show that the injury resulting from this disturbance will in the end prove less hurtful to the consumer and producer of cotton than the continuance of existing conditions; and if I am not able to do this I candidly state to you that my bill deserves to fail.

In addressing myself to this subject to-day I shall direct my remarks particularly to the New York Cotton Exchange, not that I am more opposed to the New York Cotton Exchange than I am to the one at New Orleans or any other where gambling is permitted, but because I am more familiar with the rules and regulations of the New York Cotton Exchange, having made a study of them, and further, because, as is properly claimed for it, the New York Cotton Exchange is the controlling institution of that character or, as its defenders express it, the controlling market. In fact, the operations of the New York Cotton Exchange, as I shall show, are so overwhelmingly large as compared with the transactions on the others, that the resultant effects upon the interests of the producer and consumer of cotton from operations at Liverpool and New Orleans are almost negligible, and, as I shall further show, New Orleans practically but trails along in the wake of the great New York concern.

Mr. Chairman, I am not unmindful of the economic importance and benefit of a great central cotton market or exchange. Undoubtedly an exchange for cotton could render great service, not alone to the producer of cotton but also to the consumer of cotton. If it performs its legitimate functions it would constantly serve to bring the consumer and producer of cotton together. It would intelligently aid in directing the marketing of the crop at the least expense, and furthermore it would expeditiously and economically assist in distributing this great crop throughout the civilized world. The question arises now, Does the New York Cotton Exchange perform these legitimate functions of an exchange? I candidly admit that for ten years after its organization it did perform all the useful and beneficial purposes for which it was created; it accomplished to a marked degree all the purposes I have named. Mill treasurers, spinners' agents, and cotton exporters assembled at New York in great numbers for the purpose of securing their factory supplies; many producers of cotton sent their cotton from the South to commission houses in that city, using those agencies through the exchange for distributing cotton not alone to our own mills but throughout the world wherever cotton was demanded. Thus it continued for a period of about ten years, and then the New York Cotton Exchange ceased to perform the proper functions of an exchange, through no fault of its members, it is true, but as a direct result of a fixed law of modern business. This proposition I will later on conclusively demonstrate.

From that time, Mr. Chairman, about 1880, the practices of the New York Exchange have grown steadily worse and worse—more hurtful day by day—more injurious year by year—to both the producer and consumer until now, as I see it, those practices have become well-nigh intolerable and as I conscientiously believe the exchange must be either radically reformed, which I fear is impossible, or it should be totally destroyed.

Let us consider for a moment the proper functions of a legitimate cotton exchange. The chief function, as all will admit, is to bring the buyer and seller together.

Now, let me ask, Does anyone who really wants to buy or sell cotton go to the New York Cotton Exchange for that purpose?

In the course of this discussion I will show you that they do not. The next most important function of an exchange is to aid in marketing the crop at the least expense to producer and consumer. Does the New York Cotton Exchange serve this beneficial purpose?

Before I conclude I will show you that on the contrary it lays an unnecessary burden of millions of dollars on those it pretends to benefit.

The other important function of a cotton exchange is to assist in expeditiously distributing this great product throughout the world, for the time has come when an annual supply of this important staple is essential to the happiness of a majority of the world's peoples.

Who will claim that the New York Cotton Exchange renders this assistance to the cotton trade?

I will show you that its operations obstruct, hinder, and interfere with the prompt distribution of this crop throughout the cotton-consuming world.

Before addressing myself to these propositions it may be well for me to digress at this point for the purpose of making clear what has destroyed the usefulness of the New York Exchange. What is this law of business or rule of business which has destroyed the exchange? As I have stated, during the early history of the exchange large quantities of spot cotton were consigned to New York for sale to our eastern mills as well as to exporters. Exporters kept their agents there. Mill treasurers and spinners' agents assembled there in great numbers to secure their stock for manufacturing purposes. Many producers of the South sent their cotton to New York for sale, and I assert it as a fact, and statistics will show, that New York prior to 1880 was the greatest spot market for cotton in the world, save the city of New Orleans. It is no longer so. What has wrought the change? At that time we had comparatively few railroads in this country, especially in the South. It was the day of the sailing vessel. The only steamboats that touched this continent sailed from the harbors of New York and Boston. To-day the South is gridironed with railroads, and from her harbors steam vessels sail for every

port in Europe, and by the utilization of the through bill of lading cotton is now sent direct, not only to every mill in the eastern section of our own country but through every port in Europe and in Asia to the factories in those countries. Geographically, as transportation facilities existed prior to 1880, New York was admirably situated to be a great distributing cotton market. It undoubtedly was such, and so continued for a number of years. It was an ideal place for a great cotton exchange; and I do not deny, but admit, that at that time the New York Cotton Exchange served all the beneficial and useful purposes of a genuine legitimate exchange.

Mr. Chairman, this propitious period in the history of the New York Cotton Exchange was before the day of "*the through bill of lading.*" This important instrumentality of modern commerce had not at that time been brought into general use. It was not universally utilized by the commercial interests of our country as it is now.

We all know, Mr. Chairman, that modern business to be successful must practice economy both as to time and money; this is a fixed and inviolable rule, and considering the fierceness of competition from it there can be no departure if one is to survive or escape bankruptcy.

When "the through bill of lading" brought about not only a saving of time, but also a saving of the expense attendant upon stopping and handling cotton in New York City its business as a great spot cotton market was gone, never to return. It needs no argument to prove this; the mere statement of the fact is in itself a conclusive demonstration of the correctness of the proposition.

It was "*the through bill of lading*" that destroyed New York as a great market center for cotton.

Can I be mistaken about that? Let us see if I am supported by others in this belief. Mr. Arthur R. Marsh, one of the board of governors of the New York Cotton Exchange, and one of its ablest defenders——

Mr. MADDEN. Will the gentleman yield to a question before proceeding?

Mr. BURLESON. Certainly. I invite questions from anyone desiring to ask them.

Mr. MADDEN. At the time the gentleman refers to the New York Cotton Exchange as being a great spot market, what was the volume of the cotton business of this country with Europe as compared with the present?

Mr. BURLESON. Approximately the same percentage of the crop was sent abroad then as at this time. Of course, there was not the volume of business then because we only produced at that time about 6,000,000 bales of cotton, whereas we now produce eleven, twelve, thirteen, and one time fourteen million bales of cotton.

Mr. MADDEN. How much of the cotton then produced was shipped abroad as compared with what is now shipped abroad?

Mr. BURLESON. Approximately the same percentage; in 1879–80, 31 per cent of the crop was consumed by our home mills and 69 per cent went abroad; in 1906–7, 37 per cent of the crop was taken for home consumption, 63 per cent going to foreign countries.

Now, permit me to read what Mr. Marsh, a member of the New York Cotton Exchange, in a letter addressed last year to the Atlanta Constitution, attempting to defend practices upon the exchange under its rules, had to say as to the effect of the through bill of lading. I read an excerpt therefrom as follows:

> Years ago, in the early days of the New York Cotton Exchange, New York was a market in which large quantities of all kinds of cotton were regularly carried in stock and offered for sale to spinners precisely like stocks of dry goods and other commodities which are now even carried and sold by the New York merchants. This is no longer the case, as it was discovered some twenty years ago by New England spot brokers that they could buy cotton in the South and sell it to New England spinners at practically the same price the New York merchants had to pay for their cotton delivered in New York. In other words, these New England brokers see that every bale of cotton that comes to New York and is carried in warehouses is subject to an expense of $1.50, which is not incurred if the same cotton is shipped direct from the South to the spinner. By saving this $1.50 per bale the New England broker was able to steadily undersell the New York cotton merchant and speedily capture all the old-time business in spot cotton which formerly New York controlled. Spinners ceased to come to New York in search of cotton for their mills, and the result was that the New York market was no longer able to carry at all times the considerable stock of all kinds of cotton it formerly did.

Thus you see, Mr. Chairman, that this law of business which requires every economy of time and money wrought the destruction of this great exchange, and I gladly bear witness to my belief that it was through no fault of the members of the New York Exchange that the change in the character of its business was brought about, and the adoption of its present rules and practices compelled. The gradual evolution and development of "the through bill of lading," and the geographical handicap which New York suffers brought the exchange to its present low state. I would not be candid if I did not express my belief that the New York Exchange has been forced to adopt its present rules and engage in its present pernicious methods in order to preserve its very existence. Under more favorable circumstances, with a different environment, I feel sure the New York Cotton Exchange would have scrupulously avoided—yes, would have even scorned to consider the adoption of some of its present rules or countenanced its present controlling practices. [Applause.] It is for this reason, Mr. Chairman, that in the course of this discussion I shall feel no inclination to indulge in abuse of the New York Exchange or its members, and whereas I shall criticise some of its rules and practices as being extremely hurtful to legitimate trade, I do so feeling, as I have said, that those rules and practices are necessary to preserve the existence of the exchange. I believe they would change them if they could do so and still continue to do business. It is true they exert complete control over their own rules—can modify or change them when they see fit, but human nature is human nature, and it may not be reasonable to expect them to voluntarily modify their methods of business when such action would in a large measure destroy that business. But, Mr. Chairman, if it is a fact that conditions are such as to make it impossible for the New York Cotton Exchange to operate its so-called business without doing serious injury to legitimate trade, then I think all will agree that it should go out of such business.

Mr. FITZGERALD. In order to ascertain the point of the gentleman's argument, I wish to inquire, first, upon what he bases his statement that after the first ten years the New York Exchange absolutely ceased to perform the functions of an exchange; and whether it is based on the difference in the price to the producer after the first ten years, or whether it is based upon the fluctuations of more or less violent character after the first ten years of existence?

Mr. BURLESON. Neither the price of cotton nor the fluctuation in the price of cotton had anything to do with the fact that New York ceased to be a great spot market. It ceased to be a great spot market because commerce—in 1880, or about that time—brought into general use "the through bill of lading." I addressed a communication to the secretary of the Interstate Commerce Commission to ascertain the date when the through bill of lading was first used and he informed me that it was some time between 1875 and 1880. Its use saved $1.50 on every bale of cotton theretofore stopped in New York. It was then that the Yankee spinner in the East, the shrewdest, smartest individual who was ever developed on this earth, saw that this saving could be effected by the use of the through bill of lading and, adopting it, he ceased to go to New York to purchase his mill supply.

Mr. Chairman, there can be no question that the adoption of the through bill of lading destroyed the New York Cotton Exchange as a real exchange, and all the claims and protestations of its members and defenders can't make it one. In days gone by, as I have said, it was a great spot market and frequently its annual receipts reached millions of bales.

Mr. FITZGERALD. Now will the gentleman say how much cotton he believes should be delivered in New York in order to make it a proper cotton market?

Mr. BURLESON. If the gentleman will permit me to develop my argument I will reach that phase of the subject, but I will say to him it has not received sufficient for several years; that year before last only 6,000 bales of spot cotton were received in that great market and last year less than 24,000 bales. [Applause.]

Mr. FITZGERALD. I do not want to interfere with the development of the gentleman's argument, but I shall be able to demonstrate that his figures are wrong.

Mr. BURLESON. That will be impossible for you to do. I take my figures from statistics prepared by members of the exchange, but nobody will welcome the gentleman to a discussion of those figures more than I.

Mr. MADDEN. Will the gentleman yield to me for an inquiry?

Mr. BURLESON. Certainly.

Mr. MADDEN. I understand the gentleman substantially said, although he did not say so in terms, that the price of cotton was lower now than it was before so much speculation began.

Mr. BURLESON. Oh, no; it is lower now than it sometimes was before speculation controlled the price, and higher now than it was at other times before that period. The gentleman knows that immediately after the civil war cotton sold at $1 and $1.20 a pound. That was before the organization of the New York Cotton Exchange; but later on I will quote to the gentleman from members of the New York Cotton Exchange, itself, showing the effect of its operations upon the market price of the actual cotton.

Mr. MADDEN. The gentleman admits, I suppose, there has been more speculation in cotton during the last ten years than the prior ten years?

Mr. BURLESON. Undoubtedly.

Mr. MADDEN. Will the gentleman also admit, that the price of cotton has been $15 a bale higher the last ten years, during all this era of great speculation, than ten years prior to that?

Mr. BURLESON. Certainly. I make that admission, because it is a fact. Commodities of all kinds have advanced during the past ten years and will continue to advance as long as gold production increases. There may be temporary depressions in price, but the trend will continue upward, and I sincerely and honestly believe that but for the stupendous gambling operations in the New York Cotton Exchange during that period the farmers of the South would have received from five to ten dollars a bale more for their cotton (applause), and the United States itself would have been enriched by receiving 500 million or a billion dollars more in gold for its export cotton than it received——

Mr. MADDEN. Will the gentleman allow me to ask him one more question?

Mr. BURLESON. Certainly.

Mr. MADDEN. Just this one. I am not going to consume too much of the gentleman's time. The gentleman admits that there has been more speculation in the New York Cotton Exchange during the last ten years than prior to that. He also admits that the average price of cotton has been $15 per bale more on account of speculation than before.

Mr. BURLESON and others. Oh, no.

Mr. MADDEN. During this era of speculation, put it, then.

Mr. BURLESON. Yes.

Mr. MADDEN. And at the same time he makes the statement if it were not for the speculation, notwithstanding the higher price on account of speculation, the people who are now raising cotton and the American people would have received millions more. How does the gentleman reconcile those statements on that subject?

Mr. BURLESON. I do not admit that the increase in price is due to speculation; in fact it came in spite of it. When I reach that part of my argument I will show my friend from Illinois, to his satisfaction, even out of the mouths of members of the cotton exchange itself, that their rules and practices have actually depressed the price of cotton. [Applause.]

Now, Mr. Chairman, let us revert to the issue whether the New York Cotton Exchange is serving, or can serve, any of the legitimate and proper purposes of a genuine exchange. First, does it serve to bring the buyer and the seller together? Would any cotton manufacturer, who is, of course, the real consumer and buyer of the farmer's cotton, think of going to the New York Exchange to buy his stock of cotton for factory purposes? To ask the question is to answer it—we know he does not. And neither the gentleman from Illinois [Mr. MADDEN] nor the gentleman from New York [Mr. FITZGERALD] will have the effrontery (if I could use such a word in connection with either of these gentlemen) to make such a claim. Why do the buyers not go there? I will show you why. First, for factory purposes, the mill man needs cotton of even running grades. He can't get this cotton through the New York Exchange. There are but 11 grades of cotton, and yet, according to the rules of the New York Cotton Exchange, in force prior to the first day of this month, the delivery of from 19 to 20 half and quarter grades was permitted, making, altogether, about 30 different grades of cotton deliverable on contract. Under the New York Cotton Exchange contract the buyer is liable to receive all 30 of these different grades of cotton in one purchase of a hundred bales. No manufacturer could possibly utilize to the best advantage 30 different grades of cotton in his mills. The improbability of a cotton spinner going to the New York Exchange for his raw material, if he wants to use a low-grade cotton in his particular mill, is easily understood when you know that under the exchange contract he buys at the seller's option, and if he demanded its fulfillment it would result in his receiving probably a score of different grades. Remember, these grades are all of different value—the higher grades frequently commanding $15 per bale more than bales of lower grade. Thus you see if he used cotton of the lower grade only in his mill he would be at a needless expense for every bale of a higher grade delivered to him under this contract. For the higher-grade cotton received under this contract he would be incurring a useless expense, as his mill calls for cotton of low grade. And if what has been charged is true, of the low-grade cotton received some would probably be unspinable.

Now, Mr. Chairman, if, as is usually the case with Northern mills, a higher grade of cotton is required, the spinner could not buy through the New York Exchange at all, for the lower grades delivered under the contract, at seller's option, would be for his purposes absolutely worthless.

Mr. MADDEN. The seller's option does not mean that the buyer must not take the goods, does it?

Mr. BURLESON. Oh, no; and later on I will show you that the buyer never does take the goods—the cotton. Let me read from the contract itself. I read from the charter, by-laws, and rules of the New York Cotton Exchange:

> The delivery within such time to be *at the seller's option*, in one warehouse, upon notice to the buyer as provided by the by-laws and rules of the New York Cotton Exchange, the cotton to be of any grade from good ordinary to fair, inclusive.

It says at "the option of the seller," so that under this contract cotton from the lowest grade they sell to the highest grade that can possibly be bought is deliverable.

I now read section 93 of the charter and by-laws of the New York Cotton Exchange:

> SEC. 93. No contract for the future delivery of cotton shall be recognized, acknowledged, or enforced by the Exchange, or any committee or officer thereof, unless both parties thereto shall be members of the New York Cotton Exchange, and the contract shall be in the following form, viz:
>
> NEW YORK COTTON EXCHANGE.
>
> CONTRACT.
>
> New York, ———, I, ———, in consideration of one dollar in hand paid, receipt of which is hereby acknowledged, ——— have this day sold to (or bought from) ——— 50,000 pounds in about 100 square bales of cotton, growth of the United States, deliverable from licensed warehouse, in the port of New York, between the first and last days of ——— next, inclusive. The delivery within such time *to be at seller's option* in one warehouse, upon notice to buyer, as provided by the by-laws and rules of the New York Cotton Exchange. The cotton to be of any grade from good ordinary to fair, inclusive, and if tinged, not below low middling tinged, or if stained, not below strict low middling stained (New York Cotton Exchange inspection and classification) at the price of — cents per pound for middling, with additions or deductions for other grades, according to the rates of the New York Cotton Exchange existing on the day previous to the date of the transferable notice of delivery.
>
> Either party to have the right to call for a margin, as the variations of the market for like deliveries may warrant, and which margin shall be kept good. This contract is made in view of, and in all respects subject to, the rules and conditions established by the New York Cotton Exchange, and in full accordance with section 92 of the by-laws.
>
> ——— ———.

There it is, you see that under this contract it is at the option of the seller. He has the right to deliver any grade he sees fit to deliver. Consider also the depressing influence this must exert on the price of cotton. Now, suppose a spinner uses low-grade cotton. If he insisted on receiving the cotton under his contract he is liable under the terms of this contract to receive a number of bales of cotton of a higher grade than his particular mill requires, thus incurring an unnecessary expense. Of course he will not buy these. Now, suppose he wanted a high-grade cotton. I will show you from letters which I expect to read later on that some mills use the very high grades of cotton. Suppose a spinner wanted cotton of that kind. I hold in my hand a New York Cotton Exchange warehouse certificate for 138,484 bales of cotton. If a mill man whose mill required cotton grading as high as "middling" and above, bought contracts for the entire 138,484 bales, he would get only 602 bales that he could use. Suppose a manufacturer required for his particular mill cotton of middling grade and one grade above and one below middling, how many bales do you suppose he could get that would be of use to him by buying the entire lot of cotton in New York Exchange warehouses on the date of this certificate for 138,484 bales? Only 2,703 bales; the remaining 135,781 bales he could not use in his mill. If at any time a manufacturer should insist on receiving the actual cotton under one of these contracts, the seller, who has the option, as I have shown, would always see to it that the manufacturer got just the grade of cotton he did not want and could not use. In order that the accuracy of my statements may be verified I embody in my remarks the certificate, which shows also the differences between grades as fixed by the revision committee.

NEW YORK COTTON EXCHANGE.

Grades of cotton in New York warehouses on September 30, 1907, inspected, classed, certificated, and grade guaranteed by the New York Cotton Exchange (with differences on or off Middling).

No. of bales.	Grade.	Cents.	
—	Fair	1.75	on
—	Strict Middling Fair	1.50	on
—	Middling Fair	1.25	on
7	Barely Middling Fair	1.00	on
15	Strict Good Middling	.75	on
1	Fully Good Middling	.62	on
20	Good Middling	.50	on
23	Barely Good Middling	.37	on
116	Strict Middling	.25	on
375	Middling	Basis.	
2,212	Strict Low Middling	.30	off
8,857	Fully Low Middling	.65	off
22,782	Low Middling	1.00	off

No. of bales.	Grade.	Cents.	
30,848	Barely Low Middling	1.25	off
27,554	Strict Good Ordinary	1.50	off
9,318	Fully Good Ordinary	1.75	off
6,772	Good Ordinary	2.00	off
45	Strict Good Middling Tinged	.35	on
146	Good Middling Tinged	Value of Mid.	
386	Strict Middling Tinged	.20	off
2,026	Middling Tinged	.30	off
8,476	Strict Low Middling Tinged	1.00	off
8,967	Low Middling Tinged	1.50	off
3,190	Strict Good Ordinary Tinged	2.00	off
2,261	Fully Middling Stained	1.00	off
2,028	Middling Stained	1.25	off
477	Barely Middling Stained	1.75	off
1,012	Strict Low Middling Stained	2.25	off
26	Fully Low Middling Stained	2.62	off
544	Low Middling Stained	3.00	off

Total, 138,484

There can be no revision until November 20, 1907.

GEORGE BRENNECKE,
Chairman Warehouse and Delivery Committee.

Now, gentlemen, permit me to submit this plain appeal to your common sense. If the cotton buyer, the spinner, could get the cotton he really wanted on the New York Cotton Exchange, or if he could get cotton there that he could use, even if it were not the exact character of cotton called for by his mill, don't you know he would buy there?

Frequently futures on the exchange sell from 1 to 1½ cents per pound lower than spots can be bought in the South. If the mill man bought on the New York Exchange not only would he be able to save from $5 to $10 per bale on the cotton he consumes, but he would also save the freight thereon, which would not be an inconsiderable sum if he consumed annually, as my friend Mr. Lovering and associates do, 200,000 bales of cotton. Mr. Chairman, there is a growing demand for finer cotton goods. Each year the trade is demanding more and more of the finer yarns, and to meet this demand cotton of a higher grade is essential. Many Northern mills now require a cotton having a staple 1¼ inches long, and yet this factor, the length of the staple, which materially enters into the value of cotton, is not considered at all in the New York Cotton Exchange contract. This fact alone would keep prudent progressive spinners away from there. Mr. Chairman, I challenge the production of one spinner, either North or South, who goes to the New York Exchange to buy his cotton for factory purposes. Under any contract he could buy there he would not know what grade of cotton he might receive.

Have you any further doubt on this point? If so, permit me to read from a letter to me from Mr. Theophilus Parsons, president of the Arkwright Club, the oldest organization of cotton consumers in the United States.

Mr. NORRIS. I wanted to ask the gentleman a question about the certificate he referred to. Does the gentleman mean to convey the impression that the buyer would make a contract for one kind of cotton and have tendered him under the contract different grades?

Mr. BURLESON. That is exactly what I mean; by the terms of this contract cotton basis middling is sold, and at the option of the seller, if delivery was demanded, the buyer could be compelled to take as many as thirty different grades of cotton.

Mr. NORRIS. And the buyer could not make any other kind of a contract?

Mr. BURLESON. He could not. This contract is the only one that is permissible under the rules of the New York Cotton Exchange.

Now, gentlemen, my friend from Massachusetts [Mr. LOVERING] knows who Theophilus Parsons is. As I said to you, he is president of the Arkwright Club, a great organization composed of cotton consumers.

Mr. BENNET of New York. Will the gentleman yield? I want to ask him to make a correction. It is the Arkwright mills.

Mr. BURLESON. No, it is the Arkwright Club.

Mr. BENNET of New York. The Arkwright Club is a great consumer, but not of cotton. [Laughter.]

Mr. BURLESON. It is one of the greatest organizations of cotton consumers in this country; am I not right?

Mr. BENNET of New York. "Organization of cotton consumers," that is correct.

Mr. BURLESON. Mr. Parsons's letter is in reply to one from me in which I propounded certain questions. My first and fourth questions I now read:

1. Do you in the conduct of your business as a cotton manufacturer find it necessary frequently to resort to the future markets of New York and New Orleans as a means of protecting yourself against unforeseen fluctuations in the price of raw cotton?

4. Does the existing apparent disparity between the price of future contracts and the price of middling cotton in the South and elsewhere operate to the advantage or disadvantage of the manufacturer?

Hear his answer to these questions, and by his permission I use his letter.

In answer to the first question I use the word "never" for the reason that the manufacturer, when he buys middling upland cotton in the New York or New Orleans Cotton Exchange, has not any idea whatever what he is buying. They can tender a cotton spinner straw, cotton seed, or even the wood of the cotton plant, all mixed together, at a difference in price, the value of which stuff no living man is able to determine.

Mr. Chairman, who here will contend further that the buyer of cotton can go to the New York Exchange for his mill supply? I read further from this letter—

By having thousands of bales of this material in store in the two large cities they are able to manipulate the market in such a way that I answer your fourth question that the member of the stock exchange makes his money on so-called "differences."

Here is the president of the greatest organization of cotton consumers in the world declaring over his signature that the members of these cotton exchanges make their money, not in legitimate speculation, but on so-called differences. [Applause.] The letter further says:

They can manipulate these "differences" with the stock of trash they have on hand.

Some years ago you will find that many mill treasurers in the United States favored encouraging the future market, and this was quite right, for at that time grades such as "stains," "gin cut," and so forth, were not permitted for differences, and the spinnner could use cotton that was tendered to him. But, like everything else, they have "killed the goose that laid the golden egg," and have made their rule such that they can deliver trash which it is impossible to spin. This will eventually work to their disadvantage and possibly kill their business. They will then reform their rules.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to conclude his remarks. Nothing more interesting or more important has ever been heard on this floor.

Mr. SCOTT. Mr. Chairman, I will have to object to that request. I will ask that the gentleman's time be extended until 3 o'clock.

The CHAIRMAN. Is there objection to the request that the gentleman's time be extended until 3 o'clock?

There was no objection.

Mr. BURLESON. Mr. Chairman, for fear that I may not be able to conclude all I want to say, I ask that I be permitted to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD. Is there objection? The Chair hears none.

Mr. FITZGERALD. Mr. Chairman, I want to ask the gentleman from Texas if he will also discuss the letters he has from Charles D. White and Bemis Brothers?

Mr. BURLESON. I intend to discuss the Bemis letter if I have time to reach it. It was published as an open letter to me in the New York Journal of Commerce, and I take that as permission to use it. The other letter referred to by my friend from New York I wired for permission to use, and it will give me pleasure to comment upon it. Mr. Chairman, I have absolutely no desire to evade anything in this discussion, and if I had the time I would invite interruptions, because, I pledge you my word, I try to keep an open mind on this question; and if I can be convinced that it is for the interest of the producer and consumer of cotton to continue in existence these exchanges, I will support and defend them; otherwise I will stand here as long as I am a Member of Congress insisting upon their destruction. [Applause.]

Now, let us see further: Does the seller, I mean the man who has the actual cotton, go to the New York Exchange to find his market? I have just shown you that the buyer of real cotton is not to be found there. Who would he sell to? Furthermore, why should he go there? I have just shown you, according to Mr. Arthur R. Marsh, that it costs the seller $1.50 for every bale he carries there; why should he voluntarily go there to sustain this loss? He does not do so. Now, Mr. Chairman, if the buyer can not go there and the seller will not go there, will some ingenious friend and defender of this colossal gambling shop, this so-called "exchange," explain how it performs the chief function of a legitimate exchange by bringing together the buyer and the seller—the consumer and producer of cotton? With these incontestible facts staring us in the face, it would be an insult to the intelligence of this body for any such effort to be made.

Mr. MADDEN. Will the gentleman yield for another question?

Mr. BURLESON. I yield to the gentleman.

Mr. MADDEN. If the cotton exchanges of our country were abolished, would not that lead to the quotations of prices in the Liverpool Exchange?

Mr. BURLESON. Mr. Chairman, if any man is entitled to be called the father of the New York Cotton Exchange, that man is Mr. Walter T. Miller; he was a charter member and the chairman of the committee who directed the construction of the palatial building in which the cotton exchange is housed. He is probably its oldest member and is universally respected for his integrity and ability as a cotton factor. I submit to you, by way of reply to my friend from Illinois, a declaration made by Mr. Miller to me in the presence of the distinguished gentleman from Massachusetts [Mr. LOVERING], and my friend, the able Representative from Tennessee [Mr. SIMS.] When that question, now asked by the gentleman from Illinois, was put directly to Mr. Miller he promptly replied: "If you should close the New York Exchange the Liverpool Exchange would certainly go out of business." He is the greatest authority on cotton exchanges and cotton-exchange methods in this country if long experience makes one an authority.

Mr. MADDEN. The Liverpool Exchange being a manufacturer's exchange, would it not likely reduce the price of cotton if all exchanges in this country were abolished?

Mr. BURLESON. Mr. Chairman, when I reach that part of my argument, when I discuss the effect of the rules and practices of these exchanges on the price of spot cotton, I will show that frequently the Liverpool Exchange quotes prices for cotton of a given grade very much higher than the price fixed by the exchanges in this country for the same grade. At last we must all admit that the ultimate price for cotton, as with everything else, is fixed by the law of supply and demand.

I have not the least doubt, if we could enact the legislation proposed, and suppress all gambling in cotton, it would force these exchanges to a change of their methods or it might close them; and if so, I feel sure the intelligent spinners of New England and the South, and the spinners abroad, would adopt some method of securing their mill stock probably more satisfactory to them than the present one. This, I think, I can show the gentleman if I have the time to read from their own letters.

Now, let us see if the New York Cotton Exchange performs the other beneficial functions of a real exchange. Does it aid in marketing the cotton at the lowest cost to the parties at interest?

It may be interesting first to know exactly how much cotton has been received in recent years at New York, this great market center, this very important exchange. The figures I now use are taken from a book prepared by one of the numerous defenders of the New York Exchange and its practices, published by Latham, Alexander & Co., of New York. This book shows there was received at New York in 1900–1901, 205,859 bales; in 1901–2, 161,964 bales; in 1902–3, 57,577 bales; in 1903–4, 45,123 bales; in 1904–5, 33,798 bales; in 1905–6, only 6,575 bales, and in 1906–7, 23,108 bales. Thus we see that from year to year New York has been gradually declining in its annual receipts until it is now receiving a quantity so insignificant that but for its vast operations in paper cotton it would scarcely be reported. This exchange could not render much aid in marketing the cotton crop if the cotton did not go there, could it?

Mr. SIMS. And the largest crops ever grown were grown during this period.

Mr. BURLESON. Yes; the largest in the history of the trade. Cotton has ceased to go to New York, and surely it can not be contended that this exchange could render aid in marketing the crop when it is admitted by the exchange apologists that the cotton no longer goes there. But, Mr. Chairman, some one may still claim that, notwithstanding the fact that cotton no longer seeks New York as a market place, the operation of the New York Cotton Exchange is still helpful to the producer in marketing his crop. If so, the question at once arises, Does it do so at the least expense or in the most economical manner for the seller and buyer? We all know that there are 450 members of this exchange, membership being limited to that number.

We all know that these gentleman are not running this exchange for their health, and that, first and last, regardless of what else may be claimed or contended for, this all must admit that the burden of the expense of this exchange ultimately falls on the producers and consumers of cotton, and, doubtless, frequently they make both pay the same bill. These members of the exchange, being cotton brokers, maintain many high-priced, handsomely furnished offices in this expensive city, some operating private telegraph lines to wire houses and local agents throughout the country, with innumerable typewriters and stenographers, all of whom must be supported and all of which must be paid for. I need not ask who finally does the paying. It goes without saying that the man with the hoe and the spinner who finally consumes the cotton pay the freight. And is this all? I only wish is were. Let us look a little further. During last year, as can be shown through compilation of statements published in the leading newspapers from day to day—and that is the only way the figures can be had now—statistics were published by the exchange prior to 1897, but since then it has not done so for reasons which I will hereafter state—there was sold on the New York Cotton Exchange 100,000,000 bales of cotton. Now, Mr. Chairman, if the buyer did not go there to get actual cotton, and the seller did not carry there cotton for sale, what do these vast transactions really represent? There can be no doubt about what it was. It was phantom cotton, paper-contract cotton, spook cotton, and yet, gentlemen, for every 100 bales of this mythical cotton sold there through members of the New York Cotton Exchange a burden of $7.50 was placed on the real cotton crop. Seven dollars and fifty cents are charged as commissions on every 100 bales bought or sold on the exchange. These commissions alone amount to $7,500,000 per annum. Is this all? I only wish it were. Mr. Chairman, it takes a vast amount of money to finance these transactions—not based on actual cotton, it is true—I have shown that the actual cotton does not go to New York—nevertheless, the burden of all this expense rests on the actual crop.

Consider for a moment the money required for these transactions. If $2 per bale is required by way of margin on each transaction of 100 bales, the buyer and seller between them put up $400. It is a simple matter of calculation to arrive at the result showing that first and last on 50,000,000 bales of cotton $100,000,000 would be required in margins from the seller and a like amount from the buyer. Of course these vast sums are not all required at one and the same time, but when it is used some one pays interest thereon. Now, if a fluctuation in price takes place, a further margin is required; for every twenty points an additional dollar per bale must be put up. And if a violent fluctuation occurs and a change of as much as 100 points is made in the market price, it would represent on the year's transaction one quarter of a billion dollars. I would not have you believe for a moment that any such sum of money or credit is called in use at one time, but during the cotton season covering the full year this vast sum in the aggregate may be required, and if so, some one pays tribute therefor in the way of interest. What in the way of additional burden does this place on the actual crop? It staggers one who attempts to make the calculation. Undoubtedly the producer, the farmer, and the consumer, the manufacturer, between them bear all these charges.

Mr. Chairman, a few days since we all received through the mails a forty-four page pamphlet containing an elaborate defense of the New York Cotton Exchange by Latham, Alexander & Co. In it I find this:

> As the Burleson bill and other bills proposed in Congress to suppress the cotton exchanges of the country and transactions in cotton contracts for future delivery are simply a rehash of the antioption bill of 1892, we republish herewith our reply to Senator George's argument, which covered the entire subject.

Now, as a matter of fact, my bill is based on entirely different principles from the bill of 1892 and this I will show when I come to discuss its details, but that is not what I now am after. Let us turn to that part of this reply answering as to the burden placed on the cotton crop by these commissions and interest charges on money required for margins and see what answer is made. I read from the reply:

> Now, when it is remembered that a large part of the business transacted in the exchange is done by bankers, merchants, exporters, and traders who are members of the exchange, and who pay no commissions, it is not likely the total commission on the total transactions quoted amounted to one-fourth of the sum mentioned by the Senator.

Thus we have it that on a large part of the transactions on the New York Cotton Exchange no commissions are paid. So far the reply in part controverts the complaint made as to the burdens of the commissions.

Now let us see what is said about the expense of interest charges incurred by the margins required to be put up by those contracting for future delivery of cotton. I read from this same reply:

> Bankers, merchants, brokers, and dealers who are members of the New York Cotton Exchange rarely call upon each other for original margins. They have the right to do so, but the right is not exercised, because their contracts are considered safe, and, besides, they have the right at all times to call upon each other for margins to cover any variation in the market. Calling of either an original margin or margin on account of variations in the market is purely discretionary with the dealer. Firms in the exchange oftentimes have large transactions with each other without margins being called.

This answer shows that interest charges do not accrue on the margins of some transactions taking place on the exchange.

But, Mr. Chairman, taking these two answers together, we

have this defender of the exchange making a more serious charge against the exchange than the one which he is defending. Here we have it that innumerable transactions take place on the floor of the cotton exchange where neither commissions are paid nor margins required. What a temptation this affords, Mr. Chairman, for members of the exchange to play battledoor and shuttlecock with the market price of this great product. There they stand day after day, without danger of incurring more than a slight liability, beating down if they see fit the market price of a great crop which is made through the sweat of millions of our people! This tends to confirm a statement which I was loath to believe, contained in a letter from New York and recently received by the gentleman from Alabama [Mr. HEFLIN]. I read from the letter:

In this way this "gang" have milked millions of money out of the public. Ninety-eight per cent of the dealings here are merely gambling. They would at times pass the word around, "How much long cotton have you on your books," then compare notes and finding that the lambs or outsiders had 500,000 bales long they would start a bear raid and smash the market until these longs would have to sell out or "let go"; just then the "gang" would buy from the lamb thus frozen out, and when he was cleaned out of his money, push the market rapidly up so as to not let him get in again at the bottom.

How easy it would be to do this in the light of the statements made in this so-called defense of the New York Cotton Exchange. Thus we find the exchange impaled on one horn of the dilemma or the other—either is monstrous. The truth is, Mr. Chairman, it renders no aid in marketing this great crop, but during the period it is being marketed this exchange lays a burden on it excessively heavy, which burden the buyer and seller have determined to no longer willingly carry.

Mr. Chairman, in discussing this question I want to be absolutely fair. I realize that I must be fair.

Every error I fall into here will ultimately be pointed out and used to strengthen the opposition to what we are endeavoring to accomplish—the abolishing of this great evil.

The business of these members of the exchange is placed in jeopardy by the legislation proposed, and not only are they shrewd and smart themselves, but they have the means to employ the greatest talent this country affords, and every misstatement I may make, through inadvertence or ignorance, will be in the end turned against us.

For this reason, Mr. Chairman, I am not venturing into the field of speculation, but am tying myself down to facts, and whenever I can I will use testimony they have furnished themselves to demonstrate the injury resulting from the practices of these exchanges. Now, let us look further to see if the New York Exchange performs the other functions of a legitimate cotton exchange.

Does it assist expeditiously and economically in the distribution throughout the world of the product of 5,000,000 of our people who are engaged in growing cotton?

We all recognize the truth of the proposition that stability of price is one of the first essentials of healthy trade.

Now what effect do the operations on the New York Cotton Exchange have on the price of cotton? Mr. Chairman, the mere propounding of this query brings to every mind at all familiar with the cotton trade the thought of erratic prices.

But in order to do no injustice let us examine the statistics on this subject. I hold in my hand Shepperson's Cotton Facts—a book sent out by the superintendent of the exchange, as is shown on the cover. It is prepared by an able cotton expert.

This book shows that for last year, taking each month as I call them, from the time deliveries for that month were dealt in until the close of that month, the price fluctuated as follows: For September, from 11.18 cents per pound to 8.58. Remember, now, that this price is for the same grade of cotton. For October, from 11.30 cents to 8.60 cents per pound; November, from 11.70 to 8.85; December, 11.30 to 8.90; January, 11.31 to 8.99; February, 11.40 to 9.06; March, 11.48 to 9.02; and thus throughout the year, for July the highest being 13 cents and the lowest 9.35 cents per pound. Thus you see that these prices are either manipulated or the unrestrained speculation keeps the market price shifting round like a howling dervish—jumping like a man with the jim-jams. It serves to disturb prices rather than to steady them, and this is continued from the beginning of the season to its end. The producer of cotton is kept halting between his hope of a higher price and his fear of a lower one. He knows not whether to sell or to hold. As he labors through the week preparing his crop for market, the price may be thoroughly satisfactory and at its close, when he is in a position to sell, he may find it off by a hundred points. The price lacking in stability, he holds perhaps to lose still more in the end. Do such practices aid in distributing the crop expeditiously? On the contrary, it has hindered it as I have shown. Mr. Chairman, recall the effect on trade conditions during 1904—the Sully year, as it is called. Then, as we all know, after the bulk of the cotton had passed out of the hands of the farmer into the possession of the middlemen, the price was by speculative methods forced to nearly 18 cents for middling cotton, resulting in many of the mills closing down.

Do such practices aid in distributing the crop expeditiously? Just the contrary. It obstructs it as is shown. Again, during the year before, through a combination of cotton speculators, the price of cotton was, near the end of the season, forced to so high a figure that some cotton which had been exported was returned from Europe and, as I have been told, actually tendered on contracts.

Thus as a direct result of the manipulation of prices on this controlling exchange we find cotton more valuable for gambling purposes than it is for spinning purposes. This, of course, again demonstrates conclusively that the New York exchange aids materially in distributing this great crop where it is needed at the least cost to those interested! Some one paid for the extra trip of this cotton across the seas. The extra trip was occasioned by the wild speculation on this so-called "exchange,' thus interfering with the crop's final distribution. Hence we see that the New York Cotton Exchange has ceased to perform any of the functions of a useful or legitimate exchange.

If I am right about this, if this exchange no longer serves to bring buyer and seller together, imposes useless burdens on the producer and consumer, and obstructs, hinders, and delays the marketing of this important crop, the inquiry arises, Why should we not abolish it or enact legislation to prevent its hurtful practices? If you want to do so, the adoption of this amendment will accomplish that end.

But, Mr. Chairman, whenever a suggestion of legislation of this character is made we always find three time-worn stock arguments brought forward and urged in support of the continuance of cotton exchanges:

First. It is vehemently claimed that this cotton exchange is absolutely essential to the successful conduct of the cotton manufacturer's business; that the spinner could not safely operate without the protection afforded thereby; that the practice of the trade here and abroad is to sell the forward output of the mill, and when he has done this, for his own protection he must hedge against any material advance in the price of his raw material, and that the exchange is the only place he can make this "hedge," as it is called.

The first fact I desire to direct attention to is the probable extent of hedging by the manufacturer. We consume in this country of a 13,000,000-bale crop less than 6,000,000 bales. For the sake of argument, we will say all this is hedged, though, as I will show you hereafter, many manufacturers do not hedge. It is probable that half of this 6,000,000 is hedged in New Orleans and Liverpool, but this I waive, and in order to be within safe bounds I allow for hedging done by the cotton buyer against loss before he places cotton purchased by him an equal amount, and thus we have 12,000,000 bales hedged out of a total of 100,000,000 bales bought and sold last year on the New York Exchange, leaving 88,000,000 bales representing gambling, pure and simple.

Furthermore, I want to direct your attention to the fact, that in order to conduct a successful hedging operation it is absolutely necessary that your contract price for your futures be kept close to the market price of spots. Now, I submit, how could this be done during the past few years, when there is so marked a difference in the prices of spots and futures? Bearing on this, I want to read from an address I heard last May before the American Cotton Manufacturers' Association. It was delivered by one who has had more experience in transactions on the cotton exchange than any man living or dead, and who, in my opinion, is one of the world's greatest cotton experts. I allude to Mr. Theodore H. Price, and this is what he said:

The spinner sells his goods for delivery during January, 1908. He desires to protect himself against any radical fluctuations in the market for the raw material. The past year's experience has shown that the New York contract affords no protection. It has declined largely as a result of these fixed differences, while the price of cotton which the spinner required has advanced.

And still it is claimed the exchange is the shield and protection of the mill man. If so, Mr. Chairman, he ought to be the most loyal friend and supporter of the exchange. If he is, who would know that fact with certainty? Why, the exchange itself, and of course the chief officers of the exchange—its presidents. Let us see. I read from an address by a former president of the exchange delivered last year in Boston before the spinners themselves. He said:

The hostile attitude taken by the spinners of New England at the formation of our exchange, and which has continued with more or less intensity during the past thirty-six years was, and is, to my mind, a mistaken policy, which the spinners of England and continental Europe have avoided by their daily intercourse with merchants from all portions of the world.

Surely, Mr. Chairman, these mill men should not be hostile to their protectors who serve them so well.

Now, let us go to the presidents of the cotton manufacturing associations and have their testimony on this point. Mr. S. B. Tanner is the president of the American Cotton Manufacturers' Association, and, in reply to a letter from me, had this to say on this point:

In reply to your favor of the 17th ultimo, which came during my absence, I beg to say that I have been informed that there is very little hedging done in the New York cotton market at present, as the New York cotton market and the Southern spot markets have been so far apart during the past few years; however, up to eight or ten years ago it seems it was a safe proposition to use the New York market for hedging purposes, as the contracts were so arranged at that time that the future markets, especially the current and succeeding months, usually represented very closely the prices of spot cotton in the South, but for some reason this parity has not been maintained during the past few years.

If the New York cotton market could be so arranged as to represent the cost of spot cotton it would no doubt be a great advantage to manufacturers and dealers in spot cotton generally for hedging purposes, as the manufacturer could sell a lot of goods and probably not be able to buy any spot cotton immediately, but could base his sales upon the price of cotton in New York, buying the contracts promptly and do a safe business, which has not been the case during the past few years.

For many years Mr. J. R. MacColl was president of the New England Cotton Manufacturers' Association, and while holding that position he appeared before the Agricultural Committee at one of its hearings, and on this subject had this to say:

Mr. MACCOLL. My opinion is that the spinners of this country have used the future market to a very small extent. Lately they have been forced to use it more, but they have not used it to any large extent in years gone by. There are thousands and thousands of manufacturers who have never bought a bale of futures.

Mr. SIMS. Is it not a fact that the speculators are divided into bulls and bears, and that the effect of their operations is nil?

Mr. MACCOLL. If there is no evil about it, it is not worth while for us to waste time about it. We think it has been a tremendous evil in the last three or four years.

Mr. Chairman, during February of this year I wrote to many of the leading cotton manufacturers of our country propounding to them four questions tending to throw some light on the issue I am now discussing. To these letters I received a great many replies, and these I carried to the Census Bureau, and through the courtesy of its officials a tabulated statement was prepared giving a summary of their replies. I submit it for your consideration:

Memorandum for Hon. A. S. Burleson, prepared by the Census Bureau.

The following analysis and tabulation of the replies to the inquiries which you propounded to cotton manufacturers relative to H. R. 67 are respectfully submitted:

Interrogatory.	Character of reply.	Per cent.
1. Do you, in the conduct of your business as a cotton manufacturer, find it necessary frequently to resort to the future markets of New York and New Orleans as a means of protecting yourself against unforeseen fluctuations in the price of raw cotton?	Yes { frequent	47
	Yes { occasional	12
	No	37
	Indefinite	4
2. During the past ten years has the existence of these future markets, in your opinion, been of benefit or disadvantage to the legitimate interests of cotton manufacturers?	Benefit	47
	Disadvantage	42
	Indefinite	11
3. If trading in futures were suppressed through the enactment of national legislation looking to that end, would the result, in your opinion, be beneficial to the trade, taken as a whole?	Yes	39
	No	54
	Indefinite	7
4. Does the existing apparent disparity between the price of future contracts and the price of middling cotton in the South and elsewhere operate to the advantage or disadvantage of the manufacturer?	Advantage	5
	Disadvantage	68
	Indefinite	27

I desire to direct your especial attention to the fact that 68 per cent of the manuacturers answering declare that in their opinion the disparity between the price of futures and spots is to the disadvantage of the manufacturer. This disparity in price has existed for several years, and in my opinion will continue to exist until the methods of the exchange and its rules are modified.

I also desire to read a few letters from the most prominent of these manufacturers who evidence a thorough grasp of this subject. The first I will read is from one of the strongest mill men in New England. I reserve his name, as I do not have his permission to use it. In his letter to me he said:

I have been connected with cotton for the past forty years—twenty years as a cotton buyer in New Orleans, and twenty as a cotton manufacturer.

I am opposed to the cotton-future business; it is simply gambling and does more harm than the Louisiana lottery ever did.

Not 5 per cent of the transactions in futures in the cotton exchange are anything more than gambling on quotations, with no thought on the part of buyer or seller of ever receiving or delivering actual cotton.

All sorts of fake reports in regard to size and condition of the cotton crop are circulated by the bull and bear speculators, which affect the stability of price, so important to the cotton manufacturer, and a majority of the cotton planters are very much opposed to these operations in cotton futures.

It seems to me to be the plain duty of our Government to enact laws that will check, if not entirely stop, this trading in cotton futures.

You will note, Mr. Chairman, that this gentleman in this letter also supports my contention that the New York exchange destroys stability of price, which is essential to healthy trade.

I now submit one from Wisconsin:

COOPER UNDERWEAR CO.,
Kenosha, Wis., December 17, 1907.

Congressman A. S. BURLESON,
House of Representatives, Washington, D. C.

DEAR SIR: We wish to address you upon the subject of your bill prohibiting the speculative dealing in cotton. We wish to state that the buying and selling of cotton on margins is a very pernicious practice, and one detrimental to the interest of the cotton manufacturers of the country. There can be no objection to the actual buying of cotton where the entire value on the cotton is paid, but the speculative trading in cotton on margins we find to be a great handicap to our business.

There are two mills in this city spinning cotton. The fluctuation in the cost of our product of 1 cent per pound is a very serious fluctuation, as it unsettles prices and makes it very difficult for us indeed to plan our business or to plan our work to such an advantage that we can pay the best wages to our employees.

Under speculative manipulation the cotton market is apt to vary from half a cent to a cent in one week, and to make ourselves safe it is absolutely impossible for us to pay the highest wages because we must keep a margin of safety which we would not need to keep were it not for the speculative manipulation of prices of cotton.

It is no unusual thing under present conditions for the entire margin on cotton goods to be wiped out by the sudden speculative changes in the market. This is not conducive to the best interest of the manufacturers, who are the mainstay of the country.

We sincerely trust you will meet with success in pushing your bill to adoption. We thank you for your interest in the matter, which certainly ought to have the hearty support of all cotton manufacturers. Do not allow brokers or speculators to make you believe that the provisions of your bill are too sweeping. All that is needed by the manufacturer is that the entire speculation in cotton on margins be forever destroyed and wiped out. Again wishing you success, we remain,

Very truly, yours,

COOPER UNDERWEAR CO.,
HENRY S. COOPER,
President and Treasurer.

This gentleman also supports me in the proposition that the exchange unsettles prices, and asserts emphatically that the selling of cotton on margins is detrimental to the interests of the cotton manufacturer and is hurtful to the laborer in that it depresses his wages.

This one comes from a large manufacturer in the State of Rhode Island:

MANVILLE COMPANY,
Providence, R. I., February 22, 1908.

Mr. A. S. BURLESON, *Washington, D. C.*

DEAR SIR: I have your favor of the 17th instant, and inclose a reply to the printed questions attached thereto. In addition would say that it seems to me that the reason the cotton exchange awakens so much more opposition than the stock exchange or grain exchange is because that unlike those other exchanges it professes to sell an article and then makes the conditions attending the sale such that the legitimate trader can not purchase on the exchange and get an article suitable for his wants. As a result the legitimate sales steadily decrease and the exchange degenerates into a gambling place pure and simple. If a man buys a block of stock on the stock exchange or a bushel of corn or wheat on the corn exchange he gets what he buys, and consumers make use of those exchanges for their future wants.

If a spinner buys cotton futures on the cotton exchange and demands the cotton he is sure to get what he does not want if the seller can possibly effect that result. The remedy seems to me to make different grades to be sold and hold the seller to deliver what he sells, then both planters and spinners can use the exchange with safety.

A suggestion has been made by a Southern dealer that the exchange should be compelled to make two different classes of sales.

Number 1 should mean that the seller could deliver middling and above cotton with staple not less than $1\frac{1}{16}$-inch, or possibly 1 inch.

Number 2 should mean that the seller could deliver middling and below of similar staples. In this way the fine and coarse spinners could both be accommodated, the legitimate sales on the exchange be increased, and that would soon remove the disparity of which all complain and to which you allude in your fourth question.

I hope I have made myself plain to you.

Yours, very truly, CHAS. H. MERRIMANN.

You will note that this gentleman asserts in his letter that legitimate trade has steadily decreased on the exchanges, and that it has degenerated into a gambling place pure and simple. He also supports me in my charge that if a spinner buys a contract and demands the cotton he is sure to get what he does not want.

I now read one from Indiana:

EVANSVILLE COTTON MANUFACTURING COMPANY,
Evansville, Ind., February 25, 1908.

A. S. BURLESON, M. C.,
House of Representatives, Washington, D. C.

DEAR SIR: I am in receipt of your letter of the 17th, inclosing copy of a bill which you have recently introduced in the House of Representatives.

Inclosed herewith find the questions answered, as you request.

I believe the bill which you have introduced is just and right, and so far as our observation has been we consider the matter of dealing in futures in cotton to be detrimental to the manufacturer in every respect, as it is a form of gambling which misrepresents facts, and is harmful to anyone who is in any way connected with such doubtful methods of business.

If you have a copy of your address before the American Cotton Manufacturer's Association in Philadelphia, delivered last May, I would thank you for a copy of same.

Yours, truly, A. W. EMERY, *Secretary.*

Here we have an emphatic declaration from a manufacturer that the exchange instead of being helpful is an actual detriment to the manufacturer in every respect.

I now submit a letter from Mr. T. L. Wainwright, of Mississippi. He covers many phases of this question, handling it in such a manner as to exhibit his thorough understanding of what he writes about. In this letter I am supported in nearly every charge I have made against these exchanges. I will read it:

STONEWALL COTTON MILLS,
Stonewall, Miss., February 24, 1908.

Hon. A. S. BURLESON, M. C.
Washington, D. C.

DEAR SIR: Replying to your appreciated letter of the 17th instant, beg to say that I have filled in and herewith return to you my answers to your questions, but the space you have allowed me is not sufficient for a complete reply; hence as you invite a separate letter I will attempt to write you one.

I am a member of the American Cotton Manufacturers' Association, and listened with much interest to your address before that board in Philadelphia last May, and I believe you are entirely right. The so-called "bucket shops" should unquestionably be eliminated, and the nefarious, unjust, and, I must say, swindling manner in which the New York Cotton Exchange is conducted should be suppressed. They keep a stock of cotton in New York that for spinning purposes would answer the purpose no better than so many bales of hay, or picker droppings or motes, simply to tender on contract, knowing that no cotton mill could spin this stuff.

The writer has been in the cotton manufacturing business in the South for about thirty-four years, which is during his whole business career, and in all departments, and my cotton-mill friends know I am mechanically practical in manufacturing, while I have been the business head of this and several other cotton mills for many years, and the mills that I represent are known to be successful; and I have had the pleasure and honor of leading several mills to success which had been failures.

Now, touching on the future business, will say that I have frequently had occasion to buy so-called futures or future contract cotton to cover actual future sales of cotton goods, but I am very sorry to have to say that we have always come out, with very few minor exceptions, with either the hot end of the poker or short end of the string in our hands. The methods of the New York Cotton Exchange are an outrage on the public. They do not afford the protection that is expected and held out. The bucket shops are an outrage and the most pernicious gambling and swindling machines in the United States to-day. They are far worse than the Habana lottery or any of those gambling schemes. New York futures are simply second-hand warmed-over jobs that afford no protection. But the New Orleans Cotton Exchange conducts their business on a much higher plane, and do ordinarily afford protection to the manufacturer who sells his goods for forward deliveries, but they should be straightened up and restricted to an extent by proper but sane legislation.

It is argued that if our American exchanges are suppressed or closed up that we transfer the market quotations, or, I should say, prices to Liverpool. This I deny.

Several of the Southern States have recently passed laws suppressing the trading in cotton futures, or, I should say, gambling, and the cotton exchanges are putting up a howl and are claiming that this is the cause of the present low prices of cotton, and this is no doubt a fact for the present, as they have made it a point of making the farmers very sick and sore over this legislation, but, "like water, it will seek its level," and if they will knock out all this gambling I have an abiding faith that the markets will straighten themselves up in due time and the farmers will receive as good average prices for their cotton—in fact, far better—than they could possibly get with the bucket shops and cotton exchanges wide open, while not only the cotton manufacturers, but the jobbers, and through them the consumers, of cotton goods will not be subjected to such damaging and demoralizing fluctuations in prices which hurt everybody.

Now, down to the real practical facts, which will be attested by every sensible cotton-mill manager. The trouble is, we and many others have recently and heretofore many times sold large quantities of cotton goods at profitable prices and have bought the spot cotton or futures as a hedge, then the gamblers get into the deal and depress the cotton markets from one to three or four cents per pound; then down goes cotton goods, the purchasers cancel their orders and leave the cotton mills with the high price future or spot cotton on hands and their orders for the goods all canceled. We are in this fix to-day, and with a loss from this very cause on our hands that will amount to many thousands of dollars. I have gone through this experience before. The dethroned cotton kings, and many others of their stripe and class, are absolutely to blame for these terrible conditions. So, I must repeat, from a common sense and practical experience of a third of a century I am unalterably opposed to the bucket shop, and secondly to the swindling and unjust methods followed by the New York cotton exchanges, and, thirdly, to the general practice of the so-called cotton exchanges as relates to future cotton transactions. If the whole future business were swept off the map of cotton business I believe everybody would be far better off.

Your bill known as "H. R. 67" covers my views and ideas exactly. The whole trouble is that it is a gambler's scheme, and they sell many times more cotton than is produced or could possibly be delivered.

These future markets are all right if they can be handled under your bill so as to have actual deliveries made. In short, I know no better way to complete an answer to your letter than to say I heartily and fully indorse your entire bill, and I hope it will pass.

With expressions of regard, I am,

Yours, truly, T. L. WAINWRIGHT, *President.*

I now present a letter from an Illinois manufacturer. In it the charge is made that through the exchanges stability of price is destroyed and the producer and consumer defrauded. I read it:

AURORA COTTON MILLS,
Aurora, Ill., February 22, 1908.

Hon. A. S. BURLESON,
House of Representatives, Washington, D. C.

DEAR SIR: Referring to H. R. 67. In the twenty-four years' operation of these mills, during which time I have been connected with the active management, we have not made use of the future markets as a means of protection against unforeseen fluctuations. We are opposed to the cotton exchanges as now conducted, because they serve no legitimate purposes of commerce. The statement that they do seems plausible to the unthinking mind, but really has no foundation in fact. The producer and consumer of cotton want stability of prices, the speculators and gamblers want rapid and violent fluctuations, and use all sorts of means honorable and otherwise to produce them. The inevitable result is that the honest producer and consumer are defrauded. What influence I may have is with your bill.

Yours, truly,

AURORA COTTON MILLS,
E. S. HOBBS, *Treasurer.*

Mr. Chairman, I now offer for your consideration a letter from a manufacturer in my own State. It bears evidence within itself that it was penned by a thoughtful man.

DALLAS COTTON MILLS,
Dallas, Tex., February 27, 1908.

Hon. A. S. BURLESON, M. C.,
House of Representatives, Washington, D. C.

DEAR SIR: I own your favor of the 17th instant, inclosing several questions to which you ask reply, and also copy of House bill 67.

I return herewith the questions answered to the best of my ability, and will say that in my mind there is no question but what dealing in futures by the outside public is harmful to the three classes of legitimate trade in cotton, viz, farmer, shipper, and manufacturer. To all three the greatest benefit that could be derived would be to produce a stable market, and the three would prefer to get a remunerative price for cotton. It is no advantage to anyone to have low prices for farm products while it is of manifest advantage to the country at large for the farmer to reap a profit on his products.

The harm that speculators do to the market is that they increase natural fluctuations in value out of all reason. Where the market has a tendency toward higher prices the speculator runs the price beyond reason in that direction. On the contrary, when the market has a bearish tendency they reduce the price far beyond its natural swing. If it were possible to confine the trade of cotton in legitimate channels fluctuations would be far less than they have been in the past and would stick much closer to the natural value of the product.

In regard to bill No. 67, it would be a radical departure from our past experience and we can not say what the outcome would be, but trade would no doubt find some manner of getting at reasonable values and it would be reasonably uniform over the country. At present this price is made largely by the price of cotton on the Liverpool Exchange, and secondarily, by the exchanges in this country. If we could get no quotations from the exchanges in Liverpool and America, the surplus cotton shipped to Europe and England would still govern the price, and this would be ascertained by the bona fide offers made by the manufacturers in those countries for the actual cotton to be shipped to them. For the past few years the tendency in our line of business has been upward. Naturally the speculator and gambler have made their money by bulling products, and this has been of some advantage to farmers. It looks now that we are in for a period of descending prices, and it may be a few years before the tide turns. During this period of depression the speculator will naturally turn his attention to the bear side, and it is probable will run prices very much lower than they would otherwise go.

Yours, truly, J. T. HOWARD.

Here we find a declaration that the operations on these exchanges are hurtful not alone to the farmer, the cotton buyer, or shipper, but to the cotton manufacturer as well.

I also desire to bring to your attention two letters from one of the leading manufacturing firms from the State of Pennsylvania. In no uncertain terms do these letters speak in denunciation of the methods of these exchanges.

THOMAS HENRY & SONS,
Philadelphia, March 5, 1908.

Mr. A. S. BURLESON,
House of Representatives, Washington, D. C.

DEAR SIR: As per your letter of the 17th ultimo, we beg to inclose you herewith letter filled out as requested in regard to cotton exchanges that now exist.

We think if the present cotton exchanges could be wiped out of existence the people or concerns engaged in legitimate business of cotton manufacturing would be far better off in every particular than they are at present.

Owing to the enormous rises and falls that have taken place in the cotton market quotations for the past few years it is almost impossible to do business on a legitimate basis; but if, as above stated, the exchanges were out of existence, and the old rule made to apply—that is, to make the price of cotton according to the legitimate demand and supply—it would result to the mutual advantage of the producer and the consumer, meaning the cotton-mill man as well, and the ultimate extinction of the gambling element who use the cotton market as a dummy for their gain.

If it is not possible to wipe out the exchanges, we think, in our opinion, if the following law—it would help out considerably the present condition of affairs—that is—

If dealers on the cotton exchange would be compelled to show warehouse certificates showing that, as sellers, they actually have the cotton in their possession that they wish to dispose of, and also if the buyers were compelled to put up at least 50 per cent of the actual purchase price as a margin in purchasing cotton, by this method it would cut out pretty much the "chancers," who would not know what to do with a bale of cotton if the same was in their possession.

We sincerely trust you will be able to have laws passed through both Houses to overcome the gross evils of the present cotton market, which have existed for the past ten years, and thereby receive the everlasting gratitude of the law-abiding people who have millions of dollars invested in the manufacture of cotton fabrics.

Again wishing you success, we beg to remain,

Very truly, yours,

THOMAS HENRY & SONS.

THOMAS HENRY & SONS,
Philadelphia, March 17, 1908.

Mr. A. S. BURLESON,
House of Representatives, Washington, D. C.

DEAR SIR: We have your telegram to hand, and would ask you to kindly pardon delay in answering the same, as both members of the firm have been absent from the office for the past week, being in Boston on business.

We also have your letter of yesterday, and in reply to both letter and telegram would say we wish to put forth a few more views from our standpoint.

First. We give you permission to use our letter to your best advantage in your debate, and wish you success.

Second. Continuing our letter of March 5 would add the following:

If we are obliged to have cotton exchanges (?) for the benefit of the manufacturer and the seller, when a purchase is made on one of these exchanges the buyer should have the privilege of stating the grades of cotton that he wishes to purchase, which option he has not under the present conditions existing on the exchanges of to-day; also, the seller must be in position to deliver the grade desired.

Under the present conditions no buyer can demand any special grade of cotton at all. The seller is permitted to give any grade he desires, which, as a rule, happens to be such a grade that the spinners can not use under any conditions.

We inclose you herewith a clipping from the New York Journal of Commerce showing you the various grades of cotton and the difference there is in the cost of the same. (Of course we feel that you as a Southerner are well posted in the various grades of cotton, but inclose the above for the benefit of your fellow-Congressmen.)

As a rule the cotton exchange when called upon for delivery delivers a very low grade of cotton, which, as above stated, we (meaning the spinners) could not use in our manufacturing at any price, thus proving that the cotton exchange is good only for those who wish to buy and sell paper contracts, and is of no use to the producer and the manufacturer. If the manufacturer could buy the grade of cotton he desired and compel the seller to deliver this grade, no doubt the future cotton market would be a benefit and not a detriment to the manufacturers.

Should you take the trouble of looking over the New York Commercial, and the New York Commercial Bulletin, you will soon be convinced that the cotton exchanges are only for those who wish to buy and sell paper contracts, and the manufacturer doing legitimate business does not appear at all. In buying he merely gets 100 bales (so-called "cotton"), which upon their receipt are liable to turn out to be what in the trade we call "dog tails," and "boot legs" (slangy expressions).

We as manufacturers to-day can not use anything in grade lower than good middling in our class of manufacture, and we question seriously whether at this moment there are 700 bales of good cotton in New York market.

Our weekly consumption of cotton is on the average 100 bales of strict good middling.

In our opinion, as we believe we stated in our last letter, we feel if there is any law existing permitting trading and selling future contracts (on paper), it should be wiped out for the benefit of the country at large.

Again wishing you every success in this your undertaking to reform an evil which has existed for some time, we beg to remain,

Very respectfully, yours,

THOMAS HENRY & SONS.

Mr. Chairman, what stronger argument could be brought forward to show the great damage to the trade occasioned by the practices of these exchanges than is so clearly set forth in these letters.

I now accept the invitation of my friend, the gentleman from New York [Mr. FITZGERALD], and submit the letters of Messrs. White and Bemis Brothers.

Of the scores of letters received by me from manufacturers, these two are of the very few expressing the opinion that this exchange is beneficial to trade. Let us hear what they say. I will first read the letter from Mr. White:

UNCASVILLE MANUFACTURING COMPANY,
Uncasville, Conn., February 22, 1908.

Hon. A. S. BURLESON.

DEAR SIR: I have yours of the 17th, and answer briefly the questions put forth. In expressing myself I wish to say unhesitatingly in my opinion, unless from the President down this agitation is stopped, legislating pro and con for the business interests of this country, you will put the entire country into bankruptcy within two years.

From this expression, Mr. Chairman, one would naturally class the writer as a reactionary. To continue—

The trouble is, the mass of men in Washington are impracticable men. Theoretically this scheme works out on paper satisfactorily, but practically it is a menace rather than a benefit. The people want a rest; let us go about our business and be let alone is all we ask. The great majority of the business men of the country are honest men, and they stand as ready to condemn corruption among themselves as the Government at Washington.

Mr. Chairman, this is quite emphatic, and I am rather inclined to agree with Mr. White, but pray tell me what light it throws on the subject-matter under discussion? The letter continues—

Now, in reference to trading in futures, I think there has got to be a central market for trading. When you consider the men who raise cotton are scattered over thousands of miles in isolated places not knowing the basic price of their cotton, they would be absolutely at sea in knowing the market value of their product. A uniform price must be established for certain grades, and that grade becomes a uniform value throughout the world. With this fixed standard we can form a basis for figuring the cost of goods. Supposing the future market of New York and New Orleans is eliminated. I go to buy my cotton. The man in Texas offers his cotton at 12 cents, the man in Alabama at 11½ cents, but in Georgia it is 10 cents. There would be trading from one point to the other, resulting in an entire demoralization before the crop is disposed of.

I concur in the view here expressed that a central market for trading is desirable; but the difficulty with Mr. White is that he seems to be laboring under the delusion that trading takes place in New York in actual cotton, when in fact it is only in phantom cotton. He also seems to think that the exchange aids in making a uniform price for the different grades of cotton, when in truth it demoralizes prices and brings about frequent fluctuations rather than stability of price.

This present scheme (a central exchange) has been worked out by years of experience. Business men of the world recognize that there has got to be a basic price for all commodities such as cotton, wheat, corn, copper, iron—in fact all commodities entering into the world's commerce.

And yet, Mr. Chairman, we have no exchange dealing in contracts for the future delivery of either iron or copper. If not necessary for iron, why should it be for cotton?

I say that such a drastic bill as you propose to put through Congress, if carried through, will be an entering wedge for killing business and putting this country on the platform of socialism.

I admit that there are evils associated with the future options, but no one has a right to speculate purely for his gain or loss; this is an evil that he must put onto himself and take the consequences. Electricity has revolutionized the world. It has been of incalculable benefit to mankind, but it is a dangerous thing to handle, and be careful where you put your finger. The future markets of New York, New Orleans, and Liverpool are of immense benefit to both producer and consumer of cotton if they use it in a legitimate way, but it is a dangerous thing for anyone who has no business to touch it.

Yours, truly,

CHAS. D. WHITE.

Ah! there is the rub, Mr. Chairman. The exchange, a benefit if used in a legitimate way, but otherwise dangerous—and of course hurtful. As I have shown, in a given year not more than 12,000,000 bales are hedged legitimately, as might be claimed, while 88,000,000 bales are sold and bought as a means of gambling on the difference in prices.

Now, let us have a look at the Bemis letter. The author thereof was evidently much pleased with it, because he caused it to be published in a New York paper which frequently devotes much space to a defense of the exchange and its methods:

BEMIS BROTHERS' BAG COMPANY,
Boston, Mass., February 26, 1908.

Hon. A. S. BURLESON,
Committee on Appropriations,
House of Representatives, Washington, D. C.

DEAR SIR: Yours of February 17, addressed to Mr. J. M. Bemis, president of the Home Cotton Mills Company, St. Louis, Mo., has been sent here for reply. Mr. J. M. Bemis and I have answered the specific questions which you have asked on the form provided for the purpose and return it herewith. In addition to those replies we will say a word on the general subject of cotton futures, as you suggest or request.

In our opinion the business done in, through, and by the different cotton exchanges in this country—as, for instance, those at New York, Memphis, and New Orleans—is perfectly legitimate, and, regardless of whether such business is beneficial or detrimental to the cotton growers, the manufacturers, or the public, we feel very strongly that the Federal Government has no right and no reason to interfere. It is true that some of the operations on the cotton exchanges mentioned are gambling operations and are conducted with a spirit of gambling which is injurious in cotton futures, as it is in the case of cards or marbles. Quite different, however, from gambling with cards and marbles, gambling in cotton futures can not be properly segregated from perfectly legitimate operations. Gambling can be done in cigars or potatoes or in bread, but for that reason, in our opinion, the Federal Government should not interfere in the purchase and sale of cigars, potatoes, and bread, nor make it a crime if any individual should speculate in these articles.

Mr. Bemis here admits that the gambling is injurious, but he sees great difficulty in segregating gambling transactions from legitimate transactions. Mr. Chairman, that is exactly what is done in the proposed amendment. Read it and be convinced. Now, if when the segregation is made it should develop that the gambling transactions on this exchange preponderate to such a degree that when prevented the exchange could not survive, then that would be its misfortune and not our fault.

Mr. Bemis also seems to think that the purpose of this legislation is to interfere in some way with the purchase and sale of cotton. Not at all. Neither is it intended nor will it interfere in the slightest with legitimate speculation in cotton; but undoubtedly it would hereafter prevent the hurtful results of cotton gambling. The letter continues:

To a large extent the business done on the cotton exchanges of the country is wholly legitimate. It is true that to only a limited extent does actual cotton pass between those dealing through these exchanges, but there is no reason why it should pass between them in order to fulfill the perfectly legitimate functions which these exchanges perform. Any person selling cotton through one of the exchanges can be made to deliver it, and is supposed to deliver it if required, and any person buying cotton in one of these exchanges will get *just what he buys* if he wants it. There is almost no business done in the country that is done on a more definite basis regarding the quality of what is bought and sold and the requirements of fulfilling contracts than that done on these exchanges.

Mr. Bemis asserts that to a large extent the business done on the exchange is wholly legitimate. I do not agree with him. You have his assertion; I have offered you the facts. Determine for yourselves who is right. I have also shown you why the buyer of a contract rarely demands the delivery of the cotton, and as to the statement of Mr. Bemis concerning the quality of what is bought I offer the testimony of Mr. Parsons, Mr. Price, Thomas Henry & Sons, in fact all others who have spoken

on this point. Considering it, one is driven to the conclusion that Mr. Bemis is mistaken. In his letter he says further:

A large portion of the business transacted on the cotton exchanges is not only perfectly legitimate, but very valuable to the commercial interests of the country, those of the cotton growers as well as those of the cotton manufacturers. To the extent that these exchanges are used legitimately, they actually lessen the amount of gambling that is necessary or would be necessary in the marketing of the cotton crop and manufacturing of the goods. For instance, a large part of the transactions on these future exchanges is made up of hedges. These hedges are made by manufacturers, cotton brokers, and cotton planters. For instance, a manufacturer will be called upon to sell a lot of goods for future delivery. He will base his price on the current cotton market, and if he makes a sale of goods he will or may cover the sales by buying either cotton futures or actual cotton for future delivery. If the latter, the broker, or it may be the farmer, in promising to sell that manufacturer cotton for future delivery at a definite price, will probably, in order to protect himself, buy futures. Now, there would be no intention on the part of any of these persons to take the actual cotton from one of these exchanges on these hedges, although he could do it if desired, and yet if it were not for the facilities thus afforded by these future exchanges, the manufacturer would not be able to hedge his sale of goods, or the broker would not be able to hedge his sale of cotton for future delivery to the manufacturer, or perhaps the planter would not be able to hedge his sale to the broker or the manufacturer. By a lack of opportunity to hedge, in order to cover the additional risk of loss by an advance in the market before the cotton should be needed, or to cover the cost of interest, storage, and insurance between the time of sale and the requirement for the cotton, it certainly would be necessary either to increase the price fixed for the cotton or the goods, or take a greater risk in making the transaction, which simply means an increase in the gambling element of it. It is a very serious question, therefore, entirely aside from the question whether the Federal Government should attempt to prevent gambling operations of the kind referred to, whether, should your bill become a law, it would not, as a matter of fact, actually increase gambling in cotton, and not only that, but force the gambling upon the legitimate handler or user of cotton instead of leaving it, as it is to-day, to be carried on by those who go into it as a matter of choice and not a matter of necessity.

Mr. Chairman, this is the same time-worn stock argument which is always put forward by the defenders of the exchange. In the first place, a large part of the transactions on the exchange are not made up of hedges, as I have shown, but are gambling transactions and nothing more. And right here I propound the query: What is it the manufacturer is seeking to hedge against? A violent fluctuation in the price of his raw material, cotton.

A careful analysis will show the truth to be that the real condition the mill man is trying to hedge against is a result brought about by the very concern—the exchange—to which he goes for hedging purposes. Abolish the exchange and the fluctuations of price created by it and there will be no necessity for anyone to hedge. Mr. Bemis further says:

In our opinion this country is suffering from too much legislation instead of too little, and, moreover, it is suffering from legislation that is based upon insufficient investigation and insufficient cause. Not only does there seem to be a desire or attempt to regulate everything, but to regulate everything without exhaustive inquiry as to the fundamental facts and as to the desirability of such regulation. Now, to be perfectly frank, we look upon your bill as falling within this category of ill-advised or unnecessary legislation. We are very glad to know that you are taking means to get the opinion of the public regarding it, which we trust will result in a conclusion to drop it, but if it does not result in that way, we can but urge a most serious consideration of the bill before it be given favorable report by the honorable Committee on Agriculture.

Yours, truly, ALBERT F. BEMIS.

Mr. Chairman, I am glad of the opportunity to use this letter. As I have said before it is one of a very few I have received attempting a defense of the exchange and its methods, and I do not hesitate to say that it is as strong and able a defense of the exchange as can be made from the manufacturer's standpoint. I will myself attempt no further answer to this letter but will content myself with bringing to your attention as an answer thereto a letter from one of the up-to-date, progressive cotton manufacturers of our country, Mr. Lewis W. Parker. This letter covers every phase of this question. The writer is thoroughly informed and treats the subject he discusses in a logical and forcible manner. The letter was written by Mr. Parker to a cotton commission house in New York City, whose members are in the exchange. This copy of his letter Mr. Parker mailed to me:

FEBRUARY 29, 1908.

H. HENTZ & Co., *New York, N. Y.*

GENTLEMEN: I am in receipt of your favor of the 27th instant.

As you possibly know, I am a large user of cotton in the various mills with which I am connected, using in the aggregate more than 50,000 bales of cotton a year. I therefore feel the necessity probably as much as Mr. CANNON does of an exchange whose contract will serve as a legitimate cover against the sale of my own product.

While I have the highest possible opinion of Mr. CANNON and of his judgment, I can not agree with him in the broad statement he has made in his letter to Mr. BURLESON and in his replies to Mr. BURLESON'S inquiries.

Certainly the contract of the New York Exchange this year, under conditions which should have been in its favor, has proven most unfortunate for those who used it as a cover. Very fortunately, I used it directly to a very small extent, but used it indirectly from the fact that those from whom I bought spot cotton hedged to a large extent in New York. Such parties have lost very heavily by the failure of the New York contract to assume any proper relation to the spot market. After a rather careful study of the question, I can but feel that any exchange contract that does not make futures responsive to spot conditions is at fault, and that when it becomes evident that the future contract is being kept in such shape by the exchange as to make it irresponsive to spot conditions, it becomes a great drawback to the producer and tends to upset legitimate prices for product, and should therefore be regulated by legislation.

At this time I can not undertake a further statement of my views, but I purpose at the coming meeting of the American Cotton Manufacturers' Association to discuss this at length, and I think the association would do well to memorialize Congress to pass some legislation that would restrict the use of exchanges to a legitimate business and not make them merely sources of speculation.

You are of course familiar at the present time with the absurd variance existing between the exchange markets and Southern markets. In your letter of January 18, copy of which you send me, you refer to the fact that 15,000 to 20,000 bales of low cotton in Liverpool is having a depressing effect on a stock of 940,000 bales, and, I may add, a correspondingly depressing effect on the entire unsold stock of American cotton in the hands of the producer. The same thing applies to your New York stock. The incongruity of conditions is therefore apparent when a very small portion of the crop, through the rules of the exchanges, can be permitted to regulate the price of the whole crop, and it is evident that such a condition exists only because it is in the interests of speculators, whose interests are antagonistic to those of producers and manufacturers. To-day in my own market strict middling cotton is bringing to the producer 11¾ cents, which is practically 125 points on your contract basis; yet there is a constant effort on the part of the purchaser of cotton to force down the price of spots so as to get spots in some relation to futures. The buyer of cotton has as a rule previously hedged sales by the purchase of future contracts in the contract markets. As these future contracts are out of relation to the spot markets, and as in the hedge he necessarily now has a heavy loss, the constant effort of the buyer is to bring spots into some relation with futures by forcing declines in spots. The contract market, therefore, becomes a curse to the producer under such circumstances, as it has proven a source of great loss to the manufacturer and to the legitimate broker who has used the market as a hedge.

I had occasion no later than January to receive on the New York market 1,200 bales of cotton, and when I received the certificates tendered me and saw the character of grades and the variety of grades appearing on a certificate I was not surprised that futures sold low.

Thanking you for your full explanations and letters, I beg to remain,

Very truly,

VICTOR MANUFACTURING CO.,
LEWIS W. PARKER, *President.*

How completely this answers every point made by Mr. Bemis! Here we have it that the exchange actually fails to afford the protection Mr. Bemis claims to be so beneficial. Also that cotton brokers who sought the protection of this exchange sustained heavy losses because under its rules the exchange kept the price of futures from responding to spot conditions. In this letter it is clearly shown, as Mr. Parker declares, that the exchange has become a curse to the producer and the source of great loss to the manufacturer as well as the cotton broker who attempts to use it for hedging purposes.

Thus you see, Mr. Chairman, if the statements made by Mr. Parker can be accepted, the New York exchange is not a safe place for hedging purposes. And before I leave this branch of the subject I want to read another short excerpt from the Boston address of ex-President Hubbard:

In Liverpool at the present time there is an effort being made to induce them to adopt the New York method, and I beg to quote the following letter from the Manchester Guardian, written by a prominent importer of cotton—Hooper:

"Those who notice that our stock of American cotton is nearly 1,000,000 bales wonder why near 'futures' are selling at 200 points over New York and 25 points over 'new crops.' It is because we have a contract which is a boon to manipulators, but which has become a hedge for neither spinner nor merchant."

So it seems there is also doubt about the Liverpool Exchange being a safe hedging refuge, and so there is. Those manufacturers who patronize the Liverpool Exchange think the New York one is best; those who patronize the one at New York reach the conclusion that the one at New Orleans is best; but the truth is that each one is a delusion and a snare.

Now, gentlemen, in the light of this array of facts, who here will longer claim that the exchange at New York benefits the cotton manufacturer?

Second. Another stock argument brought forward in defense of the cotton exchange is that it benefits the cotton broker or merchant because the operations on the exchange afford him protection while buying for mills or the export trade, by guarding him against loss through a decline in price between the time of his purchase from the producer and his sale to the mill or to the exporter. That in thus doing it furnishes a continuous demand or broad market for the farmer's product. If the information furnished us in this letter of Mr. Parker is to be relied on, the cotton broker has been the victim of the exchange rather than its beneficiary. But, Mr. Chairman, a few days ago the distinguished gentleman from Tennessee [Mr. SIMS] covered in a comprehensive way this claim of the defenders of the exchange, showing that it was a mere pretense, and I will consume no further time in its discussion.

I will say, however, that the cotton grower needs no aid from the exchanges to provide him with a market for his product. Considering the constant increase of the consumption of cotton with a growing scarcity of labor in the cotton-producing

section, the real problem now is not to find a market but facilities for meeting the growing demand. Consumption of cotton is undoubtedly increasing faster than production. Never again will the producer of cotton be forced to attempt a reduction of the acreage planted to cotton, unless it be to protect himself against the manipulation of the price of his product on these exchanges.

Furthermore, Mr. Chairman, the farmer believes that cotton, if freed from manipulation by these exchanges, will command its true value in price. He believes also that for years he has been despoiled of a part of the value of his crop as a result of unrestrained speculative gambling. By overselling, this element depresses the price of cotton during the period when the farmer is marketing his crop, wresting it from his control, and then by reversing the method the price is advanced and the consumer, the spinner, is compelled to buy at a marked increase in price. It has been asserted by those well informed that it is not an infrequent thing for the mill man to pay from $25 to $30 per bale more for his cotton than was received by the man by whom it was grown. The gambling element of course enjoyed this unconscionable profit.

Mr. Chairman, the cotton grower only asks, only wants, a just, fair price for his product. He wants the price fixed by the law of supply and demand and does not want a price, however high, fixed by speculative gambling, because he knows that in the end such a price will do the millions engaged in cotton production more harm than good.

For a number of years I have been a close observer of the practices and methods of the speculative cotton gamblers in this country, and I have reached the conclusion that year after year their constant effort is to get from the farmer the bulk of the cotton crop at a lower price than it is actually worth and then force the spinner to pay for it as high a price as can be extorted from him. It is my sincere belief that it would be to the advantage of both producers and consumers of cotton if these exchanges could be put out of business.

Third. The remaining stock argument is that to abolish exchanges would in the end be hurtful to the producer of cotton. I shall attempt to show that the rules, methods, and practices of the New York Cotton Exchange are continuously hurtful to the man who grows cotton.

In the first place, it is only the low grades of cotton, such as but few spinners, especially northern and eastern spinners, who make the finer cotton goods, want or can use, which reaches New York. Now, I want to make sure of the correctness of this, because, as I shall show you later, it is the character of the actual cotton in New York tenderable on contracts for futures which regulates and fixes the price of futures, that exerts at once a reflex action on the price of cotton growing or held by the farmer. I will not ask you to take my word for this, but I support my statement by the testimony of the exchange defenders.

I read from that same letter sent by Mr. Marsh to the Atlanta paper:

> Now, as has been pointed out above, every bale of cotton that comes to New York regularly costs somebody $1.50 to cover New York expenses; evidently, then, it is never possible for any character of cotton which spinners are buying freely throughout the South to come to New York at all. The mere saving of $1.50 per bale enables the spinner always to outbid New York for such cotton as he is buying freely.

There you have it, Mr. Chairman, stronger than I stated it. According to the confession of this member of the exchange, and one of its ablest defenders, it is only the cotton not sought by the spinner that reaches New York—cotton described by Mr. Theophilus Parsons as—

> Straw, cotton seed, or even the wood of the cotton plant, all mixed together, the value of which stuff no living man is able to determine.

Permit me also to support my statement by again reading from the address delivered last May, in Philadelphia, by Mr. Price. He said on this point:

> There is no limitation in New York upon the delivery of cotton, with a staple so short that it is almost unspinnable. In fact, in my opinion, there is in the New York stock at present a considerable quantity of cotton that approaches dangerously near, so far as its staple is concerned, to what are ordinarily described as "linters." This is cotton which has remained in New York for an indefinite period. The standards of the New York Cotton Exchange should take account of these three essential characteristics. They should be simplified, so that it is not possible for any one receiving 100 bales of cotton to have to take, as he may to-day, thirty different grades in lots of one bale each.

Mr. Chairman, the stuff referred to as "linters" is not cotton at all. It is a short lint remaining on the seed after ginning, which is taken off when the oil is extracted therefrom by the cotton-seed oil mill. It is unspinnable and practically unmerchantable.

This low-grade cotton, "overs" and mixed grades, is the cotton carried in New York for the purposes of tender on the contracts made for futures on the New York Cotton Exchange. Consider for a moment, Mr. Chairman, the effect of this on the price. It undoubtedly depresses it. Permit me to quote again from the address of Mr. Price. Speaking of the New York Exchange, he said:

> They sell what they do not have in the hope that delivery of it may not be demanded, and to make sure that it will not be demanded the process of rendering the stuff that was to be delivered less and less desirable, year by year, has continued until to-day there are in New York some 20,000 or 30,000 bales of cotton which I think have been there from three to four years, and some of it longer, and which no one can be induced to buy except for the purpose of redelivering it as a means of depressing the market.

How damaging this must be, and what an outrage on the producers of cotton, for, Mr. Chairman, a depreciation of the price of futures, while not absolutely controlling, is invariably promptly reflected in the price of spot cotton—the actual cotton held and being grown by the farmer. Every man who grows cotton has had this experience and knows that at any time he offers a lot of cotton on his plantation to a buyer or broker before 9 o'clock in the morning he is met with the response—

> I can make you no offer until I hear from the market.

What market, pray? Why, the New York Cotton Exchange! Later in the day, frequently about 10 o'clock, the broker informs you that the market is off 40 points from the day before, and that he can't offer by $2 a bale what he would have given you on that day. If you doubt that the price of futures influences the price of actual cotton, all you have to do is to tabulate the price of futures and spots through a series of months. Comparing them, you can not escape the conclusion that the one follows the other.

Mr. Price says that this low-grade cotton to which I have referred is kept in New York for the purpose of depressing prices. Whether kept there for that purpose or not, it is there and has that effect. When I charged this a year ago, at the time my resolution to have this exchange investigated was before the House, it was denied. Now, not only is it shown to be true, but I have evidence that the same practice prevails at Liverpool. Who makes this fact known? None other than a member of the New York exchange. Let me call attention to this excerpt from the letter of Mr. Parker to Mr. Hentz:

> You are, of course, familiar at the present time with the absurd variance existing between the exchange markets and Southern markets. In your letter of January 18, copy of which you send me, you refer to the fact that 15,000 to 20,000 bales of low cotton in Liverpool is having a depressing effect on a stock of 940,000 bales, and, I may add, a correspondingly depressing effect on the entire unsold stock of American cotton in the hands of the producer. The same thing applies to your New York stock.

If this practice is to be condemned on the part of Liverpool, where all are interested in low-price cotton, how outrageous it becomes if practiced here. Considering that our country exported last year more than 8,000,000 bales of cotton, to depress the price 3 cents a pound means a loss to our country of $120,000,000 on this one crop. This means not loss to the farmer alone, but that America received that much less in gold when the world's balance of trade was struck. Do I exaggerate when I say these practices have not alone despoiled the hard-working cotton producer of what he was justly entitled to, but it has probably lost to our country during the last ten years not less than a half billion dollars in gold?

Remember, Mr. Chairman, this low-grade cotton in New York is not sought by the real buyers, neither did the producer take it there; it was bought and carried there.

Mr. FITZGERALD. If the buyer does not go there to buy and the seller does not go there to sell, will the gentleman explain how the operations there can possibly affect the relations between the buyers and the sellers of cotton?

Mr. BURLESON. I will answer the gentleman on that point. I hold in my hand a report made July 10, 1907, by a committee of the New York Exchange, the committee on licensing warehouses, of which Mr. James F. Maury was chairman. This committee made some very wholesome recommendations in its report, but the speculative element in the exchange promptly rejected them. I am glad the gentleman asked that question, because I want to get those statements in the RECORD. I read from this report made by members of the exchange:

> If you go to any great Southern market, as Memphis, New Orleans, Galveston, etc., you will see large lots of cotton of the various spinners' grades inspected and classed out in even-running lines of single grades ready for purchase by spinners or exporters. We used to see these in New York years ago, but we do not now—it does not pay to send them here.

I submit, Mr. Chairman, that this is a confession of my contention that even-running lots of cotton fit for spinning purposes can not be secured through the New York Exchange.

I read further from this report:

> Mr. MacColl, president of the National Association of Cotton Manufacturers, in his recent address on April 24, advises establishing a cotton exchange in New England, especially for spot cotton, to bring the

planter and spinner nearer together, and to have fixed standards of grade and sworn classers. We have all these and a working system tested by years, but it is tied down to a small number of bales of mixed lots brought to New York, because they are hard to handle elsewhere.

This is a confession by members of the exchange that they have only a small amount of cotton in the exchange warehouses, and that this cotton is of mixed lots and is there only, because it can not be handled elsewhere.

Speaking, in the report, about the desirability of having in New York a stock of spinners' cotton, these members of the exchange say:

The speculative business will come here, too, because here are the largest number of buyers and sellers, and our future prices will then be based upon spinners' cotton, as they can not be said to be now.

Here, Mr. Chairman, is a confession that their prices—the future prices—are not based on spinnable cotton. If not, upon what are these prices based? Let us see. I read further from this report:

The cotton world is demanding of us that we must represent the real trading basis, the spot prices for spinners' cotton, not prices based on "overs," low grades, and speculation.

Here we have it at last, Mr. Chairman, just what the farmers and spinners have been charging for years. There is no longer doubt. There can be no further controversy over the issue. Here we have it, from the members of the New York Cotton Exchange, solemnly made in a report—a report which, as I have said, urged the adoption of a change of methods, pointing out that the whole cotton world is demanding that it represent the real trading basis, to wit, the price for spinnable cotton—a confession that their *prices are based on "overs," low grades,* and *speculation.*

What an infamous outrage—that the market price of a product engaging the best efforts of millions of our people should thus be tampered with!

Mr. Chairman, in the years to come, when our descendants look back on this period and consider that year after year we permitted the helpless producer of cotton to be thus despoiled, that we stood calmly by and witnessed the extortion practiced on the consumer of cotton by this band of gambling freebooters, they will either marvel at our stupidity or suspect that other reasons less creditable to us caused our nonaction. This report further says that—

The present price of our futures represents the value of the kind and grades of cotton which the buyer expects to get if he calls for delivery. He expects low grades and mixed lots, etc."

Yet my friend from New York [Mr. FITZGERALD] wanted me to read the letter of Bemis Brothers, in which Mr. Bemis says that the buyer can get the quality of cotton bought.

Remember also, Mr. Chairman, that in addition to these conditions which operate to depress prices the seller at his option can deliver, if delivery be demanded, a score of different grades of cotton in every hundred-bale lot. This exerts a further depressing influence on the price, tending always to push futures down below spot prices, thus making the New York Cotton Exchange an advantageous market for sellers rather than for buyers.

Along in 1875–1880, when the New York Cotton Exchange was losing its uses and functions as a legitimate exchange, John Rew, an Englishman in Liverpool who speculated in spot cotton, began the practice, when he found himself short of cotton on the spot, to sell contracts for the delivery of cotton (already on the seas) "yet to arrive." This was the beginning of the future business.

When "the through bill of lading" destroyed New York as a spot market the question arose, How is the business to be kept alive? It was only a step to improve on old John Rew's plan of selling cotton "yet to arrive" and the New York Exchange promptly took the step and began to sell cotton "yet to grow," and thereafter, just as the prestige of the New York Exchange waned as a market for spots it waxed as a market for futures. Speaking of this, Mr. Price, who was practically turning State's evidence in that Philadelphia address, for he was long a member of the exchange and probably the largest dealer who ever operated on it, had this to say:

Shortly after the organization of the New York Cotton Exchange, it became apparent that the public, being optimistic and hopeful, as a rule, generally were buyers of cotton rather than sellers. The astute gentlemen, who are largely responsible for the existing rules and by-laws of the New York Cotton Exchange, recognizing this fact, as a rule, are sellers rather than buyers.

I have shown you that the character of the cotton carried in the New York Exchange warehouses makes to the advantage of the seller.

I have shown you that the fact that a number of different grades of cotton can be delivered, at the seller's option, under the New York Exchange contract, is also favorable to the seller, rather than the buyer. But, Mr. Chairman, neither of these is the most potential factor making the New York Exchange a real seller's market. The rules of the exchange are, of course, made by the members. These members, as Mr. Price says, are sellers rather than buyers—I will tell you later where buyers are found—and in making these rules they are like other human beings—no worse, it may be; no better, surely—they guard their own interests.

I now submit for your consideration a rule of this exchange which, in my opinion, operates to do the producer and consumer more damage, more serious hurt, than all other things combined. I read it from their by-laws:

SEC. 67. The committee on revision of quotations of spot cotton shall consist of seventeen members, representing the various interests of the exchange. At any meeting of this committee ten members shall constitute a quorum. If no quorum of this committee can be obtained, the president shall appoint a sufficient number of members of the exchange to form a quorum.

The duty of this committee shall be to meet twice a year, viz: on the second Wednesday of September and the third Wednesday of November, at 3.30 o'clock p. m., and receive a report from the committee on spot quotations as to the state of the market; also suggestions or opinions from any member of the exchange regarding the revision of spot quotations.

The committee shall on the day of meeting consider the report of the committee on spot quotations and the suggestions and opinions presented by members, whether in writing or verbally, and establish the differences in value of all grades, on or off, as related to middling cotton, which shall constitute the rates at which grades other than middling may be delivered upon contract.

Consider for a moment what this rule means. It is a deliberate attempt to nullify the operation of the law of supply and demand. It is an assumption of right on the part of this exchange to fix for a period of ten months the differences in value between the several grades of cotton.

There is a demand for low-grade cotton, as we know, and after differences have been fixed by this revision committee the commercial demand may materially diminish the difference in value between this cotton and cotton of the higher grades, and yet under this rule the difference fixed by this committee must stand for the full period of time. What a fruitful field for manipulation! After these differences have been fixed a storm may sweep over the entire cotton region, it frequently does, and higher grades of cotton as a result of commercial demand may advance materially over the market price of the low grades, and yet this exchange, day by day, solemnly announces that no change in differences can be made until the September to come. Regardless of how wide these differences may actually become because of the demands of the trade the New York Exchange remains a law unto itself and maintains differences fixed months before. Because of this it is a safe selling market; but all wise buyers avoid it.

The question now arises from whence comes the buyer? I'll tell you, he is the nonprofessional speculator, the small trader, the unwary multitude found here, there, and everywhere in our country—especially in the South, where we are always optimistic about cotton—who, finding the New York Exchange quotations below all others elsewhere, and not knowing the cause, and perhaps not understanding it if told, rushes in as buyer at New York, and in the end, of course, is left to hold the bag.

Yet the New York Exchange pretends to be outraged when criticism is directed against such rules and practices, and insolently demands that it remain unmolested.

Mr. Chairman, it has been charged that the revision committee has purposely established differences far out of line with the commercial difference in value between the grades. I make no such charge. Enormous injury to the producer and consumer will inevitably come as a result of honest mistakes or poor judgment on their part, and this suffices as a reason for me to condemn this arbitrary rule without venturing into the field of speculation as to the infamies and wrongs which could be perpetrated if the men who made up this committee were corrupt enough to attempt to use their power for their own selfish purposes. A careful study of the situation discloses that three factors have contributed to the abnormal depression of the price of futures on the New York Exchange below the level of spot prices in the South:

First, the character of cotton—"overs," low grades, and mixed lots—accumulated in the exchange warehouse for purposes of tender on contracts.

Second, the right of the seller to deliver mixed lots of many different grades on the contract when demand for delivery is made.

Third, the failure of the revision committee to fix differences commensurate with the real value of the several grades as shown by quotations in the South and at Liverpool.

These contribute to make the New York Exchange a seller's market. After the adoption of their plan to make the exchange a seller's market, which has continued since 1880, as the number

of the sale of spots declined there was a like increase in the sale of futures. For many years the exchange published statistics showing transactions thereon. I submit this statement issued by the exchange showing the number of bales grown each year from 1880 to 1897 and the sales of futures on the New York Exchange during the same period:

Year.*	Sales for future delivery at the New York Cotton Exchange.	No. of bales of cotton produced.
1881	28,800,900	6,606,000
1882	33,077,400	5,456,000
1883	26,543,600	6,950,000
1884	24,632,100	5,713,000
1885	20,889,700	5,706,000
1886	23,270,600	6,575,000
1887	26,482,100	6,499,000
1888	25,763,900	7,047,000
1889	18,764,800	6,939,000
1800	22,138,200	7,297,000
1891	24,885,900	8,674,000
1892	34,187,200	9,018,000
1893	53,245,400	6,664,000
1894	37,888,400	7,532,000
1895	39,368,500	9,837,000
1896	56,469,000	7,147,000
1897	36,113,000	8,706,000

* Year ending August 31.

In October, 1897, the present rule for fixing differences was adopted by the exchange, which, of course, resulted in an immediate increase in the sales of futures, and since then the exchange has refused to publish the number of bales bought and sold thereon.

With these rules, are you surprised that the buyer of a contract on the New York Exchange for the future delivery of cotton, usually liquidates his contract, not by demanding delivery, but by subsequently selling a contract on the same exchange for a like amount of cotton?

Thus you see business is stimulated. Commissions are multiplied and the beneficiaries, who, of course, are the members of the exchange, "Ketch 'em gwine and cumin'." You can now understand why it takes but a small lot of cotton to answer all purposes of tender on their contracts.

Mr. Chairman, I desire to direct attention to another matter bearing on the influence exerted on the price of spot cotton by the practice of selling futures on these exchanges. At this time the cotton grower has not yet finished putting the seed in the ground for the next crop. No one can now tell the acreage to be planted and cultivated for the coming crop, for even when planting has been finished, a month from now, a sudden change of the weather, a light frost, or excessive and continuous rain in the late spring, which not infrequently occurs in the cotton region, may materially reduce this acreage. Later a protracted drought may prevail; in fact, numerous factors of uncertainty make it utterly impossible for any human agency to forecast the probable cotton crop to be grown, and yet, Mr. Chairman, these exchanges are now engaged in selling this next crop for future delivery. A glance at your morning paper will disclose that, regardless of the fact that calamities of weather may make the next crop so short that we may have a cotton famine, these gamblers are selling this next crop, October delivery, at less than 9½ cents per pound. Notwithstanding that actual cotton is now bringing about 11 cents, they are selling next year's crop at a reduction of 1½ cents on the pound. The effect of this of course is to depress the price of spot cotton when October deliveries are to be met. It arrays every person who sells a contract in antagonism to an advancement of the price, which, of course, the welfare and best interest of the poor farmer who labors to grow this crop importunately demands.

How can any honest man contend that these practices are for the cotton growers' good? How can any one be so simple-minded as to be brought to such a belief?

Mr. Chairman, for fear that some one may still doubt that operations on these exchanges control the price of the farmer's cotton, I desire to offer the testimony of two more witnesses. I take them both from the exchange—one a member of the New York Cotton Exchange, the other the president of the New Orleans Cotton Exchange. I read first from the defense of the exchange by Latham Alexander. In it he says:

If there were other exchanges throughout the United States dealing in cotton for future delivery they would have to look to the controlling market, which is New York, for quotations.

The price of cotton contracts in New York oftentimes controls the price of cotton in the whole world, because this city is presumed to know more about the supply than any other, and our operators and dealers are therefore generally followed.

Here you have a confirmation of my statement that the New Orleans concern looks to the New York Exchange for guidance and direction in the matter of prices. In other words, it trails after the big or controlling exchange. We also have the emphatic statement that the price of futures on the New York Exchange controls the price of cotton in the whole world.

Do you want further proof? If so, I submit a letter sent out by Mr. W. B. Thompson, the president of the New Orleans Exchange on the 6th day of September, 1907. I read it:

[Advances made on consignments of cotton.]

W. B. THOMPSON & COMPANY,
New Orleans, September 16, 1907.

On Saturday, Sept. 7th, October futures closed at 12.77. Middling spots were quoted at 13 7/8. On Monday morning, the 9th, at 9 o'clock, the Census Report of the number of bales of new cotton ginned to Sept. 8th was published. These figures were 91,416 bales, or less than one-half the figures of Sept. 1st, 1906. The market broke some ten points. At 10 o'clock the Bureau gave out its estimate of the condition of the crop on Aug. 25th. These figures, 72.7, considering the backwardness of the crop, showed the lowest condition in many years. Immediately upon the reading of this estimate *the market was smothered with offers to sell*, and upon the pretext that these reports made important revelations not hitherto known and appreciated, a sensational decline was inaugurated which continued with unimportant interruption until on Saturday, the 14th inst., Octobers sold as low as 11.54, and finally closed at 11.64. Spots were quoted at 13c. nominal. Buyers and sellers apart—i. e., there were no actual sales upon which quotations could be based.

A decline of six dollars per bale within less than a week represents a serious money loss, but the fact that value could be thus annihilated without any just or reasonable cause, is a consideration of graver importance. A man may waste his property, or lose it through ignorance or mistaken judgment, and the pecuniary loss covers the injury. *When one's property is taken from him by unexpected assault, he loses not only his property, but his rights.* It is, therefore, of the first importance that the agency inflicting such a loss be discovered, and the remedy for the wrong be found and applied.

What momentous change transpired on the morning of the 9th to upset accepted ideas of value with which both producer and consumer were content?

The Ginners Report was not radical. It was meaningless. The fact that 191,416 bales had been ginned to Sept. 1st tells no more of the size of the crops than the number of pages in the preface to a book tells of the size of the book. The Condition Report of 72.7 on Aug. 25th, while slightly above the figure circulated by interested persons as the probable average, was lower than the ten-year average for the corresponding date, and, therefore, dangerously low. It is admitted that the crop is from three to four weeks late. Comparison should be made with other crops in the same stage of maturity; therefore the August condition of this crop should more consistently be compared with the July condition of normal crops. That this comparison is just, will be shown by the fact that after this (Aug. 25) deterioration set in corresponding to the deterioration following the July condition reports of other years. If this comparison is allowed, it will be found that the August condition this year was lower by 2.2 points than the lowest July condition in ten years and lower by 18.9 points than the July condition of 1904, in which year a crop of 13½ million bales was made on 31,730,000 acres. The condition of the crop on Sept. 14th was no better than it was on the 7th. It was worse. The outlook for a late frost and a favorable picking season was no more promising on one Saturday than on the other. The early installment of the new crop had just begun to move, and was eagerly bought at premiums; hence the weight of actual receipts was not a factor in the decline. The outlook for the cotton-goods trade was promising on the 7th. It is equally promising now. The high price of contracts was not the result of a squeeze or an upheaval of speculation. The fact that spot cotton was selling at a premium of ½ cent over September contracts proves that there was no influence at work to give contracts a fictitious value. Look as critically as we may, we can find no germane weakness that would account for the sudden collapse of the market. We must look for some outside agency. It is easily found.

The slump was the result of a premeditated attack and persistent onslaught by a party of New York operators backed by ample capital and prestige in speculation. The assault was well timed. It was not resisted; it could not be resisted. New York was the active aggressive agent in the selling. Liverpool influenced by selling orders from New York, and her own interest, as the spinners' market, offered no helping hand. New Orleans could make no effective defense because her forces had been depleted. However willing the local operators may have been and were willing to strike, as they have struck before, a blow for cotton, they knew that they could not sustain the market without the support of the great Southern public, and this support they did not have. *We hold no commission to pass judgment upon the ethical question involved in the buying and selling of future contracts. Such trading may be wrong, or it may be right, according to the view-point of the individual. Nor do we undertake to pass judgment upon the wisdom or unwisdom of the radical legislation of the several States against trading* in future contracts. Time will speak to better effect than argument. We are dealing with the facts that grow out of these developments. *The present interesting fact is that such legislation has curtailed the buying power of the South,* and, in so doing, has deprived the producer of cotton and its friends of the only force that can successfully resist unrestrained selling, and save him from such a raid as the one from which he has just suffered.

But even if under present conditions the attack could not have been resisted, is there still no way out, no remedy?

In order to break the market 113 points within less than a week in spite of the fact that every legitimate influence was against such a decline, it has been necessary to sell a tremendous lot of cotton that is not in possession nor yet bought. These short contracts are still open and the market is largely oversold. Great profits on these contracts may be figured on paper, but these profits are unrealized as yet. In order that the profits may be realized the contracts must be liquidated—that is, the seller must either buy back his contracts or be able to buy the equivalent in spot cotton on the basis of the contract prices. This means that in order for an October contract sold at 12.77 to be profitable it must be possible to liquidate it by spot cotton bought at 12c. in the interior. An October contract sold at 12c. must find cotton

for sale at 11⅞ in the interior or it will not be profitable. An October contract sold Saturday at 11.54 can only be liquidated profitably when cotton is selling at 10⅞ in the interior. If the seller of a contract can not buy spots on this basis he can not liquidate his contract profitably by spot tender and he will be forced into the contract market to buy back his obligation to deliver the spots. When this occurs for the very reason that makes him a buyer, he will find no one willing to sell him a contract. When the shorts begin to cover they will encounter not a selling market but a buying market. That they will have to cover is inevitable, and whether they will cover at a profit or a loss will depend upon the spot holder.

The holder of spot cotton has the key to the situation. If he refuses to sell his cotton for 10⅞ in the interior, then the short who has sold at 11.54 will be in difficulties and will be forced to buy back his contract. If the spot holder refuses to sell his cotton at 11⅞ in the interior then the seller of a contract at 12 cents will be in trouble, and so on up the line.

Without the aid of speculation the producer has only himself to depend upon. It is a big contract but he has in his hands the means wherewith he can defend his rights and right his wrongs. He can snatch victory from defeat. *He has but to refuse to accept the price by manipulation fixed for him*, and the triumph of the bear will be brief, and the fruits thereof will turn to ashes in his mouth.

We do not advocate holding cotton for speculation, but we do advocate holding it for protection. If we believed that the present prices were the result of natural and legitimate causes, we would advise our friends to accept these prices and turn their cotton into money without delay. *But we do not believe that the present prices are natural or legitimate. The brief experience we have had with the market this season before speculation interfered, showed that consumers were willing to pay the prevailing prices and producers were willing to accept them.* If business had been permitted to run its natural course probably the increased volume of receipts would have gradually lowered prices. This would have been a natural and acceptable result. *But when an outside element that knows nothing about cotton and has no interest therein except as a medium for gambling profits, arbitrarily interferes between the producer and consumer and undertakes to fix prices by sheer force of money and manipulation*, we believe in suspending the rules and striking with the weapon at hand. The producer has the weapon.

W. B. THOMPSON & Co.

Mr. Chairman, it is an old adage:

When thieves fall out honest men get their dues.

I make no application of that adage here but do beg to direct attention to the fact that at that time these exchanges were at outs and in this letter the president of the New Orleans Exchange is complaining bitterly of certain action taken by members of the New York Exchange. He charged that the cotton market at that time had been smothered by offers to sell. He charged that this had resulted in depressing the price of the farmers' cotton $6 a bale. He charged that there was no just and reasonable cause for this decline in the value of cotton. He charged that this injury to the cotton producer, this loss of his property, had been brought about by unexpected action on the part of the New York Exchange. He charged that the slump in the price of the farmers' cotton was the direct result of premeditated action of the New York operators backed by money and prestige as speculators. He charged that this outside element, who knew nothing about cotton and had no interest therein except for gambling purposes, interfered between the producer and consumer, and, by the sheer force of money and manipulation, fixed the price of this great product.

Mr. Chairman, what more could we ask by way of proof of the hurtful practices of these exchanges than is here furnished. Out of their own mouths come admissions of facts upon which any intelligent, fair-minded man must condemn them. After these confessions who here will longer attempt to defend their practices?

In 1906, as I have shown, the entire receipts at New York amounted to 6,575 bales and in 1907 the receipts reached a total of 23,108 bales. For the same year (1907) the receipts at Galveston amounted to 3,891,695 bales; at New Orleans to 2,296,971 bales. At the end of that season Galveston had 30,820 bales on hand and at New Orleans there remained on hand 31,964 bales.

Now let's see what stock remained on hand at the end of the same season in New York—169,975 bales. Its receipts during the three years preceding in the aggregate were less than 65,000. Thus you see we have the proof of the truth of the charge made by Mr. Price and many others that this low-grade cotton has been accumulated and held in New York for several years for purposes of tender on contracts for futures. Mr. Chairman, the victims of all these wrongs, the farmer and spinner, are helpless to protect themselves. They can only look to us for relief. The cotton-growing States have done their full duty in an effort to suppress this evil. Every one of them save Louisiana and Oklahoma have enacted wholesome laws abolishing within their limits the gambling transactions as far as they were able to do so. These laws are having their effect and are a source of partial protection, and I assure you they have come to stay.

An attempt has been made to impress the membership of this body with the idea that already the Southern people have discovered this legislation to be a mistake. I read from one of the numerous circulars received through the mail—this particular one is believed to have been sent by a member of the New Orleans Exchange:

During the past year the writer has traveled over a very large portion of Texas and has conversed freely with many planters and business men from all parts of the State, and finds the universal sentiment among them very pronounced in favor of either a complete repeal of the present "antibucket-shop law," as it is termed out there, or an amendment thereto permitting of trading on the regular cotton exchanges and the conducting of local exchanges, as formerly. The people of Texas as a whole are the most intelligent and best educated of any State in the Union and the most liberal and the most ready to keep abreast with everything pertaining to a broad, comprehensive sphere of living, and they are now ready and anxious for a repeal of this law. At present the farmers all over the State are in absolute darkness, not having any means of knowing what the cotton market is doing, thus being at the mercy of the spot dealers, who banded themselves together in many places for the express purpose of buying cotton at ¼ to ½ cent under the market. Such a state of affairs can not long exist in a State of the magnitude and greatness of Texas. The people will not long bear it. The law was passed by a lot of sorehead politicians, who wanted to play to the galleries, but will speedily be repealed by the progressive business men and planters of the State, who desire a square deal and a chance to do business in the light rather than in darkness.

Mr. Chairman, this gentleman pays the people of my State a great compliment, and his statement would seem to indicate that he really knows the people of Texas, but I fear he does not. The people there know that as a result of legislation against cotton gambling the price of a seat in the New York Exchange has declined from $23,000 to $10,000; they know that this difference represents money now in their pockets, but which formerly went to exchange members.

Another matter about which this gentleman is mistaken is that the Texas law "was passed by a lot of sorehead politicians who wanted to play to the galleries." Mr. Chairman, I had the honor to call the meeting at the editorial rooms of the leading farmers' paper in my State—The Farm and Ranch—which took the initial step leading ultimately to the passage of the Texas law. At that conference was my honored colleague [Mr. BEALL], and I emphatically disclaim for him, as well as myself, that we are "sorehead politicians." The real purpose of this circular, however, was to impress the Congress with the idea that bucket shops are the great evil and that exchanges do good. Another circular sent out by the New Orleans Exchange also labors to fix this impression on our minds. I read from it:

Lack of a clear conception of the function of a legitimate cotton exchange and of the difference between such exchange and the bucket shop, which has no connection whatever with the legitimate cotton trade, has resulted in far-reaching confusion in the public mind, and in an effort to drive out the bucket shops the mistake has been made of enacting laws which impose harmful restrictions on the buying and selling of actual cotton for future delivery. As before said, the bucket-shop men themselves have been largely responsible for this confusion of ideas, hoping thereby to receive some measure of protection from the absence of popular discrimination when it should be shown that the legitimate future market is essential to the welfare of the cotton trade in general.

An antibucket-shop law, stringent enough and framed along practical lines, will meet the approval of every right-thinking citizen, and in the enactment and enforcement of such a law the New Orleans Cotton Exchange members, cotton merchants, bankers, cotton producers, and spinners alike can be counted on to cooperate to a common end, in the same way that all law-abiding citizens should assist in suppressing any practice or custom contrary to public good.

Antioption legislation will not suppress any bucket shop, because no bucket shop deals in contracts for actual cotton, there being no contract between the bucket shop and its customers, no intention to deliver or receive the commodity gambled on, and no commercial or trade value whatever to such transactions. No man who needs cotton or has cotton to sell ever goes to a bucket shop with that end in view, because the bucket shop does not handle cotton in any form.

Here we have again an expression of fear that the good, helpful exchange may be confused with the bad, hurtful bucket shop. In fact, that mistakes must have been made in legislation which hampers these exchanges, for surely no one would be so foolish as to restrict their operations. Then the charge is made that the wicked bucket shop is trying to muddy the waters in order to escape well-merited destruction. But, Mr. Chairman, the bucket shop might with equal consistency retaliate by saying that this vehement opposition on the part of the exchange arises from a desire to increase the commissions of exchange members by diverting the patronage of the bucket shops to the exchanges. In fact, some people have been men enough to make this charge. And, oh, how eloquent they wax in denunciation of the baneful bucket shop! Let me read from still another pamphlet sent out by the grain exchange in Chicago:

A bucket shop is a pretense; it pretends to transact business when in fact it exercises no commercial function and is devoid of every commercial feature; it is a deliberately premeditated organized fraud. It charges for a service when no service is performed; it merely weaves its web and watches for its victims. It is a gambling contrivance pure and simple. It is thoroughly demoralizing to industrial and mercantile life; it pollutes everything it touches and taints everybody with whom it is in any manner identified. It is insidiously pernicious and undermining, and is at war with every legitimate industry and every principle of mercantile life. It is a scheme for betting upon quotations under the flimsy guise of commercial transactions. A bucket shop takes one side of the bet and its customer the other side. If the

customer wins, the bucket shop must lose. If the bucket shop makes money, it must follow that the customers lose money. To put it in another way, it is for the interest of the bucket shop that his customers lose money. It is for the interest of legitimate merchants that their customers make money. The profits of the bucket shop are derived from the losses of their infatuated customers. The impoverishment of their customers means the wealth of the bucket shop; and yet, strange to say, knowing this, their patrons eagerly enter the unequal contest.

Mr. Chairman, I agree with every word of this denunciation of the bucket shop, but without the slightest hesitancy I declare that as between the two I prefer the bucket shop as the less hurtful. The bucket shop injures only those who tinker with it. Its operations have no effect on market prices. Comparatively few patronize bucket shops, so but few suffer therefrom. On the other hand, the exchange manipulates prices, and millions who are innocent of any connection therewith, who have no voice in its rules, no control over its methods, are distressed, injured, and frequently despoiled of the fruits of their labor by the action of those who manage and control these exchanges. To compare the damaging results arising from bucket shop dealing, with cotton exchange practices and transactions, would be like comparing the harmless effect of two pickaninnies shooting craps for pennies in a back alley with the heart aches, bankruptcies, and suicides, resulting from the stupendous games of chance conducted at Monte Carlo.

Mr. Chairman, I thoroughly understand the many powerful influences which will be brought to bear to defeat this legislation. Not only the exchanges and boards of trade will be arrayed against its enactment, but the powerful banks which make loans to finance these innumerable transactions will bring their influence to bear on everyone whom they can reach. I know also that every newspaper harlot stands ready to throw wide its columns in defense of this so-called business. Every journalistic prostitute is eager to scribble in its defense. Already marked copies of articles in leading "Journals of Civilization" extolling these exchanges are finding us through the mails, and you need only watch, and in the local press evidences of the Scarlet Letter will be frequently manifest.

Mr. Chairman, those of us who favor this legislation were not unmindful of the herculean task confronting us when we renewed the movement to abolish the indefensible methods and practices of these exchanges. We were fully aware that the able and learned George of Mississippi and the indefatigable and persistent Hatch of Missouri had failed in a similar effort sixteen years ago; but, Mr. Chairman, we feel that we know more of the methods of these exchanges than was known at that time. We believe that the people who stand behind us are more thoroughly aroused to the great injury resulting from speculative gambling on the exchanges than they were at that time, but however this may be we are confident of the justness of the cause, and, renewing the contest, we have enlisted for the war.

We are not to be deterred by ridicule, neither shall we be misled or diverted by the plausible arguments put forward by the able defenders of this sinful traffic, but we intend to press on until the right has prevailed.

Mr. Chairman, there is another phase of this question upon which I have not touched—the moral phase. I will not say it does not appeal to me. It is known to us all that as a direct result of the gambling operations on the New York Cotton Exchange thousands of unfortunates have lost their all, beggaring their families. Numerous small merchants have been bankrupted and disgraced. Many clerks, cashiers, and officers of banks have been made defaulters and some consigned to felons' cells. But with all this we, as legislators, have nothing to do. Furthermore, I recognize that we can not legislate morals into people. I wish we could, for when one considers the terrific increase of the gambling habit throughout our country I wish something could be done to check if not prevent it. We are gambling in stocks, gambling in wheat, gambling in pork, gambling in corn, gambling in cotton, gambling in nearly everything!

Even the women are becoming addicted to the habit. Starting a few years ago with progressive euchre, with a trifling prize as the stake, I am now told that bridge-whist parties are conducted where thousands of dollars are wagered and lost. God only can foresee the effect all this will ultimately have on the character of the generation to follow. But, again, with this we have nothing to do. I favor the legislation proposed in this amendment because the evil can only be thoroughly crushed by the enactment of legislation similar to that which destroyed the Louisiana lottery. I favor this legislation because of the injurious effects of cotton gambling on the interests of the cotton producer and the cotton consumer and its demoralizing effect upon legitimate cotton trade.

Mr. Chairman, I repeat that I realize the many difficulties to be overcome before we complete this labor. Neither am I unmindful of the lesson taught in the Scriptural text, I believe to be found in Luke:

For which of you, intending to build a tower, sitteth not down first and counteth the cost, whether he have sufficient to finish it? Lest haply, after he hath laid the foundation and is not able to finish it, all that behold it begin to mock him, saying, "This man began to build and was not able to finish."

We have counted the cost and confidently believe we have sufficient to complete the tower. We have begun the work, and so long as I remain a member of this body it shall continue. Time alone can tell whether we will finish, but I offer this suggestion to the exchange and its defenders: Begin not yet to mock, but rather keep in mind the adage:

He laughs best who laughs last.

Mr. MADDEN. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk concluded the reading of the bill.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent that the Clerk be permitted to correct the totals.

The CHAIRMAN. Is there objection?

There was no objection, and it was so ordered.

Mr. GAINES of Tennessee. Mr. Chairman, I ask unanimous consent to extend my remarks on the road question in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HOUSTON. Mr. Chairman, under the permission granted me, I desire to insert in the RECORD, as bearing upon the paragraph just read, a letter from an agent of the Agricultural Department, who has been at work in Tennessee and in the district I have the honor to represent in this House. This letter sets out the work and the conditions in this section in the endeavor to eradicate cattle ticks as it appears to him. Also he has furnished me with resolutions adopted by the Interstate Association of Live Stock Sanitary Boards and by the Southern States Association of Commissioners of Agriculture, which I insert in the RECORD. Also a letter from Prof. H. A. Morgan, director of the agricultural experiment station at the University of Tennessee:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
Nashville, Tenn., December 13, 1907.

Hon. W. C. HOUSTON.

MY DEAR SIR: I make no apology in troubling you with this letter. The purpose of the letter must be its only excuse. For the past year I have had charge of all legal matters pertaining to the Bureau of Animal Industry in Tennessee, Alabama, and Georgia, and I know what I am now writing about. We have this season been hard at work with the most cordial cooperation of the State authorities in a war on cattle ticks and Texas fever.

Thirty-one of the Tennessee counties we found very badly tick infected. But Dr. W. P. Ellenberger, the inspector in charge, has had about sixty skilled employees of the Bureau at work in inspecting thousands of farms, who have inspected many thousands of cattle, and have seen to it that they were disinfected. Meantime, information has been disseminated by public meetings, by publications, full and explicit, in both the metropolitan and county newspapers, and by the distribution of thousands of pamphlets from the Bureau on the subject of cattle fever, until public opinion has been informed and aroused so that in the counties of Rhea, McMinn, Bledsoe, Dekalb, Coffee, Cannon, White, Moore, Jackson, Clay, Fentress, Carroll, and Fayette the ticks have been almost, if not entirely, stamped out, and these counties will soon go above the quarantine line, though still held under supervision.

In many other counties, like Lincoln, Franklin, Putnam, and Overton, a great work has been done, which will be followed up; but in ten counties, for utter lack of funds, no real work has yet been done. Yet the people are now ready for cooperative work.

The annual loss and cost to Tennessee from Texas fever is now yearly the great sum of $4,000,000, and to all the infected States it is not less than $60,000,000. And this is an annual dead loss. Now, with sixty expert men as inspectors we have expended, without the waste of a penny, about $40,000 during the season now closing; but we now feel that we should, and if the means are furnished we know we can, utterly abolish and stamp out the ticks in every county this coming season. Yet we have just learned that the estimate for the work of tick eradication for the coming year is just what Congress granted last year, viz, $150,000, and this for all the States. Now, this is most niggard and wasteful economy. Only $40,000 to save each year in Tennessee the sum of $4,000,000! One dollar to save $100 each year! To rid Tennessee this coming year of ticks we need fully $80,000. Because of lack of funds Doctor Ellenberger has been forced to discharge almost all the men who, though not then experts, have become such, who were native to the manor, and the expert employees of the Bureau who were sent here have nearly all been sent away to other fields.

But what is to be done? Official etiquette forbids me to write, for obvious reasons, to the Secretary, Mr. Wilson, besides Congress is the boss. But I write freely to you because, while you are a Member of Congress, yet I know you to be both ardent and active to aid your constituents and all the people of Tennessee. You will think, act, argue, and vote as to you shall seem good. Yet I am a Tennessean, too, and write from this end of the line. But why not leave this local matter of fever-tick eradication to the local State authorities? Well, to begin with, it is not a local question. Texas fever is a contagion and beef cattle are sold in all markets and the subject affects all who eat beef. Besides the States, and much less the separate coun-

ties, do not have the skill, the science, the experience, the "know how" which the Bureau of Animal Industry has in large measure; which it has reached and attained to at the nation's expense; and the Bureau is doing work, paid for by the General Government, in a score of ways in every State in the Union. Tennessee is pivotal and a border State as to tick territory. Clean up Tennessee fully and a demonstration will be had that it can be eradicated in every State.

You can make such use as you choose of this letter, or put it in the waste basket. I have had my "say."

With sentiments of high esteem,

I am, yours, very truly, A. H. PETTIBONE.

Agent, etc., United States Department of Agriculture.

Resolution adopted by the Interstate Association of Live Stock Sanitary Boards at its annual meeting in Richmond, Va., September 17, 1907:

Whereas the great losses to Southern cattle owners resulting from the presence of the fever tick (Boophilus annulatus) are now a well established and generally accepted fact; and

Whereas the work already done has demonstrated the feasibility of the eradication of the fever tick, and the progress made with the funds recently appropriated by Congress has been very satisfactory; and

Whereas the known facts regarding the life history of the tick and methods for its destruction justify the prosecution of the work on a more comprehensive and extensive scale: Therefore be it

Resolved by the Live Stock Sanitary Boards of the United States in convention assembled, That the appropriation made for this work by the United States Congress for the next fiscal year should be increased to an amount commensurate with the magnitude and importance of the work to be done, which, in our opinion, should not be less than $500,000, and we respectfully urge the United States Secretary of Agriculture and the Congressmen of our respective States to use their best efforts to obtain such Congressional appropriation.

TAIT BUTLER,
Secretary of Committee.

Resolutions passed by the Southern States Association of Commissioners of Agriculture and Other Agricultural Workers at its annual meeting at Columbia, S. C., November 20, 1907:

Whereas satisfactory and sufficient reasons have been firmly established that the cattle tick should be eradicated from all infested regions of the United States; and

Whereas during the past two years the Bureau of Animal Industry and the various States interested have cleaned about 85,000 square miles and have also partially cleaned about 30,000 square miles of infested territory; and

Whereas this work has been done with insufficient funds, which has necessitated the removal of inspectors at times when the work was severely crippled or retarded thereby; and

Whereas the success of the cattle industry in the South is wholly dependent upon the extermination of the cattle tick: Therefore be it

Resolved, That this association request Congress to appropriate $500,000, to be used exclusively in cattle-tick eradication, and that we urge our Congressmen, cattle men, commissioners of agriculture, State veterinarians, and all others interested to use every honorable means in securing this appropriation.

UNIVERSITY OF TENNESSEE,
AGRICULTURAL EXPERIMENT STATION,
Knoxville, January 21, 1908.

Hon. WM. C. HOUSTON,
House of Representatives, Washington, D. C.

MY DEAR SIR: Congressman RANSDELL, of Louisiana, has just called my attention to the fact that there is some question regarding the appropriation for tick eradication in this and other Southern States. Tennessee has been peculiarly fortunate in getting a great deal of service from previous appropriations, and through these has had many counties placed above the national quarantine line. The presence of the cattle tick within the State has had a baneful effect upon our animal husbandry, and indirectly upon our soil fertility, and therefore we regard this as one of the most important agricultural matters that affect us.

I sincerely trust that you will be able to help in increasing the appropriation for this work, as the suspension of activity in tick eradication now would certainly mean its spread into counties of our State now uninfested.

Wishing you the compliments of the season and with kindest regards, I beg to remain,

Very sincerely, yours, H. A. MORGAN, *Director.*

Mr. SCOTT. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose, and the Speaker having resumed the chair, Mr. FOSTER of Vermont, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 19158—the agricultural appropriation bill—and had directed him to report the same back to the House with sundry amendments, with recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. SCOTT. Mr. Speaker, at the proper time I shall ask for a separate vote upon the amendment by which the figures at the end of the general-expense paragraph, Bureau of Soils, were changed from $170,000 to $333,460. I shall ask this because I believe that amendment was adopted on account of a misapprehension on the part of a majority of the Members then present. I think many votes were cast for that amendment under the impression that the sum carried in the bill for the Bureau of Soils was insufficient to permit that Bureau to carry forward the work in which it is now engaged.

Mr. UNDERWOOD. Mr. Speaker——

Mr. SCOTT. I must decline to yield.

Mr. UNDERWOOD. I want to ask a question as to procedure. Does the gentleman propose to discuss the question now?

Mr. SCOTT. If the gentleman will possess his soul in patience, he will discover what I propose to do.

Mr. UNDERWOOD. I wanted to ask the gentleman, if he proposes to discuss the question, if he intends to yield as much time to this side as he consumes?

Mr. SCOTT. I certainly expect to do that.

Mr. Speaker, in order that there may be a clear understanding, I wish to give the House the history of this item. The estimates as they came from the Secretary of Agriculture called for $200,000 for this item. When the Chief of the Bureau of Soils was brought before the committee and asked to what purpose he expected to devote this additional sum he replied substantially that a greater part of it would be used in soil utilization work. He also asked for new language to be introduced in the bill to permit him to do that work, as follows:

To investigate and demonstrate the best methods for the utilization of the soil resources of the United States and the best methods of soil management for the different localities and different types of soil; to investigate and demonstrate the principles of soil fertility and the fertilizer and manurial requirements of soils.

When the Secretary came before the committee we called his attention to this new language and asked him if it did not provide for substantially the kind of work that is now being done under the Bureau of Plant Industry in the farm management division. He admitted at once that it did, because the language was almost identical, and it was with his full consent and approval that the proposed increase was disallowed, because it was the opinion of the Secretary, as it was of the committee, and as I believe it must be of this House, that there ought not to be a duplication of the work of those two Bureaus in the same Department. Having arranged with the Secretary that there should be no duplication of this work, the committee had an understanding with him also that the utilization part of it, for continuing which the principal portion of the increase in the Bureau of Soils was demanded, should be carried forward, and I have the authority of the Secretary of Agriculture to say now that arrangements have already been perfected to do this work so that the legitimate field of the Bureau of Soils will not be curtailed.

On the contrary that Bureau will be permitted to carry on a great deal more work in that field than it has been doing during the past year. We discovered that even although the authority had not been given the Chief, he had been doing, and is doing, utilization work this year, for which he will spend $38,000. That additional amount will be available for his use for the proper purpose of soil surveys during the coming year, and with it he can put seven more parties in the field than he now has, so that not only can the Bureau do all that it has been doing in the way of soil surveys, but it will be able to send out seven more parties, making twenty-five or thirty additional surveys.

But there is another reason, gentlemen of this House, why I think this amendment ought not to remain in the bill, a reason which I approach with a great deal of reluctance because it involves a rather severe criticism of the conduct of this Bureau, a reason which I would not state except under the compulsion of a profound sense of responsibility as a Member of this House. In the course of the examination of the Chief of the Bureau of Soils he was asked whether he would have men enough to carry forward this work for which he was asking so great an additional appropriation. He said:

We have enough trained men now in the Bureau to take charge of forty soil-survey parties.

The question was asked him,

What are those men doing now? Is the work they are now engaged upon necessary?

He said:

It is work *we have no need of now. It is preparing for work years hence.*

Then the question was asked him why he had not discharged some of these men, thereby obtaining funds for increasing the number of the soil surveys for which he declared there was so great a demand, and he said:

Of course if the Congress is going to limit the amount of work done to $80,000, that is what I should do, get rid of some of them, discharge them or send them out to other lines, *but I have husbanded the force and held them back and educated them and gradually increased their salaries in the hope that eventually Congress would be willing to extend the soil-survey work.*

The suggestion was made to him that Congress ought to be the best judge of its appropriations, and that when the appropriation was made it was the duty of an administrative officer to use it and make the best use of it he could and not to an-

ticipate a greater appropriation in the future. The reply to that was:

It has been a matter of administrative discretion, and we have taken this course *and are putting it up to Congress now* as to what we shall do in the future.

I want to put it up to Congress now whether this House is willing to encourage a bureau chief in going outside the limits laid down by the law which this body enacts? I said a moment ago that we found this Bureau Chief had already been doing this work for which there was no authority in the law. I asked him where he got his authority, and he cited these words:

The investigation of the relations of soils to climate and organic life.

Is there any human being who will interpret those words as warranting a bureau in sending out scores of utilization parties to plant crops and tend them and gather them? I asked him, if that language was sufficient to warrant his expenditure, why he came in and asked for the new language which I read a moment ago. There was no answer to that question, because there could not be any answer given to it. I put it up to this House whether they want to send word to the subordinates in the various Departments that they need pay no attention to the laws that are passed by this body, that they can go ahead and spend money regardless of the limitations put upon that expenditure by Congress. I want to put it up to this House whether they wish to serve notice on the subordinates in the various Departments that they can go over the head of their Department chief, that they can go over the head of a committee of Congress, and with all the arts and artifices of expert lobbying and logrolling force an appropriation through this body. [Applause.]

Mr. Speaker, I reserve the remainder of my time, and will yield as much as I have used to the gentleman from Mississippi [Mr. HUMPHREYS].

The SPEAKER. The gentleman has used ten minutes.

Mr. HUMPHREYS of Mississippi. Mr. Speaker, I will ask the Speaker to notify me when I have consumed five minutes of time.

Mr. Speaker, before I proceed I want to submit this statement: I yield to no man in my admiration, my deference, and my consideration for the Committee on Agriculture. But I believe that that great committee is, like all other committees of this House, subject to error. I want to say further that the amendment which I offered was not the result of any logrolling with me by the Chief of the Bureau of Soils or by any representative from the Bureau of Soils. I never saw the Chief of the Bureau of Soils in my life, and I never had a communication from him on this subject. I have had no request, directly or indirectly, from the Chief of the Bureau or any person connected with the Bureau to introduce this amendment, and nobody connected in an official way with the Bureau knew that I intended to offer the amendment. I say that in reply to the suggestion of the chairman that the favor the amendment has in this House is the result of expert logrolling. I was inspired to offer this amendment by the study that I had given this subject.

I had observed that the soils of this country are producing less per acre than the soils of the countries of the Old World. I had observed that in England, where they began exactly this work of soil surveying nearly one hundred years ago, making exactly the same investigations that we make, and following it with the utilization work as we propose to follow it here, the yield per acre had advanced as the yield in America had decreased, until last year we produced in this country upon our new lands 15½ bushels of wheat per acre, whereas in England, as a result of this method and of other experiments of soil reclamation and adaptation, their acres yielded 33 bushels per acre. I was inspired by that to offer the amendment.

The Secretary of Agriculture in his annual report in commending, as he does commend in most emphatic and unequivocal terms, the work and the purposes of this Bureau, says that $100,000,000 annually is spent in the United States for fertilizers, and that at least one-third of it is wasted because of the misapplication of fertilizer elements to soil conditions. He believes and I believe that a proper scientific and intelligent study of the soils, such an analysis, both physical and chemical, as will bring a knowledge of the constituent elements of the soils, showing its needs, discovering those toxic and excretal elements that render the soil unproductive, will enable the farmers to buy their fertilizers with intelligent discrimination, and so save to them the tremendous sum of $33,000,000 annually. And this inspired me to offer the amendment.

The Secretary of Agriculture has told us in his report that the demand for these soil-survey maps is increasing yearly, and that these requests are from every part of this country. There are more than 400 applications now on file in the Department asking for these surveys, and if the amendment is stricken from the bill only fifty-nine of these applications can be granted. This means that it will require fifty years to do the work which the Secretary says when done will save the farmers in the purchase of the single item of fertilizer alone $33,000,000 a year. And this inspired me to offer the amendment.

The chairman of the committee tells us that the utilization work which is intended and needed to demonstrate to the farmers in a practical way the several varieties of plant life which are best adapted to the soil, as discovered by the survey, will be done by the Bureau of Plant Industry. This is not the best way, in my opinion, Mr. Speaker, to secure results. I believe the bureau that makes the survey of the soil and propounds the theory of its adaptation to some particular plant life—as, for instance, that the elements in the soil indicate a particular variety of tobacco, as was actually the case in the Texas experiment—is the bureau which will most earnestly devote its energies to the demonstration of that theory.

These are some of the reasons, Mr. Speaker, that inspired my amendment, and they were sufficient without any suggestion from the Chief of the Bureau of Soils.

Now, Mr. Speaker and gentlemen, understand this, that the proposition of the Committee on Agriculture is to reduce the appropriation for the utilization work. Thirty-eight thousand dollars was used last year by this Bureau in this utilization work. At the same time the Bureau of Plant Industry was engaged in a similar work. The Bureau of Plant Industry will continue their work, but the $38,000 last year devoted to this purpose by the Bureau of Soils will not be used if the amendment is voted down, but will be used to further prosecute the soil-survey work, which, according to the opinion of the chairman and according to the opinion of the committee, is practically useless unless followed up by the demonstration work.

Just a minute more. The Bureau Chief has husbanded his force—as he says, has corralled a number of experts whom he has educated to this work—and if the appropriation is reduced according to the proposition of the Committee on Agriculture, that expert force will be dissipated; they will be discharged, and less of this work will be done by $38,000 than was done last year. [Applause.]

Mr. Speaker, I yield the balance of time to the gentleman from Alabama [Mr. UNDERWOOD].

The SPEAKER. The gentleman has four minutes left.

Mr. UNDERWOOD. Mr. Speaker, I am very much surprised at the argument made by the gentleman from Kansas in presenting this question to the House. Here is a grave public question, involving the interests of far more than a majority of the people of the United States; a question that goes into their homes and abides by their firesides; a question of prosperity and success to the farming interests of the United States; and after the Committee of the Whole House on the state of the Union has seen fit, after proper discussion, to increase this appropriation for the benefit of the farming classes of this country, the chairman of this great committee comes before this House and rests his argument against this appropriation by an attack on an individual. He calls on this House to vote down this appropriation because he says the chief of the Bureau in charge of this work has been overzealous in his authority and gone beyond the power that Congress has given him.

Now, is that any argument why we should not carry out this work if it is a success and if it is a worthy work? I think that such an argument requires no answer.

Mr. Speaker, there is a foundation to scientific agriculture, and that foundation is soil survey. You can not have scientific agriculture without you know what is in the soil. But, Mr. Speaker, you might as well not have soil survey if you do not bring a practical demonstration of what the soil means to the door of the farmer's home. He is not a scientist. He can not take your report and study it out from a scientific standpoint. You must bring a practical man to his field and to his farm and demonstrate what this scientific work means.

Now, the gentleman in charge of this bill says that the Bureau of Plant Industry does this work. Not at all. The Bureau of Plant Industry is carrying on scientific work; but, so far as I have been able to judge from what I have read of their work and what I have actually seen of their work, they are not demonstrating the use of soils. They are experimenting with the growing and development of plants and farm management. What you want to carry to the farmer is the knowledge of what each soil is useful for, how he can make most money out of it, and it is an absolute part, a logical part, of the work of the Bureau of Soils, to carry on the work, after making the soil survey, to demonstrate and carry into the home of the farmer a practical knowledge of how to use and

utilize the soils of his farm. Now, that is what the Bureau Chief has been doing, and that is what this appropriation is intended to do.

Mr. SCOTT. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The question was taken, and the previous question was ordered.

The SPEAKER. Is a separate vote demanded?

Mr. SCOTT. Mr. Speaker, I demand a separate vote on the amendment changing the appropriation in the paragraph for general expenses of the Bureau of Soils; and if my motion prevails I shall ask, of course, that the total be changed to correspond.

The SPEAKER. The gentleman asks for a separate vote on the two amendments.

Mr. GRIGGS. On that I call for the yeas and nays.

The SPEAKER. Is a separate vote demanded on any other of the amendments? If not, the vote will be taken on the other amendments in gross.

No other separate vote was demanded.

The question was taken, and the remaining amendments were agreed to in gross.

The SPEAKER. The Clerk will now report the two amendments.

The Clerk read as follows:

In line 22, page 29, strike out all after the word "expenses" and insert "$333,460;" and in lines 24 and 25 change the total to read "$368,160."

The SPEAKER. Without objection, the vote will be taken upon the two amendments together.

There was no objection.

Mr. GRIGGS. I call for the yeas and nays on the amendments.

The question was taken, and the yeas and nays were ordered.

The question was taken, and there were—yeas 142, nays 128, answered "present" 17, not voting 102, as follows:

YEAS—142.

Adair	Floyd	Kimball	Ransdell, La.
Adamson	Focht	Kinkaid	Rauch
Aiken	Foster, Ill.	Kipp	Reeder
Ashbrook	Fulton	Kitchin, Claude	Reid
Bartlett, Nev.	Gaines, Tenn.	Knapp	Reynolds
Bates	Garner	Knowland	Richardson
Beall, Tex.	Garrett	Lamar, Mo.	Rothermel
Bennet, N. Y.	Gillespie	Laning	Russell, Tex.
Bowers	Goldfogle	Lassiter	Saunders
Boyd	Gordon	Leake	Shackleford
Brodhead	Goulden	Lee	Sheppard
Burgess	Granger	Legare	Sherley
Burnett	Gregg	Lewis	Sherwood
Byrd	Griggs	Lindbergh	Sims
Caldwell	Hackett	McHenry	Slayden
Candler	Hackney	McKinlay, Cal.	Slemp
Carlin	Haggott	McLain	Smith, Tex.
Carter	Hale	Macon	Sparkman
Chapman	Hamill	Maynard	Spight
Clark, Fla.	Hammond	Moon, Tenn.	Stephens, Tex.
Clark, Mo.	Hardy	Moore, Tex.	Sturgiss
Clayton	Harrison	Morse	Sulzer
Cooper, Wis.	Hay	Mouser	Talbott
Cox, Ind.	Heflin	Mudd	Taylor, Ala.
Craig	Helm	Murdock	Taylor, Ohio
Davis, Minn.	Hill, Miss.	Murphy	Thomas, N. C.
De Armond	Hobson	Nelson	Tou Velle
Denver	Houston	Nicholls	Underwood
Douglas	Hubbard, W. Va.	Norris	Waldo
Driscoll	Hughes, N. J.	O'Connell	Watkins
Dwight	Hull, Tenn.	Padgett	Webb
Ellerbe	Humphreys, Miss.	Page	Wiley
Englebright	James, Addison D.	Patterson	Wood
Favrot	Johnson, Ky.	Peters	Woodyard
Ferris	Johnson, S. C.	Rainey	
Finley	Keliher	Randell, Tex.	

NAYS—128.

Alexander, Mo.	Crumpacker	Henry, Conn.	McGuire
Alexander, N. Y.	Currier	Higgins	McKinley, Ill.
Allen	Cushman	Hill, Conn.	McKinney
Ames	Dalzell	Holliday	McLaughlin, Mich.
Anthony	Darragh	Howell, Utah	Madden
Bannon	Davidson	Hubbard, Iowa	Madison
Barclay	Dawson	Huff	Malby
Bartholdt	Diekema	Hull, Iowa	Marshall
Beale, Pa.	Draper	Humphrey, Wash.	Miller
Birdsall	Durey	Jones, Va.	Mondell
Bonynge	Ellis, Mo.	Jones, Wash.	Moon, Pa.
Booher	Ellis, Oreg.	Kahn	Nye
Bradley	Esch	Keifer	Olcott
Brownlow	Fitzgerald	Kennedy, Ohio	Parker, N. J.
Burleigh	Foss	Knopf	Parsons
Burton, Del.	Foulkrod	Küstermann	Payne
Burton, Ohio	Fuller	Lafean	Perkins
Calder	Gardner, Mich.	Lamb	Pollard
Calderhead	Gardner, N. J.	Law	Pray
Campbell	Gillett	Lawrence	Rodenberg
Capron	Glass	Lever	Rucker
Caulfield	Greene	Littlefield	Russell, Mo.
Cocks, N. Y.	Hall	Lloyd	Scott
Conner	Hamilton, Mich.	Loud	Smith, Iowa
Cook, Colo.	Hamlin	Lovering	Snapp
Cook, Pa.	Haskins	McCall	Southwick
Cooper, Pa.	Haugen	McCreary	Sperry
Cousins	Hawley	McGavin	Stafford
Sterling	Thomas, Ohio	Wanger	Wheeler
Sulloway	Tirrell	Washburn	Wilson, Ill.
Tawney	Volstead	Weeks	Young
Thistlewood	Vreeland	Weems	The Speaker

ANSWERED "PRESENT"—17.

Burleson	Goebel	Longworth	Smith, Mich.
Butler	Howland	Lowden	Williams
Crawford	Jenkins	McMorran	
Denby	Kennedy, Iowa	Prince	
Dixon	Langley	Roberts	

NOT VOTING—102.

Acheson	Dunwell	Hinshaw	Porter
Andrus	Edwards, Ga.	Hitchcock	Pou
Ansberry	Edwards, Ky.	Howard	Powers
Barchfeld	Fairchild	Howell, N. J.	Pratt
Bartlett, Ga.	Fassett	Hughes, W. Va.	Pujo
Bede	Flood	Jackson	Rhinock
Bell, Ga.	Fordney	James, Ollie M.	Riordan
Bennett, Ky.	Fornes	Kitchin, Wm. W.	Robinson
Bingham	Foster, Ind.	Lamar, Fla.	Ryan
Boutell	Foster, Vt.	Landis	Sabath
Brantley	Fowler	Lenahan	Sherman
Brick	French	Lilley	Small
Broussard	Gaines, W. Va.	Lindsay	Smith, Cal.
Brumm	Gardner, Mass.	Livingston	Smith, Mo.
Brundidge	Gilhams	Lorimer	Stanley
Burke	Gill	Loudenslager	Steenerson
Cary	Godwin	McDermott	Stevens, Minn.
Chaney	Graff	McLachlan, Cal.	Townsend
Cockran	Graham	McMillan	Wallace
Cole	Gronna	Mann	Watson
Cooper, Tex.	Hamilton, Iowa	Moore, Pa.	Weisse
Coudrey	Harding	Needham	Willett
Cravens	Hardwick	Olmsted	Wilson, Pa.
Davenport	Hayes	Overstreet	Wolf
Davey, La.	Henry, Tex.	Parker, S. Dak.	
Dawes	Hepburn	Pearre	

So the amendments were agreed to.

The Clerk announced the following pairs:

For the remainder of this session:

Mr. FOSTER of Vermont with Mr. POU.

Mr. SHERMAN with Mr. RIORDAN.

Until April 4, 1908:

Mr. HOWLAND with Mr. ANSBERRY.

Until further notice:

Mr. BUTLER with Mr. BARTLETT of Georgia.

Mr. FOSTER of Indiana with Mr. BRANTLEY.

Mr. OVERSTREET with Mr. DIXON.

Mr. MOORE of Pennsylvania with Mr. EDWARDS of Georgia.

For this day:

Mr. HEPBURN with Mr. HITCHCOCK.

Mr. PARKER of South Dakota with Mr. WILSON of Pennsylvania.

Mr. COUDREY with Mr. GILL.

Mr. GAINES of West Virginia with Mr. LENAHAN.

Mr. LOVERING with Mr. PUJO.

Mr. MCMILLAN with Mr. WILLETT.

Mr. HUGHES of West Virginia with Mr. STANLEY.

Mr. GRONNA with Mr. SMITH of Missouri.

Mr. GRAHAM with Mr. MCDERMOTT.

Mr. GILHAMS with Mr. LIVINGSTON.

Mr. FASSETT with Mr. LAMAR of Florida.

Mr. DUNWELL with Mr. GODWIN.

Mr. BRICK with Mr. WILLIAM W. KITCHIN.

Mr. PRINCE with Mr. FLOOD.

Mr. BARCHFELD with Mr. CRAVENS.

Mr. ANDRUS with Mr. COOPER of Texas.

Mr. ACHESON with Mr. BRUNDIDGE.

Mr. HOWELL of New Jersey with Mr. WEISSE.

Mr. SMITH of Michigan with Mr. HOWARD.

Mr. FRENCH with Mr. DAVENPORT.

Mr. FAIRCHILD with Mr. WALLACE.

Mr. KENNEDY of Iowa with Mr. HAMILTON of Iowa.

Mr. BOUTELL with Mr. FORNES.

Mr. OLMSTED with Mr. BROUSSARD.

Mr. LORIMER with Mr. WILLIAMS.

Mr. LONGWORTH with Mr. LINDSAY.

Mr. POWERS with Mr. PRATT.

Mr. LOWDEN with Mr. RHINOCK.

Mr. DENBY with Mr. COCKRAN.

Mr. BINGHAM with Mr. BURLESON.

Mr. CARY with Mr. SABATH.

Mr. ROBERTS (against) with Mr. OLLIE M. JAMES (in favor of).

Mr. WATSON with Mr. WOLF.

Mr. BURKE with Mr. DAVEY of Louisiana.

Mr. PEARRE with Mr. ROBINSON.

Mr. MANN with Mr. RYAN.

For this vote:

Mr. JENKINS with Mr. SMALL.

Mr. LANGLEY (against) with Mr. BELL of Georgia (in favor of).

Mr. HARDING with Mr. HENRY of Texas.

Mr. MCMORRAN with Mr. CRAWFORD.

Mr. AIKEN (in favor of) with Mr. HARDWICK (against).

Mr. CRAWFORD. Mr. Speaker, I would like to inquire if the gentleman from Michigan [Mr. MCMORRAN] has voted?

The SPEAKER. The gentleman is not recorded.

Mr. CRAWFORD. I had a pair with the gentleman, and I voted in the affirmative. I wish to withdraw my vote and answer "present." Mr. MCMORRAN, if he were here, would have voted in the negative.

Mr. ADAIR. Mr. Speaker, I would like to have my name recorded.

The SPEAKER. Was the gentleman present and listening when his name should have been called?

Mr. ADAIR. I was; I was here all the time, except when the first roll was called.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. ADAIR and he voted "present," as above recorded.

Mr. LASSITER. Mr. Speaker, I would like to be recorded. I was present and listening when my name should have been called, but did not hear it called.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. LASSITER and he voted "aye," as above recorded.

The result of the vote was then announced, as above recorded.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

Mr. WILLIAMS rose.

The question was taken, and the bill was ordered to be engrossed and read a third time; and being engrossed, was read the third time and passed.

On motion of Mr. SCOTT, a motion to reconsider the last vote was laid on the table.

The SPEAKER. For what purpose does the gentleman from Mississippi rise?

Mr. WILLIAMS. I rose for the purpose of calling the yeas and nays on the passage of the bill, but it is too late now.

The SPEAKER. The Chair failed to recognize the voice of the gentleman or catch his eye.

Mr. WILLIAMS. I hope the Speaker will not have that difficulty in the future.

The SPEAKER. The gentleman from Mississippi is strong of voice and the Chair is keen of hearing. [Laughter.]

Mr. WILLIAMS. The gentleman from Mississippi exercised his voice to the best of his ability, but the Chair must have been delinquent in the exercise of his auditory nerves. [Laughter.]

TUBERCULOSIS IN THE DISTRICT OF COLUMBIA.

The SPEAKER laid before the House the bill S. 29, an act to provide for registration of all cases of tuberculosis in the District of Columbia, for free examination of sputum in suspected cases, and for preventing the spread of tuberculosis in said District, with a House amendment disagreed to.

Mr. OLCOTT. Mr. Speaker, I move that the House insist on its amendment and agree to the conference.

The motion was agreed to.

The Speaker appointed as conferees on the part of the House Mr. OLCOTT, Mr. TAYLOR of Ohio, and Mr. MURPHY.

DAM ACROSS SNAKE RIVER IN WASHINGTON.

The SPEAKER also laid before the House the bill (H. R. 7618) to authorize the Benton Water Company, its successors or assigns, to construct a dam across Snake River, in the State of Washington, with Senate amendments.

The Senate amendments were read.

Mr. JONES of Washington. Mr. Speaker, I move that the House nonconcur in the Senate amendments.

The question was taken, and on a division (demanded by Mr. WILLIAMS) there were—156 ayes and 70 noes.

Mr. WILLIAMS. I call for the yeas and nays.

Mr. LASSITER. Mr. Speaker, I ask for the reading of the resolution.

Mr. MANN. The regular order!

The SPEAKER. Objection is heard. Forty-two gentlemen have arisen; not a sufficient number.

Mr. UNDERWOOD. Mr. Speaker, I want to call the attention of the Chair to the fact that there were three gentlemen standing on the Republican side that I think the Chair did not count.

The SPEAKER. That makes forty-five; not a sufficient number.

Mr. STANLEY. I do not think the Chair counted me. I was very far over on this side.

The SPEAKER. Was the gentleman standing?

Mr. STANLEY. Yes.

The SPEAKER. Then the Chair caught him. [Laughter.]

Mr. WILLIAMS. Mr. Speaker, I demand the other side.

The other side was taken.

The SPEAKER. Evidently a sufficient number, and the yeas and nays are ordered.

The question was taken, and there were—yeas 146, nays 102, answered "present" 13, not voting 127, as follows:

YEAS—146.

Alexander, N. Y.	Douglas	Jones, Wash.	Norris
Allen	Draper	Kahn	Nye
Ames	Driscoll	Keifer	Olcott
Bannon	Durey	Kennedy, Ohio	Parker, N. J.
Barclay	Dwight	Kinkaid	Parsons
Bartholdt	Ellis, Oreg.	Knapp	Payne
Bates	Englebright	Knopf	Perkins
Beale, Pa.	Esch	Knowland	Pollard
Bede	Focht	Küstermann	Prince
Birdsall	Fordney	Lafean	Reeder
Bonynge	Foss	Langley	Reynolds
Boyd	Foulkrod	Laning	Rodenberg
Bradley	Fuller	Lawrence	Scott
Brownlow	Gardner, Mich.	Lindbergh	Slemp
Burleigh	Gardner, N. J.	Loud	Smith, Cal.
Calder	Gillett	Loudenslager	Snapp
Calderhead	Goebel	McCall	Southwick
Campbell	Greene	McCreary	Sperry
Capron	Haggott	McGavin	Stafford
Cary	Hale	McKinlay, Cal.	Sterling
Caulfield	Hall	McKinley, Ill.	Sturgiss
Chapman	Hamilton, Mich.	McKinney	Sulloway
Conner	Haskins	McLachlan, Cal.	Taylor, Ohio
Cook, Colo.	Haugen	McLaughlin, Mich.	Thistlewood
Cook, Pa.	Hawley	Madden	Thomas, Ohio
Cooper, Pa.	Henry, Conn.	Madison	Tirrell
Cooper, Wis.	Higgins	Malby	Waldo
Cousins	Hill, Conn.	Mann	Wanger
Crumpacker	Holliday	Marshall	Washburn
Currier	Howell, Utah	Miller	Weems
Cushman	Hubbard, Iowa	Mondell	Wheeler
Dalzell	Hubbard, W. Va.	Moon, Pa.	Wilson, Ill.
Darragh	Huff	Mouser	Wood
Davidson	Hull, Iowa	Mudd	Woodyard
Dawson	Humphrey, Wash.	Murdock	Young
Denby	James, Addison D.	Needham	
Diekema	Jenkins	Nelson	

NAYS—102.

Adair	Fulton	Jones, Va.	Reid
Adamson	Gaines, Tenn.	Keliher	Rothermel
Aiken	Garner	Kimball	Rucker
Alexander, Mo.	Garrett	Kipp	Russell, Mo.
Ashbrook	Gillespie	Kitchin, Claude	Russell, Tex.
Bartlett, Nev.	Glass	Lamar, Mo.	Sheppard
Beall, Tex.	Gordon	Leake	Sherwood
Booher	Goulden	Lee	Sims
Bowers	Granger	Lever	Slayden
Brodhead	Gregg	Lewis	Small
Byrd	Griggs	Lloyd	Smith, Tex.
Caldwell	Hackett	McLain	Sparkman
Candler	Hamlin	Macon	Spight
Carter	Hammond	Maynard	Stanley
Clark, Fla.	Hardy	Moon, Tenn.	Stephens, Tex.
Clark, Mo.	Harrison	Moore, Tex.	Sulzer
Clayton	Hay	Murphy	Talbott
Cox, Ind.	Heflin	Nicholls	Thomas, N. C.
Crawford	Helm	O'Connell	Tou Velle
De Armond	Hobson	Padgett	Underwood
Denver	Houston	Page	Watkins
Favrot	Hughes, N. J.	Patterson	Webb
Ferris	Hull, Tenn.	Peters	Wiley
Finley	Humphreys, Miss.	Pou	Williams
Floyd	Johnson, Ky.	Rainey	
Foster, Ill.	Johnson, S. C.	Ransdell, La.	

ANSWERED "PRESENT"—13

Bennet, N. Y.	Howland	Lassiter	Richardson
Butler	Kennedy, Iowa	Lowden	Shackleford
Dixon	Lamb	Morse	Smith, Mich.
Fitzgerald			

NOT VOTING—127.

Acheson	Davis, Minn.	Hill, Miss.	Powers
Andrus	Dawes	Hinshaw	Pratt
Ansberry	Dunwell	Hitchcock	Pray
Anthony	Edwards, Ga.	Howard	Pujo
Barchfeld	Edwards, Ky.	Howell, N. J.	Randell, Tex.
Bartlett, Ga.	Ellerbe	Hughes, W. Va.	Rauch
Bell, Ga.	Ellis, Mo.	Jackson	Rhinock
Bennett, Ky.	Fairchild	James, Ollie M.	Riordan
Bingham	Fassett	Kitchin, Wm. W.	Roberts
Boutell	Flood	Lamar, Fla.	Robinson
Brantley	Fornes	Landis	Ryan
Brick	Foster, Ind.	Law	Sabath
Broussard	Foster, Vt.	Legare	Saunders
Brumm	Fowler	Lenahan	Sherley
Brundidge	French	Lilley	Sherman
Burgess	Gaines, W. Va.	Lindsay	Smith, Iowa
Burke	Gardner, Mass.	Littlefield	Smith, Mo.
Burleson	Gilhams	Livingston	Steenerson
Burnett	Gill	Longworth	Stevens, Minn.
Burton, Del.	Godwin	Lorimer	Tawney
Burton, Ohio	Goldfogle	Lovering	Taylor, Ala.
Carlin	Graff	McDermott	Townsend
Chaney	Graham	McGuire	Volstead
Cockran	Gronna	McHenry	Vreeland
Cocks, N. Y.	Hackney	McMillan	Wallace
Cole	Hamill	McMorran	Watson
Cooper, Tex.	Hamilton, Iowa	Moore, Pa.	Weeks
Coudrey	Harding	Olmsted	Weisse
Craig	Hardwick	Overstreet	Willett
Cravens	Hayes	Parker, S. Dak.	Wilson, Pa.
Davenport	Henry, Tex.	Pearre	Wolf
Davey, La.	Hepburn	Porter	

So the motion was agreed to.

The Clerk announced the following additional pairs:

For the balance of the day:

Mr. HINSHAW with Mr. ELLERBE.

Mr. GRAFF with Mr. CRAIG.

Mr. ELLIS of Missouri with Mr. SABATH.

Mr. DAWES with Mr. CARLIN.

Mr. COLE with Mr. BURNETT.

Mr. BURTON of Delaware with Mr. BURGESS.

Mr. LAW with Mr. GOLDFOGLE.

Mr. LITTLEFIELD with Mr. HILL of Mississippi.

Mr. MCGUIRE with Mr. HACKNEY.

Mr. ROBERTS with Mr. HAMILL.

Mr. SMITH of Iowa with Mr. LEGARE.

Mr. STEVENS of Minnesota with Mr. RANDELL of Texas.

Mr. TAWNEY with Mr. SHERLEY.

Mr. TOWNSEND with Mr. TAYLOR of Alabama.

Mr. VOLSTEAD with Mr. RAUCH.

Mr. HAYES with Mr. SAUNDERS.

Mr. VREELAND with Mr. MCHENRY.

Mr. BRUMM with Mr. HARDWICK.

Mr. BOUTELL with Mr. AIKEN.

For the session:

Mr. BENNET of New York with Mr. FORNES.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair announces the following conferees: Mr. HEPBURN, Mr. MANN, and Mr. RICHARDSON of Alabama.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. KNAPP, for ten days, on account of sickness in family.

To Mr. LAMAR of Florida (by request of Mr. CLARK of Florida), indefinitely, on account of important business.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. GARDNER of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering the bill (H. R. 20063) making appropriations for the District of Columbia for the ensuing fiscal year, and, pending that motion, I ask unanimous consent that eight hours be allowed for general debate, half of the time to be controlled by the gentleman from Texas [Mr. BURLESON], the ranking Member of the minority, and the other half by myself.

The SPEAKER. The gentleman from Michigan moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the District of Columbia appropriation bill, and, pending that motion, asks unanimous consent that general debate may be limited to eight hours, one-half to be controlled by himself and one-half by the gentleman from Texas [Mr. BURLESON]. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the motion of the gentleman from Michigan.

The question was taken, and the motion was not agreed to.

DISTRIBUTION OF PRESIDENT'S MESSAGE.

Mr. PAYNE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House resolution No. 233.

Mr. WILLIAMS. What is the resolution?

Mr. PAYNE. Distribution of the President's message.

The question was taken, and the Chair announced the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The SPEAKER. The gentleman from Mississippi calls for a division.

The House again divided, and there were—ayes 150, noes 92.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 210, nays 3, answering "present" 17, not voting 158, as follows:

YEAS—210.

Adair	Brodhead	Cook, Pa.	Ellis, Oreg.
Alexander, Mo.	Brownlow	Cooper, Wis.	Englebright
Alexander, N. Y.	Burleigh	Cox, Ind.	Favrot
Allen	Burton, Ohio	Crawford	Ferris
Ashbrook	Byrd	Crumpacker	Finley
Bannon	Calder	Currier	Fitzgerald
Barclay	Calderhead	Cushman	Floyd
Bartlett, Nev.	Caldwell	Dalzell	Focht
Bates	Campbell	Darragh	Foss
Beall, Tex.	Candler	Davidson	Foster, Ill.
Bede	Capron	Dawson	Foulkrod
Bell, Ga.	Cary	De Armond	Fuller
Birdsall	Caulfield	Denver	Fulton
Bonynge	Chapman	Diekema	Gaines, Tenn.
Booher	Clark, Fla.	Douglas	Gardner, Mich.
Bowers	Clayton	Draper	Gardner, N. J.
Boyd	Cocks, N. Y.	Durey	Garner
Garrett	Jenkins	Malby	Russell, Mo.
Glass	Johnson, Ky.	Marshall	Russell, Tex.
Goebel	Johnson, S. C.	Mondell	Scott
Gordon	Jones, Va.	Moon, Pa.	Sheppard
Granger	Jones, Wash.	Moon, Tenn.	Sherwood
Greene	Kahn	Moore, Tex.	Slayden
Gregg	Keifer	Mouser	Slemp
Griggs	Keliher	Murdock	Small
Hackett	Kennedy, Iowa	Murphy	Smith, Tex.
Hackney	Kennedy, Ohio	Needham	Southwick
Haggott	Kimball	Nelson	Spight
Hale	Kinkaid	Nicholls	Stafford
Hall	Kipp	Norris	Stanley
Hamilton, Mich.	Kitchin, Claude	O'Connell	Steenerson
Hamlin	Knapp	Olcott	Sterling
Hammond	Knopf	Padgett	Stevens, Minn.
Hardy	Knowland	Page	Sturgiss
Haskins	Küstermann	Parker, N. J.	Sulloway
Haugen	Lafean	Parsons	Tawney
Hawley	Lamar, Mo.	Patterson	Thistlewood
Heflin	Langley	Payne	Thomas, N. C.
Helm	Lassiter	Perkins	Tou Velle
Higgins	Lawrence	Peters	Vreeland
Hill, Conn.	Leake	Pollard	Waldo
Hobson	Legare	Pray	Washburn
Holliday	Lewis	Rainey	Watkins
Houston	Lindbergh	Randell, Tex.	Webb
Howard	Lloyd	Ransdell, La.	Weeks
Hubbard, Iowa	Loud	Rauch	Weems
Hubbard, W. Va.	McCall	Reeder	Wiley
Huff	McCreary	Reid	Williams
Hughes, N. J.	McKinlay, Cal.	Reynolds	Wilson, Ill.
Hull, Tenn.	McKinley, Ill.	Richardson	Woodyard
Humphrey, Wash.	McKinney	Rodenberg	Young
Humphreys, Miss.	McLachlan, Cal.	Rothermel	
James, Addison D.	Macon	Rucker	

NAYS—3.

Aiken	Clark, Mo.	Sulzer

ANSWERED "PRESENT"—17.

Bennet, N. Y.	Hay	McMorran	Stephens, Tex.
Burleson	Howland	Morse	Wanger
Butler	Lever	Olmsted	
Dixon	Lowden	Smith, Mich.	
Goulden	McLaughlin, Mich.	Sparkman	

NOT VOTING—158.

Acheson	Denby	Hitchcock	Porter
Adamson	Driscoll	Howell, N. J.	Pou
Ames	Dunwell	Howell, Utah	Powers
Andrus	Dwight	Hughes, W. Va.	Pratt
Ansberry	Edwards, Ga.	Hull, Iowa	Prince
Anthony	Edwards, Ky.	Jackson	Pujo
Barchfeld	Ellerbe	James, Ollie M.	Rhinock
Bartholdt	Ellis, Mo.	Kitchin, Wm. W.	Riordan
Bartlett, Ga.	Esch	Lamar, Fla.	Roberts
Beale, Pa.	Fairchild	Lamb	Robinson
Bennett, Ky.	Fassett	Landis	Ryan
Bingham	Flood	Laning	Sabath
Boutell	Fordney	Law	Saunders
Bradley	Fornes	Lee	Shackleford
Brantley	Foster, Ind.	Lenahan	Sherley
Brick	Foster, Vt.	Lilley	Sherman
Broussard	Fowler	Lindsay	Sims
Brumm	French	Littlefield	Smith, Cal.
Brundidge	Gaines, W. Va.	Livingston	Smith, Iowa
Burgess	Gardner, Mass.	Longworth	Smith, Mo.
Burke	Gilhams	Lorimer	Snapp
Burnett	Gill	Loudenslager	Sperry
Burton, Del.	Gillespie	Lovering	Talbott
Carlin	Gillett	McDermott	Taylor, Ala.
Carter	Godwin	McGavin	Taylor, Ohio
Chaney	Goldfogle	McGuire	Thomas, Ohio
Cockran	Graff	McHenry	Tirrell
Cole	Graham	McLain	Townsend
Conner	Gronna	McMillan	Underwood
Cook, Colo.	Hamill	Madden	Volstead
Cooper, Pa.	Hamilton, Iowa	Madison	Wallace
Cooper, Tex.	Harding	Mann	Watson
Coudrey	Hardwick	Maynard	Weisse
Cousins	Harrison	Miller	Wheeler
Craig	Hayes	Moore, Pa.	Willett
Cravens	Henry, Conn.	Mudd	Wilson, Pa.
Davenport	Henry, Tex.	Nye	Wolf
Davey, La.	Hepburn	Overstreet	Wood
Davis, Minn.	Hill, Miss.	Parker, S. Dak.	
Dawes	Hinshaw	Pearre	

So the motion was agreed to.

The Clerk announced the following additional pairs:

For balance of day:

Mr. ESCH with Mr. HARRISON.

Mr. ANTHONY with Mr. HAMILTON of Iowa.

Mr. AMES with Mr. CARTER.

Mr. HULL of Iowa with Mr. HAY.

Mr. MUDD with Mr. TALBOTT.

Mr. DWIGHT with Mr. SHACKLEFORD.

Mr. TAYLOR of Ohio with Mr. SIMS.

Mr. MCLAUGHLIN of Michigan with Mr. LEVER.

Mr. WANGER with Mr. ADAMSON.

Mr. LANING with Mr. MCHENRY.

Mr. BRADLEY with Mr. GOULDEN.

Mr. MADDEN with Mr. LAMB.

Mr. COOPER of Pennsylvania with Mr. LEE.

Mr. MILLER with Mr. MAYNARD.

The result of the vote was announced as above recorded.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. WILLIAMS. I rise for the purpose of moving to reconsider the vote just passed, and to lay that motion on the table.

Mr. PAYNE. I make the point of order that the motion is dilatory.

The SPEAKER. The Chair sustains the point of order.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the President's message, with Mr. LAWRENCE in the chair.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read as follows:

Resolution 233.

Resolved, That so much of the special message of the President of the United States communicated to the two Houses of Congress on January 31, 1908, as relates to the revenue and the bonded debt of the United States be referred to the Committee on Ways and Means.

That so much as relates to the judiciary of the United States, to the administration of justice, to the punishment and prevention of crime, to judicial proceedings, civil and criminal, and to the organization of courts be referred to the Committee on the Judiciary.

That so much as relates to commerce and the Isthmian Canal be referred to the Committee on Interstate and Foreign Commerce.

That so much as relates to the post-office and post-roads be referred to the Committee on the Post-Office and Post-Roads.

That so much as relates to the public domain be referred to the Committee on the Public Lands.

That so much as relates to labor be referred to the Committee on Labor.

That so much as relates to private and domestic claims and demands, other than war claims, against the United States be referred to the Committee on Claims.

That so much as relates to reform in the civil service be referred to the Committee on Reform in the Civil Service.

That so much as relates to the election of the President, Vice-President, or Representatives in Congress be referred to the Committee on Election of President, Vice-President, and Representatives in Congress.

Mr. WILLIAMS. I wish to ask the gentleman from New York [Mr. PAYNE] a question.

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Mississippi?

Mr. WILLIAMS. What portion of the message was referred to the Committee on Ways and Means?

Mr. PAYNE. So much as relates to revenue.

Mr. GAINES of Tennessee. Mr. Speaker——

Mr. PAYNE. I decline to yield further.

Mr. GAINES of Tennessee. Will the gentleman let me interrogate him?

Mr. PAYNE. Mr. Chairman, it is very singular after the performance we have just gone through that two or three gentlemen, before I have spoken a word, rise to ask a question. Of course it is well understood by the House why it is done.

Mr. GAINES of Tennessee. I thought the gentleman was going to move the previous question or something else.

Mr. PAYNE. Now, Mr. Chairman, this is a simple resolution to distribute this message of the President, distributing the various topics to the committees having jurisdiction under the rules of these topics. The resolution was promptly introduced after the message reached here a month ago or more, and was promptly reported by the Committee on Ways and Means. I was then asked if there would be time for debate given, and I said there would be, and I expected to give it. I do not expect to give it now, and I want the other side to take notice of that. I do not expect to give it because of the hypocrisy which has been exhibited on the other side of the aisle. The other day when the matter came up I was challenged by two or three gentlemen on the other side and asked why I did not bring this message before the House and have it considered and these topics referred to the various committees. I offered to do it then. I asked unanimous consent to do it then, and the very gentleman who had challenged me made the objection in the House that it should not be considered at that time by unanimous consent of the House as in the Committee of the Whole.

Mr. FITZGERALD. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York [Mr. PAYNE] yield to his colleague [Mr. FITZGERALD]?

Mr. PAYNE. I do not. I yield to no one.

The CHAIRMAN. The gentleman declines to yield.

Mr. PAYNE. I am here for business, Mr. Chairman, and if this side of the House will stay here, we will put this resolution through to-night without amendment and without a single speech on the other side of the House. [Applause on the Republican side.] The gentleman from Mississippi [Mr. WILLIAMS] commenced a week or two ago with the announcement that he would indulge in the peurile practice of filibuster in this House unless a majority should take the programme that he laid down and carry it out. He forgot that this side of the House is in charge of the business of the House, and the business of the House will go through just as the majority on this side decide it shall go through. Why, Mr. Chairman, we will take up the topics of the President's message in their order in the House. The Supreme Court decided that the employers' liability act which we passed in the last Congress was unconstitutional, and there never has been a moment of time when there was any doubt on the part of any intelligent Member of this House but that we would put through an employers' liability act that would be constitutional and take the place of the other. [Applause on the Republican side.]

We will take up the other topics in our own time and in our own way, and when the bills are passed they will reflect the sentiment of the majority of this House, whether the other side want to join in the procession or strive to defeat the majority in the House. Now, I do not want any gentleman on the other side of the House to come to me and ask me to grant unanimous consent or not to object when they want to print something in the RECORD.

Go to your leader, the gentleman from Mississippi, and ask him to stop his filibustering; ask him to stop his objections, and when he stops his objections and stops filibustering, then the business of the House will proceed in the usual way; otherwise we will put the business through in our way in spite of your objections. [Loud applause on the Republican side.]

Now, Mr. Chairman, I propose to make a motion that the committee rise, and when the committee goes back into the House I propose to make a motion that all general debate on this resolution now close. I move that the committee do now rise.

Mr. WILLIAMS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. WILLIAMS. To make a parliamentry inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. Is it not in order to offer an amendment to the resolution offered by the gentleman from New York?

The CHAIRMAN. General debate has not been closed. The motion is that the committee rise, and that motion is not debatable.

Mr. WILLIAMS. Then the only way to get an amendment is to vote down the motion that the committee rise.

The CHAIRMAN. That is correct.

Mr. DALZELL. Which you can not do. [Laughter on the Republican side.]

The question was taken on the motion that the committee rise, and the Chairman announced that the ayes seemed to have it.

Mr. FITZGERALD. I demand tellers.

The question was taken, and tellers were ordered.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] and the gentleman from New York [Mr. FITZGERALD] will take their places as tellers.

The committee again divided, and the tellers reported—ayes 112, noes 69.

So the committee determined to rise.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LAWRENCE, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration House resolution 233 and had come to no resolution thereon.

Mr. PAYNE. Mr. Speaker, I move that all general debate on the resolution be now closed, and on that I demand the previous question.

Mr. FITZGERALD. I move that the House do now adjourn.

Mr. PAYNE. I make the point that that motion is dilatory.

The SPEAKER. The gentleman from New York demands the previous question.

Mr. FITZGERALD. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FITZGERALD. I was going to suggest to the Chair that a motion to adjourn is one of high privilege.

The SPEAKER. If the gentleman insists upon the motion to adjourn, it has preference.

Mr. FITZGERALD. I suggest to the gentleman that perhaps we can agree on a reasonable time for discussion.

Mr. PAYNE. The time is now, I want to suggest to my colleague. [Laughter and applause on the Republican side.]

The question was taken upon ordering the previous question.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided, and there were—ayes 140, noes 60.

Mr. WILLIAMS. Mr. Speaker, I demand tellers.

Mr. PAYNE. Mr. Speaker, I demand the yeas and nays

The yeas and nays were ordered.

The question was taken, and there were—yeas 121, nays 94, answered "present" 16, not voting 157, as follows:

YEAS—121.

Adair	Draper	Jenkins	Parsons
Alexander, N. Y.	Driscoll	Jones, Wash.	Payne
Bannon	Durey	Kahn	Pollard
Barclay	Ellis, Mo.	Keifer	Pray
Bates	Englebright	Kennedy, Ohio	Reeder
Birdsall	Esch	Kinkaid	Rodenberg
Bonynge	Focht	Knapp	Scott
Boyd	Foss	Knowland	Smith, Cal.
Brownlow	Foulkrod	Küstermann	Smith, Iowa
Burleigh	Fuller	Lafean	Southwick
Burton, Ohio	Gardner, Mich.	Langley	Stafford
Calder	Gardner, N. J.	Lawrence	Steenerson
Calderhead	Goebel	Lindbergh	Sterling
Campbell	Greene	Loud	Stevens, Minn.
Capron	Haggott	McCreary	Sturgiss
Cary	Hale	McKinlay, Cal.	Sulloway
Caulfield	Hall	McKinley, Ill.	Thistlewood
Chapman	Hamilton, Mich.	McKinney	Tirrell
Cook, Pa.	Haskins	McLachlan, Cal.	Volstead
Cooper, Pa.	Haugen	Malby	Vreeland
Cooper, Wis.	Hawley	Marshall	Waldo
Crumpacker	Higgins	Mondell	Wanger
Currier	Hill, Conn.	Morse	Washburn
Cushman	Holliday	Mouser	Weeks
Dalzell	Howell, Utah	Murdock	Weems
Darragh	Hubbard, Iowa	Needham	Wilson, Ill.
Davidson	Hubbard, W. Va.	Nelson	Wood
Davis, Minn.	Huff	Norris	Young
Dawson	Hull, Iowa	Nye	
Diekema	Humphrey, Wash.	Olcott	
Douglas	James, Addison D.	Parker, N. J.	

NAYS—94.

Adamson	Floyd	Hull, Tenn.	Ransdell, La.
Aiken	Foster, Ill.	Humphreys, Miss.	Rauch
Alexander, Mo.	Fulton	Johnson, S. C.	Richardson
Ashbrook	Gaines, Tenn.	Keliher	Rothermel
Bartlett, Nev.	Garner	Kimball	Rucker
Bell, Ga.	Garrett	Kitchin, Claude	Russell, Mo.
Bowers	Gillespie	Lamar, Mo.	Russell, Tex.
Brodhead	Glass	Lassiter	Sheppard
Byrd	Gordon	Leake	Sherwood
Caldwell	Granger	Lee	Slayden
Candler	Gregg	Lewis	Smith, Tex.
Carter	Griggs	Lloyd	Sparkman
Clark, Fla.	Hackett	McHenry	Spight
Clark, Mo.	Hackney	Macon	Stanley
Clayton	Hamlin	Moore, Tex.	Sulzer
Cox, Ind.	Hammond	Murphy	Thomas, N. C.
Craig	Hardy	Nicholls	Tou Velle
Crawford	Hay	O'Connell	Underwood
De Armond	Heflin	Padgett	Watkins
Denver	Helm	Page	Webb
Favrot	Hobson	Patterson	Wiley
Ferris	Houston	Peters	Williams
Finley	Howard	Pou	
Fitzgerald	Hughes, N. J.	Rainey	

ANSWERED "PRESENT"—16.

Bennet, N. Y.	Dixon	Laning	McMorran
Burleson	Goulden	Lever	Mann
Butler	Howland	Lowden	Moon, Tenn.
Cravens	Kennedy, Iowa	McLaughlin, Mich.	Olmsted

NOT VOTING—157.

Acheson	Dunwell	James, Ollie M.	Prince
Allen	Dwight	Johnson, Ky.	Pujo
Ames	Edwards, Ga.	Jones, Va.	Randell, Tex.
Andrus	Edwards, Ky.	Kipp	Reid
Ansberry	Ellerbe	Kitchin, Wm. W.	Reynolds
Anthony	Ellis, Oreg.	Knopf	Rhinock
Barchfeld	Fairchild	Lamar, Fla.	Riordan
Bartholdt	Fassett	Lamb	Roberts
Bartlett, Ga.	Flood	Landis	Robinson
Beale, Pa.	Fordney	Law	Ryan
Beall, Tex.	Fornes	Legare	Sabath
Bede	Foster, Ind.	Lenahan	Saunders
Bennett, Ky.	Foster, Vt.	Lilley	Shackleford
Bingham	Fowler	Lindsay	Sherley
Booher	French	Littlefield	Sherman
Boutell	Gaines, W. Va.	Livingston	Sims
Bradley	Gardner, Mass.	Longworth	Slemp
Brantley	Gilhams	Lorimer	Small
Brick	Gill	Loudenslager	Smith, Mich.
Broussard	Gillett	Lovering	Smith, Mo.
Brumm	Godwin	McCall	Snapp
Brundidge	Goldfogle	McDermott	Sperry
Burgess	Graff	McGavin	Stephens, Tex.
Burke	Graham	McGuire	Talbott
Burnett	Gronna	McLain	Tawney
Burton, Del.	Hamill	McMillan	Taylor, Ala.
Carlin	Hamilton, Iowa	Madden	Taylor, Ohio
Chaney	Harding	Madison	Thomas, Ohio
Cockran	Hardwick	Maynard	Townsend
Cocks, N. Y.	Harrison	Miller	Wallace
Cole	Hayes	Moon, Pa.	Watson
Conner	Henry, Conn.	Moore, Pa.	Weisse
Cook, Colo.	Henry, Tex.	Mudd	Wheeler
Cooper, Tex.	Hepburn	Overstreet	Willett
Coudrey	Hill, Miss.	Parker, S. Dak.	Wilson, Pa.
Cousins	Hinshaw	Pearre	Wolf
Davenport	Hitchcock	Perkins	Woodyard
Davey, La.	Howell, N. J.	Porter	
Dawes	Hughes, W. Va.	Powers	
Denby	Jackson	Pratt	

So the previous question was ordered.

The Clerk announced the following additional pairs:

Until further notice:

Mr. KENNEDY of Iowa with Mr. HAMILTON of Iowa.

For the balance of this day:

Mr. BEDE with Mr. REID.

Mr. COCKS of New York with Mr. STEPHENS of Texas.

Mr. ALLEN with Mr. MCLAIN.

Mr. WHEELER with Mr. KIPP.

Mr. ANTHONY with Mr. BOOHER.

Mr. WOODYARD with Mr. LEGARE.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion of the gentleman from New York [Mr. PAYNE].

The question being taken, the Speaker announced that the ayes appeared to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

Mr. PAYNE. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 119, nays 91, answered "present" 17, not voting 161, as follows:

YEAS—119.

Alexander, N. Y.	Ellis, Mo.	Jenkins	Nye
Allen	Ellis, Oreg.	Jones, Wash.	Olcott
Bannon	Englebright	Kahn	Parker, N. J.
Barclay	Esch	Keifer	Parsons
Birdsall	Focht	Kennedy, Ohio	Payne
Bonynge	Fordney	Kinkaid	Pollard
Boyd	Foss	Knapp	Pray
Brownlow	Foulkrod	Knowland	Reeder
Burleigh	Fuller	Küstermann	Rodenberg
Calder	Gardner, Mich.	Lafean	Scott
Calderhead	Gardner, N. J.	Langley	Smith, Cal.
Campbell	Goebel	Lawrence	Smith, Iowa
Capron	Greene	Lilley	Southwick
Cary	Haggott	Lindbergh	Stafford
Caulfield	Hale	Loud	Sterling
Chapman	Hall	McCreary	Sturgiss
Cook, Pa.	Hamilton, Mich.	McKinlay, Cal.	Sulloway
Cooper, Pa.	Haskins	McKinley, Ill.	Tawney
Cooper, Wis.	Haugen	McKinney	Thistlewood
Currier	Hawley	McLachlan, Cal.	Tirrell
Cushman	Higgins	Malby	Volstead
Dalzell	Hill, Conn.	Marshall	Vreeland
Darragh	Holliday	Miller	Wanger
Davis, Minn.	Howell, Utah	Mondell	Washburn
Dawson	Hubbard, Iowa	Morse	Weeks
Diekema	Hubbard, W. Va.	Mouser	Weems
Douglas	Huff	Murdock	Wilson, Ill.
Draper	Hull, Iowa	Needham	Wood
Driscoll	Humphrey, Wash.	Nelson	Young
Durey	James, Addison D.	Norris	

NAYS—91.

Adair	Finley	Hull, Tenn.	Rauch
Adamson	Fitzgerald	Humphreys, Miss.	Richardson
Aiken	Floyd	Keliher	Rothermel
Alexander, Mo.	Foster, Ill.	Kipp	Rucker
Bartlett, Nev.	Fulton	Kitchin, Claude	Russell, Mo.
Beall, Tex.	Gaines, Tenn.	Lamar, Mo.	Russell, Tex.
Bell, Ga.	Garner	Lassiter	Sheppard
Booher	Garrett	Leake	Sherley
Bowers	Gillespie	Lee	Sherwood
Brodhead	Glass	Lewis	Slayden
Byrd	Gordon	McHenry	Smith, Tex.
Caldwell	Granger	Macon	Spight
Candler	Gregg	Moore, Tex.	Stanley
Carter	Hackett	Murphy	Sulzer
Clark, Fla.	Hackney	Nicholls	Taylor, Ala.
Clark, Mo.	Hamlin	O'Connell	Thomas, N. C.
Clayton	Hardy	Padgett	Tou Velle
Cox, Ind.	Hay	Page	Underwood
Craig	Heflin	Patterson	Waldo
Crawford	Helm	Peters	Watkins
De Armond	Hobson	Pou	Webb
Denver	Howard	Rainey	Williams
Ferris	Hughes, N. J.	Ransdell, La.	

ANSWERED "PRESENT"—17.

Bennet, N. Y.	Gill	Laning	Mudd
Burleson	Goulden	Lowden	Olmsted
Butler	Hill, Miss.	McLaughlin, Mich.	
Cravens	Howland	McMorran	
Dixon	Kennedy, Iowa	Mann	

NOT VOTING—161.

Acheson	Carlin	Foster, Ind.	Houston
Ames	Chaney	Foster, Vt.	Howell, N. J.
Andrus	Cockran	Fowler	Hughes, W. Va.
Ansberry	Cocks, N. Y.	French	Jackson
Anthony	Cole	Gaines, W. Va.	James, Ollie M.
Ashbrook	Conner	Gardner, Mass.	Johnson, Ky.
Barchfeld	Cook, Colo.	Gilhams	Johnson, S. C.
Bartholdt	Cooper, Tex.	Gillett	Jones, Va.
Bartlett, Ga.	Coudrey	Godwin	Kimball
Bates	Cousins	Goldfogle	Kitchin, Wm. W.
Beale, Pa.	Crumpacker	Graff	Knopf
Bede	Davenport	Graham	Lamar, Fla.
Bennett, Ky.	Davey, La.	Griggs	Lamb
Bingham	Davidson	Gronna	Landis
Boutell	Dawes	Hamill	Law
Bradley	Denby	Hamilton, Iowa	Legare
Brantley	Dunwell	Hammond	Lenahan
Brick	Dwight	Harding	Lever
Broussard	Edwards, Ga.	Hardwick	Lindsay
Brumm	Edwards, Ky.	Harrison	Littlefield
Brundidge	Ellerbe	Hayes	Livingston
Burgess	Fairchild	Henry, Conn.	Lloyd
Burke	Fassett	Henry, Tex.	Longworth
Burnett	Favrot	Hepburn	Lorimer
Burton, Del.	Flood	Hinshaw	Loudenslager
Burton, Ohio	Fornes	Hitchcock	Lovering

McCall	Perkins	Saunders	Taylor, Ohio
McDermott	Porter	Shackleford	Thomas, Ohio
McGavin	Powers	Sherman	Townsend
McGuire	Pratt	Sims	Wallace
McLain	Prince	Slemp	Watson
McMillan	Pujo	Small	Weisse
Madden	Randell, Tex.	Smith, Mich.	Wheeler
Madison	Reid	Smith, Mo.	Wiley
Maynard	Reynolds	Snapp	Willett
Moon, Pa.	Rhinock	Sparkman	Wilson, Pa.
Moon, Tenn.	Riordan	Sperry	Wolf
Moore, Pa.	Roberts	Steenerson	Woodyard
Overstreet	Robinson	Stephens, Tex.	
Parker, S. Dak.	Ryan	Stevens, Minn.	
Pearre	Sabath	Talbott	

So the motion to close general debate was agreed to.

The Clerk announced the following additional pairs:

For the balance of this day:

Mr. CRUMPACKER with Mr. JOHNSON of South Carolina.

Mr. COUSINS with Mr. ASHBROOK.

Mr. DAVIDSON with Mr. SPARKMAN.

Mr. GILLETT with Mr. MCLAIN.

Mr. GRAHAM with Mr. HAMMOND.

Mr. JACKSON with Mr. FAVROT.

Mr. MOON of Pennsylvania with Mr. GRIGGS.

Mr. PERKINS with Mr. HOUSTON.

Mr. SNAPP with Mr. JOHNSON of Kentucky.

Mr. SPERRY with Mr. JONES of Virginia.

Mr. STEENERSON with Mr. KIMBALL.

Mr. THOMAS of Ohio with Mr. MOON of Tennessee.

Mr. LORIMER with Mr. SMALL.

The result of the vote was announced, as above recorded.

Mr. PAYNE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House resolution 233.

Mr. WILLIAMS. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore [Mr. CAPRON]. The gentleman from Mississippi [Mr. WILLIAMS], pending the motion of the gentleman from New York, moves that the House do now adjourn.

The question being taken, the Speaker pro tempore announced that the noes appeared to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

Mr. PAYNE. Mr. Speaker, I demand the ayes and nays.

The ayes and nays were ordered.

The question was taken and there were—yeas 45, nays 155, answered "present" 24, not voting 164, as follows:

YEAS—45.

Ashbrook	Ferris	Hackney	Murphy
Bartlett, Nev.	Finley	Hamlin	Nicholls
Brodhead	Fitzgerald	Heflin	Peters
Byrd	Foster, Ill.	Helm	Rainey
Caldwell	Fulton	Hobson	Russell, Mo.
Carter	Garner	Hull, Tenn.	Smith, Tex.
Clark, Mo.	Gillespie	Humphreys, Miss.	Spight
Clayton	Glass	Kellher	Taylor, Ala.
Cox, Ind.	Gordon	Kipp	Underwood
Craig	Gregg	Lamar, Mo.	
De Armond	Griggs	Lassiter	
Denver	Hackett	Moore, Tex.	

NAYS—155.

Adair	Durey	Kitchin, Claude	Payne
Adamson	Ellis, Mo.	Knapp	Pray
Aiken	Ellis, Oreg.	Knowland	Ransdell, La.
Alexander, Mo.	Englebright	Küstermann	Rauch
Alexander, N. Y.	Esch	Lafean	Reeder
Allen	Floyd	Langley	Richardson
Barclay	Focht	Lawrence	Rodenberg
Bates	Fordney	Leake	Rothermel
Beall, Tex.	Foss	Lee	Rucker
Bell, Ga.	Foulkrod	Lewis	Russell, Tex.
Birdsall	Fuller	Lilley	Scott
Bonynge	Gardner, Mich.	Lindbergh	Sheppard
Booher	Gardner, N. J.	Lloyd	Smith, Cal.
Bowers	Garrett	McCreary	Southwick
Boyd	Granger	McKinlay, Cal.	Stafford
Brownlow	Greene	McKinley, Ill.	Stanley
Burleigh	Haggott	McKinney	Steenerson
Burton, Ohio	Hale	McLachlan, Cal.	Stevens, Minn.
Campbell	Hall	McLain	Sturgiss
Candler	Hamilton, Mich.	Macon	Sulloway
Capron	Haskins	Madison	Tawney
Cary	Haugen	Malby	Thistlewood
Caulfield	Hawley	Marshall	Thomas, N. C.
Chapman	Henry, Conn.	Miller	Tirrell
Cook, Pa.	Higgins	Mondell	Tou Velle
Cooper, Pa.	Hill, Conn.	Morse	Volstead
Cooper, Tex.	Houston	Mouser	Vreeland
Cooper, Wis.	Howell, Utah	Murdock	Waldo
Currier	Hubbard, Iowa	Needham	Wanger
Cushman	Hubbard, W. Va.	Nelson	Washburn
Dalzell	Huff	Norris	Watkins
Darragh	Hughes, N. J.	Nye	Webb
Davidson	Humphrey, Wash.	O'Connell	Weeks
Davis, Minn.	James, Addison D.	Olcott	Weems
Dawson	Jones, Wash.	Padgett	Williams
Diekema	Kahn	Page	Wilson, Ill.
Douglas	Kennedy, Ohio	Parker, N. J.	Wood
Draper	Kimball	Parsons	Young
Driscoll	Kinkaid	Patterson	

ANSWERED "PRESENT"—24.

Bennet, N. Y.	Gill	Kennedy, Iowa	Mann
Burleson	Goldfogle	Laning	Moon, Tenn.
Butler	Goulden	Lowden	Olmsted
Cravens	Howard	McHenry	Pou
Dixon	Howland	McLaughlin, Mich.	Shackleford
Gaines, Tenn.	Keifer	McMorran	Smith, Iowa.

NOT VOTING—164.

Acheson	Dunwell	James, Ollie M.	Randell, Tex.
Ames	Dwight	Jenkins	Reid
Andrus	Edwards, Ga.	Johnson, Ky.	Reynolds
Ansberry	Edwards, Ky.	Johnson, S. C.	Rhinock
Anthony	Ellerbe	Jones, Va.	Riordan
Bannon	Fairchild	Kitchin, Wm. W.	Roberts
Barchfeld	Fassett	Knopf	Robinson
Bartholdt	Favrot	Lamar, Fla.	Ryan
Bartlett, Ga.	Flood	Lamb	Sabath
Beale, Pa.	Fornes	Landis	Saunders
Bede	Foster, Ind.	Law	Sherley
Bennett, Ky.	Foster, Vt.	Legare	Sherman
Bingham	Fowler	Lenahan	Sherwood
Boutell	French	Lever	Sims
Bradley	Gaines, W. Va.	Lindsay	Slayden
Brantley	Gardner, Mass.	Littlefield	Slemp
Brick	Gilhams	Livingston	Small
Broussard	Gillett	Longworth	Smith, Mich.
Brumm	Godwin	Lorimer	Smith, Mo.
Brundidge	Goebel	Loud	Snapp
Burgess	Graff	Loudenslager	Sparkman
Burke	Graham	Lovering	Sperry
Burnett	Gronna	McCall	Stephens, Tex.
Burton, Del.	Hamill	McDermott	Sterling
Calder	Hamilton, Iowa	McGavin	Sulzer
Calderhead	Hammond	McGuire	Talbott
Carlin	Harding	McMillan	Taylor, Ohio
Chaney	Hardwick	Madden	Thomas, Ohio
Clark, Fla.	Hardy	Maynard	Townsend
Cockran	Harrison	Moon, Pa.	Wallace
Cocks, N. Y.	Hay	Moore, Pa.	Watson
Cole	Hayes	Mudd	Weisse
Conner	Henry, Tex.	Overstreet	Wheeler
Cook, Colo.	Hepburn	Parker, S. Dak.	Wiley
Coudrey	Hill, Miss.	Pearre	Willett
Cousins	Hinshaw	Perkins	Wilson, Pa.
Crawford	Hitchcock	Pollard	Wolf
Crumpacker	Holliday	Porter	Woodyard
Davenport	Howell, N. J.	Powers	
Davey, La.	Hughes, W. Va.	Pratt	
Dawes	Hull, Iowa	Prince	
Denby	Jackson	Pujo	

So the House refused to adjourn.

The following additional pairs were announced:

For the balance of the day:

Mr. SMITH of Iowa with Mr. SHERLEY.

Mr. KEIFER with Mr. GAINES of Tennessee.

Mr. JENKINS with Mr. CLARK of Florida.

Mr. HULL of Iowa with Mr. SLAYDEN.

Mr. BANNON with Mr. SHERWOOD.

Mr. CALDERHEAD with Mr. CRAWFORD.

Mr. FOWLER with Mr. HAY.

The result of the vote was then announced as above recorded.

The SPEAKER. The question is on the motion of the gentleman from New York that the House resolve itself into Committee of the Whole House on the state of the Union to further consider the resolution distributing the President's message.

The question was taken, and on a division (demanded by Mr. WILLIAMS), there were—ayes 156, noes 67.

Mr. WILLIAMS. I demand tellers.

Mr. PAYNE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 124, nays 74, answering "present" 22, not voting 168, as follows:

YEAS—124.

Adair	Driscoll	Kahn	Olcott
Alexander, N. Y.	Durey	Kennedy, Ohio	Parker, N. J.
Allen	Ellis, Mo.	Kinkaid	Parsons
Barclay	Ellis, Oreg.	Kipp	Payne
Bates	Englebright	Knapp	Perkins
Birdsall	Esch	Knowland	Pollard
Bonynge	Focht	Küstermann	Pray
Boyd	Foss	Lafean	Rauch
Brownlow	Foulkrod	Langley	Reeder
Burleigh	Fuller	Lawrence	Rodenberg
Burton, Ohio	Fulton	Lindbergh	Smith, Cal.
Calder	Gardner, Mich.	Loud	Southwick
Campbell	Gardner, N. J.	McCreary	Stafford
Capron	Greene	McHenry	Steenerson
Carter	Haggott	McKinlay, Cal.	Sterling
Cary	Hale	McKinley, Ill.	Stevens, Minn.
Caulfield	Hall	McKinney	Sturgis
Chapman	Hamilton, Mich.	McLachlan, Cal.	Sulloway
Cook, Pa.	Haskins	Macon	Tawney
Cooper, Pa.	Hawley	Madison	Thistlewood
Cooper, Wis.	Higgins	Malby	Tirrell
Currier	Hill, Conn.	Marshall	Volstead
Cushman	Holliday	Miller	Vreeland
Dalzell	Howell, Utah	Mondell	Waldo
Darragh	Hubbard, Iowa	Morse	Wanger
Davidson	Hubbard, W. Va.	Mouser	Washburn
Davis, Minn.	Huff	Murdock	Weeks
Dawson	Humphrey, Wash.	Needham	Weems
Diekema	Humphreys, Miss.	Nelson	Wilson, Ill.
Douglas	James, Addison D.	Norris	Wood
Draper	Jones, Wash.	Nye	Young

NAYS—74.

Adamson	Finley	Howard	Ransdell, La.
Aiken	Floyd	Hughes, N. J.	Richardson
Alexander, Mo.	Foster, Ill.	Hull, Tenn.	Rothermel
Ashbrook	Garner	Keliher	Russell, Mo.
Bartlett, Nev.	Garrett	Kimball	Russell, Tex.
Beall, Tex.	Gillespie	Lamar, Mo.	Sheppard
Bell, Ga.	Glass	Leake	Smith, Tex.
Bowers	Goldfogle	Lee	Spight
Brodhead	Gordon	Lewis	Stanley
Byrd	Granger	Lloyd	Stephens, Tex.
Caldwell	Gregg	McLain	Thomas, N. C.
Candler	Griggs	Moore, Tex.	Tou Velle
Clark, Mo.	Hackett	Murphy	Underwood
Clayton	Hackney	Nicholls	Watkins
Cooper, Tex.	Hamlin	O'Connell	Webb
Cox, Ind.	Heflin	Padgett	Wiley
Craig	Helm	Page	Williams
Denver	Hobson	Peters	
Ferris	Houston	Randell, Tex.	

ANSWERED "PRESENT"—22.

Bennet, N. Y.	Gaines, Tenn.	Laning	Olmsted
Booher	Gill	Lowden	Pou
Burleson	Goulden	McLaughlin, Mich.	Rainey
Butler	Howland	McMorran	Rucker
Crawford	Keifer	Mann	
Dixon	Kennedy, Iowa	Moon, Tenn.	

NOT VOTING—168.

Acheson	Dunwell	Hughes, W. Va.	Powers
Ames	Dwight	Hull, Iowa	Pratt
Andrus	Edwards, Ga.	Jackson	Prince
Ansberry	Edwards, Ky.	James, Ollie M.	Pujo
Anthony	Ellerbe	Jenkins	Reid
Bannon	Fairchild	Johnson, Ky.	Reynolds
Barchfeld	Fassett	Johnson, S. C.	Rhinock
Bartholdt	Favrot	Jones, Va.	Riordan
Bartlett, Ga.	Fitzgerald	Kitchin, Claude	Roberts
Beale, Pa.	Flood	Kitchin, Wm. W.	Robinson
Bede	Fordney	Knopf	Ryan
Bennett, Ky.	Fornes	Lamar, Fla.	Sabath
Bingham	Foster, Ind.	Lamb	Saunders
Boutell	Foster, Vt.	Landis	Scott
Bradley	Fowler	Lassiter	Shackleford
Brantley	French	Law	Sherley
Brick	Gaines, W. Va.	Legare	Sherman
Broussard	Gardner, Mass.	Lenahan	Sherwood
Brumm	Gilhams	Lever	Sims
Brundidge	Gillett	Lilley	Slayden
Burgess	Godwin	Lindsay	Slemp
Burke	Goebel	Littlefield	Small
Burnett	Graff	Livingston	Smith, Iowa
Burton, Del.	Graham	Longworth	Smith, Mich.
Calderhead	Gronna	Lorimer	Smith, Mo.
Carlin	Hamill	Loudenslager	Snapp.
Chaney	Hamilton, Iowa	Lovering	Sparkman
Clark, Fla.	Hammond	McCall	Sperry
Cockran	Harding	McDermott	Sulzer
Cocks, N. Y.	Hardwick	McGavin	Talbott
Cole	Hardy	McGuire	Taylor, Ala.
Conner	Harrison	McMillan	Taylor, Ohio
Cook, Colo.	Haugen	Madden	Thomas, Ohio
Coudrey	Hay	Maynard	Townsend
Cousins	Hayes	Moon, Pa.	Wallace
Cravens	Henry, Conn.	Moore, Pa.	Watson
Crumpacker	Henry, Tex.	Mudd	Weisse
Davenport	Hepburn	Overstreet	Wheeler
Davey, La.	Hill, Miss.	Parker, S. Dak.	Willett
Dawes	Hinshaw	Patterson	Wilson, Pa.
De Armond	Hitchcock	Pearre	Wolf
Denby	Howell, N. J.	Porter	Woodyard

The Clerk announced the following additional pairs:

For the balance of the day:

Mr. SLEMP with Mr. SULZER.

Mr. LILLEY with Mr. PATTERSON.

Mr. SCOTT with Mr. CRAVENS.

The result of the vote was then announced as above recorded.

So the motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of resolution No. 233, to dispose of the President's special message of January 31, 1908, with Mr. LAWRENCE in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the resolution to dispose of the President's message. General debate having been closed by order of the House, the Clerk will read the resolution under the five-minute rule.

The Clerk proceeded with the reading of the resolution.

Mr. WILLIAMS (interrupting the reading). Mr. Chairman, at the end of the reading of the first clause I attempted to get the attention of the Chair to offer an amendment.

Mr. PAYNE. Mr. Chairman, I make the point of order that the resolution must first be read in its entirety.

Mr. WILLIAMS. Mr. Chairman, the resolution has been read under the first reading and the Clerk is now reading it under the instructions of the Chair under the five-minute rule, as the notes of the stenographer will show the Chair to have announced.

Mr. PAYNE. What difference does it make? The resolution must first be read, and then it is open to amendment.

Mr. WILLIAMS. It is now being read under the five-minute rule for amendment.

The CHAIRMAN. Amendments will be in order when the reading of the resolution has been completed, as the Chair understands.

Mr. WILLIAMS. Mr. Chairman, as I understand the rules of the House, after the reading of each paragraph a motion to amend that paragraph is in order. Now, I waited until the Clerk read the first paragraph, that paragraph which refers certain matters to the Committee on Ways and Means. I then arose and addressed the Chair in the usual and respectful way, and I have now the attention of the Chair, and I offer the following amendment to paragraph 1.

Mr. PAYNE. Mr. Chairman, to that I raise the point of order.

Mr. GAINES of Tennessee. Mr. Chairman, the gentleman from Mississippi has a right to have his amendment read. How can the gentleman from New York raise his point of order until it has been read.

Mr. PAYNE. I raise the point of order that the resolution must first be read in its entirety, and it will be open to amendment under the five-minute rule. This is not a bill under the rules, but merely a resolution—a single resolution—which must be first read.

Mr. WILLIAMS. Mr. Chairman, I wish to be heard on the point of order. This resolution contains several resolutions, each separate and independent of the others. The gentleman makes the point of order that the resolution must first be read, and then the amendments can be offered, when read, under the five-minute rule.

Now, I state as a matter of fact, as I understand the situation, that the resolution was read in the Committee of the Whole House before that committee rose back here, about an hour ago, and upon taking his seat a moment ago the present occupant of the chair announced that "all general debate having been closed, the Clerk will now read the resolution under the five-minute rule," and under that announcement of the Chair I have offered this amendment, so that the gentleman from New York simply does not understand the state of the facts before the committee, or else the Chair himself has not properly stated the status of the legislation. If the Chair has properly stated it, then my motion is now in order, and I take it the Chair has properly stated it, because the Chair's statement is in accordance with my own recollection.

The CHAIRMAN. The Chair understands the rule under which matters are considered under the five-minute rule is this, that all revenue bills and appropriation bills are considered by paragraphs; all other bills by sections. It is very rare that the House goes into the Committee of the Whole House on the state of the Union to consider a resolution like this, the House usually considering it by unanimous consent. About two years ago, however, a similar resolution was considered in Committee of the Whole, and the Chair understands that at that time it was considered as a resolution in its entirety—as one section. The Chair will rule that this resolution should be considered in its entirety, and at the conclusion of the reading of the resolution there will be opportunity for offering amendments under the five-minute rule to any part of the resolution.

Mr. WILLIAMS. Do I understand the ruling of the Chair to be that my amendment is pending?

The CHAIRMAN. The gentleman's amendment will be in order and the gentleman will be recognized to offer it as soon as the reading is concluded.

Mr. PAYNE. If he gets recognition it will be in order.

The resolution was read.

Mr. WILLIAMS. Mr. Chairman——

Mr. PAYNE. Mr. Chairman——

Mr. WILLIAMS. I now offer my amendment.

The CHAIRMAN. The gentleman from Mississippi. [Laughter and applause on the Democratic side.]

Mr. PAYNE. Mr. Chairman, being in charge of the resolution I submit that under parliamentary practice I am entitled to recognition.

The CHAIRMAN. If the gentleman has an amendment he is entitled to prior recognition. [Applause on the Democratic side.] The Chair will state if the gentleman from New York has an amendment to offer——

Mr. PAYNE. I propose to move to strike out the last word.

Mr. WILLIAMS. Mr. Chairman, I submit it is too late for that now. It is too late to make that motion now. If the gentleman had been upon his feet at the same time I was offering an amendment and striving himself to offer one undoubtedly he would have been entitled to preference. But he was not upon his feet to offer any amendment and his amendment is,

and I leave it to him if it is not, an afterthought. It was never his intention at the time that I offered this amendment to offer one. If he had been upon his feet then trying to offer one, his present position would have been correct, but I insist that the Chair—I may say that I know without insisting—the Chair is going to do equal and exact justice in this House.

Mr. PAYNE. Mr. Chairman, the gentleman from Mississippi is wrong now, as he is usually wrong——

Mr. WILLIAMS. The gentleman mistakes rudeness for wit.

Mr. PAYNE. The gentleman got up here clamoring for recognition out of order in order to offer an amendment when the first paragraph was read.

As soon as the reading of the resolution was completed I rose and was on my feet when the last word was completed and addressed the Chair. At the same time the gentleman from Mississippi [Mr. WILLIAMS] was addressing the Chair. Being in charge of the resolution I knew that, according to the usages of the House, I had a right to be heard first for an amendment. I offered an amendment as soon as I was recognized by the Chair. I intended to do this, Mr. Chairman; I intended to do this more than an hour ago, for I proposed, after I offered the amendment, to make a motion.

Mr. WILLIAMS. Mr. Chairman, I have but to appeal in furo conscientiæ to the Chair himself. The Chair stated to me that I would be in order when the reading of the *entire resolution* was through, differing in opinion with me because I thought I was in order when the *paragraph* was finished, and the Chair said I would then be recognized for the purpose. I rose at the particular time indicated by the Chair, was recognized by the Chair, and that is all there is to it. It is a "plain tale which will put him down."

The CHAIRMAN. The Chair stated that the gentleman from Mississippi [Mr. WILLIAMS] could offer an amendment to the bill when the reading was completed, and he would be recognized for that purpose, and he will be; but the Chair did not state that he would give him precedence in recognition.

Mr. FITZGERALD. I rise to a question of order. My point of order is that the Chair having recognized the gentleman from Mississippi [Mr. WILLIAMS], the gentleman from Mississippi is entitled to proceed.

The CHAIRMAN. The right of recognition must rest with the Chair.

Mr. FITZGERALD. The Chair has recognized the gentleman, however, and exercised that discretion.

The CHAIRMAN. The Chair, under the procedure of the House, must recognize the gentleman in charge of the bill if he rises for the purpose of offering an amendment. The Chair can not question his motives. The gentleman from New York [Mr. PAYNE] has offered an amendment to strike out the last word, and he is entitled to the floor. [Applause on the Republican side.]

Mr. PAYNE. I want in the first place to set the gentleman from Mississippi [Mr. WILLIAMS] right.

Mr. FITZGERALD. Mr. Chairman, I make the point of order the gentleman from New York [Mr. PAYNE] is not debating the amendment.

Mr. PAYNE. I want to give the facts to the gentleman. I want to give the gentleman the facts as they actually occurred, and when he has time for sober reflection he can see that they are——

Mr. FITZGERALD. Mr. Chairman, I make the point of order the gentleman is not debating the question.

The CHAIRMAN. The Chair is listening to the gentleman, and the Chair must say that the debate must pertain to the question.

Mr. PAYNE. The gentleman from Mississippi [Mr. WILLIAMS] rose out of order when the first paragraph was read——

Mr. WILLIAMS. Mr. Chairman, I make the point of order the gentleman from New York is not speaking to his amendment. His amendment is to strike out the last word, which word is "Congress." He is not speaking to his amendment.

Mr. PAYNE. That is a pretty broad subject and includes even the gentleman from Mississippi.

Mr. WILLIAMS. I make the point of order the gentleman must obey the rules of the House, although he has charge of the bill, and must, under the five-minute rule, confine his remarks to his amendment.

The CHAIRMAN. The gentleman is correct. The gentleman from New York [Mr. PAYNE] must confine his remarks to the amendment. [Applause on the Democratic side.]

Mr. PAYNE. Mr. Chairman, I am rather glad of that ruling. Congress is a more pleasant subject to talk about than even the gentleman from Mississippi [Mr. WILLIAMS]. Now, Congress is an important institution. [Laughter.] It is a part of this Government. All laws must originate in the Congress of the United States. [Laughter and applause.] Congress is greater even than my friend from Mississippi [Mr. WILLIAMS]. Because the greater, of course, includes the less, he is included in Congress, and thus Congress is greater than my friend from Mississippi.

Mr. WILLIAMS. May I ask the gentleman a question?

Mr. PAYNE. Mr. Chairman, in the midst of this important debate I decline to yield.

Mr. WILLIAMS. On the axiomatical proposition that the greater includes the less, I would like to ask the gentleman a question.

Mr. PAYNE. It is very important that the Congress should get hold of this message. That is a fact that is realized on both sides of this Chamber——

Mr. FITZGERALD. I rise to a question of order——

Mr. PAYNE. Unless my colleague is in error, as usual. [Laughter.]

Mr. FITZGERALD. The gentleman's talk is incoherent and ranting. [Laughter on the Democratic side.]

Mr. PAYNE. I shall never be able to reach the understanding of my colleague from New York. I give that up. [Laughter on the Republican side.]

Mr. FITZGERALD. I ask for a ruling on the point of order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. PAYNE. I move that all debate on this resolution and all amendments thereto be now closed.

Mr. WILLIAMS. Now, Mr. Chairman, I make the point of order that the gentleman can not make that motion at this time. He has a motion pending to strike out the last word, and I insist that that motion shall be disposed of; and then I insist, that being disposed of, he having had the precedence granted to him by the Chair, in the Chair's opinion under the rules, my motion comes up and is in order. [Applause on the Democratic side.] The gentleman certainly has not precedence to make a series of motions not germane to one another and not connected with one another. Why, he has not yet shown the slightest reason why the word "Congress" ought to be stricken out. I could give a hundred reasons why it ought not to be stricken out. First, that it leaves the last clause of the bill without any sense in it——

Mr. PAYNE. I make the point of order.

Mr. UNDERWOOD. I desire to be recognized on the point of order.

The CHAIRMAN. The Chair was ready to rule, but will hear the gentleman from Alabama.

Mr. UNDERWOOD. When a resolution or a bill is debated under the five-minute rule in committee, one speech not to exceed five minutes is allowed in the affirmative and five minutes' debate in the negative; and until that debate has taken place it is not in order to close debate on that paragraph or bill. Therefore I ask to be recognized in the negative of the proposition.

Mr. WILLIAMS. I ask to be recognized to represent the negative.

Mr. UNDERWOOD. Now, Mr. Chairman, I rise at this moment for the purpose of opposing the motion made by the gentleman from New York to strike out the last word.

The CHAIRMAN. There is a point of order pending. The Chair understands the gentleman from New York to move that all debate upon the resolution and amendments thereto be now closed. The Ctair understands the gentleman from Mississippi makes the point of order that this motion is not now in order. The Chair has been listening to the gentleman and the gentleman from Alabama upon that point of order and is ready to rule. The Chair will quote from a ruling made in the second session in the Fifty-sixth Congress.

Mr. WILLIAMS. There is no doubt about that. Is the motion of the gentleman that the committee rise?

SEVERAL MEMBERS. Oh, no!

Mr. WILLIAMS. Very well.

The CHAIRMAN. The Chair will rule that the motion is in order, and will cite a ruling of the second session of the Fifty-sixth Congress, to the effect that in the five-minute debate a gentleman may be recognized for five minutes on an amendment, and the five minutes having expired, he may offer a motion that all debate close.

Mr. FITZGERALD. I offer an amendment that debate close in twenty minutes on this section.

Mr. WILLIAMS. Let me understand the ruling of the Chair. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. I understand the gentleman from New York to have spoken in behalf of his motion and then to have moved that all debate close?

Mr. PAYNE. Immediately.

Mr. WILLIAMS. At the end of five minutes? Which was your motion?

Mr. PAYNE. To close all debate on the resolution and all amendments thereto.

Mr. WILLIAMS. Immediately?

Mr. PAYNE. Immediately; at once; now.

Mr. WILLIAMS. Now, then, without giving any opportunity to anybody to be heard in opposition to the motion which he had offered before the House. Now, the parliamentary inquiry. Am I not entitled to recognition for five minutes under the five-minute rule for the purpose of opposing the motion offered by the gentleman from New York?

The CHAIRMAN. The Chair would state that the motion to close debate is not debatable and is in order. It is for the committee to determine by its vote whether there shall be further debate. [Cries of "Vote!" "Vote!"].

Mr. UNDERWOOD. I desire to offer a substitute for the pending motion and the amendment, that all debate on this resolution be closed in one hour.

The CHAIRMAN. If the committee will give the Chair attention, there are three motions pending. There is the motion of the gentleman from New York [Mr. PAYNE] that the debate close at once; there is the amendment proposed by the gentleman from New York [Mr. FITZGERALD] that debate close in twenty minutes; for which the gentleman from Alabama [Mr. UNDERWOOD] offers a substitute that all debate close in one hour. The first motion to be put to the committee is the motion of the gentleman from Alabama that all debate close in one hour.

The question being taken, on a division (demanded by Mr. UNDERWOOD) there were—ayes 75, noes 94.

Mr. UNDERWOOD. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed Mr. UNDERWOOD and Mr. PAYNE.

The committee again divided and there were—ayes 71, noes 104.

Accordingly the substitute was rejected.

The CHAIRMAN. The question now comes upon the motion of the gentleman from New York [Mr. FITZGERALD] that all debate close in twenty minutes.

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. FITZGERALD. Division!

Mr. PAYNE. I demand tellers.

Tellers were ordered and the Chairman appointed Mr. FITZGERALD and Mr. PAYNE.

The committee divided and the tellers reported—ayes 62, noes 95.

Accordingly the amendment of Mr. FITZGERALD was rejected.

The CHAIRMAN. The question now comes upon the motion of the gentleman from New York [Mr. PAYNE].

Mr. WILLIAMS. I now move to amend the motion of the gentleman from New York by making the time limit of the debate ten minutes.

Mr. PAYNE. Mr. Chairman, I make the point of order against that that the question has just been negatived, and also that it is dilatory.

Mr. WILLIAMS. Oh, no; the last motion was to limit the debate to twenty minutes.

Mr. PAYNE. Well, it is dilatory.

Mr. WILLIAMS. It is not dilatory at all.

The CHAIRMAN. The Chair will state that he desires in all fairness to give the committee an opportunity to determine how much debate is required, and at this time will rule that the motion is in order. The question is on the amendment of the gentleman from Mississippi, that debate close in ten minutes.

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. WILLIAMS. Division!

Mr. PAYNE. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed Mr. WILLIAMS and Mr. PAYNE.

Mr. WILLIAMS. I ask that the gentleman from North Carolina [Mr. CRAWFORD] take my place.

The committee divided, and the tellers reported—ayes 50, noes 70.

Accordingly the amendment of Mr. WILLIAMS was rejected.

The CHAIRMAN. The question is on the motion of the gentleman from New York [Mr. PAYNE], that debate be now closed.

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. WILLIAMS. Division!

Mr. PAYNE. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed Mr. PAYNE and Mr. WILLIAMS.

The committee divided, and the tellers reported—ayes 97, noes 63.

The CHAIRMAN. The motion is agreed to, and debate is closed.

Mr. WILLIAMS. Now, Mr. Chairman, I rise for the purpose of offering the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Mississippi offers an amendment which the Clerk will report.

The Clerk read as follows:

In line 6, page 1, after "means," insert the following:

"With instructions to bring in a bill in accordance with the recommendations of the President's message, putting wood pulp on the free list and reducing the duty on print paper."

Mr. PAYNE. I make the point of order that that is not germane.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PAYNE. That it is not germane.

Mr. WILLIAMS. I want to be heard on the point of order, if the Chairman desires to hear me.

The CHAIRMAN. The Chair asks the gentleman from New York to state his point of order.

Mr. PAYNE. Mr. Chairman, this is a resolution to send a part of the President's message to the Committee on Ways and Means. It is not germane to that to instruct the Committee on Ways and Means what to do.

Mr. FITZGERALD. Oh, yes; it is.

Mr. WILLIAMS. Now, if the gentleman is through, I should like to be heard on the point of order. My amendment comes in after the words "Ways and Means," line 6, page 1, and the language just immediately preceding the resolution is as follows:

That so much of the special message of the President of the United States communicated to the two Houses of Congress on January 31, 1908, as relates to the revenue and the bonded debt of the United States be referred to the Committee on Ways and Means.

"Be referred to the Committee on Ways and Means," for what purpose, in Heaven's name? Of course solely for the purpose of consideration and report to the House, or consideration and action in the committee room. Now, surely, nobody can hold——

Mr. PAYNE. Mr. Chairman, to save time I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The question is on the motion of the gentleman from Mississippi.

Mr. WILLIAMS. Mr. Chairman, I demand a division.

Mr. PAYNE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. WILLIAMS and Mr. PAYNE were appointed tellers.

The House again divided, and the tellers reported—ayes 75, noes 89.

So the motion was rejected.

Mr. WILLIAMS. Mr. Chairman, I offer the following amendment, and I will read it because it is written on the margin and I am afraid the Clerk can not do it.

In line 11, on page 1, after the word "judiciary," insert the following words:

With instructions to report H. R. 7636, being the bill introduced by Mr. CLAYTON, of Alabama, to prevent temporary restraining orders invalidating on ex parte testimony State laws, and H. R. 69, introduced by Mr. HENRY of Texas, providing in case of temporary injunctions for notice to the defendant and opportunity to be heard.

The CHAIRMAN. The question is on the amendment.

Mr. PAYNE. Mr. Chairman, I make the point of order that the amendment is not germane to the subject-matter of the text.

Mr. WILLIAMS. Mr. Chairman, I would like to be heard on that.

The CHAIRMAN. The Chair will hear the gentleman from Mississippi. The Chair would like the attention of the gentleman from Mississippi. The Chair would like to have the amendment sent to the desk so that he can examine it.

Mr. WILLIAMS. I will read it to the Chair. I am about to speak on the point of order.

The CHAIRMAN. The Chair wishes to examine the amendment.

Mr. WILLIAMS. I doubt if he can. He is welcome to try it. I scribbled it on the margin with a piece of lead pencil.

Mr. MANN. Mr. Chairman, I make the point of order that in order to offer an amendment the gentleman must send the amendment to the Clerk's desk.

Mr. WILLIAMS. It has been sent to the Clerk's desk already.

Mr. MANN. It must be sent to the Clerk's desk to be read.

The CHAIRMAN. The amendment has not yet been reported by the Clerk. The Clerk will report the amendment.

The Clerk read as follows:

In line 11, on first page, after the word "judiciary," insert the following words:

"With instructions to report bill 7636, being the bill introduced by Mr. CLAYTON, of Alabama, to prevent temporary restraining orders invalidating on ex parte testimony State laws, and House bill 69, introduced by Mr. HENRY of Texas, providing in case of temporary injunction for notice to the defendant and opportunity to be heard."

Mr. WILLIAMS. Now, Mr. Chairman, on a point of order, if the Clerk will send me back the amendment. Mr. Chairman, the American House of Representatives to-night is making history. [Laughter on the Republican side.] You do not seem to know it, but you are doing it just the same. You can not go to the American people with the excuse for your omissions to legislate that the entire House was composed of a Speaker and a Committee on Ways and Means, and a chairman of that committee. But I want to come up to the point of order now, because I do not want to make a speech. The point of order, if there be anything in it at all, I suppose is intended by the gentleman from New York [Mr. PAYNE] to be made upon the ground that the amendment is not germane to the clause to which it is added, or to the resolution of which that clause is a part. Mr. Chairman, the clause reads:

That so much as relates to the judiciary of the United States, to the administration of justice, to the punishment and prevention of crime, *to judicial proceedings*, civil and criminal, and to the organization of courts be referred to the Committee on the Judiciary.

It is to be referred to that committee for the purpose of its doing its duty as a committee—that is, considering the matters, the particular subject-matters of the President's message so referred in the committee room, acting upon them, and making reports to the House or finishing with the action upon them in the committee. Now, it certainly is germane wherever a proposition is before the House of Representatives to refer a subject-matter to a standing committee to add as an amendment a provision to refer it with instructions to report in any general or particular way, to report out within a time generally, or to report out a particular measure, or to report out a measure containing certain general provisions. This amendment of mine merely says that when these matters are referred to the Committee on the Judiciary that the committee shall report out a bill, that it shall report out certain legislation pending before the committee contained in the message. Congress is the master, not the servant, of its standing committees, although this Republican majority does not seem to know that fact.

Mr. PAYNE. Mr. Chairman, I insist the gentleman shall talk to the point of order.

Mr. WILLIAMS. I am talking to the point of order—and because the House is the master of its committees it has a right, when it refers matters to committees, to refer them with instructions to its servants to act.

Why, my heavens, Mr. Chairman, even the Ways and Means Committee can be instructed by the House of Representatives if the House chooses to do it. [Applause on the Democratic side.] You can not go back and hide behind—oh, if I were disposed to indulge in the sort of language the gentleman from New York sometimes does, I would say a pettish point of order like this. The gentleman was talking in the early part of the day about filibustering. Nobody is filibustering except yourselves. We are trying to get results.

Mr. PAYNE. Now, Mr. Chairman, I call the gentleman to order.

Mr. WILLIAMS. The man who really filibusters is the man who tries to prevent legislative results. [Cries of "Regular order!"]

Did the Chair rule I was out of order?

The CHAIRMAN. The Chair has not ruled. The Chair of course will ask the gentleman to debate the point of order and the Chair understands he has.

Mr. WILLIAMS. What is the Chair's ruling?

The CHAIRMAN. The gentleman from Mississippi will proceed in order.

Mr. WILLIAMS. In order; very well. I am glad to hear that, because I want to know it is the Chairman who rules me out of order, if I am ruled out at all, and not the chairman of the Committee on Ways and Means [laughter and applause on the Democratic side] who rules me out of order, or by any of his cohorts who do not even rise in their places and respectfully address the Chair when they riotously call me to order. Now, Mr. Chairman, if the sole point of this point of order is nongermaneness, then the point of order must fall, for if the proposition to refer a matter to a committee with instructions be not germane to a proposition to refer the same matter to the committee generally, then it seems to me it would be past human ingenuity to find out anything that was germane to anything else.

The CHAIRMAN. The Chair will ask to have the amendment sent to the desk.

Mr. FITZGERALD. Mr. Chairman, I would like to be heard briefly on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. FITZGERALD. I desire to call the attention of the Chair to the fact that there is before the committee a message from the President of the United States, sent under power conferred on him by the Constitution. Jefferson's Manual, section 12, says:

The speeches, messages, and other matters of great concernment are usually referred to a Committee of the Whole House, where general principles are digested in the form of resolutions, which are debated and amended till they get into a shape which meets the approbation of a majority. These, being reported and confirmed by the House, are then referred to one or more select committees, according as the subject divides itself into one or more bills.

Before the committee at the present time is a resolution referring certain portions of the President's message to various select committees of the House. In this message, as examination will disclose, are contained recommendations in conformity with which bills named by the gentleman from Mississippi have been introduced and are pending before the House.

The gentleman from Mississippi offers an amendment that this resolution distributing a portion of the President's message to the various select committees shall contain instructions to those select committees to report in conformity with the recommendations of the President certain bills to carry into effect the recommendations. If it be not in order for the committee to recommend to the House that its committees be directed to report in a particular form measures embodying the recommendations of the President, then the whole practice of referring such messages as this and introducing resolutions to distribute the messages to the various committees of the House is an absolute futility. The purpose, as stated by Jefferson, is that the resolution may be so amended and perfected that the House may direct its committees to act in a certain way. This is no mere idle performance, or, rather, Mr. Chairman, if this House were properly constituted, it would be no mere idle performance to refer or distribute the President's message to various committees. I admit, considering what has happened, it is an idle performance to refer the President's message to the various committees; but the committee has the message before it now and it is competent to recommend to the House that the various portions of it be sent to the various select committees of the House, and has the power and the right to instruct the committees to take such action as will be in conformity with the will of the House.

A careful investigation of the rules and of the precedents does not disclose that this question of amending these resolutions in such a way has ever been brought up; but the rules do provide that when not otherwise provided Jefferson's Manual shall govern the proceedings of the House. It is quite apparent that if the purpose of sending this resolution and message to the Committee of the Whole House on the state of the Union be as stated in section 12 of Jefferson's Manual, then there can be no doubt of the right of the committee to amend by placing instructions within this resolution so as to coerce unwilling committees to obey the will of the House.

The CHAIRMAN. The Chair understands it is a well-established principle that it is not within the power of the House to order a committee to report a particular bill. What the House can not do directly the committee can not do indirectly. These bills are not before the House.

Mr. WILLIAMS. The bills are before the committee.

The CHAIRMAN. They can discharge the committee from the consideration of the bill.

Mr. WILLIAMS. Those bills are now before the committee.

The CHAIRMAN. It can not move to discharge.

Mr. PAYNE. Even the House can not do it unless they get the bills back from the Committee on the Judiciary.

The CHAIRMAN. That is as the Chair understands. The Chair sustains the point of order.

Mr. WILLIAMS. Mr. Chairman, I move to amend by striking out the words "H. R. 7636," or whatever the number is, and leave just the general language of the provisions of the bill, without reference to the particular bill.

Mr. MANN. Mr. Chairman, I ask the amendment be sent to the Clerk's desk in writing.

Mr. WILLIAMS. It is there in writing. I ask the Clerk to strike out H. R.——

Mr. FITZGERALD. Just say "a bill directing certain things." Mr. Chairman, to save time, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Mississippi [Mr. WILLIAMS] offers an amendment, which the Clerk will report.

The Clerk proceeded to read the amendment.

Mr. PAYNE. That amendment has already been voted on.

Mr. MANN. It is simply the same paper that is already in the possession and files of the House, and the gentleman can not withdraw it for the purpose of offering it as an amendment again.

Mr. PAYNE. Do I understand the gentleman from Mississippi [Mr. WILLIAMS] took the amendment that was in the possession of the Clerk of the House, and that has been offered, and made alterations in it?

Mr. MANN. That is it. I make the point he can not do it.

Mr. FITZGERALD. Mr. Chairman, I wish to offer an amendment, namely, strike out on page 2, the language contained in lines 13, 14, 15, and 16, "That so much as relates to the election of the President, Vice-President, or Representatives in Congress, be referred to the Committee on the Election of President, Vice-President, and Representatives in Congress," as there is nothing in the message referring to those subjects.

Mr. PAYNE. That is a matter for debate.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, strike out lines 13, 14, 15, and 16, being:

"That so much as relates to the election of the President, Vice-President, or Representatives in Congress, be referred to the Committee on the Election of President, Vice-President, and Representatives in Congress.

The CHAIRMAN. The question is on the amendment of the gentleman from New York [Mr. FITZGERALD].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. FITZGERALD. Division, Mr. Chairman.

The committee divided, and there were—ayes 58, noes 97.

Mr. FITZGERALD. I demand tellers.

Mr. PAYNE. Mr. Chairman, I make the point of order that that is a dilatory motion. I wish to call the attention of the Chair, and I wish to be heard a moment on that subject, if we can quell the riot——

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] makes the motion that the motion is dilatory. The Chair will hear the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. The Chair can not fail to have noticed every time we had tellers the gentlemen upon that side of the Chamber, who have been filibustering now since 5 o'clock, used all the dilatory methods that they could in passing between the tellers in order to delay the proceedings. It was perfectly patent and evident that this has been dilatory, and I feel constrained to insist upon the point of order.

Mr. FITZGERALD. Mr. Chairman, if I may be indulged——

Mr. FINLEY. Mr. Chairman, every time to-night before this time the gentleman from New York [Mr. PAYNE] has demanded tellers. Now, when this side has demanded tellers, he raises the question that it is dilatory. [Applause on the Democratic side.]

The CHAIRMAN. The Chair will not hold the request for tellers to be dilatory, though it is in the power of the Chair to hold that it is dilatory if, in his opinion, it is for the purpose of delay. The Chair will not hold that it was for the purpose of delay, and will allow the demand for tellers if a sufficient number unite in the demand. [Applause on the Democratic side.]

The question was taken, and tellers were ordered.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] and the gentleman from New York [Mr. PAYNE] will take their place as tellers.

The committee again divided, and tellers reported—yeas 67, noes 99.

So the amendment was rejected.

Mr. WILLIAMS. Mr. Chairman, I offer the following amendment. Insert in line 11, page 1, after the word "judiciary," the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Insert in line 11, page 1, after the word "judiciary," with instructions to report a bill providing that no writ of injunction or temporary restraining order shall be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same: *Provided*, That nothing therein contained shall be held to authorize the issuance of any injunction or restraining order not now authorized by law.

Mr. PAYNE. I make the point of order against that amendment. It is not germane to the resolution.

Mr. WILLIAMS. I wish to be heard on the point of order.

Mr. PAYNE. It seems to be an attempt to legislate.

The CHAIRMAN. The Chair will ask the Clerk to again report the amendment.

The amendment was again reported.

The CHAIRMAN. The question is on the amendment.

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. FITZGERALD. Division, Mr. Chairman.

The committee divided, and there were—ayes 43, noes 77.

So the amendment was rejected.

Mr. WILLIAMS. Mr. Chairman, I now desire to offer the following amendment: In line 11, page 1, after the word "judiciary," insert:

The Clerk read as follows:

Page 1, line 11, after the word "judiciary," insert "with instructions to report a bill to limit the authority of circuit and district courts and circuit and district judges in granting injunctions and restraining orders upon ex parte orders invalidating State laws."

Mr. PAYNE. I make the point of order against that, if the Chair will allow me. There is nothing in the message that warrants anything like that.

Mr. WILLIAMS. Oh, yes; there is.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. PAYNE. There is nothing in the world that would make that germane in any sense. The President has not recommended that.

Mr. WILLIAMS. The gentleman is mistaken in that statement.

The CHAIRMAN. The Chair, of course, has the resolution before him. The Chair would like to have the gentleman from Mississippi indicate the language in the President's message to which this amendment is germane.

Mr. WILLIAMS. Mr. Chairman, I have not the President's message nor that part of it before me; but I think I can call to the memory of the Chair that part of the President's message to which it is germane. It is that part of the President's message in which he says that there ought to be a change of law regarding temporary restraining orders.

Mr. PAYNE. The President does not formulate any bill, as the gentleman is trying to do, and confine the Committee on the Judiciary to any such thing as that.

The CHAIRMAN. The Chair thinks that the amendment is germane. The question is on the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. WILLIAMS. Division, Mr. Chairman.

The committee divided, and there were—ayes 51, noes 87.

Mr. WILLIAMS. Tellers, Mr. Chairman.

Mr. PAYNE. I make the point of order once more that this is a dilatory proceeding, in view of the emphatic vote on the rising vote, and the repeated demand for tellers, with the evident purpose of delay on the part of these gentlemen.

Mr. WILLIAMS. The motion is not dilatory. The motion is for the purpose of emphasizing before the country by ocular demonstration party division upon this floor. It is a real and bona fide purpose, and is not for mere delay.

The CHAIRMAN. The Chair will state that the object of tellers is simply to verify the vote. A division was had, and the Chair will state that he counted with great care. The vote was so decisive—ayes 51, nays 87—that the Chair is justified in holding the demand for tellers to be dilatory.

So the amendment was rejected.

Mr. PAYNE. I move that the committee rise and report the resolution.

Mr. WILLIAMS. I rise for the purpose of respectfully taking an appeal from the decision of the Chair.

The CHAIRMAN. The Chair can not entertain the appeal. The question is on the motion of the gentleman from New York.

The question was taken, and the Chairman announced that the ayes appear to have it.

Mr. FITZGERALD. The other side.

The question was again taken, and the Chairman announced that the ayes seemed to have it.

Mr. FITZGERALD. Division! Not so fast.

The committee divided, and there were—ayes 99, noes 68.

Mr. FITZGERALD. Tellers, Mr. Chairman.

Tellers were ordered, and the Chairman appointed Mr. WILLIAMS and Mr. PAYNE.

The committee again divided, and the tellers reported—ayes 98, noes 70.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LAWRENCE, Chairman of the Committee of the Whole House on the state of the Union, reported that

that committee had had under consideration House resolution 233, and had instructed him to report the same back with the recommendation that the same be agreed to.

Mr. PAYNE. I move the previous question on the resolution to its passage.

The question being taken, on a division (demanded by Mr. WILLIAMS) there were—ayes 125, noes 75.

Mr. WILLIAMS. Mr. Speaker, I ask for tellers.

Mr. PAYNE. I make the point that that is a dilatory motion, in view of the emphatic vote by which this was carried.

The SPEAKER. The Chair sustains the point of order.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 120, nays 84, answered "present" 24, not voting 160, as follows:

YEAS—120.

Alexander, N. Y.	Dawson	Hubbard, Iowa	Needham
Allen	Denby	Hubbard, W. Va.	Nelson
Bannon	Diekema	Huff	Norris
Barclay	Douglas	Humphrey, Wash.	Nye
Bartholdt	Draper	James, Addison D.	Olcott
Bates	Driscoll	Jones, Wash.	Olmsted
Birdsall	Durey	Kahn	Parsons
Bonynge	Dwight	Kennedy, Ohio	Payne
Boyd	Ellis, Mo.	Kinkaid	Pollard
Brownlow	Ellis, Oreg.	Knapp	Pray
Burleigh	Englebright	Knopf	Reeder
Burton, Ohio	Esch	Knowland	Reynolds
Calder	Fordney	Küstermann	Rodenberg
Calderhead	Foss	Lafean	Scott
Campbell	Foulkrod	Langley	Smith, Cal.
Capron	Fuller	Lawrence	Southwick
Cary	Gardner, Mich.	Lindbergh	Steenerson
Caulfield	Gardner, N. J.	Loud	Sterling
Chapman	Greene	McCreary	Stevens, Minn.
Conner	Haggott	McKinley, Ill.	Sturgiss
Cook, Colo.	Hale	McKinney	Sulloway
Cook, Pa.	Hall	McLachlan, Cal.	Tawney
Cooper, Pa.	Hamilton, Mich.	Malby	Thistlewood
Cooper, Wis.	Haskins	Marshall	Tirrell
Crumpacker	Haugen	Miller	Volstead
Currier	Hawley	Mondell	Waldo
Cushman	Higgins	Moon, Pa.	Wanger
Dalzell	Hill, Conn.	Morse	Weems
Davidson	Holliday	Mouser	Wilson, Ill.
Davis, Minn.	Howell, Utah	Murdock	Wood

NAYS—84.

Adair	Ferris	Hughes, N. J.	Page
Adamson	Finley	Hull, Tenn.	Patterson
Aiken	Fitzgerald	Humphreys, Miss.	Peters
Beall, Tex.	Floyd	James, Ollie M.	Pou
Bell, Ga.	Foster, Ill.	Johnson, S. C.	Rainey
Booher	Fulton	Kimball	Randell, Tex.
Bowers	Garner	Kipp	Ransdell, La.
Brodhead	Garrett	Kitchin, Claude	Rauch
Burnett	Gillespie	Lamar, Mo.	Richardson
Byrd	Glass	Lamb	Rothermel
Caldwell	Gordon	Leake	Rucker
Candler	Gregg	Lee	Russell, Mo.
Carter	Griggs	Lewis	Russell, Tex.
Clark, Mo.	Hackett	Lloyd	Sheppard
Clayton	Hamill	McLain	Stephens, Tex.
Cooper, Tex.	Hamlin	Macon	Thomas, N. C.
Cox, Ind.	Heflin	Moore, Tex.	Tou Velle
De Armond	Helm	Murphy	Underwood
Denver	Henry, Tex.	Nicholls	Watkins
Ellerbe	Hobson	O'Connell	Webb
Favrot	Houston	Padgett	Williams

ANSWERED "PRESENT"—24.

Bennet, N. Y.	Gill	Lever	Mann
Butler	Goulden	Littlefield	Moon, Tenn.
Craig	Howland	Lowden	Shackleford
Crawford	Jenkins	McLaughlin, Mich.	Sherley
Dixon	Keliher	McMorran	Slemp
Gaines, Tenn.	Kennedy, Iowa	Madison	Smith, Iowa

NOT VOTING—160.

Acheson	Cocks, N. Y.	Graham	Lassiter
Alexander, Mo.	Cole	Granger	Law
Ames	Coudrey	Gronna	Legare
Andrus	Cousins	Hackney	Lenahan
Ansberry	Cravens	Hamilton, Iowa	Lilley
Anthony	Darragh	Hammond	Lindsay
Ashbrook	Davenport	Harding	Livingston
Barchfeld	Davey, La.	Hardwick	Longworth
Bartlett, Ga.	Dawes	Hardy	Lorimer
Bartlett, Nev.	Dunwell	Harrison	Loudenslager
Beale, Pa.	Edwards, Ga.	Hay	Lovering
Bede	Edwards, Ky.	Hayes	McCall
Bennett, Ky.	Fairchild	Henry, Conn.	McDermott
Bingham	Fassett	Hepburn	McGavin
Boutell	Flood	Hill, Miss.	McGuire
Bradley	Focht	Hinshaw	McHenry
Brantley	Fornes	Hitchcock	McKinlay, Cal.
Brick	Foster, Ind.	Howard	McMillan
Broussard	Foster, Vt.	Howell, N. J.	Madden
Brumm	Fowler	Hughes, W. Va.	Maynard
Brundidge	French	Hull, Iowa	Moore, Pa.
Burgess	Gaines, W. Va.	Jackson	Mudd
Burke	Gardner, Mass.	Johnson, Ky.	Overstreet
Burleson	Gilhams	Jones, Va.	Parker, N. J.
Burton, Del.	Gillett	Keifer	Parker, S. Dak.
Carlin	Godwin	Kitchin, Wm. W.	Pearre
Chaney	Goebel	Lamar, Fla.	Perkins
Clark, Fla.	Goldfogle	Landis	Porter
Cockran	Graff	Laning	Powers
Pratt	Sherman	Spight	Washburn
Prince	Sherwood	Stafford	Watson
Pujo	Sims	Stanley	Weeks
Reid	Slayden	Sulzer	Weisse
Rhinock	Small	Talbott	Wheeler
Riordan	Smith, Mich.	Taylor, Ala.	Wiley
Roberts	Smith, Mo.	Taylor, Ohio	Willett
Robinson	Smith, Tex.	Thomas, Ohio	Wilson, Pa.
Ryan	Snapp	Townsend	Wolf
Sabath	Sparkman	Vreeland	Woodyard
Saunders	Sperry	Wallace	Young

So the previous question was ordered.

The Clerk announced the following additional pairs:

For the balance of the day:

Mr. LORIMER with Mr. SPIGHT.

Mr. WASHBURN with Mr. LASSITER.

Mr. McGAVIN with Mr. HARDY.

Mr. McCALL with Mr. SMITH of Texas.

Mr. DARRAGH with Mr. GRANGER.

Mr. FOSTER of Vermont with Mr. BARTLETT of Nevada.

Mr. MADISON with Mr. CRAIG.

Mr. WEEKS with Mr. KELIHER.

Mr. McKINLAY of California with Mr. STANLEY.

Mr. LILLEY with Mr. SHERWOOD.

Mr. EDWARDS of Kentucky with Mr. ALEXANDER of Missouri.

Mr. LITTLEFIELD. Mr. Speaker, I wish to withdraw my vote and to answer "present." I wish to explain, because I have been voting in the Committee of the Whole. I find that while I was out at dinner I was paired by the Clerks with Mr. HILL of Mississippi. He was then present. When I returned Mr. HILL had gone. I was not aware of the pair. I suppose he relies upon its existence. I voted on this yea-and-nay roll call, and therefore I wish to withdraw that vote.

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. LITTLEFIELD, and he answered "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing——

Mr. PAYNE. Mr. Speaker——

Mr. FITZGERALD. One moment, Mr. Speaker. I move to refer the resolution to the Committee on Rules with the following instructions——

The SPEAKER. The gentleman is not recognized for that purpose. The Chair recognizes his colleague from New York, in charge of the bill.

Mr. PAYNE. Mr. Speaker, I move to recommit the bill to the Committee on Ways and Means, and on that I demand the previous question.

The SPEAKER. The question is on ordering the previous question.

The question was taken, and a division was demanded by Mr. FITZGERALD.

Mr. PAYNE. Mr. Speaker, I may as well ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 119, nays 87, answering "present" 22, not voting 160, as follows:

YEAS—119.

Alexander, N. Y.	Dawson	Howell, Utah	Nelson
Allen	Denby	Hubbard, Iowa	Norris
Bannon	Diekema	Hubbard, W. Va.	Nye
Barclay	Douglas	Huff	Olcott
Bartholdt	Draper	Humphrey, Wash.	Parsons
Bates	Driscoll	Jones, Wash.	Payne
Birdsall	Durey	Kahn	Pollard
Bonynge	Dwight	Kennedy, Ohio	Pray
Boyd	Ellis, Mo.	Kinkaid	Reeder
Brownlow	Ellis, Oreg.	Knopf	Reynolds
Burleigh	Englebright	Knowland	Rodenberg
Burton, Ohio	Esch	Küstermann	Scott
Calder	Focht	Lafean	Southwick
Calderhead	Fordney	Langley	Steenerson
Campbell	Foss	Lawrence	Sterling
Capron	Foulkrod	Lindbergh	Stevens, Minn.
Cary	Fuller	Loud	Sturgiss
Caulfield	Gardner, Mich.	McCreary	Sulloway
Chapman	Gardner, N. J.	McKinley, Ill.	Tawney
Conner	Greene	McKinney	Thistlewood
Cook, Colo.	Haggott	McLachlan, Cal.	Tirrell
Cook, Pa.	Hale	Malby	Volstead
Cooper, Pa.	Hall	Marshall	Vreeland
Cooper, Wis.	Hamilton, Mich.	Miller	Waldo
Crumpacker	Haskins	Mondell	Wanger
Currier	Haugen	Moon, Pa.	Weems
Cushman	Hawley	Morse	Wilson, Ill.
Dalzell	Higgins	Mouser	Wood
Davidson	Hill, Conn.	Murdock	Young
Davis, Minn.	Holliday	Needham	

NAYS—87.

Adair	Burnett	Cox, Ind.	Floyd
Adamson	Byrd	De Armond	Foster, Ill.
Aiken	Caldwell	Denver	Fulton
Beall, Tex.	Candler	Ellerbe	Garner
Bell, Ga.	Carlin	Favrot	Garrett
Booher	Clark, Mo.	Ferris	Gillespie
Bowers	Clayton	Finley	Gordon
Brodhead	Cooper, Tex.	Fitzgerald	Gregg

Griggs	Johnson, S. C.	Murphy	Rucker
Hackett	Kipp	Nicholls	Russell, Mo.
Hamill	Kitchin, Claude	O'Connell	Russell, Tex.
Hamlin	Lamar, Mo.	Padgett	Saunders
Hardy	Lamb	Page	Sheppard
Heflin	Leake	Patterson	Stephens, Tex.
Helm	Lee	Peters	Sulzer
Henry, Tex.	Lewis	Pou	Thomas, N. C.
Hobson	Lloyd	Rainey	Tou Velle
Houston	McHenry	Randell, Tex.	Underwood
Hughes, N. J.	McLain	Ransdell, La.	Watkins
Hull, Tenn.	Macon	Rauch	Webb
Humphreys, Miss.	Moon, Tenn.	Richardson	Williams
James, Ollie M.	Moore, Tex.	Rothermel	

ANSWERED "PRESENT"—22.

Bennet, N. Y.	Goulden	Lever	Mann
Butler	Howland	Littlefield	Sherley
Craig	Jenkins	Lowden	Slemp
Crawford	Keliher	McLaughlin, Mich.	Smith, Iowa
Dixon	Kennedy, Iowa	McMorran	
Gaines, Tenn.	Kimball	Madison	

NOT VOTING—160.

Acheson	Edwards, Ky.	James, Addison D.	Pujo
Alexander, Mo.	Fairchild	Johnson, Ky.	Reid
Ames	Fassett	Jones, Va.	Rhinock
Andrus	Flood	Keifer	Riordan
Ansberry	Fornes	Kitchin, Wm. W.	Roberts
Anthony	Foster, Ind.	Knapp	Robinson
Ashbrook	Foster, Vt.	Lamar, Fla.	Ryan
Barchfeld	Fowler	Landis	Sabath
Bartlett, Ga.	French	Laning	Shackleford
Bartlett, Nev.	Gaines, W. Va.	Lassiter	Sherman
Beale, Pa.	Gardner, Mass.	Law	Sherwood
Bede	Gilhams	Legare	Sims
Bennett, Ky.	Gill	Lenahan	Slayden
Bingham	Gillett	Lilley	Small
Boutell	Glass	Lindsay	Smith, Cal.
Bradley	Godwin	Livingston	Smith, Mich.
Brantley	Goebel	Longworth	Smith, Mo.
Brick	Goldfogle	Lorimer	Smith, Tex.
Broussard	Graff	Loudenslager	Snapp
Brumm	Graham	Lovering	Sparkman
Brundidge	Granger	McCall	Sperry
Burgess	Gronna	McDermott	Spight
Burke	Hackney	McGavin	Stafford
Burleson	Hamilton, Iowa	McGuire	Stanley
Burton, Del.	Hammond	McKinlay, Cal.	Talbott
Carter	Harding	McMillan	Taylor, Ala.
Chaney	Hardwick	Madden	Taylor, Ohio
Clark, Fla.	Harrison	Maynard	Thomas, Ohio
Cockran	Hay	Moore, Pa.	Townsend
Cocks, N. Y.	Hayes	Mudd	Wallace
Cole	Henry, Conn.	Olmsted	Washburn
Coudrey	Hepburn	Overstreet	Watson
Cousins	Hill, Miss.	Parker, N. J.	Weeks
Cravens	Hinshaw	Parker, S. Dak.	Weisse
Darragh	Hitchcock	Pearre	Wheeler
Davenport	Howard	Perkins	Wiley
Davey, La.	Howell, N. J.	Porter	Willett
Dawes	Hughes, W. Va.	Powers	Wilson, Pa.
Dunwell	Hull, Iowa.	Pratt	Wolf
Edwards Ga.	Jackson	Prince	Woodyard

So the previous question was ordered.

The Clerk announced the following additional pairs:

Balance of day:

Mr. GOEBEL with Mr. HACKETT.

Mr. ADDISON D. JAMES with Mr. KIMBALL.

Mr. SCOTT. Mr. Speaker, I was listening and I did not hear my name called. I would like to ask if I am recorded.

The SPEAKER. The gentleman is not recorded.

Mr. SCOTT. I was listening and did not hear my name called.

The SPEAKER. Call the gentleman's name.

Mr. SCOTT's name was called, and he answered "aye."

Mr. REYNOLDS. Mr. Speaker, I was listening and I did not hear my name called.

The SPEAKER. Call the gentleman's name.

Mr. REYNOLDS's name was called, and he answered "aye."

Mr. SAUNDERS. Mr. Speaker, I wish to vote. My attention was diverted at the very moment my name was called and the Clerk passed over my name.

The SPEAKER. The gentleman was giving attention and did not hear his name when it was called or should have been called?

Mr. SAUNDERS. I intended to vote, and changed my seat for that purpose, but at the very moment my name was reached my desk mate spoke to me and diverted my attention from my name and I failed to hear it.

The SPEAKER. It hardly comes within the rules, yet——

Mr. SAUNDERS. I did not hear my name, and I was explaining the circumstances under which I did not hear it. I intended and desired to vote.

The SPEAKER. Call the gentleman's name.

Mr. SAUNDERS's name was called, and he voted "no."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the motion to recommit.

The question was taken, and the Chair announced the noes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

Mr. PAYNE. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 87, nays 122, answered "present" 20, not voting 159.

YEAS—87.

Adair	Finley	Humphreys, Miss.	Pou
Adamson	Fitzgerald	James, Ollie M.	Rainey
Aiken	Floyd	Johnson, S. C.	Randall, Tex.
Beall, Tex.	Foster, Ill.	Kipp	Ransdell, La.
Bell, Ga.	Fulton	Kitchin, Claude	Rauch
Booher	Garner	Lamar, Mo.	Richardson
Bowers	Garrett	Leake	Rothermel
Brodhead	Gillespie	Lee	Rucker
Burnett	Gordon	Lewis	Russell, Mo.
Byrd	Gregg	Lloyd	Russell, Tex.
Caldwell	Griggs	McHenry	Saunders
Candler	Hackett	McLain	Shackleford
Carter	Hamill	Macon	Sheppard
Clark, Mo.	Hamlin	Moon, Tenn.	Sherley
Clayton	Harrison	Moore, Tex.	Stephens, Tex.
Cooper, Tex.	Heflin	Murphy	Thomas, N. C.
Cox, Ind.	Helm	Nicholls	Tou Velle
De Armond	Henry, Tex.	O'Connell	Underwood
Denver	Hobson	Padgett	Watkins
Ellerbe	Houston	Page	Webb
Favrot	Hughes, N. J.	Patterson	Williams
Ferris	Hull, Tenn.	Peters	

NAYS—122.

Alexander, N. Y.	Diekema	Jones, Wash.	Pollard
Allen	Douglas	Kahn	Pray
Bannon	Draper	Kennedy, Ohio	Reeder
Barclay	Driscoll	Kinkaid	Reynolds
Bartholdt	Durey	Knapp	Rodenberg
Bates	Dwight	Knopf	Scott
Birdsall	Ellis, Mo.	Küstermann	Slemp
Bonynge	Ellis, Oreg.	Lafean	Smith, Cal.
Brownlow	Englebright	Langley	Smith, Iowa
Burleigh	Esch	Lawrence	Southwick
Burton, Ohio	Focht	Lindbergh	Stafford
Calder	Foss	Loud	Steenerson
Calderhead	Foulkrod	McCreary	Sterling
Campbell	Fuller	McKinley, Ill.	Stevens, Minn.
Capron	Gardner, Mich.	McKinney	Sturgiss
Cary	Gardner, N. J.	McLachlan, Cal.	Sulloway
Caulfield	Greene	Malby	Sulzer
Chapman	Haggott	Marshall	Tawney
Conner	Hale	Miller	Thistlewood
Cook, Colo.	Hall	Mondell	Tirrell
Cook, Pa.	Hamilton, Mich.	Moon, Pa.	Volstead
Cooper, Pa.	Haskins	Morse	Vreeland
Cooper, Wis.	Haugen	Mouser	Waldo
Crumpacker	Hawley	Murdock	Wanger
Currier	Higgins	Needham	Weeks
Cushman	Hill, Conn.	Nelson	Weems
Dalzell	Holliday	Norris	Wilson, Ill.
Davidson	Howell, Utah	Nye	Wood
Davis, Minn.	Hubbard, Iowa	Olcott	Woodyard
Dawson	Hubbard, W. Va.	Parsons	
Denby	Huff	Payne	

ANSWERED "PRESENT"—20.

Bennet, N. Y.	Goulden	Kimball	McLaughlin, Mich.
Craig	Howland	Lamb	McMorran
Crawford	Jenkins	Lever	Madison
Dixon	Keliher	Littlefield	Mann
Gaines, Tenn.	Kennedy, Iowa	Lowden	Olmsted

NOT VOTING—159.

Acheson	Dunwell	Hughes, W. Va.	Powers
Alexander, Mo.	Edwards, Ga.	Hull, Iowa	Pratt
Ames	Edwards, Ky.	Humphrey, Wash.	Prince
Andrus	Fairchild	Jackson	Pujo
Ansberry	Fassett	James, Addison D.	Reid
Anthony	Flood	Johnson, Ky.	Rhinock
Ashbrook	Fordney	Jones, Va.	Riordan
Barchfeld	Fornes	Keifer	Roberts
Bartlett, Ga.	Foster, Ind.	Kitchin, Wm. W.	Robinson
Bartlett, Nev.	Foster, Vt.	Knowland	Ryan
Beale, Pa.	Fowler	Lamar, Fla.	Sabath
Bede	French	Landis	Sherman
Bennett, Ky.	Gaines, W. Va.	Laning	Sherwood
Bingham	Gardner, Mass.	Lassiter	Sims
Boutell	Gilhams	Law	Slayden
Boyd	Gill	Legare	Small
Bradley	Gillett	Lenahan	Smith, Mich.
Brantley	Glass	Lilley	Smith, Mo.
Brick	Godwin	Lindsay	Smith, Tex.
Broussard	Goebel	Livingston	Snapp
Brumm	Goldfogle	Longworth	Sparkman
Brundidge	Graff	Lorimer	Sperry
Burgess	Graham	Loudenslager	Spight
Burke	Granger	Lovering	Stanley
Burleson	Gronna	McCall	Talbott
Burton, Del.	Hackney	McDermott	Taylor, Ala.
Butler	Hamilton, Iowa	McGavin	Taylor, Ohio
Carlin	Hammond	McGuire	Thomas, Ohio
Chaney	Harding	McKinlay, Cal.	Townsend
Clark, Fla.	Hardwick	McMillan	Wallace
Cockran	Hardy	Madden	Washburn
Cocks, N. Y.	Hay	Maynard	Watson
Cole	Hayes	Moore, Pa.	Weisse
Coudrey	Henry, Conn.	Mudd	Wheeler
Cousins	Hepburn	Overstreet	Wiley
Cravens	Hill, Miss.	Parker, N. J.	Willett
Darragh	Hinshaw	Parker, S. Dak.	Wilson, Pa.
Davenport	Hitchcock	Pearre	Wolf
Davey, La.	Howard	Perkins	Young
Dawes	Howell, N. J.	Porter	

So the motion to recommit was rejected.

The Clerk announced the following additional pairs:

For the balance of the day:

Mr. WHEELER with Mr. CARLIN.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

Mr. PAYNE. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 212, answered "present" 21, not voting 155, as follows:

YEAS—212.

Adair	Draper	Huff	Patterson
Adamson	Driscoll	Hughes, N. J.	Payne
Aiken	Durey	Hull, Tenn.	Perkins
Alexander, N. Y.	Dwight	Humphreys, Miss.	Peters
Allen	Ellerbe	James, Ollie M.	Pollard
Bannon	Ellis, Mo.	Johnson, S. C.	Pou
Barclay	Ellis, Oreg.	Jones, Wash.	Pray
Bartholdt	Englebright	Kahn	Rainey
Bates	Esch	Kennedy, Ohio	Randell, Tex.
Beall, Tex.	Favrot	Kinkaid	Ransdell, La.
Bell, Ga.	Ferris	Kipp	Rauch
Birdsall	Finley	Kitchin, Claude	Reeder
Bonynge	Fitzgerald	Knapp	Reynolds
Booher	Floyd	Knopf	Richardson
Bowers	Focht	Knowland	Rodenberg
Boyd	Fordney	Küstermann	Rothermel
Brodhead	Foss	Lafean	Russell, Mo.
Brownlow	Foster, Ill.	Lamar, Mo.	Russell, Tex.
Burleigh	Foulkrod	Lamb	Saunders
Burnett	Fuller	Langley	Scott
Burton, Ohio	Fulton	Leake	Shackleford
Byrd	Gardner, Mich.	Lee	Sheppard
Calder	Gardner, N. J.	Lewis	Sherley
Calderhead	Garner	Lindbergh	Slemp
Caldwell	Garrett	Loud	Smith, Cal.
Campbell	Gillespie	McCreary	Smith, Iowa
Candler	Goldfogle	McHenry	Southwick
Capron	Gordon	McKinley, Ill.	Stafford
Carter	Greene	McKinney	Steenerson
Cary	Gregg	McLachlan, Cal.	Stephens, Tex.
Caulfield	Griggs	McLain	Sterling
Chapman	Hackett	Macon	Stevens, Minn.
Clark, Mo.	Haggott	Malby	Sturgiss
Clayton	Hale	Marshall	Sulloway
Conner	Hall	Maynard	Sulzer
Cook, Colo.	Hamill	Miller	Tawney
Cook, Pa.	Hamilton, Mich.	Mondell	Thistlewood
Cooper, Pa.	Hamlin	Moon, Pa.	Thomas, N. C.
Cooper, Tex.	Harrison	Moon, Tenn.	Tirrell
Cooper, Wis.	Haskins	Morse	Tou Velle
Cox, Ind.	Haugen	Mouser	Underwood
Crumpacker	Hawley	Murdock	Volstead
Currier	Heflin	Murphy	Vreeland
Cushman	Helm	Needham	Waldo
Dalzell	Henry, Tex.	Nelson	Wanger
Davidson	Higgins	Nicholls	Watkins
Davis, Minn.	Hill, Conn.	Norris	Webb
Dawson	Hobson	Nye	Weeks
De Armond	Holliday	O'Connell	Wheeler
Denby	Houston	Olcott	Williams
Denver	Howell, Utah	Padgett	Wilson, Ill.
Diekema	Hubbard, Iowa	Page	Wood
Douglas	Hubbard, W. Va.	Parsons	Young

ANSWERED "PRESENT"—21.

Anthony	Goulden	Littlefield	Mann
Bennet, N. Y.	Howland	Longworth	Olmsted
Cravens	Jenkins	Lowden	Taylor, Ohio
Crawford	Kellher	McLaughlin, Mich.	
Dixon	Kennedy, Iowa	McMorran	
Gaines, Tenn.	Lever	Madison	

NOT VOTING—155.

Acheson	Cousins	Harding	Livingston
Alexander, Mo.	Craig	Hardwick	Lloyd
Ames	Darragh	Hardy	Lorimer
Andrus	Davenport	Hay	Loudenslager
Ansberry	Davey, La.	Hayes	Lovering
Ashbrook	Dawes	Henry, Conn.	McCall
Barchfeld	Dunwell	Hepburn	McDermott
Bartlett, Ga.	Edwards, Ga.	Hill, Miss.	McGavin
Bartlett, Nev.	Edwards, Ky.	Hinshaw	McGuire
Beale, Pa.	Fairchild	Hitchcock	McKinlay, Cal.
Bede	Fassett	Howard	McMillan
Bennett, Ky.	Flood	Howell, N. J.	Madden
Bingham	Fornes	Hughes, W. Va.	Moore, Pa.
Boutell	Foster, Ind.	Hull, Iowa	Moore, Tex.
Bradley	Foster, Vt.	Humphrey, Wash.	Mudd
Brantley	Fowler	Jackson	Overstreet
Brick	French	James, Addison D.	Parker, N. J.
Broussard	Gaines, W. Va.	Johnson, Ky.	Parker, S. Dak.
Brumm	Gardner, Mass.	Jones, Va.	Pearre
Brundidge	Gilhams	Keifer	Porter
Burgess	Gill	Kimball	Powers
Burke	Gillett	Kitchin, Wm. W.	Pratt
Burleson	Glass	Lamar, Fla.	Prince
Burton, Del.	Godwin	Landis	Pujo
Butler	Goebel	Laning	Reid
Carlin	Graff	Lassiter	Rhinock
Chaney	Graham	Law	Riordan
Clark, Fla.	Granger	Lawrence	Roberts
Cockran	Gronna	Legare	Robinson
Cocks, N. Y.	Hackney	Lenahan	Rucker
Cole	Hamilton, Iowa	Lilley	Ryan
Coudrey	Hammond	Lindsay	Sabath
Sherman	Smith, Tex.	Taylor, Ala.	Weisse
Sherwood	Snapp	Thomas, Ohio	Wiley
Sims	Sparkman	Townsend	Willett
Slayden	Sperry	Wallace	Wilson, Pa.
Small	Spight	Washburn	Wolf
Smith, Mich.	Stanley	Watson	Woodyard
Smith, Mo.	Talbott	Weems	

So the resolution was agreed to.

The Clerk announced the following additional pairs:

For the balance of the day:

Mr. LAWRENCE with Mr. HAMMOND.

Mr. ANDRUS with Mr. MOORE of Texas.

The result of the vote was announced as above recorded.

Mr. UNDERWOOD. Mr. Speaker, I move to reconsider the last vote.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

Mr. FITZGERALD. A parliamentary inquiry, Mr. Speaker. Under the rules, is it not in order before the motion to adjourn is made, at least to enter the motion to reconsider?

Mr. WILLIAMS. The gentleman from Alabama [Mr. UNDERWOOD] appealed to the Chair for that purpose.

Mr. PAYNE. I think the motion to reconsider is a privileged motion over every other motion.

The SPEAKER. With the unanimous vote—ayes 213, present 19—the Chair holds the motion to be dilatory.

Mr. PAYNE. I move that the House do now adjourn.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

Mr. PAYNE. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 121, nays 81, answered "present" 20, not voting 166, as follows:

YEAS—121.

Adair	Davis, Minn.	Howell, Utah	Olcott
Alexander, N. Y.	Dawson	Hubbard, Iowa	Parsons
Allen	Denby	Hubbard, W. Va.	Payne
Anthony	Diekema	Huff	Pollard
Bannon	Douglas	Humphrey, Wash.	Pray
Barclay	Draper	Jones, Wash.	Reeder
Bartholdt	Driscoll	Kahn	Reynolds
Bates	Durey	Kennedy, Ohio	Rodenberg
Birdsall	Dwight	Kinkaid	Scott
Bonynge	Ellis, Mo.	Knapp	Slemp
Boyd	Ellis, Oreg.	Knopf	Smith, Cal.
Brownlow	Englebright	Küstermann	Southwick
Burleigh	Esch	Lafean	Stafford
Burton, Ohio	Focht	Langley	Steenerson
Calder	Fordney	Lawrence	Sterling
Calderhead	Foss	McCreary	Stevens, Minn.
Campbell	Foulkrod	McKinley, Ill.	Sulloway
Capron	Fuller	McKinney	Tawney
Cary	Gardner, Mich.	McLachlan, Cal.	Thistlewood
Caulfield	Gardner, N. J.	Malby	Tirrell
Chapman	Greene	Marshall	Volstead
Conner	Haggott	Miller	Vreeland
Cook, Colo.	Hale	Mondell	Waldo
Cook, Pa.	Hall	Moon, Pa.	Wanger
Cooper, Pa.	Hamilton, Mich.	Morse	Weems
Cooper, Wis.	Haskins	Mouser	Wilson, Ill.
Crumpacker	Haugen	Murdock	Wood
Currier	Hawley	Needham	Young
Cushman	Higgins	Nelson	
Dalzell	Hill, Conn.	Norris	
Davidson	Holliday	Nye	

NAYS—81.

Adamson	Fitzgerald	Humphreys, Miss.	Rainey
Beall, Tex.	Floyd	James, Ollie M.	Randell, Tex.
Bell, Ga.	Foster, Ill.	Johnson, S. C.	Ransdell, La.
Booher	Fulton	Kipp	Rauch
Bowers	Garner	Kitchin, Claude	Richardson
Brodhead	Garrett	Lamar, Mo.	Rothermel
Burnett	Gillespie	Lee	Rucker
Byrd	Gordon	Lewis	Russell, Mo.
Caldwell	Gregg	Lloyd	Russell, Tex.
Candler	Griggs	McHenry	Shackleford
Carter	Hackett	McLain	Sheppard
Clark, Mo.	Hamill	Macon	Stephens, Tex.
Clayton	Hamlin	Maynard	Sulzer
Cooper, Tex.	Harrison	Murphy	Thomas, N. C.
Cox, Ind.	Heflin	Nicholls	Tou Velle
De Armond	Helm	O'Connell	Watkins
Denver	Henry, Tex.	Padgett	Webb
Ellerbe	Hobson	Page	Williams
Favrot	Houston	Patterson	
Ferris	Hughes, N. J.	Peters	
Finley	Hull, Tenn.	Pou	

ANSWERED "PRESENT"—20.

Bennet, N. Y.	Howland	Lamb	Mann
Cravens	Jenkins	Leake	Moon, Tenn.
Dixon	Kellher	Lever	Smith, Mich.
Gaines, Tenn.	Kennedy, Iowa	Longworth	Taylor, Ala.
Goulden	Kimball	Lowden	Taylor, Ohio

NOT VOTING—166.

Acheson	Ashbrook	Bennett, Ky.	Broussard
Aiken	Barchfeld	Bingham	Brumm
Alexander, Mo.	Bartlett, Ga.	Boutell	Brundidge
Ames	Bartlett, Nev.	Bradley	Burgess
Andrus	Beale, Pa.	Brantley	Burke
Ansberry	Bede	Brick	Burleson

Burton, Del.
Butler
Carlin
Chaney
Clark, Fla.
Cockran
Cocks, N. Y.
Cole
Coudrey
Cousins
Craig
Crawford
Darragh
Davenport
Davey, La.
Dawes
Dunwell
Edwards, Ga.
Edwards, Ky.
Fairchild
Fassett
Flood
Fornes
Foster, Ind.
Foster, Vt.
Fowler
French
Gaines, W. Va.
Gardiner, Mass.
Gilhams
Gill
Gillett
Glass
Godwin
Goebel
Goldfogle
Graff
Graham
Granger
Gronna
Hackney
Hamilton, Iowa
Hammond
Harding
Hardwick
Hardy
Hay
Hayes
Henry, Conn.
Hepburn
Hill, Miss.
Hinshaw
Hitchcock
Howard
Howell, N. J.
Hughes, W. Va.
Hull, Iowa
Jackson
James, Addison D.
Johnson, Ky.
Jones, Va.
Keifer
Kitchin, Wm. W.
Knowland
Lamar, Fla.
Landis
Laning
Lassiter
Law
Legare
Lenahan
Lilley
Lindbergh
Lindsay
Littlefield
Livingston
Lorimer
Loud
Loudenslager
Lovering
McCall
McDermott
McGavin
McGuire
McKinlay, Cal.
McLaughlin, Mich.
McMillan
McMorran
Madden
Madison
Moore, Pa.
Moore, Tex.
Mudd
Olmsted
Overstreet
Parker, N. J.
Parker, S. Dak.
Pearre
Perkins
Porter
Powers
Pratt
Prince
Pujo
Reid
Rhinock
Riordan
Roberts
Robinson
Ryan
Sabath
Saunders
Sherley
Sherman
Sherwood
Sims
Slayden
Small
Smith, Iowa
Smith, Mo.
Smith, Tex.
Snapp
Sparkman
Sperry
Spight
Stanley
Sturgiss
Talbott
Thomas, Ohio
Townsend
Underwood
Wallace
Washburn
Watson
Weeks
Weisse
Wheeler
Wiley
Willett
Wilson, Pa.
Wolf
Woodyard

So the motion to adjourn was agreed to.

During the second call of the roll,

Mr. WILLIAMS. Mr. Speaker, I make the point of order that the Clerk is calling the roll in such a way it is absolutely difficult to keep up with it.

The SPEAKER. Every man is having a chance to vote who is paying attention. The Clerk will proceed.

Mr. WILLIAMS. I do not think so.

Mr. PAYNE. I hope the Clerk will not take any instructions from the gentleman from Mississippi.

The Clerk resumed and concluded the call of the roll.

The following additional pair was announced.

On this vote:

Mr. SMITH of Iowa with Mr. SHERLEY.

The result of the vote was then announced, as above recorded.

Accordingly (at 10 o'clock and 9 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

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 Treasury, submitting a plan for additional accommodations for the Bureau of Engraving and Printing—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Interior, submitting, in response to the direction of law, a report of an investigation of the claim of the Potawatomi Indians of Wisconsin—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, submitting an estimate of appropriation for reconstruction of annex and building of a pier for the New York barge office—to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. HUMPHREY of Washington, from the Committee on Education, to which was referred the bill of the House (H. R. 16273) to provide for compulsory education of the native children of Alaska, and for other purposes, reported the same with amendments, accompanied by a report (No. 1372), which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 4260) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906, reported the same without amendment, accompanied by a report (No. 1375), which said bill and report were referred to the House Calendar.

Mr. VOLSTEAD, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 19541) to authorize the drainage of certain lands in the State of Minnesota, reported the same with amendments, accompanied by a report (No. 1376), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 20244) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors, reported the same with out amendment, accompanied by a report (No. 1367), which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill of the Senate (S. 6071) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors, reported the same with amendments, accompanied by a report (No. 1368), which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 12760) to correct the military record of Isaac N. Fordyce, reported the same with amendment, accompanied by a report (No. 1370), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16015) for the relief of Lafayette L. McKnight, reported the same without amendment, accompanied by a report (No. 1371), which said bill and report were referred to the Private Calendar.

Mr. WILEY, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 19871) for the relief of Sanford A. Pinyan, reported the same without amendment, accompanied by a report (No. 1373), which said bill and report were referred to the Private Calendar.

Mr. KAHN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 7006) to correct the military record of George W. Hedrick, reported the same with amendment, accompanied by a report (No. 1374), which said bill and report were referred to the Private Calendar.

ADVERSE REPORT.

Under clause 2, Rule XIII,

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 8080) for the relief of James M. Watson, reported the same adversely, accompanied by a report (No. 1369), which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles, which were thereupon referred as follows:

A bill (H. R. 20178) granting a pension to John Muir—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8012) granting a pension to John Hettesheimer—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18631) authorizing the Secretary of the Interior to issue patents in fee to the Diocese of Duluth of the Protestant Episcopal Church in the United States of America for certain lands in Minnesota set apart for the use of said church for missionary purposes among the Chippewa Indians—Committee on the Public Lands discharged, and referred to the Committee on Indian Affairs.

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. AMES, from the Committee on Pensions: A bill (H. R. 20244) granting pensions and increase of pensions to

certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors—to the Private Calendar.

By Mr. GLASS: A bill (H. R. 20245) empowering the Secretary of the Treasury to acquire a new public-building site at Lynchburg, Va., and so forth—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 20246) permitting the building of a dam or dams across New River, Virginia—to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Ohio: A bill (H. R. 20247) to amend section 8 of an act entitled "An act to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations," approved June 19, 1906—to the Committee on the District of Columbia.

By Mr. OLCOTT: A bill (H. R. 20248) to provide for the appointment and compensation of professors and instructors at the Naval Academy—to the Committee on Naval Affairs.

By Mr. REYNOLDS: A bill (H. R. 20249) to increase the compensation of carriers on rural free-delivery mail routes—to the Committee on the Post-Office and Post-Roads.

By Mr. JONES of Virginia: A bill (H. R. 20250) increasing the limit of cost for the acquisition of a site and the construction thereon of a Federal building in the city of Fredericksburg, Va.—to the Committee on Public Buildings and Grounds.

By Mr. BATES: A bill (H. R. 20251) to establish a naval station at Pearl Harbor, Hawaii—to the Committee on Naval Affairs.

By Mr. COOPER of Wisconsin: A bill (H. R. 20252) for the erection of a public building at Beloit, Wis.—to the Committee on Public Buildings and Grounds.

By Mr. HOWELL of Utah: A bill (H. R. 20253) for the relief of persons who participated in the suppression of Indian hostilities in the Territory of Utah, and for other purposes—to the Committee on Claims.

By Mr. CANNON: Resolution (H. Res. 320) directing the Attorney-General to transmit to the House certain information concerning wood pulp and print paper—to the Committee on the Judiciary.

Also, resolution (H. Res. 321) directing the Secretary of Commerce and Labor to transmit to the House certain information concerning wood pulp and print paper—to the Committee on the Judiciary.

By Mr. LASSITER: Resolution (H. Res. 322) requiring information as to whether the recent dismissal of skilled employees has relation to the proposed four battle ships now in contemplation—to the Committee on Naval Affairs.

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. ALEXANDER of Missouri: A bill (H. R. 20254) granting a pension to George N. Baxter—to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 20255) granting an increase of pension to Harry Remer—to the Committee on Pensions.

Also, a bill (H. R. 20256) granting an increase of pension to Peter Everly—to the Committee on Invalid Pensions.

By Mr. BARCLAY: A bill (H. R. 20257) granting an increase of pension to William C. Robbins—to the Committee on Invalid Pensions.

By Mr. BYRD: A bill (H. R. 20258) for the relief of the estate of Francis Mayerhoff—to the Committee on Claims.

Also, a bill (H. R. 20259) granting an increase of pension to Mary Anne King—to the Committee on Pensions.

By Mr. CALDERHEAD: A bill (H. R. 20260) granting an increase of pension to William H. Perry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20261) granting an increase of pension to John Weaver—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20262) granting an increase of pension to Joseph A. Combs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20263) granting an increase of pension to David W. Davies—to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 20264) granting an increase of pension to Jerome E. Beck—to the Committee on Invalid Pensions.

By Mr. CONNER: A bill (H. R. 20265) granting an increase of pension to Winfield S. Sarget—to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 20266) granting an increase of pension to James H. Watkin—to the Committee on Invalid Pensions.

By Mr. DOUGLAS: A bill (H. R. 20267) granting an increase of pension to Arthur G. McNeill—to the Committee on Invalid Pensions.

By Mr. EDWARDS of Kentucky: A bill (H. R. 20268) granting an increase of pension to Halcom Tarter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20269) granting an increase of pension to William L. Brown—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20270) granting a pension to Susan Murphy—to the Committee on Pensions.

Also, a bill (H. R. 20271) granting a pension to Andrew J. Sturgill—to the Committee on Pensions.

Also, a bill (H. R. 20272) for the relief of Sallie A. Slaven—to the Committee on War Claims.

By Mr. FOSTER of Illinois: A bill (H. R. 20273) granting an increase of pension to James F. Ivie—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20274) granting an increase of pension to William H. Binnix—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 20275) granting an increase of pension to David A. Moore—to the Committee on Invalid Pensions.

By Mr. GARDNER of Michigan: A bill (H. R. 20276) granting an increase of pension to George W. Bowker—to the Committee on Invalid Pensions.

By Mr. GRANGER: A bill (H. R. 20277) granting an increase of pension to Henry M. Chase—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 20278) for the relief of George W. Conatser—to the Committee on War Claims.

Also, a bill (H. R. 20279) to remove the charge of desertion standing against James Wilkey—to the Committee on Military Affairs.

By Mr. LANDIS: A bill (H. R. 20280) granting an increase of pension to Albert O. McNulty—to the Committee on Pensions.

By Mr. LEWIS: A bill (H. R. 20281) granting an increase of pension to James Denham—to the Committee on Invalid Pensions.

By Mr. LINDSAY: A bill (H. R. 20282) granting a pension to Elizabeth Fromme—to the Committee on Invalid Pensions.

By Mr. LORIMER: A bill (H. R. 20283) granting an increase of pension to Charles O. Brown—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 20284) granting an increase of pension to Catherine Hanigan—to the Committee on Pensions.

By Mr. McCREARY: A bill (H. R. 20285) to remove the charge of desertion from the record of John Fleming—to the Committee on Military Affairs.

By Mr. McGUIRE: A bill (H. R. 20286) granting an increase of pension to Cornelius Harrington—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20287) granting an increase of pension to Jacob T. Martin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20288) granting an increase of pension to George McIntire—to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 20289) for the relief of the heirs of Calvin T. Wood, deceased—to the Committee on Military Affairs.

By Mr. MAYNARD: A bill (H. R. 20290) granting a pension to John C. Quinn—to the Committee on Invalid Pensions.

By Mr. MORSE: A bill (H. R. 20291) granting an increase of pension to Andrew Michaelson—to the Committee on Invalid Pensions.

By Mr. RANDELL of Texas: A bill (H. R. 20292) for the relief of the heirs of Cirley Fairchilds—to the Committee on War Claims.

By Mr. RAUCH: A bill (H. R. 20293) granting an increase of pension to Henrietta S. Kimball—to the Committee on Invalid Pensions.

By Mr. ROTHERMEL: A bill (H. R. 20294) granting an increase of pension to John Stuard—to the Committee on Invalid Pensions.

By Mr. STURGISS: A bill (H. R. 20295) for the relief of the heirs of Jacob J. Foreman, deceased—to the Committee on War Claims.

By Mr. THISTLEWOOD: A bill (H. R. 20296) granting an increase of pension to Martin H. Ozment—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20297) granting an increase of pension to Riley S. Hartwell—to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 20298) granting an increase of pension to Patrick Gillen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20299) granting an increase of pension to William B. Gere—to the Committee on Invalid Pensions.

By Mr. WHEELER: A bill (H. R. 20300) granting an increase of pension to Bradford F. Darling—to the Committee on Invalid Pensions.

By Mr. CRAIG: A bill (H. R. 20301) for the relief of the heirs of Lewis E. Parsons, deceased—to the Committee on War Claims.

By Mr. FINLEY: A bill (H. R. 20302) granting an increase of pension to Henry Bredbenner—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 20303) for the relief of Joseph M. Padgett and others—to the Committee on Claims.

By Mr. ADDISON D. JAMES: A bill (H. R. 20304) to remove the charge of desertion from the military record of Robert N. Stewart—to the Committee on Military Affairs.

By Mr. SHERWOOD: A bill (H. R. 20305) to remove the charge of desertion now existing on the records of the War Department against George M. Camp—to the Committee on Military Affairs.

Also, a bill (H. R. 20306) to remove the charge of desertion now existing on the records of the War Department against John W. Clark—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Memorial of the German-American Alliance of New York and 160 other similar organizations, protesting against any legislation restricting interstate commerce in beer, wine, etc.—to the Committee on the Judiciary.

By Mr. ASHBROOK: Petitions of Marine Engineers' Beneficial Association, No. 35, of San Francisco, for enactment of H. R. 14941, amending section 4463 of the Revised Statutes of the United States—to the Committee on the Merchant Marine and Fisheries.

Also, paper to accompany bill for relief of Harry Reemer—to the Committee on Pensions.

Also, petition of residents of Holmes and Clark counties, Ohio, against H. R. 4897, for religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BATES: Petitions of Marine Engineers' Beneficial Association, No. 35, of San Francisco, Cal., against H. R. 225 and S. 5787 and in favor of H. R. 14941, amending section 4463 of Revised Statutes—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Sacred Heart of Jesus Society of Pennsylvania, against any further legislation to restrict immigration to the United States—to the Committee on Immigration and Naturalization.

Also, petition of Young Men's Society of Stanislaus Church, of Erie, Pa., against legislation providing for an educational test, certificate of character, and money-in-the-pocket feature, as outlined in the Latimer or Gardner bills—to the Committee on Immigration and Naturalization.

Also, petition of Pomona Grange of Crawford County, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Greenfield Grange, of North East, Pa., for a national highways commission and Federal aid in construction of highways (H. R. 15837)—to the Committee on Agriculture.

Also, petition of John Blass & Son, of Erie, Pa., against the Aldrich currency bill (S. 3023)—to the Committee on Banking and Currency.

Also, petition of L. H. Salisbury, of Albion, Pa., against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of A. R. Betts and others, of Spartansburg, Pa., against the Burton amendment to nine-hour telegraphers' law—to the Committee on Interstate and Foreign Commerce.

Also, petition of legislative committee of National Grange, for the creation of a national highways commission, and for an appropriation for the construction and improvement of public highways—to the Committee on Agriculture.

Also, petition of citizens of Waterford, Pa., for the Sherwood pension bill (H. R. 7625)—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: Paper to accompany bill for relief of James C. McDaniel, heir of William G. McDaniel—to the Committee on War Claims.

By Mr. BURLEIGH: Petitions of citizens of Maine and Anson Grange, No. 88, for national highways commission and Federal aid in construction of public roads (H. R. 15837)—to the Committee on Agriculture.

Also, petition of Anson Grange, No. 88, favoring S. 5122, for a rural parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDERHEAD: Petitions of Marine Engineers' Beneficial Association, No. 35, and California Harbor, No. 15, Masters, Mates, and Pilots, of San Francisco, Cal., against H. R. 225 and S. 5787, and in favor of H. R. 14941, amending section 4463 of the Revised Statutes of the United States—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Topeka, Kans., State Federation of Women's Clubs, favoring bill pertaining to the sane treatment of tuberculosis, bill referred to being in charge of Senator CRANE in the Senate and Representative DALZELL in the House (H. R. 18445)—to the Committee on Appropriations.

Also, petition of citizens of Kansas, favoring passage of bill for a national highways commission (H. R. 15837)—to the Committee on Agriculture.

Also, petition of J. J. and W. F. Muenzenmayer, of Junction City, Kans., against passage of S. 3023 (Aldrich currency bill)—to the Committee on Banking and Currency.

By Mr. CLARK of Florida: Petition of Jacksonville Board of Trade, against the Frye joint resolution (S. R. 40), providing for transportation by sea of material and equipments for the Panama Canal exclusively in American ships—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of M. H. Pride—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William H. Murray (H. R. 16300)—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: Petition of Du Lac Grange, No. 92, Patrons of Husbandry, of Milton, Wis., for national highways commission and Federal aid in construction of public roads (H. R. 15837)—to the Committee on Agriculture.

By Mr. CRAIG: Petition praying for reference of the claim of Lewis E. Parsons to the Court of Claims—to the Committee on War Claims.

By Mr. CURRIER: Petitions of Eagle Grange, of Chatham, N. H., and Beaver Grange, of East Springfield, N. H., for a national highways commission and Federal aid in road construction (H. R. 15837)—to the Committee on Agriculture.

By Mr. EDWARDS of Kentucky: Paper to accompany bill for relief of Henderson Smith—to the Committee on Invalid Pensions.

Also, papers to accompany bills for relief of Halcom Tarter and William S. Brown—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Andrew J. Sturgill—to the Committee on Pensions.

Also, petition of Whitley County civil war soldiers, favoring the Sherwood pension bill (H. R. 7625)—to the Committee on Invalid Pensions.

Also, petition of H. F. Reed and 47 others, against enactment of S. 1518, revising section 3893 of Revised Statutes of United States (Penrose bill)—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of Susan Murphy—to the Committee on Pensions.

By Mr. ENGLEBRIGHT: Petition of citizens of Placerville, Cal., against H. R. 4897, for religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FLOYD: Paper to accompany bill (H. R. 12020) for relief of James R. Atkins—to the Committee on Invalid Pensions.

By Mr. FORNES: Petitions of California Harbor, No. 15, American Association of Masters, Mates, and Pilots, and Marine Engineers' Association, No. 35, of San Francisco, Cal., for H. R. 14941—to the Committee on the Merchant Marine and Fisheries.

Also, petitions of Bear Valley Post, No. 162, of Redlands, and Hartford Post, No. 155, of Lodi, Department of California, Grand Army of the Republic, for H. R. 220—to the Committee on the Judiciary.

Also, petition of Medical Society of County of New York, for a proper pension for the widows of Dr. James W. Lazear and Dr. James Carroll—to the Committee on Pensions.

By Mr. FOSTER of Vermont: Petitions of Gleaner Grange, of Brownsville; Deermont Grange, of Mendon, and Bennington Grange, all in the State of Vermont, favoring H. R. 15837, for a national highways commission and appropriation for Federal aid in road building—to the Committee on Agriculture.

By Mr. FULLER: Petition of J. Q. Adams, of Marseilles, Ill., for H. R. 19250—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of David A. Moore—to the Committee on Invalid Pensions.

Also, petition of Chicago Credit Men's Association, against the Aldrich currency bill (S. 3023)—to the Committee on Banking and Currency.

By Mr. GARDNER of Massachusetts: Petition of automobile manufacturers and owners of Massachusetts, favoring H. R. 428, providing for a national system of registration and identification—to the Committee on the Judiciary.

By Mr. GOEBEL: Petition of Queen City Council, No. 145, Commercial Travelers of America, protesting against passage of parcels-post bill (H. R. 255)—to the Committee on the Post-Office and Post-Roads.

By Mr. GOLDFOGLE: Petition of Merchants' Association of New York City, for the Fowler currency bill (H. R. 12677)—to the Committee on Banking and Currency.

Also, petition of Maritime Association of the Port of New York, for H. R. 31 (establishment of a light and fog signal in New York Bay, on Governors Island)—to the Committee on Interstate and Foreign Commerce.

Also, petition of New York Photoengravers' Union, asking for repeal of duty on white paper, wood pulp, etc.—to the Committee on Ways and Means.

By Mr. GOULDEN: Petitions of California Harbor, No. 15, American Association of Masters, Mates, and Pilots, and Marine Engineers' Beneficial Association, No. 35, of San Francisco, Cal., for H. R. 14941, amending section 4463 of Revised Statutes of the United States—to the Committee on the Merchant Marine and Fisheries.

Also, petition of National Grange, Patrons of Husbandry, of Concord, N. H., favoring a national highways commission (H. R. 15837)—to the Committee on Agriculture.

Also, petition of D. C. Seitz, urging passage of the Stevens bill, placing print paper and wood pulp on the free list—to the Committee on Ways and Means.

Also, petition of Melbert B. Cary, for the reenactment of the Burton bill, restricting the use of Niagara River for business purposes—to the Committee on Rivers and Harbors.

Also, petition of Merchants' Association of New York City, against passage of any bill changing the present statutes relative to injunctions and restraining orders—to the Committee on the Judiciary.

Also, petition of W. E. Griffin, of New York City, against any treaty of arbitration between Great Britain and the United States—to the Committee on Foreign Affairs.

Also, petitions of D. C. Brodie and William Cunningham, against any treaty of arbitration between Great Britain and the United States—to the Committee on Foreign Affairs.

Also, petition of Bear Valley Post, No. 162, of Redlands, and Hartford Post, No. 155, of Lodi, Department of Califorina, Grand Army of the Republic, for H. R. 220—to the Committee on the Judiciary.

By Mr. GRANGER: Petition of Rhode Island League for Rural Progress, in favor of H. R. 18204, providing for appropritaion for agricultural and industrial education in secondary schools on these lines—to the Committee on Agriculture.

Also, petition of Rhode Island League for Rural Progress, in favor of H. R. 15837, for a national highway commission and appropriation giving Federal aid to construction and maintenance of public highways—to the Committee on Agriculture.

Also, petition of Rhode Island League for Rural Progress, in favor of S. 5115, for increase in the limit of weight of fourth-class matter, and in favor of S. 5122, providing for rural delivery parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. HILL of Connecticut: Petitions of Litchfield Grange, No. 107, and Farmill River Grange, No. 130, of Shelton, Conn., for a national highways commission and for Federal aid in road construction—to the Committee on Agriculture.

Also, petition of Emmet Club, of Bridgeport, Conn., against any treaty of arbitration between Great Britain and the United States—to the Committee on Foreign Affairs.

Also, petition of Robert Emmet Club, of Norwalk, Conn., against a treaty of arbitration with Great Britain—to the Committee on Foreign Affairs.

By Mr. HOWELL of New Jersey: Petition of residents of Red Bank, N. J., and vicinity, urging the dredging of North Shrewsbury River—to the Committee on Rivers and Harbors.

By Mr. HUFF: Petition of J. M. Guffery Division, Brotherhood of Locomotive Engineers, of Youngwood, Pa., favoring passage of H. R. 17036 and 17137 and S. 3307, relating to liability bill, anti-injunction bill, and Clapp free-pass bill—to the Committee on Interstate and Foreign Commerce.

By Mr. HUGHES of New Jersey: Petitions of Division No. 5 and Division No. 2, Ancient Order of Hibernians, against any treaty of arbitration between United States and Great Britain—to the Committee on Foreign Affairs.

By Mr. KEIFER: Petition of J. M. Fetters and 15 others, residents of Laura, Ohio, against H. R. 4897, to protect the first day of the week as a day of rest in the District of Columbia, and against H. R. 4929, prohibiting labor on buildings in the District of Columbia on the Sabbath day, or any like measure—to the Committee on the District of Columbia.

By Mr. LANDIS: Petition of citizens of Franklin and Middletown, Ind., against H. R. 4897 and 4929, to protect the first day of the week as a day of rest in the District of Columbia and prohibition of labor, etc., on said day—to the Committee on the District of Columbia.

By Mr. LEE: Papers to accompany H. R. 20223, for relief of Charles Jones—to the Committee on Invalid Pensions.

Also, papers to accompany bills for relief of Charles P. McLain (H. R. 20222); Duncan Murchison (H. R. 20221); heirs of James M. Lawrence (H. R. 20220); William Adams (H. R. 20219), and D. M. McCurrey (H. R. 20218)—to the Committee on War Claims.

By Mr. LEWIS: Paper to accompany bill for relief of James Denham—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of California Harbor, No. 15, American Association of Masters, Mates, and Pilots, for enactment of H. R. 14941, amending section 4463 of the Revised Statutes of the United States—to the Committee on the Merchant Marine and Fisheries.

Also, petition of National Grange, of Concord, N. H., favoring a national highways commission and appropriation for Federal aid in construction and improvement of highways—to the Committee on Agriculture.

Also, petition of Frank & De Keyser, against the Aldrich currency bill (S. 3023) and in favor of the Fowler bill (H. R. 12677)—to the Committee on Banking and Currency.

Also, petition of John H. McGee, favoring H. R. 18122 (Maimed Soldiers' League bill, introduced by Mr. MOORE of Pennsylvania)—to the Committee on Invalid Pensions.

Also, petition of many citizens of Brooklyn, N. Y., against H. R. 4897, providing for religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petitions of J. H. Hein and H. H. Meyer, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Master Steam and Hot Water Fitters' Association, against all legislation favoring labor unions, particularly the Pearre anti-injunction bill—to the Committee on Labor.

Also, petition of Indian Rights' Association, for amendment of S. 5586 and H. R. 15641, that propose to remove restrictions from alienation or incumbrance of certain lands in Oklahoma allotted to members of the Five Civilized Tribes—to the Committee on Indian Affairs.

Also, petition of Nathan T. Folwell and others, favoring the Moore currency bill—to the Committee on Banking and Currency.

Also, petition of Thomas P. Peters, favoring H. R. 12432 (consolidation of and evidence in actions for libel)—to the Committee on the Judiciary.

Also, petition of Albert Firmin, of the Allied Board of Trade, approving bill for widening Wallabout channel—to the Committee on Rivers and Harbors.

Also, petition of Mrs. George D. Blossom, for enactment of the "widows' pension bill," giving $12 per month—to the Committee on Invalid Pensions.

Also, petition of Melbert B. Cary, favoring the Burton bill, relative to restriction of Niagara power for business purposes—to the Committee on Rivers and Harbors.

Also, petition of Henry A. Barker, favoring H. R. 10457, for forest reservations in White Mountains and Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. LINDBERGH: Petition of citizens of New York and vicinity, for relief for heirs of victims of the *General Slocum* disaster—to the Committee on Claims.

By Mr. LINDSAY: Petition of board of directors of the Merchants' Association of New York, against all injunction legislation affecting relations between employer and employee—to the Committee on the Judiciary.

Also, petition of E. A. Weimber, advocating the metric system—to the Committee on Coinage, Weights and Measures.

By Mr. LITTLEFIELD: Petition of Crystal Lake Grange, Patrons of Husbandry, for a national highways commission and for Federal aid in construction of public highways (H. R. 15837)—to the Committee on Agriculture.

Also, petition of citizens of Milo, Me., for the passage of H. R. 40, to prevent the sale of intoxicating liquors in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LORIMER: Paper to accompany bill for relief of Charles O. Brown—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: Petition of citizens of Hurfville, N. J., favoring a national highways commission (H. R. 15837)—to the Committee on Agriculture.

By Mr. OVERSTREET: Petition of Abraham Lincoln School, of Indianapolis, Ind., for the enactment of H. R. 17295, to aid the Lincoln Farm Association of New York to build and endow a national memorial to Abraham Lincoln on the site of the Lincoln birthplace farm in Kentucky—to the Committee on Appropriations.

By Mr. SPERRY: Petitions of Division No. 2, Ancient Order of Hibernians, and Ladies' Auxiliary, of Derby; Robert Emmet Club, of New Britain; Division No. 2, Ancient Order of Hibernians, of Wallingford, and John Mitchell Literary and Debating Society, of Wallingford, all in the State of Connecticut, against the treaty of arbitration now being negotiated between the United States and Great Britain—to the Committee on Foreign Affairs.

Also, petition of Unity Grange, No. 117, of Deep River, Conn., for a national highways commission and Federal aid in construction of highways (H. R. 15837)—to the Committee on Agriculture.

Also, petition of Interstate Local Assemblies of Ansonia, Derby, and Shelton, Conn., for forest reservations in White Mountains and Southern Appalachian Mountains (H. R. 20)—to the Committee on Agriculture.

Also, petition of Woman's Club of Wallingford, Conn., against passage of Crumpacker bill, for appointment of employees to take the Thirteenth Census—to the Committee on the Census.

Also, petition of Hartford Council, No. 210, United Commercial Traders of America, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of Ohio: Petition of citizens of Girard, Ohio, against religious legislation in the District of Columbia (H. R. 4897)—to the Committee on the District of Columbia.

By Mr. UNDERWOOD: Papers to accompany bills for relief of Patrick Gillen and William B. Gere—to the Committee on Invalid Pensions.

By Mr. WANGER: Petition of Sunbury (Pa.) Lodge, No. 43, Brotherhood of Railway Trainmen, favoring the Clapp free-pass amendment to S. 4260—to the Committee on Interstate and Foreign Commerce.

Also, petition of Pineville (Pa.) Grange, No. 50, Patrons of Husbandry, for a national highways commission and for Federal aid in construction of public highways (H. R. 15837)—to the Committee on Agriculture.

By Mr. WHEELER: Petition of James O. Fleming and 20 other citizens of Pennsylvania, for S. 3152, for additional protection to dairy interests—to the Committee on Agriculture.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April 3, 1908.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. FITZGERALD. Mr. Speaker, I desire to correct the Journal.

Mr. PAYNE. I move that the Journal be approved.

Mr. FITZGERALD. I desire to correct the Journal, Mr. Speaker.

The SPEAKER. The gentleman's colleague is recognized.

Mr. FITZGERALD. I rise to a privileged motion.

Mr. PAYNE. I move that the Journal stand approved. If the gentleman will yield to a suggestion——

Mr. FITZGERALD. I wish to correct the Journal in good faith.

Mr. PAYNE. If the gentleman will suggest it to me I will include that in my motion.

Mr. FITZGERALD. On page 4461 of the RECORD——

The SPEAKER. But this is the Journal.

Mr. FITZGERALD. I wish to state the facts so that I can be understood. It is announced that I am paired with Mr. LANDIS of Indiana. I had no knowledge of that, and subsequently——

The SPEAKER. Pairs do not go into the Journal.

Mr. FITZGERALD. But, Mr. Speaker, I wish to have the Journal amended so as to show——

The SPEAKER. Pairs do not go into the Journal. They dwell only in the RECORD.

Mr. FITZGERALD. But the record of the votes is in the Journal. I wish, Mr. Speaker, to have that corrected. I suggest that on all the subsequent votes where I am recorded as not voting one way or the other that I shall be recorded as answering "present."

Mr. PAYNE. Mr. Speaker, I modify my motion in that respect, to approve the Journal with the correction my colleague has indicated; that the gentleman from New York shall be marked as "present" instead of voting.

The SPEAKER. Without objection, the motion will be modified in that respect. The question is on the motion of the gentleman from New York, as modified, that the Journal stand approved.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided, and there were—ayes 130, noes 74.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 267, nays 3, answered "present" 8, not voting 110, as follows:

YEAS—267.

Adair	Douglas	Humphreys, Miss.	Parker, S. Dak.
Adamson	Draper	James, Addison D.	Parsons
Aiken	Driscoll	James, Ollie M.	Patterson
Alexander, Mo.	Durey	Jenkins	Payne
Alexander, N. Y.	Dwight	Johnson, Ky.	Perkins
Allen	Ellerbe	Johnson, S. C.	Peters
Ames	Ellis, Oreg.	Jones, Va.	Pollard
Anthony	Englebright	Jones, Wash.	Pou
Ashbrook	Esch	Kahn	Pray
Bannon	Favrot	Keliher	Prince
Barclay	Ferris	Kennedy, Iowa	Randell, Tex.
Bartholdt	Fitzgerald	Kimball	Ransdell, La.
Bartlett, Ga.	Floyd	Kitchin, Claude	Rauch
Bartlett, Nev.	Focht	Knopf	Reeder
Bates	Foss	Knowland	Reid
Beale, Pa.	Foster, Ill.	Küstermann	Reynolds
Beall, Tex.	Foulkrod	Lafean	Richardson
Bede	Fowler	Lamar, Mo.	Roberts
Birdsall	Fuller	Lamb	Robinson
Bonynge	Fulton	Langley	Rodenberg
Booher	Gaines, Tenn.	Laning	Rothermel
Bowers	Gardner, Mich.	Lawrence	Rucker
Boyd	Garner	Leake	Russell, Mo.
Brodhead	Garrett	Lee	Russell, Tex.
Brownlow	Gillespie	Legare	Scott
Brundidge	Gillett	Lever	Sheppard
Burgess	Glass	Lewis	Sherley
Burke	Goebel	Lindbergh	Sherwood
Burleigh	Goldfogle	Littlefield	Sims
Burleson	Gordon	Lloyd	Slayden
Burnett	Granger	Longworth	Slemp
Burton, Ohio	Greene	Loud	Smith, Iowa
Butler	Gregg	Lovering	Smith, Mich.
Byrd	Hackett	Lowden	Smith, Tex.
Calder	Hackney	McCall	Snapp
Calderhead	Hall	McCreary	Southwick
Caldwell	Hamill	McGavin	Sparkman
Campbell	Hamilton, Iowa	McGuire	Sperry
Candler	Hamilton, Mich.	McHenry	Spight
Capron	Hamlin	McKinlay, Cal.	Stafford
Carter	Hammond	McKinley, Ill.	Stanley
Cary	Hardwick	McKinney	Stephens, Tex.
Caulfield	Hardy	McLachlan, Cal.	Sturgiss
Chapman	Harrison	McLain	Sulloway
Clark, Fla.	Haskins	McLaughlin, Mich.	Talbott
Clark, Mo.	Haugen	Macon	Tawney
Clayton	Hawley	Malby	Taylor, Ala.
Cockran	Hay	Mann	Taylor, Ohio
Conner	Heflin	Marshall	Thistlewood
Cook, Colo.	Helm	Maynard	Thomas, N. C.
Cook, Pa.	Henry, Conn.	Mondell	Thomas, Ohio
Cooper, Tex.	Henry, Tex.	Moon, Pa.	Tirrell
Cooper, Wis.	Higgins	Moon, Tenn.	Tou Velle
Cousins	Hill, Conn.	Moore, Tex.	Underwood
Cox, Ind.	Hill, Miss.	Morse	Volstead
Craig	Hitchcock	Mouser	Wanger
Cravens	Holliday	Mudd	Washburn
Crawford	Houston	Murdock	Watkins
Crumpacker	Howell, N. J.	Murphy	Webb
Cushman	Howell, Utah	Needham	Weeks
Dalzell	Hubbard, Iowa	Nelson	Wiley
Davidson	Hubbard, W. Va.	Nicholls	Williams
Dawson	Huff	Norris	Wilson, Ill.
De Armond	Hughes, N. J.	Nye	Wood
Denby	Hull, Iowa	O'Connell	Woodyard
Denver	Hull, Tenn.	Padgett	Young
Diekema	Humphrey, Wash.	Page	

NAYS—3.

Gill	Hobson	Sulzer

ANSWERED "PRESENT"—8.

Bennet, N. Y.	Dixon	Goulden	Howland
Currier	Gaines, W. Va.	Griggs	Shackleford

NOT VOTING—110.

Acheson	Burton, Del.	Edwards, Ga.	Gardner, N. J.
Andrus	Carlin	Edwards, Ky.	Gilhams
Ansberry	Chaney	Ellis, Mo.	Godwin
Barchfeld	Cocks, N. Y.	Fairchild	Graff
Bell, Ga.	Cole	Fassett	Graham
Bennett, Ky.	Cooper, Pa.	Finley	Gronna
Bingham	Coudrey	Flood	Haggott
Boutell	Darragh	Fordney	Hale
Bradley	Davenport	Fornes	Harding
Brantley	Davey, La.	Foster, Ind.	Hayes
Brick	Davis, Minn.	Foster, Vt.	Hepburn
Broussard	Dawes	French	Hinshaw
Brumm	Dunwell	Gardner, Mass.	Howard