By Mr. GAINES of Tennessee: Paper to accompany bill for relief of Hiram Binkley (previously referred to the Committee on Invalid Pensions)—to the Committee on Military Affairs.

By Mr. GOULDEN: Petition of Capt. J. W. Muller, favoring H. R. 7620, to establish a naval militia—to the Committee on Naval Affairs.

By Mr. GRAHAM: Petition of New York Board of Trade and Transportation, favoring increase of salaries of United States judges—to the Committee on Appropriations.

Also, petition of J. K. McKee Company and the Pittsburg Dry Goods Company, favoring amendment to the bankruptcy act as per the Sherley bill (H. R. 21929)—to the Committee on the Judiciary.

By Mr. HAMMOND: Petiton of Fred Hartmann and others, of Walters, Minn., against a tariff on tea and coffee—to the Committee on Ways and Means.

By Mr. HAYES: Petition of San Jose (Cal.) Grange, No. 10, Patrons of Husbandry, favoring establishment of postal savings banks and a parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. JOHNSON of South Carolina: Paper to accompany bill for relief of Charles Ladshaw—to the Committee on Pensions.

By Mr. KAHN: Petitions of N. E. Cornwell and 168 other residents of Eureka, Cal.; E. A. Pedersen and 95 other residents of Eureka, Cal.; D. Hugst and 94 other residents of Seattle, Wash.; and J. P. Prain and 83 other residents of Port Costa, Cal., favoring an exclusion law against all Asiatics save travelers, students, and merchants—to the Committee on Foreign Affairs.

By Mr. LOUD: Petition of Golden Grange, No. 977, of Auburn, Mich., against the parcels-post and postal savings banks system—to the Committee on the Post-Office and Post-Roads.

Also, petition of Sterling Grange, No. 1105, of Sterling, Mich., for a national highways commission and federal aid in construction of highways (H. R. 15837)—to the Committee on Agriculture.

By Mr. NELSON: Petition of merchants and shoe dealers of Madison, Wis., asking for repeal of duty on hides—to the Committee on Ways and Means.

Also, petition of citizens of Second Congressional District of Wisconsin, against passage of Senate bill 3490—to the Committee on the District of Columbia.

Also, petition of dealers and growers of beans, favoring present duty on beans—to the Committee on Ways and Means.

Also, petition of citizens of Blue Mound, Wis., favoring national highways commission—to the Committee on Agriculture.

Also, petition of business men of Stoughton and De Forest, Dane County, Wis., against parcels-post legislation in any form—to the Committee on the Post-Office and Post-Roads.

Also, petition of lawyers of Wisconsin, favoring an increase of salaries to judges of federal courts—to the Committee on Appropriations.

By Mr. OVERSTREET: Petition of Lumbermen's Club of Memphis, Tenn., against reduction of duty on lumber—to the Committee on Ways and Means.

Also, petition of New York Board of Trade and Transportation, favoring increase of salaries of United States judges—to the Committee on the Judiciary.

By Mr. ROBINSON: Paper to accompany bill for relief of George H. Preddy—to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: Petition of Kalmbach & Glenan and 28 others, of South Lyon, Mich., against a parcels-post and postal savings banks law—to the Committee on the Post-Office and Post-Roads.

Also, petition of P. A. Sherman and 36 others, of Michigan, against reduction of tariff on beans—to the Committee on Ways and Means.

By Mr. SWASEY: Petition of sundry citizens of Richmond, Me., favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Brownfield, Me., for a national highways commission and federal aid in construction of highways (H. R. 15837)—to the Committee on Agriculture.

By Mr. TIRRELL: Petition of Fred R. Trask and others, favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, petitions of Frank W. Denby and others and H. P. Harriman and others, for national highways commission and federal aid in construction of public roads (H. R. 15837)—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany bill for relief of William Nutt—to the Committee on Invalid Pensions.

Mr. VREELAND: Petition of residents of Cattaraugus County, N. Y., in favor of parcels post and postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. WHEELER: Petition of Rassilas Grange, No. 1187, for the creation of a national highways commission (H. R. 15837)—to the Committee on Agriculture.

By Mr. WILSON of Pennsylvania: Petition of Hon. F. H. Rockwell and 10 other residents of Tioga County, Pa., favoring establishment of a parcels-post and postal savings banks system—to the Committee on the Post-Office and Post-Roads.

By Mr. WOOD: Paper to accompany bill for relief of William S. Dumont—to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *January 29, 1909.*

Prayer by the Chaplain, Rev. Edward E. Hale.

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

The VICE-PRESIDENT. The Journal stands approved.

FRENCH SPOLIATION CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the findings of fact and the conclusions of law filed under the act of January 20, 1885, in the French spoliation claims, set out in the annexed findings by the court relating to the vessel schooner *Rebecca*, Mildmay Smith and John Hall, master (H. Doc. No. 1382), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16954) to provide for the Thirteenth and subsequent decennial censuses, and recedes from its disagreement to the amendments of the Senate Nos. 24, 26, and 27, and agrees to the same.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5473) to authorize the Secretary of the Navy to mitigate or remit loss of rights of citizenship in certain cases.

The message further announced that the Speaker of the House had appointed Mr. GAINES of West Virginia and Mr. RUCKER of Missouri as tellers on the part of the House in pursuance of the provisions of Senate concurrent resolution No. 57, providing for the counting of the electoral votes for President and Vice-President on February 10, 1909.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 25396. An act for relief of applicants for mineral surveys; and

H. J. Res. 226. Joint resolution authorizing the Secretary of War to loan certain tents for use at the festival encampment of the North American Gymnastic Union, to be held at Cincinnati, Ohio, in June, 1909.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the Asiatic Exclusion League of North America, remonstrating against the suspension of all legislation by the people of California toward the segregation of the children of Asiatics in the public schools and the ownership of land by aliens in that State, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Fifth National Encampment, United Spanish War Veterans, of Hartford, Conn., praying that an appropriation be made for raising the wreck of the battle ship *Maine*, which was referred to the Committee on Naval Affairs.

He also presented a petition of the West Wisconsin Conference of the Methodist Episcopal Church of La Crosse, Wis., praying for the enactment of legislation to prohibit Sunday banking in post-offices in the handling of money orders and registered letters, and also to require all persons engaged in interstate commerce to give those who work on Sunday a full rest day during the succeeding week, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CULLOM presented a petition of the board of trustees of the Newberry Library, in the State of Illinois, praying for the repeal of the duty on books and other printed matter, and remonstrating against any diminution of the privileges that libraries now possess, which was referred to the Committee on Finance.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. FRYE presented a petition of sundry citizens of the State of Maine and a petition of sundry citizens of West Baldwin, Me., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. PERKINS presented petitions of sundry citizens of San Jose, Cal., praying for the enactment of legislation to prohibit the immigration of all Asiatics into the United States except merchants, students, and travelers, and remonstrating against the enactment of legislation to extend the right of naturalization, which were referred to the Committee on Immigration.

He also presented a memorial of the Manufacturers and Producers' Association of California, of San Francisco, Cal., and a memorial of the Merchants' Exchange of Oakland, Cal., remonstrating against any change being made in the provision for the construction of a collier at the Mare Island Navy-Yard, in that State, which were referred to the Committee on Naval Affairs.

Mr. GALLINGER presented a memorial of sundry citizens of Washington, D. C., remonstrating against any appropriation being made for the maintenance of playgrounds in any of the improved public parks in the District of Columbia, which was referred to the Committee on Appropriations.

He also presented a memorial of sundry property owners residing on K street NW., Washington, D. C., remonstrating against the enactment of legislation to incorporate the Washington, Baltimore and Annapolis Railway Company, which was referred to the Committee on the District of Columbia.

He also presented a memorial of the North Capitol and Eckington Citizens' Association, of the District of Columbia, remonstrating against the enactment of legislation to extend the tracks of the Washington Railway and Electric Company through Truxtun Circle in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. WARREN presented a petition of the Shenandoah Valley Fruit Growers' Association of the State of Wyoming, praying for the enactment of legislation to prohibit the manufacture, sale, or transportation of adulterated or misbranded fungicides, Paris green, etc., and for regulating traffic therein, which was referred to the Committee on Agriculture and Forestry.

Mr. BROWN presented a petition of the Commercial Club of Beatrice, Nebr., praying for the enactment of legislation granting travel pay to railway postal clerks, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Grain Exchange of Omaha, Nebr., praying for the adoption of certain amendments to the present interstate-commerce law relative to the limitation of power of common carriers to impose any freight rate upon the public, which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Grain Exchange of Omaha, Nebr., praying for the enactment of legislation providing the appointment of a commission to investigate the grain trade of the country relative to the first handling at terminal markets and the exportation of grain and kindred matters, which was referred to the Committee on Agriculture and Forestry.

He also presented an affidavit to accompany the bill (S. 8204) granting an increase of pension to Mary E. Kellogg, which was referred to the Committee on Pensions.

He also presented sundry affidavits to accompany the bill (S. 8205) granting an increase of pension to Osmund Mikesell, which were referred to the Committee on Pensions.

Mr. RAYNER presented a petition of Local Grange, Patrons of Husbandry, of Beltsville, Md., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. PAGE presented a petition of Passumpsic Valley Grange, No. 322, Patrons of Husbandry, of Passumpsic, Vt., praying for the enactment of legislation to create a national highways commission, which was referred to the Committtee on Agriculture and Forestry.

MINING TECHNOLOGY BRANCH IN THE GEOLOGICAL SURVEY.

Mr. DICK. I present a brief in the form of a memorial having reference to the joint resolution (S. R. 35) to provide for a mining technology branch in the Geological Survey. I wish to say that at some early day, when it does not interfere with other business which has preference uuder the Senate rules, I shall ask the consideration of the joint resolution by the Senate. I ask that the memorial lie on the table and that it be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

[Telegram.]

INDIANAPOLIS, IND., *January 26, 1909.*

Hon. CHARLES DICK,
Chairman Committee Mines and Mining, U. S. Senate,
Washington, D. C.:

There is pending before your honorable body a bill to create a bureau of mines and mining. Through you and to the Members of the United States Senate we, the chosen representatives of the United Mine Workers of America, in convention assembled, numbering nearly fourteen hundred, and speaking for over 600,000 mine workers and their families, ask for a speedy consideration and passage of the measure to create a bureau of mines and mining.

UNITED MINE WORKERS OF AMERICA,
T. L. LEWIS, *President.*
JOHN P. WHITE, *Vice-President.*
W. D. RYAN, *Secretary and Treasurer.*

REPORTS OF COMMITTEES.

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

A bill (S. 8712) to authorize the Secretary of the Interior to issue patents for town lots in the village of Neah Bay, Wash. (Report No. 874); and

A bill (S. 8781) to authorize the Secretary of the Interior to allot all the remaining unallotted lands within the Makah Indian Reservation, and to provide for the conservation and the sale of timber on such reservation (Report No. 875).

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 8187) to change the name of the Washington Hospital for Foundlings, reported it without amendment and submitted a report (No. 876) thereon.

Mr. CARTER, from the Committee on the District of Columbia, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (H. R. 17297) authorizing the extension of New York avenue from its present terminus near Fourth street NE. to the Bladensburg road (Report No. 877); and

A bill (S. 6852) for the relief of Walter F. Rogers, executor of the estate of Sarah Edwards, late owner of lot No. 116, square No. 628, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia (Report No. 878).

Mr. OVERMAN, from the Committee on Military Affairs, to whom was referred the bill (H. R. 10752) to complete the military record of Adolphus Erwin Wells, reported it with an amendment and submitted a report (No. 879) thereon.

Mr. CURTIS, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 16743) for the removal of the restrictions on alienation of lands of allottees of the Quapaw Agency, Okla., and the sale of all tribal lands, school, agency, or other buildings on any of the reservations within the jurisdiction of such agency, and for other purposes, reported it with an amendment and submitted a report (No. 880) thereon.

Mr. BURKETT, from the Committee on the District of Columbia, to whom was referred the bill (S. 4396) to provide additional land for the Jackson school, in the District of Columbia, submitted an adverse report (No. 881) thereon, which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the following bills, reported them each with an amendment and submitted reports thereon:

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 (Report No. 883); and

A bill (S. 7657) to amend the act approved May 28, 1908, entitled "An act to regulate the employment of child labor in the District of Columbia" (Report No. 882).

Mr. BULKELEY, from the Committee on Military Affairs, to whom was referred the bill (H. R. 7006) to correct the military record of George W. Hedrick, reported it without amendment and submitted a report (No. 884) thereon.

Mr. McCREARY, from the Committee on Military Affairs, to whom was referred the bill (S. 3175) to correct the military record of Irvine Agee, reported it with an amendment and submitted a report (No. 886) thereon.

Mr. HEMENWAY, from the Committee on Appropriations, to whom was referred the amendment submitted by Mr. WARNER on the 21st instant, proposing to appropriate $25,000 to increase the limit of cost for the public building at Maryville, Mo., intended to be proposed to the sundry civil appropriation bill, asked to be discharged from its further consideration, and that

it be referred to the Committee on Public Buildings and Grounds, which was agreed to.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (H. R. 25805) to reenact and to amend sections 3646 and 3647 of the Revised Statutes, asked to be discharged from its further consideration, and that it be referred to the Committee on Post-Offices and Post-Roads, which was agreed to.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 7379) to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, reported it with amendments and submitted a report (No. 887) thereon.

HEARINGS BEFORE COMMITTEE ON INDIAN AFFAIRS.

Mr. CLAPP, from the Committee on Indian Affairs, reported the following resolution (S. Res. 269), which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Indian Affairs be authorized to have printed hearings before that committee.

INDIAN RIVER BRIDGE, FLORIDA.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 26073) to legalize a bridge across Indian River North, in the State of Florida, to report it favorably without amendment. I desire to call the attention of the senior Senator from Florida to the bill.

Mr. TALIAFERRO. I ask unanimous consent for the consideration of the bill just reported by the Senator from Washington.

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

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

ALASKA SHORT LINE RAILROAD.

Mr. PILES. I am directed by the Committee on Territories, to whom was referred the bill (S. 7781) to extend the time for the construction and beginning construction of the Alaska Short Line Railroad in Alaska, to report it favorably with an amendment, and I submit a report (No. 885) thereon. I ask for the present consideration of the bill.

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

The Secretary proceeded to read the bill.

Mr. KEAN. I think the bill had better go over.

The VICE-PRESIDENT. The bill will go to the calendar.

FIFTH REGIMENT MARYLAND NATIONAL GUARD.

Mr. SMITH of Maryland. I am directed by the Committee on the District of Columbia, to whom was referred the joint resolution (H. J. Res. 200) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the court-house of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District, to report it favorably without amendment, and I submit a report (No. 873) thereon. I ask for the present consideration of the joint resolution.

The Secretary read the joint resolution, and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

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

Mr. GALLINGER. There is on the calendar a joint resolution of like character, recently reported, which should be indefinitely postponed. I move that the joint resolution (S. R. 113) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the court-house of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia be indefinitely postponed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. CULLOM introduced a bill (S. 8928) granting an increase of pension to Mary H. Wham, which was read twice by its title and referred to the Committee on Pensions.

Mr. FLINT introduced a bill (S. 8929) withdrawing from entry and sale and granting unto the city of Los Angeles, in the State of California, certain lands therein described, which was read twice by its title and referred to the Committee on Public Lands.

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

A bill (S. 8930) granting an increase of pension to Jacob Both; and

A bill (S. 8931) granting an increase of pension to Nora C. Calhoun.

Mr. DEPEW introduced a bill (S. 8932) to amend the record of David H. Dickinson, which was read twice by its title and referred to the Committee on Military Affairs.

He also introduced a bill (S. 8933) regulating the pay of mail routes on Long Island, New York, operated by steam or electric power, which was read twice by its title and referred to the Committee on Post-Offices and Post-Roads.

Mr. PERKINS introduced a bill (S. 8934) for the relief of certain officers of the late Second Regiment Louisiana Volunteer Cavalry, which was read twice by its title and, with the accompanying paper, referred to the Committee on Military Affairs.

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

A bill (S. 8935) for the relief of the heirs or legal representatives of Joseph Ezernack, deceased (with an accompanying paper); and

A bill (S. 8936) for the relief of the heirs or legal representatives of Eugene Senette, deceased.

Mr. HEMENWAY introduced a bill (S. 8937) to remove the charge of desertion from the military record of Dale O. Stewart, which was read twice by its title and referred to the Committee on Military Affairs.

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

A bill (S. 8938) granting a pension to Rose A. Doyle; and

A bill (S. 8939) granting a pension to Anna Schuler.

Mr. du PONT introduced a bill (S. 8940) granting an increase of pension to William H. Douglas, which was read twice by its title and referred to the Committee on Pensions.

Mr. HEYBURN introduced a bill (S. 8941) providing the manner of making payments for water rights under reclamation act of June 17, 1902, which was read twice by its title and referred to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. BAILEY (by request) introduced a bill (S. 8942) granting a pension to Franklin A. Alverson, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CURTIS introduced a bill (S. 8943) for the relief of David H. Lewis, which was read twice by its title and, with the accompanying papers, referred to the Committee on Post-Offices and Post-Roads.

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

A bill (S. 8944) granting an increase of pension to Caroline W. Tanner;

A bill (S. 8945) granting an increase of pension to George W. Briggs;

A bill (S. 8946) granting an increase of pension to Charles H. Henshaw;

A bill (S. 8947) granting an increase of pension to Samuel H. Luther;

A bill (S. 8948) granting an increase of pension to William McClarance; and

A bill (S. 8949) granting an increase of pension to Andrew Marshall.

Mr. CUMMINS introduced a joint resolution (S. R. 121) directing the selection of a site and the erection of a pedestal for a bronze statue of William B. Allison in Washington, D. C., which was read twice by its title and referred to the Committee on the Library.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CULLOM submitted an amendment proposing to appropriate $2,830.79 for the annual share of the United States for the maintenance of the International Sanitary Bureau for the year 1910, intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. RAYNER submitted an amendment proposing to appropriate $250,000 for the construction of two concrete piers at the Naval Academy, Annapolis, Md., etc., intended to be proposed

by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. TALIAFERRO submitted an amendment proposing to appropriate $2,000,000 toward the construction of a dry dock at the navy-yard, Pensacola, Fla., etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $15,000 to complete the marine railway at the naval station, Key West, Fla., etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. CLAPP submitted an amendment authorizing the Secretary of the Interior to grant lands adjacent to any railway company owning or operating a line of railway in any Indian reservation for reservoirs, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. TELLER submitted an amendment authorizing the Secretary of the Interior to expend from the funds of the Southern Ute Indians sufficient moneys to purchase a perpetual water right for the purpose of irrigating not less than 10,000 acres of land in the Southern Ute Indian Reservation in Colorado, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment providing that whenever the Indian school at Grand Junction, Colo., shall be discontinued by order of the Secretary of the Interior the lands now used and occupied shall become the property of the State of Colorado for educational purposes, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. PILES submitted an amendment proposing to increase the appropriation for the construction and maintenance of military and post roads, bridges and trails in Alaska from $350,000 to $1,000,000, intended to be proposed by him to the army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. DIXON submitted an amendment proposing to appropriate $45,000 to increase the limit of cost for the erection of a public building at Missoula, Mont., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. BURROWS submitted an amendment providing that after June 30, 1909, clerks and carriers at first-class post-offices shall be promoted successively to the sixth grade, and clerks and carriers at second-class post-offices shall be promoted successively to the fifth grade, intended to be proposed by him to the post-office appropriation bill, which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

Mr. DICK submitted an amendment proposing to appropriate $85,000 for the pay of all letter carriers in first-class post-offices eligible for promotion to the sixth grade, etc., intended to be proposed by him to the post-office appropriation bill, which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

He also submitted an amendment proposing to appropriate $150,000 for the pay of all post-office clerks eligible for promotion to the sixth grade, etc., intended to be proposed by him to the post-office appropriation bill, which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

INSPECTION AND GRADING OF GRAIN.

Mr. BOURNE submitted an amendment intended to be proposed by him to the bill (S. 382) to provide for the inspection and grading of grain entering into interstate commerce and to secure uniformity in standards and classification of grain, and for other purposes, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

CANAL TO THE GULF OF MEXICO.

Mr. MILTON submitted the following concurrent resolution (S. C. Res. 82), which was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made to ascertain the most feasible and practicable route to build a canal or inland waterway on the shores of the Gulf of Mexico connecting St. Andrews Bay, in the State of Florida, and the Mississippi River near New Orleans, in the State of Louisiana, with a view to determining the advantage, best location, and probable cost of such canal or inland waterway, and to submit a plan and an estimate for such improvements.

DISTRICT JAIL, WORKHOUSE, ETC.

Mr. GALLINGER. Mr. President, at the last session we passed legislation empowering the President to appoint a commission to investigate the jail, workhouse, and so forth, of the District of Columbia. A commission, consisting of Mr. Justice Stafford, of the district court, Mr. John Joy Edson, and Mr. Robert V. La Dow, was appointed by the President. After visiting various jails, workhouses, and penitentiaries in many of the cities of the country, that commission has made a very illuminating report, which, if the recommendations are adopted, will result in removing from the District of Columbia a condition that is a reproach to civilization.

The document was ordered printed in the usual number, but there is a very great demand coming in for it and the commission desires additional copies. I ask unanimous consent that 1,000 additional copies of the document be printed, 500 for the commission and 500 copies for the document room of the Senate.

There being no objection, the order was reduced to writing and agreed to, as follows:

Ordered, That 1,000 additional copies of Senate Document No. 648, Sixtieth Congress, second session, "Jail, workhouse, etc., in the District of Columbia," 500 for the use of the Senate document room and 500 for the use of the commission appointed to investigate the jail, workhouse, etc., in the District of Columbia, be printed.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

Mr. FORAKER. Mr. President, I gave notice yesterday that at the conclusion of the routine morning business to-day I would move to take up the bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D of the Twenty-fifth United States Infantry who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof.

I overlooked the fact that the Senator from Oregon was proceeding with the omnibus claims bill under a unanimous consent agreement. In view of that, I will wait until he is through with that bill before making the motion.

ACCIDENTS TO RAILROAD EMPLOYEES.

The VICE-PRESIDENT. The morning business is closed, and the Chair lays before the Senate a resolution coming over under the rule, which will be read.

The Secretary read Senate resolution 267, submitted on the 27th instant by Mr. CLARKE of Arkansas, as follows:

Resolved, That the Interstate Commerce Commission be, and it hereby is, directed to send to the Senate a statement showing the number of railroad employees killed and injured each year since June 30, 1901, from the following causes:

1. Lack of, insecure, and improperly applied sill steps;
2. Inefficient and improperly applied hand brakes;
3. Insecure and improperly applied ladders;
4. Lack of, insecure, and improperly applied roof hand holds or grab irons; and
5. Lack of, insecure, and improperly applied running boards.

Mr. HALE. Mr. President, there is so much of labor and cost involved in the resolution that I think the committee having charge of such matters should consider it. Therefore I move that it be referred to the Committee on Interstate Commerce.

Mr. CLARKE of Arkansas. Mr. President, it was not my purpose, in the introduction of the resolution, to call for the employment of additional clerks or to call for the collection of information on a new subject. The fact is that the Interstate Commerce Commission are in possession of the information called for by the resolution. But I realize the force of the suggestion made by the Senator from Maine, and I have no objection to the resolution going to the Committee on Interstate Commerce, with the understanding that it will make a timely investigation as to whether or not it will involve an additional outlay of money in the employment of new clerks. If it does not, the information called for will be very useful in legislating upon the question of the relation between the employees and employers of the railroads of the country.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine that the resolution be referred to the Committee on Interstate Commerce.

The motion was agreed to.

COUNTING OF ELECTORAL VOTES.

The VICE-PRESIDENT appointed Mr. BURROWS and Mr. BAILEY tellers on the part of the Senate, authorized by the concurrent resolution of the two Houses providing for the opening and counting of the electoral votes for President and Vice-President of the United States on February 10, 1909.

CITIZENSHIP OF NAVAL DESERTERS.

Mr. PERKINS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5473) to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same.

GEORGE C. PERKINS,
J. H. GALLINGER,
B. R. TILLMAN,
Managers on the part of the Senate.
ERNEST W. ROBERTS,
A. F. DAWSON,
L. P. PADGETT,
Managers on the part of the House.

The report was agreed to.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. M. C. Latta, one of his secretaries, announced that the President had on this day, January 29, 1909, approved and signed the following bill:

S. 2024. An act to amend an act authorizing the Commissioners of the District of Columbia to grant to the Veteran Volunteer Firemen's Association use of certain property in the city of Washington, approved March 2, 1891.

HOUSE BILLS REFERRED.

H. R. 25396. An act for relief of applicants for mineral surveys was read twice by its title and referred to the Committee on Public Lands.

H. J. Res. 226. Joint resolution authorizing the Secretary of War to loan certain tents for use at the festival encampment of the North American Gymnastic Union, to be held at Cincinnati, Ohio, in June, 1909, was read twice by its title and referred to the Committee on Military Affairs.

OMNIBUS CLAIMS BILL.

The VICE-PRESIDENT. The Chair lays before the Senate House bill 15372, under the unanimous-consent agreement.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15372) for the allowance of certain claims reported by the Court of Claims under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the "Bowman" and the "Tucker" acts.

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from Oregon [Mr. FULTON].

Mr. KEAN. Mr. President, I desire to call attention to the last item in the bill that was put in yesterday, the Hall case. I have since obtained additional information in regard to that claim. I find it has been in the Supreme Court of the United States; and Mr. Justice Peckham, in deciding the case, said:

> Under the holdings of the Court of Claims and of this court, it is perfectly apparent that the result of the passage of the act of February 13, 1895, was simply to bestow a pure gratuity to the amount of the difference between the contract price and the board rates upon those persons included within its provisions. There is no element of a legal or an equitable claim, within the proper meaning and signification of those words, on the part of any of those who will profit by the act of February 13, 1895, against the municipal authorities of the District. The act bestowed a pure and simple gift.

I call the attention of the Senate to the fact that in 1895, Mr. Dockery, of Missouri, when the claim was up in the House, presented a statement of the number of claims that would be opened if this class of claims were allowed, and that it would put a burden on the District of Columbia of more than a million and a half dollars.

I do not think this is a proper claim to be allowed. It opens a class of cases that ought not to be passed on by Congress at this time.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from New Jersey yield to the Senator from Oregon?

Mr. KEAN. Certainly.

Mr. FULTON. I regret that I was unable to hear the Senator as to the distinct ground of his objection to the item.

Mr. KEAN. I object to the item because it opens a large class of claims against the District of Columbia that have been in controversy for a long number of years and will entail on the District of Columbia an expense of about a million and a half dollars; and the Supreme Court of the United States has decided against it.

With the permission of the Senate, I will have incorporated in the RECORD the report of the auditor of the District of Columbia on these claims, made in 1902.

The matter referred to is as follows:

Letter of the auditor of the District of Columbia to the Commissioners of the District of Columbia in relation to bill for the relief of Julia L. Hall, being S. 1308, and also H. R. 1727, Fifty-seventh Congress, first session, now pending as No. 615 on the Private Calendar of the House of Representatives.

OFFICE OF THE AUDITOR OF THE DISTRICT OF COLUMBIA,
Washington, March 17, 1902.

GENTLEMEN: I was surprised beyond measure to read in the proceedings of Congress, as reported in the newspapers of the 13th instant, a statement to the effect that the Senate had, on that day, passed a bill (S. 1308, first session Fifty-seventh Congress, for the relief of Mrs. Julia L. Hall) to pay the sum of $8,664.19, in satisfaction of the claim of "Joseph T. H. Hall, * * * now deceased, against the District of Columbia, * * * being the amount found due him by the judgment of the Court of Claims under date of June 22, 1895, under the provisions of the act of Congress approved February 13, 1895."

My surprise was due to the fact that a measure of so much importance to the District of Columbia had been introduced in Congress and subsequently passed through all the successive legislative stages to final enactment, in so far as the Senate was concerned, without any notification whatever to the commissioners. As custodians of the archives of the Board of Public Works they are in passession of the facts respecting this claim, and as representatives of the Government it was reasonable to expect that before action was taken they would be heard upon the question of its title to the favorable consideration of Congress.

The claim of Joseph T. H. Hall is one of a large class which has occupied much of my time and attention during the last decade, and in order that the questions at issue in connection therewith may be understood I quote from a report which I had the honor to submit to you under date of November 30, 1898, as follows:

"When the board of public works was legislated out of office, June 20, 1874, it left as a legacy to its successor in the municipal control of improvements a large indebtedness, for the settlement of which a board of audit, consisting of the then First and Second Comptrollers of the Treasury, was created. The awards of this board proving unsatisfactory in a number of cases, it was summarily abolished March 14, 1876, with no provision for completing its unfinished work. Matters remained thus in abeyance until the passage of the act of June 16, 1880, which conferred jurisdiction upon the Court of Claims for the adjustment of all outstanding claims against the board of public works and the contemporary and next succeeding government of the District of Columbia.

"The consideration of claims presented under this act developed the fact that a large proportion of the claimants had received, either from the board of public works or from the board of audit, or from both, payments at 'board rates,' which were in excess of their contract rates, and the Court of Claims gave judgment in favor of the District for counterclaims to the amount of these excessive allowances. Not satisfied with this verdict, claimants appealed to the Supreme Court of the United States, but were again defeated, as the decision of the Court of Claims was sustained.

"Failing thus to secure judicial sanction of these unearned drafts upon the Public Treasury, they next sought congressional approval, urging their suit from year to year, but in vain, until February 13, 1895, when they compassed the passage of an act granting new trials in their cases and making it mandatory upon the Court of Claims in the rehearing to allow them 'board rates,' notwithstanding the fact that these rates were from 50 to 150 per cent higher than the prices at which they had agreed to work for the Government, and which were plainly written in their contracts.

"This legislative enormity held its place upon the statute books for more than two years, until March 3, 1897, when Congress, awaking to a realization of its utterly inequitable requirements, repealed it by an overwhelming vote, and vacated all judgments rendered in accordance with its provisions that had not already been paid. As this decisive action upon the issues involved was only taken after frequent discussions by the members of the several committees of Congress, attorneys for the claimants, and representatives of the District of Columbia, it was reasonable to hope that it might be accepted as a final settlement."

The claim which has thus received senatorial sanction in the passage by that body of bill S. 1308 represents one of these vacated and discredited judgments and is therefore a successful attempt, in so far as the Senate is concerned, to reverse the action of Congress of March 3, 1897, when with overwhelming unanimity it repealed the act of February 13, 1895, and placed upon every unpaid judgment thereunder the seal of its solemn reprobation and condemnation.

In my annual report for 1896 I took the first step for the repeal of this act, and in my argument to that end cited as illustrating the inequitable character of this statute the cases of two contractors who had profited by its improvidence to the extent of favorable action in referee's reports. One of these illustrations was the case under consideration, in respect of which I wrote as follows:

"The second case is that of a contractor who, having completed his work, received a full and final settlement therefor, but years afterwards, averring that the certificates in which he was paid were sold by him at less than their face value, he brought suit under the act of June 16, 1880, to recover the difference. The court held that as the sale was his own voluntary act, he, and not the District, must lose the discount. The question of 'board rates' did not enter into the case at all, but because the act of February 13, 1895, declares that 'board rates' shall be allowed to all contractors who sued under the act of June 16, 1880, this contractor, regardless of the fact that his suit had no relation whatever to those rates, sets up a claim therefor and has been awarded by the referee $8,664.19, amounting, with interest, to nearly $15,000, and constituting an absolute gratuity for which no justification exists outside the technicalities of this unique statute."

As the act of February 13, 1895, was mandatory in its requirement that the additional or "board rates" should be allowed to every contractor who had received contract rates, provided only that he had brought suit under the act of June 16, 1880, and regardless of the fact that the suit under the latter act had no reference to board rates, the Court of Claims had no option, and in the case of Contractor Hall rendered judgment for the difference between contract prices and board rates in the sum of $8,664.19. From this judgment for board rates alone the District could not appeal, but fortunately the Court of Claims went further and allowed interest from January 1, 1877. In this allowance the alert and able representative of the District of Columbia,

Col. R. A. Howard, special assistant attorney, saw his opportunity, and made the point that as the allowance of board rates in excess of contract rates by the act of February 13, 1895, constituted a gratuity, interest could not be claimed prior to the date of the act itself. The Court of Claims overruled this contention, but he appealed to the *Supreme Court of the United States*. This august body entertained appeals in the cases of Contractor Hall and three others of like character, and *under date of February 15, 1897, reversed the Court of Claims*, sustaining thereby the position of Special Assistant Attorney Howard. *Mr. Justice Peckham delivered the opinion of the court, and in passing upon the question of interest* took occasion also to characterize the claims themselves, *including* that of Contractor Hall, as follows:

"Under the holdings of the Court of Claims and of this court it is perfectly apparent that the result of the passage of the act of [February 13] 1895 was simply to bestow a pure gratuity to the amount of the difference between the contract price and the board rates upon those persons included within its provisions. *There is no element of a legal or an equitable claim*, within the proper meaning and signification of those words, on the part of any of those who will profit by the act of [February 13] 1895 against the municipal authorities of the District. The act bestowed a pure and simple gift."

The report of the Committee on Claims, which accompanied Senate bill 1308, opens with a biographical sketch of the late claimant and his wife, which is interesting from a personal and literary standpoint, but, if I may be pardoned for differing with its honorable author, is irrelevant and without value as a demonstration of the justice or equity of the claim. Its averment that the contractor had formerly been a good soldier and that his widow's pension is only $8 per month is doubtless true, but it would be more in keeping with a memorial for increase of pension from the United States Treasury than as an argument for extra compensation from District revenues under a contract for breaking and spreading stone in the construction of a macadam roadway.

Further on, in its résumé of the judicial history of the case, the report frankly states that but for the fact of interest being allowed by the Court of Claims, thus giving the District opportunity to appeal to the United States Supreme Court, the judgment of the Court of Claims would have been paid, but it is strangely silent as to the ground upon which interest was refused by the Supreme Court. Had it contained this information the bill to which it relates would surely never have passed the Senate of the United States; and as I have now herein supplied the omission by quoting from the deliverance of Mr. Justice Peckham, and have shown conclusively that Senate bill 1308 *bestows a pure and simple gratuity, for which there is not a shadow of justification in equity or in law*, it is not unreasonable to believe that the House of Representatives will withhold its sanction from the bill aforesaid, inasmuch as its enactment would place upon Congress the stigma of authorizing an unearned draft upon the Public Treasury.

Very respectfully,

J. T. PETTY,
Auditor, District of Columbia.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

Mr. FULTON. Mr. President, this item was inserted on the motion of the senior Senator from Colorado [Mr. TELLER], whose explanation seemed to make it clear that it is a just and meritorious claim. It has been some months since I went over the facts, and they are not very clear in my mind. I will ask the Senator from Colorado, as he is more familiar with the claim, to explain it.

Mr. TELLER. Mr. President, Captain Hall was a resident of this city. He is now dead. He made a contract with the proper authorities for furnishing a certain quantity of stone from a quarry that he owned in the immediate neighborhood. He furnished the stone according to the contract. He was to have been paid in money. When the proper time came for payment they could not pay him in money, and turned over to him a lot of bonds, I do not know but that they might be called warrants, which he sold at a discount. Then he brought his suit in the Court of Claims, and the Court of Claims rendered a judgment in his favor for the amount that was due him for the delivery of the stone. He claimed also that he was entitled to the loss he had sustained by accepting the warrants instead of cash. The claim was for what the Government had not paid him.

The court rendered a decision and with it gave him interest on the debt the District Government had not paid him. The case was reversed on the ground that he was not entitled to interest. But the judgment that is here now is not for interest, it is not for discount on notes or warrants, but it is for the stone he delivered under a contract and for which he was not paid.

Mr. KEAN. If the Senator will allow me——

Mr. TELLER. In a minute. The matter has been before Congress for a good many years. It outlived Captain Hall, and I presume it will outlive his wife, if she is not very long lived at least.

Mr. KEAN. I hope it will outlive everyone and never be paid.

Mr. TELLER. There was never any reason presented to the Senate and there is none now why the claim should not be paid. It is as honest a debt as any man ever owed at a bank. The judgment is not on the discount—the judgment is for materials furnished.

Mr. KEAN. Mr. President——

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

Mr. TELLER. I think, after having examined this case for the last fifteen years, I know as much about it as the Senator from New Jersey does.

Mr. KEAN. Probably the Senator knows more.

Mr. TELLER. I have not come prepared to give all the data on a matter that has been pending here and has passed out of my knowledge. I know that this is a claim that ought to be paid. It has been reported favorably by not only the Court of Claims, but it has been reported favorably by the Committee on Claims.

Mr. KEAN. And decided adversely by the Supreme Court of the United States.

Mr. TELLER. This case has never been before the Supreme Court.

Mr. KEAN. I beg the Senator's pardon.

Mr. TELLER. It was decided on the ground that there was no interest to be allowed. That is the only point that was decided. They reversed the case because it allowed interest. There is no interest included in the claim as it is now made.

Mr. President, this is all I can say about it. If, after the committee has disposed of these cases, one Senator who knows nothing about the case is to be heard against the committee and against the Court of Claims, and, if I was the Senator having charge of the bill, I think I would abandon it.

Mr. GALLINGER. Mr. President, this is rather a serious matter. The question before the Supreme Court was the question of interest, but the Supreme Court took occasion, or Mr. Justice Peckham did, to characterize the claim and all claims similar to it as being without merit.

I am not prepared this morning to go into a discussion of this question, and I think it ought to go over. I find that it was discussed at length in the House in 1897. I want to go over that discussion, Mr. President, and see precisely what was said at that time.

There are a great many claims against the District of Columbia pending—old claims relating to contracts and to change of grade in the District—but they have as a rule been decided adversely. If they are to be reopened, the District of Columbia will be bankrupted. I have reason to believe that if this claim is allowed, the District of Columbia will have claims on its hands of a similar nature involving possibly $2,000,000.

If it is a just claim it ought to be paid, but with all due deference to the distinguished Senator from Colorado, who is in the habit of looking carefully into matters and who always has the courage of his convictions, and I have no doubt believes precisely what he says regarding this matter, I think we ought to hold our breath and look into it with great care, to ascertain the exact questions involved and determine, if we can, the justice and equity of the claim.

It seems that Captain Hall entered into a contract to do certain work for contract prices, but twenty-three years afterwards, because of certain legislation, the claim was set up that he ought to have been paid what was known as "board rates." Again, he accepted the certificates that were presented to him and receipted in full—at least, I assume he receipted. He accepted the certificates and afterwards sold them at a discount.

Ordinarily, if I went into a transaction of that kind, I should not go back on the man I dealt with because the securities were not as good as they ought to have been. The District was in a peculiar situation at that time, and it made the best terms it could with those who had claims against it for contracts that had been entered into for public works.

I am not this morning prepared to say whether this claim ought to be allowed or not, but I think, Mr. President, that no action should be taken upon it this morning, because we can reach it when it goes into the Senate by a motion to reconsider. We can then discuss the matter to our satisfaction. It may be that we will all agree that it ought to be paid, but I want at least to enter a caveat to the extent that I wish to look into it, and perhaps I will have something to say about it before it finally goes into the bill.

Mr. TELLER. Mr. President, this is an old claim, but it is a claim that has been before Congress every year since the claim arose. It has received the attention of not only the Committee on Claims, but it has received the attention of the court under the control and belonging to the government of this jurisdiction. That court rendered a judgment in Captain Hall's favor. They erred only in rendering a judgment in favor of interest in addition to the other, and on that the Supreme Court reversed the decision. That is all the court had to do with the case, and if the court went beyond that they went out of their jurisdiction. It was a mere question, "Was the Captain entitled to interest on that claim?" The court said he was not, and they did not reverse the judgment except in that particular.

Mr. President, if every claim that comes up in the bill after it has passed the committee is to be submitted to the Senate and discussed in the Senate, there will be no end to the discussion; and it seems to me a Senator who gets up and says he knows nothing about it, and does not know whether it is right

or not, ought not to be heard in preference to the committee and the court itself which decided it, and to which it was referred by the friends of the administration and Government.

Mr. GALLINGER. Mr. President, I beg to say that I have not admitted that I know nothing about it. I have in my hand a letter from the auditor of the District of Columbia which tells a good deal about this claim; but as between the views of the auditor of the District of Columbia and the Senator from Colorado and the committee that reported it, I want to try to ascertain the facts, and I think I am entitled to that degree of consideration in this matter. I have not interfered with this bill, Mr. President. In my judgment there are hundreds of claims in the bill that might well have been contested in this Chamber. I am of opinion that it is about time Congress stopped even giving consideration to a large class of claims such as are in the bill. But I did not feel it incumbent upon me, being busy with other matters, to halt the consideration of the bill, and I have not done so. However, as chairman of the Committee on the District of Columbia, having some responsibilities in that regard, I think I have a right to be heard after I have made an investigation of a claim that is of very serious consequence to this District and that if allowed would involve the District in an expenditure that it can ill afford to make. If I find it is a just claim, I shall have nothing more to say about it.

The VICE-PRESIDENT. The question is on the pending amendment offered by the Senator from Oregon [Mr. FULTON].

Mr. FULTON. Which amendment is it to which the Chair now refers?

The VICE-PRESIDENT. The amendment proposed by the Senator from Oregon will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

Section 14 of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887——

Mr. FULTON. Mr. President, I desire to change the amendment I offered, proposing to amend the Tucker and Bowman acts, and, without having it read, I think I can explain it. The amendment as I first proposed it is at the desk. It provides for the repeal entirely of section 14 of the Tucker Act. That section provides for the sending of any bill pending before Congress for findings, other than a bill for pension, to the Court of Claims, and it is under that section that these war claims, so called, go to the Court of Claims. There are a great many bills which should properly go to the Court of Claims for findings, matters involving contracts or contractual relations with the Government, and various characters of claims. The desire is to preclude the sending to that court of so-called "war claims." Hence I propose now simply to amend section 14 by adding thereto what I shall read. After setting out the section exactly as it now appears in existing law, the amendment reads:

That section 4 of the act entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," approved March 3, 1883, and commonly known as the Bowman Act, be, and said section 4 is hereby, repealed, and section 3 of said act is hereby amended so as to read as follows:

"SEC. 3. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction of or damage to property by the army or navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by, or for stores, subsistence, or supplies taken by or furnished to any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States: *Provided*, That all claims for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, heretofore referred or transmitted to the Court of Claims by virtue of and pursuant to the provisions of said act of March 3, 1883, or which shall be so referred prior to the 1st day of January, 1910, may be prosecuted in and shall be heard, determined, and reported by said court in all respects as fully and completely as if said section 4 of said act of March 3, 1883, had not been repealed or said section 3 thereof had not been amended by this act."

Section 4 of the Bowman Act I propose to repeal, and section 3 amended. As section 3 is in the existing law, it reads as follows:

SEC. 3. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction of or damage to property by the army or navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by.

I have added after those words the words—

or for stores, subsistence, or supplies taken by or furnished to—

Then I read from the law as it is—

any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war——

Mr. TILLMAN. Right there——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. FULTON. I do.

Mr. TILLMAN. Do I understand the Senator to mean by the amendment which he proposes to bar the Court of Claims from considering any claims for subsistence or the destruction of property at all?

Mr. FULTON. During the civil war at the seat of war. That is it exactly.

Mr. TILLMAN. Yet this bill and perhaps bills which have been passed heretofore have been in recognition of the justice of those claims, and they have been paid. Now, if there should be some belated instance, why should the Senator within the twelve months, which he is going to allow as the time within which claims must be presented and passed, shut those out?

I have in mind, Mr. President, a case of this kind. Opposite the city of Savannah there is a large rice plantation. When Sherman's army crossed into South Carolina they landed some of their troops on that rice plantation. There were several thousand bushels of rice on hand—the entire crop of a year—which was taken by the army for subsistence. That rice belonged to three orphan children, the eldest of whom—a girl, I think—was 11 years old. Those children were certainly not disloyal to the Union, for whatever might have been in their blood and in their environment of rebellious feeling, to use the pet phrase here, those children were certainly incompetent and entirely innocent of any resistance to the national authorities. Those children have been trying for years, with my assistance here, to get evidence as to the taking of that property, through the affidavits of some of the soldiers who did it. I would ask the Senator from Oregon whether he would bar those children from bringing their suit and having the evidence sifted, to see whether it was competent or not to allow their claim. I simply want to ask whether that case would be barred.

Mr. FULTON. If the Senator is through, I will answer. My answer is this: Taking away the jurisdiction of the court to consider these claims does not debar Congress from passing any act for the relief of any citizen for any purpose.

Mr. TILLMAN. One Congress can not bind another. I know that.

Mr. FULTON. And if the claim the Senator describes is one of exceptional hardship and of exceptional merit, no doubt Congress will provide for it by special act; but what I seek to stop is the flow of this stream——

Mr. TILLMAN. And I am in hearty sympathy with the effort to stop it and let the gates down.

Mr. FULTON. To the Court of Claims freighted all the time with claims that are based on fraud and perjury, to provide against which we are helpless.

Mr. TILLMAN. I say I sympathize with the effort, because we on this side are sufferers in endeavoring to aid our constituents when we are appealed to.

Mr. FULTON. I realize that.

Mr. TILLMAN. And I am anxious to have a limitation fixed, within which these claims shall not be considered. I merely wanted to know if the incorporation of the amendment which the Senator from Oregon proposes would preclude these orphan children, who are now grown men and women—I think one or two of them are dead, but I know one who is not and who is now along in the fifties—would those children be permitted to have their case brought here and sent to the Court of Claims, or would this amendment prevent it?

Mr. FULTON. It would.

Mr. TILLMAN. Let me ask another question. Would this amendment, if incorporated in the bill, prevent the Senate from sending to the Court of Claims, of its own motion, to be investigated, a given case?

Mr. FULTON. It would.

Mr. WARREN. But would it not still be open to such claimants to have a bill for their relief presented and considered and the case referred to the Court of Claims?

Mr. FULTON. It would not be referred by the Senate. It would take an act of Congress to do that.

Mr. WARREN. Certainly; but such a case could be referred by an act of Congress.

Mr. FULTON. It could be referred by act of Congress.

Mr. WARREN. It could be considered by the committee, because the Committee on Claims will still exist, and claims will still be filed and deserving ones recommended and allowed to pass Congress.

Mr. FULTON. Certainly.

Mr. TILLMAN. While we are endeavoring to shut off this flood of claims I will venture to predict that there will continue to come claims along this very line for the next fifty years, after probably every man in this Chamber is dead.

Mr. McCREARY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Kentucky?

Mr. FULTON. In a moment.

There is no doubt that these claims will continue to come, even though we shut off this channel, but they will not be acted on by Congress. The evidence will not satisfy Congress in a great majority of the cases that they should receive consideration, and Congress will feel under no obligation to act. But when the Senate, pursuant to an act of Congress, sends these claims to the Court of Claims and invites the party to present his evidence, employ counsel, and go to all the expense of trial, and he secures a finding that is in his favor apparently, Congress feels under obligations—at least I do, and I suppose others feel the same, even though they may feel that probably the claim is not based on sound testimony—having sent the claim there for a finding, to make payment.

Mr. McCREARY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Kentucky?

Mr. FULTON. I do.

Mr. McCREARY. I could not hear the Senator from Oregon [Mr. FULTON] clearly, but his amendment refers to certain claims that may be filed up to the 1st of January, 1910. I desire to know to what claims the Senator refers.

Mr. FULTON. The character of claims of which we are speaking—claims arising out of the civil war.

Mr. McCREARY. I understood the Senator had made some exceptions, to which the Senator from South Carolina [Mr. TILLMAN] referred, that were not permitted to be filed and referred to the Court of Claims.

Mr. FULTON. Yes; when this act takes effect.

Mr. McCREARY. Ah!

Mr. FULTON. They will not be permitted——

Mr. McCREARY. Then, as I understand, all kinds of war claims can be presented and referred to the Court of Claims up to the 1st of January, 1910.

Mr. FULTON. That is the object.

Mr. TILLMAN. By order of the Senate only, however.

Mr. FULTON. According to the provision that I propose.

Mr. McCREARY. The Senator does not propose to change the system or the plan of getting to the Court of Claims until after the 1st of January, 1910.

Mr. FULTON. Not until after the 1st of January, 1910.

Mr. TILLMAN. The Senator from Kentucky, I think, has not caught the provision, the enlargement there barring all claims for subsistence. Those are still——

Mr. McCREARY. I asked the Senator that question.

Mr. TILLMAN. Under existing law those are permitted to be sent to the Court of Claims, but the amendment proposes that even that class shall be cut out.

Mr. McCREARY. That is the very question I was endeavoring to get information on. I want to know if any class of claims are to be barred before the 1st of January, 1910.

Mr. FULTON. None whatever. The law is continued in existence as it is until that date; that is, the amendment I propose will have that effect.

Mr. TILLMAN. If the Senator will recall his amendment and reread the new provision which he has put in, he will himself see that he has barred claims for subsistence at the seat of war.

Mr. FULTON. I do not question it. I say I propose to do that.

Mr. TILLMAN. In that regard the Senator proposes to change existing law.

Mr. FULTON. Certainly; that is my intention; my deliberate purpose.

Mr. TILLMAN. Well, it is to that I object, for the simple reason that, having been up to this time allowing these claims to come here and be presented to the Court of Claims for adjudication, you ought not now, within twelve months, change the character of claims that may be presented.

Mr. FULTON. That is the proposition; and, of course, that is a matter for the Senate to determine. There is a provision here, however, that all these claims, which shall be presented or referred to the Court of Claims prior to the 1st day of January, 1910, shall be considered by the court, and that they shall be tried out to final determination. That may take, of course, a great many years, or a year or two at least beyond 1910.

Mr. PAYNTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from Kentucky?

Mr. FULTON. I do.

Mr. PAYNTER. I should like to have the amendment again read. I did not understand the language exactly.

Mr. FULTON. Does the Senator want it all read?

Mr. PAYNTER. If it is necessary to give us a comprehensive idea of what it means, I do.

Mr. FULTON. The first——

The VICE-PRESIDENT. The Chair will state to the Senator from Oregon that it will be necessary to read the amendment as modified at the Secretary's desk.

Mr. FULTON. I understand, Mr. President, but I thought I had perhaps better explain it slightly first. The first amendment is to repeal section 4 of the Bowman Act. The reason for a repeal of that section is simply, I will say again, that under section 3 of the act this class of claims can not be considered, and section 4 of the act, which is proposed to be repealed, simply provides the machinery for trying or the manner of trying this class of cases.

The other amendment is simply to amend section 14 of the existing law by providing that after January 1, 1910, claims of the character we have been discussing shall not be sent to the Court of Claims. Now, I will ask that the amendment be read.

The VICE-PRESIDENT. Does the Chair understand the Senator from Oregon to withdraw the amendment heretofore proposed and substitute the one he now offers?

Mr. FULTON. That is my desire.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. The proposed amendment reads as follows:

That section 4 of the act entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," approved March 3, 1883, and commonly known as the Bowman Act, be, and said section 4 is hereby, repealed, and section 3 of said act is hereby amended so as to read as follows:

"SEC. 3. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction of or damage to property by the army or navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by, or for stores, subsistence, or supplies taken by or furnished to any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States: *Provided*, That all claims for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the war for the suppression of the rebellion, heretofore referred or transmitted to the Court of Claims by virtue of and pursuant to the provisions of said act of March 3, 1883, or which shall be so referred prior to the 1st day of January, 1910, may be prosecuted in and shall be heard, determined, and reported by said court in all respects as fully and completely as if said section 4 of said act of March 3, 1883, had not been repealed or said section 3 thereof had not been amended by this act."

That section 14 of the act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887, and commonly known as the Tucker Act be, and the same is hereby amended so as to read as follows:

"SEC. 14. That whenever any bill, except for a pension, shall be pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending may refer the same to the Court of Claims, who shall proceed with the same in accordance with the provisions of the act approved March 3, 1883, entitled 'An act to afford assistance and relief to Congress and the executive departments in the investigations of claims and demands against the Government,' and report to such House the facts in the case and the amount, where the same can be liquidated, including any facts bearing upon the question whether there has been delay or laches in presenting such claim or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy: *Provided*, That the jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by, or for stores, subsistence, or supplies taken by or furnished to any part of the military or naval forces of the United States in the operations of said forces during the war for the suppression of the rebellion at the seat of war."

Mr. OVERMAN. Right there I suggest to the Senator from Oregon there ought to be a date fixed, say from the 1st day of January, 1861, to the 1st day of August, 1865.

Mr. FULTON. What is the suggestion?

Mr. OVERMAN. I suggest that a date be fixed as to the period of the war, because there might have been some property destroyed after the war was over.

Mr. FULTON. This provision is simply for claims arising for supplies taken or damage done by the army during the war for the suppression of the rebellion.

Mr. OVERMAN. I understand that; but let us fix the dates during which the war lasted.

Mr. FULTON. The Supreme Court has already decided during what period war prevailed. So I think there can be no misunderstanding about that.

Mr. OVERMAN. That is what I want to do—to fix in this bill the dates as determined by the Supreme Court, so that there will be no misunderstanding about it.

Mr. FULTON. That does not occur to me to be necessary so long as that is a matter that has been judicially determined.

Mr. OVERMAN. I think there is a difference of opinion as to the dates.

Mr. TILLMAN. Will the Senator from Oregon tell us when the war did end, according to the Supreme Court?

Mr. FULTON. My recollection is that it was in July, 1865.

Mr. GALLINGER. Was it not August, 1865?

Mr. OVERMAN. There is some misunderstanding about it. That is the reason why I want to put the dates in the amendment. One Senator says the 1st of August, and another Senator says January, 1866. Why not put the dates in the bill?

Mr. FULTON. The Supreme Court passed on the matter, I think, and determined it as some time in July, 1865. Senators at my right say it was June 27, 1865.

Mr. McLAURIN. Mr. President——

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

Mr. FULTON. I do.

Mr. McLAURIN. I think it was April 2, 1866.

Mr. CLARKE of Arkansas. I think it was in 1866, but I do not recall the month.

Mr. FULTON. Senators can very readily see the difficulty we shall have in agreeing on any amendment fixing the period when the war began and ended. I think, therefore, we had better leave it entirely to the courts to determine. The courts will construe that.

The VICE-PRESIDENT. The Secretary will resume the reading of the amendment.

The Secretary resumed and concluded the reading of the amendment of Mr. FULTON, as follows:

Provided further, That all bills and claims hereto referred to the Court of Claims under and pursuant to the provisions of said section, or which shall be so referred prior to the 1st day of January, 1910, may be prosecuted in, and shall be heard, determined, and reported by, said court in all respects as if said section had not been amended, but had been continued in force as it now is: *Provided further*, That the foregoing provisions repealing said section 4 of the said Bowman Act, and amending section 3 thereof, and amending section 14 of said Tucker Act, shall not be in force or take effect until the 1st day of January, 1910.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Oregon [Mr. FULTON].

Mr. BAILEY. Mr. President, if this amendment should be adopted and become a law, it would impose upon Senators from the Southern States an enormous amount of unnecessary labor. All of our constituents who have claims which they think are good claims and which have been sent here, but not referred to the court, and all who would send claims here during the time in which they might be referred, but which were not referred, would immediately insist that we should procure the passage of an act through the Senate providing for their payment. As the law now stands, it being impossible for Senators to thoroughly advise themselves about the justice of these claims, they, finding a sufficient basis for them, secure their reference to the Court of Claims, where the work is done, as it ought to be done, by a judicial tribunal. Then the Court of Claims, after performing that labor, sends them back here for our final disposition. But if this amendment prevails, after the time set every one of our constituents who thinks he has a good claim will feel—and I am not sure but what he will have a right to feel—that we ought to take it up and go through with it until we are prepared to appear before the committee of the Senate, thrash it out, and so far establish its justice as to warrant us in asking the Senate to pass it. I need not tell Senators on this side of the Chamber who have from time to time been called upon to examine these claims and present them, even to the committee, that that would involve a work that would occupy nearly all of a Senator's time.

Mr. BACON. Mr. President——

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

Mr. BAILEY. I do.

Mr. BACON. I want to ask the Senator if he is not confining his statement to too narrow limits. I think it would occupy the time of half a dozen Senators from each State to do it, because each case is a law case in itself, with all of its facts and with the law applicable thereto.

Mr. BAILEY. The Senator from Georgia is right. I was keeping myself altogether within what I might have stated. The result would be that we would be compelled to say to our constituents, "We can not do this," or else, attempting to do it, we would only be able to do it for some of them, giving the others a right to complain that we discriminated, and then we should have no time left for our other senatorial duties.

Mr. President, I believe there ought to come an end to these claims; and, personally, I should like to see that end come as soon as possible. I suggest to the Senator from Oregon that if he would provide that all who have claims can go to the court without coming to the Senate, and give them two years in which they may file their cases, then we would have an end to it, and I would be glad to agree to an amendment to the rules which would forbid the introduction of the claims known as "war claims" in the Senate. We could relieve the Committee on Claims from a vast deal of drudgery, and we could relieve Senators. I believe I am well within the truth, Mr. President, when I say that, even from the State which I have the honor in part to represent, these claims occupy more than 10 per cent of my time, and probably as much as 20 per cent; and yet in this bill there is but one item for Texas, although I have the hope——

Mr. FULTON. I will say to the Senator——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Oregon?

Mr. BAILEY. I do.

Mr. FULTON. Another item was inserted yesterday from Texas.

Mr. BAILEY. And there is still another so absolutely just that I have no doubt it will be agreed to.

Mr. FULTON. That is one for each Senator; and I have one this morning, that I am going to offer, that they can divide between them.

Mr. BAILEY. I have no fault to find with the Senator from Oregon. I think he is trying to be just and fair, and I think he and his committee have performed a vast amount of labor in the preparation of this bill and in the disposition of these cases. But if it requires one-tenth of a Senator's time to look after a State with only three claims in the bill, what must be the case with the Senators who have some 15 or 20 claims in the bill?

Mr. TILLMAN. Their States were the scene of war; yours was not.

Mr. BAILEY. No; but the most intelligent people from the other States after the war came to our State.

Mr. TILLMAN. That may be true. Your people did a great deal of very fine fighting in Virginia and Georgia, east of the Mississippi, and to some extent west of the Mississippi, but you did not have any war in Texas worth considering.

Mr. BAILEY. And, Mr. President, I am glad to make the acknowledgment that the most gallant of the men who fought in Texas regiments had been borrowed from other States, such as South Carolina, Georgia, and Mississippi.

But that is neither here nor there. While there was none of the devastation of the war in Texas, it is still true that in most of these cases the claimants have come to our State from the older Southern States, and they have imposed upon their Senators, as they had the right to do, the duty of looking after their interests in these matters.

Now, I hope that either this amendment will be rejected, or else I hope that it will be so broadened as to allow these claimants to go to the Court of Claims to make out their cases against the Government, and thus save us this labor, now great enough, and to be made incomparably greater if this amendment prevails without some such provision as I have indicated.

Mr. McLAURIN obtained the floor.

Mr. FULTON. I am very anxious to get the consideration of this bill concluded to-day——

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

Mr. McLAURIN. I do.

Mr. FULTON. I beg the Senator's pardon. I thought I had the floor. With the Senator's permission, I will say what I was going to say, and it will be brief.

Mr. McLAURIN. Certainly; I yield to the Senator.

Mr. FULTON. I am very anxious to have the consideration of this bill concluded, to have it passed to-day. I am not going to take up time any further in the discussion of this provision. I have explained it, I think, so that it is understood. I think a majority of the Senate have reached the conclusion that it is time to stop sending claims of this character to the Court of Claims. I think I have made a very reasonable provision, which gives until January, 1910. I do not purpose taking up any time in discussing this matter, and I hope the Senators interested in the bill will not kill it by continuing the discussion.

Mr. BAILEY. I want to suggest to the Senator from Oregon that to fix the 1st day of January, 1910, is practically the same as to repeal it at the end of this session. Here comes the extraordinary session, which will be occupied with tariff legislation and nothing else, and then comes the regular session, convening the first Monday in December, followed by an adjournment for the holidays, and by the time we reconvene after the holidays the 1st of January will have come and gone. This means practically that no other bills will ever go to that court.

Mr. FULTON. Let me correct the Senator in that. I am sure he has made a mistake.

Mr. BAILEY. I am sure I do not want to make one, although I may have made one.

Mr. FULTON. I am equally sure of that. We have a vast number of claims pending; I would not undertake to say how many, but a very great many; it may be two or three thousand.

It is our purpose to bring in a resolution referring all bills of this character to the Court of Claims unless there is objection to their going. Then those will go down. Then during the special session there is no reason in the world why a resolution of that character might not be put through, and doubtless it will be. Then you will have all the month of December, or at least up to the holiday adjournment—some weeks—in the next regular session, and bills can be introduced, and if the Senate thinks they are meritorious a resolution can be put through. The only difficulty I see in extending the time is that you are going to provide for too many going down.

Mr. McLAURIN obtained the floor.

Mr. DANIEL. Mr. President——

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

Mr. McLAURIN. Certainly.

Mr. DANIEL. I should like to ask the chairman of the committee a question. I think I understood the Senator to say that during the session he would offer a resolution to refer certain claims to the Court of Claims. May I ask to what claims that resolution will be confined?

Mr. FULTON. The resolution has never been confined to any class of claims. It has carried claims of every character. But I had reference when I spoke to what we call "war claims," and the number that I said were probably pending before the committee referred to claims of that character.

I would favor such a course. Of course I can not tell what the Senate will do; I can only say that I will. In order to clear the board and wipe all of these off, I would favor sending them all there. I do not want to be misunderstood. There are some claims that I think it would be entirely out of order to send to the Court of Claims. They are not to be considered.

Mr. McLAURIN. Mr. President, I think if it is the intention of the committee to offer an omnibus resolution referring to the Court of Claims all the claims now before the Committee on Claims, it would be well to embody that in the amendment which has been offered by the chairman of the committee, the Senator from Oregon, and let all those claims go with this amendment. If there are——

Mr. FULTON. That would not be proper legislation, because it does not require a congressional act to send them there. They go by simple resolution of the Senate.

Mr. BAILEY. I am satisfied the Senator from Mississippi would take the assurance of the Senator from Oregon to that effect.

Mr. McLAURIN. I am willing to take the assurance of the Senator from Oregon that he will refer all of the others. They can then be referred in an omnibus resolution at once, and it will give the committee the opportunity and the time to examine the claims that may be introduced between this and the 1st of January, 1910.

Mr. BAILEY. I was just about to say—I intended to say it in response to the reply which the Senator from Oregon made to me, and with the permission of the Senator from Mississippi I will say it now——

Mr. McLAURIN. Certainly.

Mr. BAILEY. With the understanding that those now introduced are to be referred to the court, and with the understanding that those introduced between this and next January will also be referred, I will consent to the amendment. The only thing I want to be able to do is to say to my constituents, "You now have until the 1st of January to present these claims, and if they are not presented, you will be forever foreclosed. If you will present them, I will introduce your bills, and then you can prepare your facts and have the attorneys go before the committee." I am sure that any man who can make a decent show of justice will get a report from the committee. On that assurance I have no objection to the amendment.

Mr. FULTON. I can only assure the Senator that so far as I personally am concerned I will make every effort to bring in a resolution to that end this session. Of course, beyond the end of the session, owing to certain events over which I had no control, conditions will be such that I will not be able to report a resolution.

Mr. SMOOT. Mr. President——

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

Mr. McLAURIN. I do.

Mr. SMOOT. I should not like to have it understood, so far as I am concerned, as one member of the committee, that every one of these claims shall be referred to the Court of Claims. If any Senator here would examine the testimony that has been filed with some claims, I do not believe he would think it proper to send such claims to the Court of Claims and take up their time. Senators, there are claims there which are based upon the testimony of men who were not over 8 years old at the time of the war, and in their sworn statements it is stated that there were taken 4,015 pounds of bacon, worth 75 cents a pound, and they knew that was taken by the army. There are cases in which women, who were not over 11 years old, according to the age as given in the testimony, who testify that they knew there were a thousand bushels of corn growing in a field, that was worth 75 cents a bushel; and the claim is supported with no other testimony. Why on earth do we want to send such claims to the Court of Claims, to burden that court?

So far as I am concerned, as a member of the committee, I am perfectly willing that every claim having a shadow of merit, or which is supported by any kind of testimony, shall go to the Court of Claims; but I would not like to promise here if I had my say so—of course, I am only one member of the committee—that all these claims should be sent to the Court of Claims, because I do not think, as to some, it would be proper.

Mr. FRAZIER. Will the Senator from Mississippi allow me to ask the Senator from Utah a question?

Mr. McLAURIN. Certainly.

Mr. FRAZIER. I was going to suggest to the Senator from Utah that if the Committee on Claims should itself undertake, between now and the 1st of January, 1910, to examine and pass upon the merits of the large number of claims now pending before that committee, possibly aggregating 2,500, then a very small percentage of those claims would go to that court. So if this amendment is to pass and this matter is to be closed up, it seems to me nothing but fair and reasonable that the claims which are now pending before the Claims Committee should be sent to the Court of Claims.

The court has jurisdiction. It is a court organized by the Government. It will try these cases upon their merits, and it is not incumbent upon the Senate to sit here and pass judgment upon individual claims when a judicial tribunal has been constituted by act of Congress for the purpose of doing that work. If we propose to close up this matter it seems to me but reasonable and fair to fix this limitation, January, 1910, and then send all the claims now pending to the court for adjudication. If they have no merit in them doubtless that court will dismiss them, as it ought to.

Mr. SMOOT. The only object I have in speaking is this: I know from my own personal examination of hundreds of these claims that there is not a solitary particle of merit in some of them, and there is no testimony given to substantiate the claims. It does seem to me that such claims should not be referred to that court, to take up its time.

Mr. FRAZIER. That court was constituted for the purpose of determining the justice or injustice of the claims. It is not an obligation upon the Senate to try the lawsuits, the innumerable lawsuits now pending before the Claims Committee. That was the very purpose of the creation of this court.

Mr. McLAURIN. Mr. President, the Senator from Utah has stated that a good many of the claims, or some of the claims at least, are based upon the testimony of men who were boys 8 and 10 and 11 years old at the time of the transaction. I would far rather risk the memory of a boy of 8 years of age or 10 years of age or 11 years of age than I would that same boy when he had become 40 or 50 or 60 years of age.

Mr. SMOOT. I should like to ask the Senator from Mississippi if he believes that there was a boy, not interested at all in a certain individual living in a town, who would know that that particular man had in his cellar 4,015 pounds of bacon, worth 75 cents a pound.

Mr. McLAURIN. That would depend upon circumstances. He might or might not know that. There are a great many things that a boy knows when he is 8 or 10 or 11 years old as to to the affairs of his neighbor. If a man who claimed to have been 25 or 35 years of age at the time should testify as to what was contained in the cellar of his neighbor, it might not be worth anything, because he might be worthy of no credence at all, or he might be a man who knew the facts and was a truthful man and a man whose word ought to be taken for anything he would say. That would depend upon the circumstances and the facts.

Mr. President, as suggested by the Senator from Tennessee [Mr. FRAZIER], the time of the Senate Committee on Claims would be taken up if it is to examine all of these claims. If they are all to go into an omnibus resolution, as is desired by the chairman of the committee—and only one member of the committee has expressed dissent thereto—then it would relieve that committee of that much work, and the time could be devoted to claims hereafter introduced. But I do not see any reason for bothering the Committee on Claims at all about this matter. It seems to me the best way to dispose of them is to provide by amendment here that any man who has a claim of this class may go before the Court of Claims at any time between now and the 1st of January next, or the 4th of March, 1910, and

present his case to the Court of Claims and let it there be heard. If there had been a court of claims open for the trial of these cases to which the claimants could have gone immediately, there would not have been one claim in ten of the number which have been presented.

Mr. President, a great many of these claims are presented to the Congressman, either the Representative or the Senator, and he is asked to present it because it is supposed by the claimant that he can introduce a bill and that that bill can be passed without any reference to any court of claims, without anything except the ipse dixit of the Senator or the Representative, and that it will thereby become a law and an appropriation will be made to pay him, whereas if the claimant knew in the first instance that he must go to a court of claims, employ his attorney there, introduce evidence to substantiate his claim in that court, in numberless instances there would be no claim presented to the Court of Claims and there would be an end to it. So nothing has been gained, so far as economy of time and labor and expense is concerned, in the process of getting cases to the Court of Claims through a bill introduced in the Senate or the House of Representatives and going by the Committee on Claims.

I think there ought to be some provision that would allow these people to go to the Court of Claims and present their cases by the 1st day of next January or the 4th day of March, 1910—which I think is a better time to limit it to—and let the court try their cases.

As there is some impatience on the part of the committee to dispose of this matter, I shall not say a good many things I intended to say with reference to this bill. I will say, however, that this bill does not appropriate money exclusively for what are called "southern war claims." The 16 Southern States have in here very little more than the 3 States of Massachusetts, New York, and Pennsylvania.

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

Mr. DANIEL. I ask that the amendment may be read, if you please.

The VICE-PRESIDENT. The Senator from Virginia asks that the amendment be again read. The Secretary will read the amendment.

The Secretary again read Mr. FULTON's amendment.

Mr. DANIEL. Mr. President, there is but one way for an honest government to treat a claim: First, to give the claimant a fair opportunity to be heard; second, to pay, or to hold, through its proper officials, that the claim is invalid and let it go. The accumulation of these claims in the Senate has arisen from the fact that there was no place where the claimant could be heard. There was a Southern Claims Commission appointed soon after the war. In the law creating it it was provided that no one should be a claimant who had not been loyal to the Government during the war. After thousands had been prevented from putting in their claims by that provision, because they could not honestly do it, it was held to be unconstitutional and they were left in the air.

I do not wonder that the chairman of the committee and many Senators are anxious to get rid of the horde of claims that continue to accumulate before the Senate committee. It is the fault of the Government that they have so accumulated, and we ought not to take advantage of our own wrong by excluding them from the opportunity of a fair hearing.

My own State has had more of these claims than any other. If anyone would reflect for a moment upon the history of our internecine troubles he would see the reason for it. The armies were there from the very incipiency of the war to its last day, and for some time after the actual hostilities had ceased. I recollect there was a general during the war, Jackson it is said, whose adjutant-general wrote a note to the brigadier:

> Why is it that the general commanding sees so many stragglers behind your brigade?

The reply was—

> The only reason I can give to account for it is the fact that the general commanding rode behind my brigade.

The stragglers were behind all brigades, as they always are on long marches. But in Virginia these claims were matters of daily origin. Three or four hundred thousand troops were occupied in Virginia during four years.

Now, while I sympathize with the desire and with the opportunity sought to be made to conclude these matters, there are many good claimants with valid claims under the law as it stands who are excluded from the opportunity to get their claims heard at this session—excluded simply by the gravity of the event. You go to a committee. A Senator from one State is entitled as much to be heard as another. He may have a dozen claims because he represents a State in which there are great congeries of claimants, but he must defer and give equal opportunity to another Senator, for all Senators are equal; and the result has been that at this very session of the Senate, as I know from careful and prudent examination, there are many claims that ought to be put on this bill; but I do not offer any of them. If you build up the bill too much, it will crumble to pieces of its own weight; and I think I am doing the part of a faithful public servant when I decline to offer amendments to this bill which in my heart and according to my best examination I believe to be just and as much entitled to consideration as any claim before the Senate.

I wish it might be agreeable to prolong the time until July 1, 1911, for the jurisdiction of the Court of Claims; but I am informed that any claim offered between now and January 1, 1910, will be sent to the Court of Claims, and that there the claimant will have an opportunity to be heard, even though the case be not reached until such time as may suit the convenience of the court.

I have felt it proper to make this explanation, for I know there are many people to-day in Virginia who are blaming both Senators for not pushing their claims in this bill. They can not do it with just consideration to the public interest. We have many claims. We can not help it. It is the event of fate, and we must deal with it according to the best judgment we can exercise in the presence of the opportunity to get some through, and let others go by.

Mr. PAYNTER. Mr. President, in view of the numerous claims which this bill carries and which are to be considered by the Senate, I will speak very briefly. I will content myself with a statement of the principle of law which authorizes the payment of war claims. The mere fact that it may not have been invoked and applied in the other cases does not in the least militate against the correctness of the principle or against the justice of the claims under consideration. This is a great and rich Government. The people are generous, magnanimous, and always want to be just. Those whom we represent here would not have us fail to discharge all obligations of the Government, whether they be legal or honorary. They will submit without complaint to a liberal expenditure of money if done in the discharge of a legal or honorary obligation, or in the promotion of the public good, though there be an apparent extravagance in reaching such end. The necessities of our Government do not require us to higgle over paltry sums or items in meeting its obligations. Its bounties to those who have defended it in its hour of need or peril have been more munificent than those bestowed by any government of which history gives any account.

The Government has been both just and generous to those who have offered their lives to maintain its honor and existence, and has even bestowed gratuities upon their dependent relatives. These just and generous acts have been approved by the people with practical unanimity. If it is proper for the Government to take care of its brave defenders and their dependent relatives, why is it not an equally just obligation to pay its loyal citizens for property which they may have, willingly or unwillingly, surrendered to governmental authority to sustain armies in the field. Why should not the Government pay for property used or destroyed by military authority, superinduced by military necessity, to sustain or lessen the danger to it or to promote its ultimate triumph?

I believe, Mr. President, that it is the duty of Congress to pay these debts.

In saying this I do not mean to be understood as saying that under the law of nations governments are required to pay the losses which came from the operations of the army in the field, the ravages of war, or as designated by some authors and courts as the "accidents of war." These losses are some of the sacrifices which the citizen assumes to bear as one of the necessities of government or organized society. While this is the law of nations, should a rich and great Government allow its loyal citizens to bear such losses? It is not necessary to answer this question to justify the appropriation for the claims in the bill. However, I will invite the Senate's attention to an answer which Vattel makes to it:

> Each citizen is required to make contribution of his share of the losses entailed by war. This is accomplished by means of taxation. When a citizen has made his contribution he thereby has sustained his just proportion of loss, and should not be made to bear additional losses, which should be met at public expense. In time of extreme necessity the Government can take the citizen's property or destroy it. The necessity is often so great that the Government can not employ the usual method of ascertaining the value and paying for it before it is taken. When such necessity exists the property is taken or destroyed for the public good, and the public should bear the loss, and not the individual. While the Government may not in some instances be technically liable for property which it has taken or destroyed under such necessity, if its affairs will admit, it should show an "equitable regard for the sufferers."

In part as a result of war, we have grown in wealth and power. We are able to be not only just, but generous. When the Government is so abundantly able to meet all of its obligations, it should not demand that its citizens, who can ill afford to do so, should lose the value of their property surrendered to aid the Government in the presecution of its wars. In the crystallization of that principle of the law of nations which requires its citizens to bear the losses resulting from the ravages of war, governments were weak and without the necessary means to treat its citizens with justice, much less with generosity. A law that might be invoked by a poor and weak government should not be applied and enforced by one that is rich and great and powerful. This Government in such matters should blaze the way for the guidance of other governments. It should lead the way in giving justice to those who defended its honor and existence and to those whose property has been sacrificed for the same purpose. We should furnish an example to other governments in the just and generous treatment of our citizens.

The Government should show a scrupulous regard for justice and morality. The courts have said that it should show a more scrupulous regard therefor than belongs to the ordinary transactions of individuals. The Supreme Court, in Woodruff *v.* Trapnell (10 How., 207), said:

We naturally look to the action of a sovereign state to be characterized by a more scrupulous regard to justice and a higher morality than belong to the ordinary transactions of individuals.

In United States *v.* Realty Co. (163 U. S., 427) the court had under consideration the question as to what was a debt of the Government, and in deciding the question said:

Under the provisions of the Constitution (Art. I, sec. 8) Congress has power to lay and collect taxes, etc., to pay debts of the United States. * * * It is conceded, and indeed it can not be questioned, that the debts are not limited to those which are evidenced by some written obligation or those which are otherwise of a strictly legal character. The term "debts" includes those debts or claims which rest upon a merely equitable or honorary obligation, and which would not be recoverable in a court of law if existing against an individual. The Nation, speaking broadly, owes a "debt" to an individual when his claim grows out of general principles of right and justice; when, in other words, it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition and payment of claims against the Government which are thus founded. To no other branch of the Government than Congress could any application be successfully made on the part of the owners of such claims or debts for the payment thereof. Their recognition depends solely upon Congress, and whether it will recognize claims thus founded must be left to the discretion of that body.

Before the time of Grotius many treatises on the civil law and on the municipal law of countries had been written, but there seems to have been no written law to regulate the intercourse of States and sovereign principalities. Grotius prepared a valuable work upon that subject. It has been said of him by another:

It remained, therefore, for his deep insight to unfold, and his masterly pen to arrange, the scattered truths of a science, which forms the basis of all treaties, conventions, and negotiations; upholds the intercourse of nations with each other in the bonds of amity, and, in short, establishes all the rights of peace and war.

In Campbell's Grotius (vol. 3, chap. 20, sec. 7, p. 348), under title "War and peace," it is said:

The property of subjects is, so far, under the eminent control of the State that the State or the sovereign who represents it can use that property or destroy it or alienate it, not only in cases of extreme necessity, which sometimes allow individuals the liberty of infringing upon the property of others, but on all occasions where the public good is concerned, to which the original framers of society intended that private interests should give way. But when that is the case, it is to be observed, the State is bound to repair the losses of individuals at the public expense, in aid of which the sufferers have contributed their due proportion. Nor will the State, though unable to repair the losses for the present, be finally released from the debt, but whenever she possesses the means of repairing the damages, the dormant claim and obligation will be revived.

In Grotius (2, ch. 14, sec. 7), it is said:

We must observe this, that the king may in two ways deprive his subjects of their rights, either by way of punishment or by virtue of his eminent power. But if he do so in the last way, it must be for some public advantage. Then the subject ought to receive, if possible, a just satisfaction for the loss he suffered out of the common stock.

Vattel's Law of Nations is a recognized authority, and on page 462 it is said:

Is the state bound to indemnify individuals for the damages they have sustained in war? We may learn from Grotius that authors are divided on this question. The damages under consideration are to be considered into two kinds, those done by the state itself or the sovereign and those done by the enemy. Of the first kind, some are done deliberately and by way of precaution, as when a field, a house, or a garden belonging to a private person is taken for the purpose of erecting on the spot a town rampart or any other piece of fortification, or when his standing corn or his storehouses are destroyed to prevent their being of use to the enemy. Such damages are to be made good to the individual, who should bear only his quota of the loss (181). But there are other damages, caused by the inevitable necessity, as, for instance, the destruction caused by the artillery in retaking a town from the enemy. These are merely accidents; they are misfortunes which chance deals out to the proprietors on whom they happen to fall. The sovereign, indeed, ought to show an "equitable regard for the sufferers" if the situation of his affairs will admit of it; but no action lies against the state for misfortunes of this nature, for losses which she has occasioned not willfully but through necessity and by mere accident, in the exertion of her rights.

In Grant against the United States (1 Court of Claims Reports), it appeared that Capt. J. N. Moore was commanding United States troops in the vicinity of Tucson, Ariz., and that Grant was a contractor with the Government for furnishing commissary and supplies for the forts and military posts in Arizona, and that he expended large sums of money in the repair and erection of flouring mills, dwelling houses, storehouses, shops, etc.; that he had personal property of considerable value, consisting of flour, wheat, corn, barley, merchandise, and so forth. Captain Moore directed Lieutenant Lord, commanding a company of dragoons, to destroy the property of Grant. This was done to prevent it from falling into the hands of the enemy.

The question was whether the United States should indemnify Grant for the loss of his property under the circumstances. Judge Wilmot delivered an opinion to the court in which it was held that the Government was liable. In the course of the opinion he said:

Every civilized state recognizes its obligations to make compensation for private property taken under pressure of state necessity, and for the public good. The state is the transcendental proprietary of all the property, real and personal, of its citizens or subjects. This transcendental right—the eminent domain of the state in all countries where rights are regulated by law—is so exercised as to work no wrong, to inflict no private injury without giving the party aggrieved ample redress. This doctrine was not ingrafted on the public law to give license to despotic and arbitrary sovereigns. It has its foundation in the organization of societies and states, and is as essential to a republic as to the most absolute despotism. It is of the very essence of sovereignty, and without it a state could not perform its first and highest duty, its own preservation.

The doctrine of Grant's case was reaffirmed by the Court of Claims in the Wiggins case (3 Court of Claims Reports, p. 412).

In Mitchell *v.* Harmony (Howard, p. 115) it appeared that Mitchell had planned a trading expedition to New Mexico and Chihuahua, in the Republic of Mexico, before hostilities commenced between this country and Mexico and before the declaration of war. After the war commenced an expedition was prepared, under the command of General Kearny, to invade New Mexico, and a detachment of troops was sent forward to stop Harmony and other traders until General Kearny arrived. The trading expedition of Harmony was authorized by the law of the United States. The traders were compelled by the military commander to follow the United States Army, and in doing so Harmony's property was seized by the enemy and was a total loss to him. An action was brought against the commanding officers to recover damages which Harmony alleged he had sustained by the seizure of his property.

Many questions were considered by the court, which are unnecessary to state. The court held that where there is an impending danger from the public enemy or the urgent necessity for the public service it will justify the taking of private property by a military commander to prevent it from falling into the hands of the enemy, and for the purpose of converting it to the use of the public. That private rights must for a time give way to the common and public good.

Among other things, the court said:

There are, without doubt, occasions in which private property may lawfully be taken possession of and destroyed to prevent it from falling into the hands of the public enemy; and also where a military officer, charged with a particular duty, may impress private property into the public service or take it for public use. Unquestionably, in such cases the Government is bound to make full compensation to the owner but the officer is not a trespasser.

In United States *v.* Russell (80 U. S., 627) the court said:

Extraordinary and unforeseen occasions arise, however, beyond all doubt, in cases of extreme necessity in time of war or of immediate and impending danger, in which private property may be pressed into the public service, or may be seized or appropriated to the public use, *or may even be destroyed without the consent of the owner.* Such a taking of private property by the Government, when the emergency of the public service in time of war or impending public danger is too urgent to admit of delay, is everywhere regarded as justified, if the necessity for the use of the property is imperative and immediate and the danger, as heretofore described, is impending; *and it is equally clear that the taking of such property under such circumstances creates an obligation on the part of the Government to reimburse the owner to the full value of the service.* Private rights, under such extreme and imperious circumstances, must give way for the time to the public good, *but the Government must make full restitution for the sacrifice.*

I have called attention to these provisions of international law, the law of war and peace, that the Senate may have before it the law which regulates the rights of citizens under such circumstances. So it is not a mere gratuity that we are giving to citizens who have lost their property in the way hereinbefore mentioned, but it is in discharge of legal obligations of the Government.

I am exceedingly anxious that the Senate may pass the bill because I believe the claims are meritorious. Many of them

have existed against the Government for forty years and more. I believe that when the Government is under an obligation to one of its citizens, whether it be legal or honorary, it is the duty of Congress as soon as possible to meet that obligation. If it shall become necessary even to borrow money for the purpose, then Congress should not hesitate a moment to do it. We did a generous thing recently in assisting the sufferers in a distant land. Yet we allow citizens of our own country, who furnished stores for the army during the war, who were loyal to the Union, to remain unpaid for forty years.

POSTAL SAVINGS BANKS.

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A bill (S. 6484) to establish postal savings banks for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes.

Mr. CARTER. I would inquire of the Senator in charge of the bill which has been under consideration about how much time will be required to conclude it and reach a vote?

Mr. FULTON. It seems to me that we ought to conclude it in a very few minutes. I think we will conclude it in fifteen minutes, but of course it depends upon the amount of conversation that is to be had.

Mr. CARTER. With the understanding that the consideration of the unfinished business may be called up and the regular order demanded if the pending bill leads to protracted debate, I will for the present ask that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. The Senator from Montana asks that the unfinished business be temporarily laid aside. Without objection, it is so ordered.

ADJOURNMENT TO MONDAY.

Mr. ALDRICH. I move that when the Senate adjourns today it adjourn to meet on Monday next.

The motion was agreed to.

OMNIBUS CLAIMS BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15372) for the allowance of certain claims reported by the Court of Claims under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the "Bowman" and the "Tucker" acts.

The VICE-PRESIDENT. The pending question is on agreeing to the amendment submitted by the Senator from Oregon [Mr. FULTON], which has been read.

The amendment was agreed to.

Mr. TILLMAN. Mr. President——

Mr. FULTON. There are some committee amendments yet to be offered. After line 5, on page 192, I move to insert:

On the schooned Hazard, Joshua D. Upton, administrator of the estate of Evan Parsons, deceased, $7,218.59.

The amendment was agreed to.

Mr. FULTON. After line 25, page 125, I move to insert:

To Alfred P. Southwick, administrator of the estate of John Southwick, deceased, $641.68.

The amendment was agreed to.

Mr. FULTON. After line 16, on page 93, I move to insert:

To Daniel W. Darris, of Caddo Mills, Hunt County, $703.

The amendment was agreed to.

The VICE-PRESIDENT. Has the Senator from Oregon concluded the submission of committee amendments?

Mr. FULTON. I apologize to the Chair; my attention was diverted. I have one more amendment that I am just trying to formulate.

The VICE-PRESIDENT. The Senator from Oregon may submit that later. The Chair will recognize the Senator from South Carolina.

Mr. FULTON. Very well.

Mr. TILLMAN. After line 15, on page 84, I move to insert:

To Winyah Lodge, No. 40, Ancient Free and Accepted Masons, of Georgetown, S. C., $4,200.

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

Mr. TILLMAN. Mr. President, I wish to make a brief explanation in order that the conferees on the bill may have the facts to present to the House.

This is a finding of the Court of Claims. It is shown in the affidavits, which were not submitted to the Court of Claims, but which I have here, all sworn to, that this building was destroyed in April, 1866. That is one reason why I wanted the question as to when the war ended settled a moment ago.

Mr. FULTON. Somebody said it was settled in 1866.

Mr. TILLMAN. In August, 1865, according to some, and various dates were fixed. But I want to say that in South Carolina the war ended in 1865, and this building was burned in 1866.

I ask that these affidavits be printed in the RECORD, showing the basis upon which I make this contention. The Court of Claims finding is also here, and the decision——

Mr. SMOOT. Mr. President——

The VICE-PRESIDENT. Is there objection to the request that the affidavits submitted by the Senator from South Carolina be printed in the RECORD without reading?

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

STATE OF SOUTH CAROLINA, *County of Georgetown:*

Personally appeared before me B. A. Munnerslyn, who, after being duly sworn, deposes and says that he is a resident of Georgetown, Georgetown County, State of South Carolina, and was in the year 1866; that during the months of March or April, 1866, the Masonic Temple at Georgetown, S. C., was destroyed by fire, which destruction was caused by the federal soldiers; that soon after the destruction of said building reclamation for damages was made and approved by the Claims Committee at Washington, D. C., at which time he was master of the Georgetown Masonic Lodge, but owing to the fact that this congressional district was then represented by a negro Congressman—J. H. Raney—who made the assertion on the floor of the House that if such a claim was approved and paid the funds would be used for Democratic political purposes and not for the erection of a new Masonic temple; that the said J. H. Raney, after he had upset the claim, made the assertion to several of his friends in Georgetown that inasmuch as the claim was not presented through him, and inasmuch as he was entirely ignored in the matter, he had made every effort to have the claim canceled; that he verily believes that if such representation to the Claims Committee had not been made the claim would have been approved and paid. He further states that he knows positively of his own personal knowledge that said building was destroyed by fire, and that said destruction was caused by the federal soldiers.

B. A. MUNNERSLYN.

Sworn to and subscribed before me this the 20th day of March, 1908.

[SEAL.] H. B. SPRINGS,
Notary Public for South Carolina.

STATE OF SOUTH CAROLINA, *County of Georgetown:*

Personally appeared before me S. W. Rouquie, sr., who, after being duly sworn, deposes and says that he is a resident of Georgetown County, State of South Carolina, and was in the year 1866, and that he knows of his own personal knowledge that the Masonic Temple at Georgetown, S. C., county aforesaid, was destroyed by fire during the month of March or April, in the year 1866, and that he further knows it to be a positive fact that said building was set on fire by the federal soldiers.

S. W. ROUQUIE.

Sworn to and subscribed before me this the 20th day of March, 1908.

[SEAL.] H. B. SPRINGS,
Notary Public for South Carolina.

STATE OF SOUTH CAROLINA, *Georgetown County:*

Personally appeared before me James M. Lesesne, who, after being duly sworn, deposes and says that he is a resident of Georgetown, S. C., and was such during the year 1866. That he further knows of his own personal knowledge that the Masonic Temple at Georgetown, S. C., was destroyed by fire some time during the month of March or April, in the year 1866, and that the destruction of the said building was caused by the federal soldiers who occupied the building, they burning the same on leaving it.

J. M. LESESNE.

Sworn to before me this 21st day of March, 1908.

[SEAL.] H. B. SPRINGS,
Notary Public for South Carolina.

Mr. SMOOT. I should like to ask the Senator from South Carolina if a bill has ever passed the Senate or the House for the payment of this claim.

Mr. TILLMAN. It has been decided in the Court of Claims, the same as 100 or 500 other claims which are included in the bill.

Mr. SMOOT. I want to say that if the amendments which are now being offered outside of the committee amendments are to be accepted, I am going to vote against every one of them on the ground of the understanding that we had before the consideration of the bill in the Senate, and also if they are accepted I desire to state now that I shall vote against the passage of the bill. I was in hopes, however, that we could pass the bill according to the agreement. I make this statement now so that my position may be understood.

Mr. FULTON. I simply want to say that I trust the amendment will not be adopted. I can not, of course, at this time remember just the circumstances. We have gone over all these claims and rejected them. This is all I have to say. If the Senate sees fit to vote them in, of course we can look at them later.

Mr. TILLMAN. I have made a statement of the facts, Mr. President, that the finding is in accordance with the evidence before the Court of Claims, and, in addition to the evidence submitted to the court, I have presented affidavits from men—some of whom I know, persons who were not 8 years of age at the time, but who were men in 1866—that the building was destroyed after the war was over.

That is all there is about it. Of course if the Senate wants to vote the amendment out or if the committee of conference

chooses to throw it out, I can not help myself. I have done my duty.

Mr. CLARKE of Arkansas. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas rise to the pending amendment?

Mr. CLARKE of Arkansas. Yes, sir; I rise for the purpose of addressing the Senate on some of the aspects of the pending bill.

When the bill was reported from the committee it was announced that, upon an understanding, the number of claims that had been included fairly exhausted the amount of money deemed to be available on this occasion. A number of claims from Arkansas were included, and a number of claims just as meritorious were excluded on the ground that a fair division among the several States and communities would allow Arkansas to have that many of its claims included.

Believing that the committee had acted conscientiously, with a disposition to recognize fairly the rights of classes and sections, I was disposed to accept it, and did accept it. When in the items arranged by States the point was reached where the Arkansas claims were to be found, I did not offer amendments that were just as meritorious as those that were included.

Now, I want to be dealt with fairly. If the bill is to be opened up for meritorious claims, then I have many that I care to present and shall feel it my duty to present.

Mr. FULTON. I will say to the Senator that, as far as I am concerned, if this item goes in I shall make no objection to his items. I know what they are; and they are, as he states, equally meritorious.

Mr. SMOOT. I will also say to the Senator I will make no objection whatever. If the arrangement is violated in one instance, I am perfectly willing that any claim thus presented here shall go on the bill.

Mr. CLARKE of Arkansas. In view of the statement of the chairman and member of the Committee on Claims, I have nothing further to say.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from South Carolina [Mr. TILLMAN],

The amendment was rejected.

Mr. RAYNER. I send to the desk two amendments to the bill. One is an amendment that failed to get before the committee by reason of the death of my late colleague, Governor Whyte.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. On page 63, after line 17, it is proposed to insert:

To Nathan F. Edmonds, administrator of estate of Henry Show, deceased, late of Washington County, Md., $225.

Mr. FULTON. That is the one to which the Senator referred?

Mr. RAYNER. As I understand it, the committee would have passed the claim if it had been presented by my late colleague.

Mr. FULTON. The Senator says it is an amendment which failed to get in because of the death of his colleague?

Mr. RAYNER. So I understand. I have been so informed.

Mr. FULTON. I have looked it over. I think it is within the rule, and under the circumstances I am willing to accept it.

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

The amendment was agreed to.

Mr. RAYNER. The second amendment is a judgment of the Court of Claims in favor of the claim, but it came in shortly after the committee made up the bill. It is for a church.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 62, after line 15, insert the following:

To the consistory of Grace Reformed Church, Knoxville, Md., the sum of $410, the same being the amount of the findings reported by the Court of Claims in Senate Document No. 418, Sixtieth Congress, first session.

Mr. FULTON. All those amendments the committee have declined to insert. I trust the amendment will not be adopted, because there will be another bill similar to the one pending.

Mr. RAYNER. What is the objection to the adoption of this claim? It is a payment to the consistory of Grace Reformed Church, Knoxville, Md., and the Court of Claims finds that—

II. During said war the military forces of the United States, by proper authority, for the use of the army, took possession of the church building described in the petition and used and occupied the same for hospital purposes for a short period of time and damaged the same. The reasonable rental value, together with damage in excess of ordinary wear and tear, was then and there the sum of $410, no part of which appears to have been paid.

III. The claim herein was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court by resolution of the United States Senate as hereinbefore set forth, and no satisfactory reason is adduced showing why the claim was not earlier presented.

What is the objection to allowing the claim? It is for a church and is for $410. It came in shortly after the committee made up the bill and ought to have been in it, but for some reason or other it was delayed.

Mr. FULTON. In the first place, all those claims which came in subsequent to the reporting of the bill the committee has had no opportunity whatever to examine. In the next place, it seems to me that there ought to be some limit, and the committee felt if we passed on all matters that had been reported to the Senate up to the time of the reporting of the bill, the others should wait until there would be another bill carrying these claims.

Mr. RAYNER. But do not draw the line on a church claim.

Mr. FULTON. It is impossible for me to examine this matter carefully now. The mere fact that there is a court finding here does not settle it. There may be two court findings. Sometimes we discover that these matters are duplicated; and one has been paid. I do not care to assume the responsibility myself to accept it.

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

The amendment was rejected.

Mr. LODGE. I offer an amendment, which I will not delay the Senate by asking to have read. The Senator from Oregon knows the claim, which I think is a good one. I wish to submit it to his consideration. It is what is known as the "dies claim."

Mr. FULTON. I have never looked upon the claim as one enjoying much merit, and I have not changed my view.

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

The SECRETARY. It is proposed to add to the bill the following additional section:

SEC. —. That there is hereby appropriated, out of any money not otherwise appropriated, to refund internal-revenue taxes illegally collected from owners of private dies, as decided by the Supreme Court of the United States, the following amounts, or so much as may be found due by the accounting officers of the Treasury Department, to wit: To Alligator Match Company, $105; A. Beecher & Sons, $1,407; W. T. Brown & Co., $830; John J. Brown & Son, $2,535; John Bull (estate), $1,278; Jeremiah Curtiss & Sons, $4,010; Curtis & Brown Manufacturing Company, $49.50; Andrew Dougherty, $5,645; Henry Dalley, jr., $220.13; P. H. Drake & Co., $990; A. Eichele & Co., $3,527; Griggs & Scott, $380; William Gates's Sons, $203.98; L. G. Hunt, $155; Holman Liver Pad Company, $21.04; S. B. Hartman & Co., $345.68 cents; Joseph Loehr, $2,961.44; R. H. McDonald & Co., $2,436; National Match Company, $1,040; D. Ransom & Co., $400; H. R. Stevens, $348; Swift, Courtney & Beecher Company, $7,000; Trenton Match Company, $755.20; John Loehr, $4,521.44.

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

Mr. SMOOT. Mr. President, I hope that the amendment will not be voted on favorably.

The amendment was rejected.

Mr. SIMMONS. I desire to offer an amendment at the end of the North Carolina items, on page 78.

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

The SECRETARY. It is proposed to add, after line 25, page 78:

James W. Adams, of Patrick County, $2,325.

Mr. SIMMONS. Mr. President, I think the Senator from Oregon will offer no objection to this particular amendment. I am inclined to think that it was the intention of the committee to include it with the committee amendments in the bill, but it was overlooked.

Mr. RAYNER. There ought to be some equality of distribution. I am not objecting to any claim, but I should like to ask the Senator from North Carolina what is the date of the claim, because one of my claims was just ruled out. Let us have the date.

Mr. SIMMONS. It is dated "Washington, December 5, 1905." I assume that that is the date of the finding.

Mr. RAYNER. I thought it was a claim of April, 1908. I understand all adjudications of the Court of Claims after the report of the bill have been ruled out, and the chairman of the committee has announced that he will object to any ruling of the Court of Claims after the bill has been reported.

Mr. SIMMONS. Mr. President, I desire to say with reference to the matter, if there is any claim in the bill that is thoroughly established, both by the evidence and by the Court of Claims, it is this claim.

This is a claim for the use of the schooner *Triumph*. This schooner was taken, so the Court of Claims find, by order of General Burnside for the use of the army, and was used for the army for one hundred and fifty-five days. The Court of Claims find that the reasonable value of the use of that schooner for that time was $2,325; that the claimant was a loyal citizen of the United States.

Mr. FULTON. I did not understand the Senator's answer to the question as to when that claim was reported by the Court of Claims.

Mr. SIMMONS. It is dated "Court of Claims, clerk's office, Washington City, December 5, 1905."

Mr. FULTON. If it came in in 1905——

Mr. SIMMONS. I may be mistaken about the time when it came in; but the letter of the assistant clerk of the Court of Claims transmitting it bears the date I have stated.

Mr. FULTON. There is a possibility that it was paid in the last omnibus claims bill, and there is the further consideration that it was previously passed upon by the committee.

Mr. SIMMONS. It appears at the close of this report that the case was attested on the 3d day of June, 1905.

Mr. FULTON. That matter must, of course, have been passed upon by the committee which made up the last omnibus claims bill. There must have been grounds, in its judgment, for rejecting the claim, or it is possible that the claim may have been paid. Has the Senator looked that matter up carefully?

Mr. SIMMONS. Mr. President, I know the parties interested. They have written to me about the claim recently, and I assume they would not have written about it if the claim had been paid. I have made no investigation other than that. I think the claim was not included in the other report, probably on account of some inadvertence on my part. I am not sure what was the real reason for its omission from the last bill, but as to the merits of the claim there can be no controversy whatever.

Mr. FULTON. If the Senator will allow me to look at the report perhaps I can ascertain. [Examining.] Yes; I find one reason, probably, why the claim was rejected, if there was no other, was this:

III. The claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court as aforesaid.

That is a finding of laches, and the existing law provides that when these claims are sent to the Court of Claims, the court shall report whether or not any showing has been made why the bar of the statute should be removed, contemplating that if no such showing is made the claim is not to be entertained.

Mr. SIMMONS. I desire to ask the Senator from Oregon a question.

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. FULTON. I yield the floor, Mr. President. I am through.

Mr. SIMMONS. Mr. President, a great many of the claims contained in the bill, with respect to the time of presentation, are not upon an exact parallel with this case.

Mr. FULTON. There are some exceptions. We have not made that a strict rule in the matter of laches. Oftentimes we are able to satisfy ourselves that a claim ought to be recognized notwithstanding laches.

Mr. SIMMONS. I ask the Senator from Oregon, again, if the Court of Claims is not in the habit, when it finds that a claimant has been guilty of unreasonable laches, of stating, as a part of its findings, that he has been guilty of laches?

Mr. FULTON. No; the court simply say that no proof is offered to show why the claim had not before been presented. They do not say whether the claimant is guilty of laches or not.

Mr. SIMMONS. I should like to ask the Senator from Oregon another question. I ask if in the majority of these cases it does not appear from the findings of the court that they were not presented for payment until a bill was offered in Congress?

Mr. FULTON. I will answer the Senator "no." In the majority of cases, if the findings are flatly against the diligence, as in this case, sometimes the court——

Mr. SIMMONS. I do not understand, if the Senator will pardon me, that there is any mention in the finding as to the diligence of the claimant. The court simply says that this case was not presented to Congress until the introduction of the bill which was referred to the Court of Claims.

Mr. WARREN. I think I ought to say, regarding the claim presented by the Senator from North Carolina [Mr. SIMMONS], that it was one of the class that in the last omnibus bill we did not include. We only included cases involving laches where it was against infants or was otherwise some peculiar case of hardship or there was some extraordinary reason why the claim could not be earlier presented. There were several hundred claims exactly on the same level with that which the Senator from North Carolina is presenting.

I think I said on the floor when the previous omnibus claims bill was being considered, that the committee had thought it best to leave out a great number of claims, at least for the time. I intimated then—and I believe it will eventually be done—that in cleaning up, perhaps in the next bill such claims will all be taken up and reviewed.

I do not know what is in the present bill, but the last bill contained no claims where the laches was as plain as in the case the Senator from North Carolina has presented.

Mr. SIMMONS. Mr. President, if the Senator will pardon me, the differentiation which I want to point out to him is that in the case I present there is no finding of the court that there was laches and no finding of the court with reference to the question we are now discussing. The finding of the court with reference to the question which we are now discussing is as follows:

The claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court as aforesaid.

Mr. WARREN. Mr. President, those are exactly the terms of the findings in all this class of cases that were before excluded upon the findings of the court.

Mr. SIMMONS. My recollection is——

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from North Carolina yield to the Senator from Oregon?

Mr. SIMMONS. Certainly.

Mr. FULTON. The law contemplates that the claimant shall affirmatively show some reason why he did not present the claim earlier; and failing to so show, the claim is barred. It requires an affirmative showing.

Mr. SIMMONS. Mr. President, my recollection is, from an examination of a number of cases I have had in charge, that where the court intended to find that the claimant had been guilty of unpardonable negligence, if you will allow the use of that term, they assert either that the claimant was guilty of negligence or they declare that no reasonable explanation was offered why the claim was not presented at an earlier date.

Now, Mr. President, I can only say this with respect to this claim: It may be that there may have been some negligence in presenting it, but where it is shown by the findings of the court, created by the Government itself to determine and pass upon the merits of claims of citizens against the Government thus submitted, that the claim is just, that the Government has had the use of the property, and that the citizen was a loyal citizen of the United States, I do not think the Government ought to plead the statute of limitations.

The VICE-PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from North Carolina [Mr. SIMMONS].

The amendment was rejected.

Mr. FULTON. Mr. President, I now present a committee amendment. This is the last committee amendment I have to offer.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 200, after line 15, following the amendment already adopted, it is proposed to insert:

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, be, and he is hereby, authorized and directed to audit and adjust the claims of Stewart & Co., and A. P. H. Stewart, agent, for internal-revenue taxes collected on government cotton between January 1, 1865, and January 1, 1866, and which have not been heretofore refunded, and for this purpose, any statute of limitation to the contrary notwithstanding, sections 989, 3226, 3227, and 3228 of the Revised Statutes of the United States are hereby made applicable and available with the same force and effect as if protest and demand for payment had been made within the time prescribed by said sections, and the amount, not exceeding $11,208.04, when ascertained as aforesaid, and not heretofore refunded, shall be paid to legal representatives of A. P. H. Stewart and Charles A. Weed, out of the permanent annual appropriation provided for similar claims allowed within the present fiscal year.

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

The amendment was rejected.

Mr. TELLER. Mr. President, I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 41, at the end of the Colorado items, it is proposed to add the following:

To Jesse W. Coleman, Custer County, $675.

Mr. TELLER. Mr. President, I want to state very briefly the facts about this case. Mr. Coleman was a farmer on the Arkansas River in southern Colorado in 1864. He had quite an extensive farm, the farm covering a piece of land that did not belong to him, but which belonged to a different party. He had large fields of grain and crops of all kinds. When the Indians began disturbing that vicinity, he enlisted in the army and became a soldier in the Third Colorado Cavalry, which was a regiment recruited to fight against the Indians.

Mr. Coleman lost his entire crop. He filed a claim against the Government for a very large amount of money—$23,000—and went into the Court of Claims. I will read the findings of the Court of Claims, and then, if the chairman of the commit-

tee will say that this is not a proper claim, I shall admit that I do not know what is a proper claim. This is the finding of the court:

It appears from the evidence that the claimant, Jesse W. Coleman, was loyal to the Government of the United States throughout the war for the suppression of the rebellion—

I suppose that may be presumed after he had entered the army and served one hundred days, which was the time of his enlistment—

In 1864 the claimant was engaged in farming a tract of land belonging to the Government—

I want to say, Mr. President, that in those days all that land belonged to the Government. There was no private ownership of land of any consequence in that part of the country—

which he had leased from one Eader, who seems to have been in possession as a "squatter." The land is located about 12 miles from Pueblo, then Colorado Territory. The land was leased on shares, the claimant agreeing to give one-fourth of the crop raised by him. In August, 1864, the Indians in that locality were on the warpath, and the serve one hundred days, and was mustered in on September 12, 1864, claimant enlisted in Company G, Third Colorado Cavalry Volunteers, to and served during the term of his enlistment until mustered out December 29, 1864. That by reason of the terrorized condition of affairs and the claimant's absence from home he failed to harvest and save any material part of his crops.

That is what he has filed a claim for, which the court did not allow.

During that period there were taken from the said claimant, in Custer County, in the then Territory of Colorado, stores and supplies of the character and kind described above, which at the time and place of taking were reasonably worth the sum of $675, no part of which appears to have been paid for.

Mr. FULTON. Let me ask the Senator right there, by whom were those stores and supplies taken? By the Indians?

Mr. TELLER. They were taken by the troops.

Mr. FULTON. It does not say so.

Mr. TELLER. It does not say so, but that is a fact within my knowledge. I happen to know Mr. Coleman. He is, I think, the only man I do know who has any interest in this bill. It is a claim for property taken by the United States; and while the court does not say it was taken by the troops, it evidently follows that the court understood that it was taken by the troops.

Mr. FULTON. I think that might be assumed.

Mr. TELLER. That is all there is of that claim. Of course the claimant did not get his claim for $23,000, although I have no doubt the soldiers got the property on which the claim was based. I think Mr. Coleman, who is now an old man, is entitled to $675, and I am sure it will not break this Government of ours to pay it.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Colorado [Mr. TELLER.] [Putting the question.] By the sounds, the "noes" have it.

Mr. TELLER. Mr. President, I am going to ask for the yeas and nays on the amendment, for if there is any decency in the Government of the United States, that is a claim that ought to be paid. It is a mere subterfuge to say the court did not find that the property was taken by the United States troops. The property was taken, and if they find that the claimant is entitled to recovery, it follows that the property was so taken, and that the court so understood it. I do not know whether I can get the yeas and nays on the amendment.

Mr. FRYE. Let the question be again put. Let us have another viva voce vote.

Mr. TELLER. Very well. I ask that the question be again put.

The VICE-PRESIDENT. The Chair will again put the question. The question is on agreeing to the amendment offered by the Senator from Colorado [Mr. TELLER].

The amendment was agreed to.

Mr. KEAN. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 194, after line 2, it is proposed to insert:

That the Secretary of State be, and he is hereby, authorized and directed to examine the claim of the Wales Island Packing Company, for injury to its business and property on Wales Island on account of the recent decision of the Alaska boundary tribunal, under which the possession of said island has passed from the United States to the Dominion of Canada, and allow to said company whatever sum may be found due, not exceding $81,869.60. And the amount so found due shall be paid to the Wales Island Packing Company: *Provided*, That the said amount allowed shall be accepted by the said company as full satisfaction of all its claims against the United States arising from said injury; and the said amount allowed is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. KEAN. Mr. President, that is a well-known case. I think the Senator from Oregon will accept it.

Mr. FULTON. I will simply say, in regard to that matter, that some amount should be allowed to these parties. The Secretary of State has recommended it many times. I do not know whether the amendment is so framed that he can pay whatever he chooses.

Mr. KEAN. He can.

Mr. FULTON. If it is not so framed, I will see that it is.

Mr. KEAN. It is so framed that he can pay whatever he thinks fit.

Mr. SMOOT. Mr. President, I rather think that a dangerous precedent will be set by paying that claim. I have examined it a great many times, and I can not see any justice in it. I hope the Senate will vote it down and not allow it to go into the omnibus claims bill.

Mr. WARREN. Mr. President, I hope the Senate will do as they have done before—agree to the amendment with the same unanimity as before. It is something the State Department is very much embarrassed with, caused by a change of national boundary, no fault being attached to the packing company. I think it is a righteous claim and that it ought to go into the bill.

Mr. FULTON. They were cut out by the boundary line being changed.

Mr. TILLMAN. If it is such an important matter, why is it not brought in here on its own merits, instead of being put on this omnibus claims bill with so many other claims which everybody realizes and acknowledges are just? Let us have the same treatment for both sides of this Chamber, and for both parties here, or let us not have anything at all. I would rather have no bill at all than have such discrimination.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from New Jersey [Mr. KEAN].

The amendment was rejected.

Mr. KEAN. I have another amendment which I desire to offer for the Senator from Pennsylvania [Mr. PENROSE]. It should come in after the French spoliation claims.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

That the sum of $496,812.54 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay the president and directors of the Insurance Company of North America the several amounts found by the Court of Claims and heretofore reported to Congress as due them in accordance with the provisions of an act entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July 1801," approved January 20, 1885.

Mr. KEAN. Mr. President, the Senator from Ohio [Mr. FORAKER] has a similar amendment in regard to the Insurance Company of Pennsylvania. They are both to be considered together.

Mr. FORAKER. Mr. President, I offer an amendment now to be inserted in the bill following the amendment of the Senator from New Jersey.

Mr. KEAN. So that both of them may be considered together.

Mr. FORAKER. I ask that my amendment be read for the information of the Senate.

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

The SECRETARY. Following the amendment of Mr. KEAN, it is proposed to add:

That the sum of $313,931.65 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay The Insurance Company of the State of Pennsylvania the several amounts found by the Court of Claims and heretofore reported to Congress as due them in accordance with the provisions of an act entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801," approved January 20, 1885.

The VICE-PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from New Jersey [Mr. KEAN].

Mr. FULTON. Mr. President, if I understood correctly, the amendment offered by the Senator from New Jersey is for the payment of the French spoliation claim of the Insurance Company of North America.

Mr. KEAN. It is.

Mr. FULTON. And the amendment offered by the Senator from Ohio, I understand, is similar.

Mr. FORAKER. Yes; for The Insurance Company of the State of Pennsylvania.

Mr. FULTON. We have included in the bill allowances for all individual claims against that fund, but we have excluded the claims of all incorporated companies. That has been the policy heretofore, and the committee followed it this time. I want to say, though, that my investigations have led me to believe that it is a policy that ought not to have been pursued;

and, so far as I am concerned, were it not for the fact that it would impose so large an amount on this bill, I would consent to accept the amendments.

The truth is, I found, when I came to investigate the matter, that these insurance companies received no greater premium for the insurance they wrote than was paid on the same risks to private insurers. For some time I had been laboring under the impression that they had really been charging what might be called "a war risk" premium and had received larger premiums than the private insurers. We have uniformly paid the private insurers, and justice will some time require that Congress shall pay these claims. I hope, however, Senators will not insist on pressing these claims at this time, because it will be simply impossible, in my judgment, to get this bill through with them on.

Mr. FORAKER. Mr. President, I hope the Senator having the bill in charge will not insist upon his objection. I hardly see how he can do so consistently, in view of the statement he has just made.

It is true, as he says, that these are absolutely just claims. They were presented and heard in the Court of Claims and were there allowed. It is true, as he says, that there has never been any objection to paying them when similar claims were being paid, except only that these were claims in favor of corporations. That surely is not a just and tenable objection.

It is true the amount is large; but some time, if the Senator's suggestion is acted upon favorably, the Government will discharge these claims, and I do not know why we should not discharge them at this time as well as at some subsequent time.

These insurance companies have just passed through the great fire at San Francisco, where they lost heavily, but met all their obligations, and at this particular time it would be only a just recognition, and a most appropriate and a most agreeable one, if they could have that which the United States Government owes them and has owed them for a hundred years. How much longer are they to wait in patience? I hope the Senate will vote that these claims—as just as any that are incorporated in this bill; as just as any that have ever been paid of all these French spoliation claims—may be now acted upon and allowed.

Mr. MONEY. Mr. President, I have not a word to say about the justice of the claim that is presented as an amendment, nor the justice of any other claim included in this bill; but the proceedings in the consideration of this bill have been of such a character that it is not exactly fair to some of us on this side that these amendments should now be offered.

A good many Senators on the Democratic side understood that there was going to be great difficulty in having this bill presented at all for consideration. It is called a "southern claims bill," but, in fact, 3 Northern States have more than the 11 Confederate States put together. I, with a number of gentlemen on this side of the Chamber and around me, agreed that we would not introduce any amendment whatever if the bill should be presented to the Senate, and I understood that it was upon such conditions that the bill was brought before the Senate to be put upon its passage.

I and several other Senators have religiously adhered to that contract, as I may call it, and have not presented amendments that arise properly under this bill and are quite as just as any that are carried in it. I am not questioning the justice of any of them; but if it were to be understood that any sort of claim might be presented and appended to this bill on the ground that it was a just claim, we should have a good many to offer ourselves. I know that I should have several. I have been importuned by my constituents to see that claims which have been favorably acted upon by the Court of Claims should be added to this bill, but I have refrained from offering any of them. The bill has now grown large enough when you consider the understanding under which, I think, it was at first presented to the Senate.

While I have no disposition to put off any further the claims covered by the amendments of the Senators from New Jersey and Ohio—and I know they have been delayed here a hundred years—there are many other bills quite as just to which there is not the slightest probability of any consideration ever being given by the Senate. I have in mind a bill that I introduced myself which has been on the Senate Calendar every year, session after session, as it has been in the House, for thirty years. It has never received an unfavorable report; it has never received the views of the minority; and yet consideration can never be had for it because it simply involves the distribution of a trust fund in the Treasury which the courts and the Congress say, and everybody says, belongs to somebody else. If the claim of a cestui que trust who has proved his right to a part of a distributive fund in the Treasury, allowed by all to be a trust fund, is not a just claim, then there are no just claims against the Government whatever.

I want all just claims against the Government paid. I do not think we can put the United States in the attitude of denying a claim for provisions or anything else furnished to its troops. If we do, we put it in a most anomalous and ungracious attitude, different from that of every other country in the world. For at least two hundred years—two hundred and fifty, I think—it has been decided over and over again in international law that a government in honor must pay for what it seizes, whether that seizure belongs to friend or foe, and we always proceed upon the legal fiction that the Government has an implied contract to pay.

I know that a great many of the French spoliation claims are just, and I do not, by what I am saying, throw any sort of cloud upon the claims presented by the Senator from New Jersey and advocated by the Senator from Ohio. It is simply that after we on this side, because of the condition of the bill, agreed not to present claims which are fully as just, fully as pressing, and very much smaller in amount, and have withheld action because we agreed to do it, now we find ourselves overrun with amendments from another section of the country, embracing much older claims and no more just.

Mr. FORAKER. I do not know anything about the agreement of which the Senator from Mississippi speaks. I only know that these claims have been called to my attention, that I have investigated them, and I have reached the conclusion stated by the chairman of the committee having this bill in charge, that they are absolutely just claims and that they ought to be paid; and the Government has not even the excuse of not being able to do it as the reason why it should not pay.

Mr. WARREN. Will the Senator from Ohio permit me?

Mr. FORAKER. Certainly.

Mr. WARREN. Just a word, Mr. President. I think the first time any number of these French spoliation claims were paid upon the findings of the Court of Claims was something like a dozen years ago, when about three-fourths of a million dollars of spoliation claims and about the same amount of southern war claims were put on the deficiency bill. At that time it was with the promise on the part of those who proposed them that the spoliation claims should not include the insurance claims. I had not then had time to look them up. After that had passed we again put upon another deficiency bill about as much more—three-quarters of a million of spoliation claims—and the bill was vetoed by President Cleveland on the ground that we had included insurance claims.

Later on it was looked up. We found that the only objection to these claims was that it was the business of the insurance companies to insure; that they had charged a premium for insuring, and therefore it was a business transaction, and they assumed the risk as an ordinary business proposition in contradistinction to those people who had had their property taken from them.

But I must say, in justice to the claims, that we have paid the underwriters, as the Senator from Oregon has said, the private insurers, and, so far as my investigation shows, at about the same rate of premium. I have believed, and now believe, that before the matter of settling the French spoliation claims is entirely closed these insurance claims will have to be considered. But they have been left out of this bill on account of the understanding had in the first place, and as was so well said by the Senator in charge of the bill, to keep the pending bill from becoming larger than we could obtain the consent of this House and the other House to pass. If it shall be excluded now, I think there will later on be a stronger prospect of its going through than at this time.

Mr. FULTON. I call the attention of the Senator to the fact, if he will allow me, that the acceptance of these amendments means adding nearly $2,000,000 to the bill. It simply means to sink it.

Mr. SMOOT. Mr. President——

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

Mr. FORAKER. Certainly.

Mr. SMOOT. I sincerely hope this amendment will not be accepted by the Senate. I have studied the question pretty thoroughly, and I do not believe the claims are just. It is true they happened in time of war; but if you will inquire what the rate of premium was, you will notice that war premiums were paid, many of them 35 per cent.

Mr. KEAN. I think the Senator from Utah will find, if he will examine it, that that is not true.

Mr. FULTON. Let me ask the Senator if he contends that the premium charged by the insurance companies on a given risk, where the risk was also carried by a private individual,

was greater than the premium charged by the private individual? Was it not exactly the same in every instance?

Mr. SMOOT. As far as my examination discloses, it was a trifle higher.

Mr. FULTON. No; I had all that tabulated. I had every one drawn off. I had the same impression that he has; but where an insurance company and a private insurer carried a risk on a ship or a cargo at the same time, the premium was the same, except in some instances, much to my surprise, the insurance companies did it for a less premium.

Mr. SMOOT. Mr. President——

Mr. FORAKER. I decline to be further interrupted.

The VICE-PRESIDENT. The Senator from Ohio.

Mr. FORAKER. The statement made by the Senator from Utah is the expression of a misunderstanding that obtained to the prejudice of these claims for years.

Mr. SMOOT. Not with me.

Mr. FORAKER. Not with the Senator from Utah, as he says, because I assume that until recently his attention had not been directed to the matter, but he is now under the same misapprehension that others labored under at the time these claims were discriminated against—that is the only word proper to employ. The record and testimony adduced show that there was no war premium charged, but only the ordinary marine rate that underwriters, incorporated and unincorporated, charged at that time.

But for the assurance given by our Government, by President Washington, and by Mr. Jefferson, then Secretary of State, whose assurances are quoted on the record, there could not have been any merchant marine at all belonging to America at that time. They gave assurance that the Government would stand behind and protect them if they took these risks. In view of that fact the insurance companies of the country were willing to underwrite these risks and did underwrite them; and then, Mr. President, when the vessels were destroyed by the French our Government stepped in and assumed the obligation that the French Government thereby came under to pay for these ships. Our Government got value received for it, and for one hundred years our Government has been refusing to recognize and pay these claims.

The whole trouble out of which grew these French spoliation claims was one not creditable to our Government, I am sorry to say; due to the fact, acknowledged by us officially, that we did not keep our pledge to the French people embodied in the treaty of 1778.

Mr. FULTON. If the Senator will allow me——

Mr. FORAKER. In just a moment.

It was in consequence of that and to adjust our differences with the French Government that we assumed these obligations, and when we assumed these obligations the insurance companies became subrogated to all of the rights of the owners of the vessels, and they advanced and paid the loss, and all this time they have been trying to get back that which belongs to them.

Mr. FULTON. I have the list here that I drew off, showing the risks carried and the premium paid. Take the brig *Ruby*, office of Peter C. Brooks; $16,000 insurance, at 18 per cent premium. We have paid Peter Brooks all his claim. The Boston Marine Insurance Company, $2,500, on the same risk, 15 per cent. The company charged 15, as against 18 by the individual.

Mr. KEAN. Has not the Boston Marine Insurance Company been paid?

Mr. FULTON. It still has claims. I do not know whether it has been paid. I do not think it has been.

Mr. KEAN. Some of the claims of the Boston Marine Insurance Company were paid, as I understand.

Mr. FORAKER. Yes; I have the record here, showing that one company in Massachusetts and two or three companies in Rhode Island were paid, and one in Baltimore.

Mr. FULTON. That does not make any difference. I was calling attention to the fact that the insurance companies charged practically the same premium that private individuals charged for the same risk. But I do not want to be misunderstood. I do not want this amendment attached to the pending bill, for it simply means to destroy the bill.

Mr. FORAKER. I do not want to destroy the bill——

Mr. KEAN. Let us have a vote.

Mr. FORAKER. But as the amendments have been brought up, and brought up in good faith, I want to answer the objections made to them. I desire to say, in answer to the objection, that the companies charged a war premium. Suppose they did. Does that justify the Government in refusing to reimburse men for losses which they have paid, for which the Government undertook to reimburse them? That they would charge war rates in time of war is the most natural thing in the world; but that does not take away their right to hold the French Government responsible if wrongfully the French Government destroyed the vessel on which they had written insurance.

Mr. FULTON. I think the Senator did not intend to say that this was during war. As a matter of fact, it was not during war. Had it been during war we would not recognize the claim at all. As a matter of fact it has been judicially determined that a state of war did not exist between France and this nation at that time.

Mr. FORAKER. I stand corrected as to that. During a time of practical hostility. The French Government undertook to punish us for not keeping our treaty agreement with her to stand by her when she got into war with any other country. She called upon us to stand by her in her trouble with Great Britain, and we had declined to keep our pledge. To punish us she set about destroying our merchant marine upon the high seas, and wrongfully destroyed it, because, as the Senator from Oregon suggests, there was no war to justify it. It was in time of peace. It was pure wantonness, as we claim.

Hence it was these vessels had an undoubted claim against the French Government, and our Government had promised the insurance companies, the vessel owners, and everybody else who took risks in regard to our merchant marine that it would stand by and protect and secure to them redress if they suffered wrongs. That led to this insurance. It led to these ships sailing the seas as they did. Suppose they did, in view of that, charge high rates—which they did not, because the record shows they were simply the ordinary marine rates at that time. But suppose they had. They still would have been allowed to assert their claim against the French Government. They would have a just claim against the French Government for the full value of their loss, and it was that obligation of the French Government to the vessel owner, and through the vessel owner to the insurance company which paid the loss, which our Government assumed and promised to pay, and which it has been for a hundred years dodging in and out on one pretext and another and not paying.

I do not want to kill the bill; but inasmuch as this question came up, I wanted to express to the Senate my opinion, based upon the best examination I have been able to make, that these are perfectly just claims, and that they ought to be paid.

Mr. KEAN and others. Let us have a vote.

Mr. SMOOT. Mr. President——

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

Mr. SMOOT. I thought the Senator was through.

Mr. FORAKER. I was answering a suggestion. I had not determined what I would do; but in view of the fact that Senators desire a vote, I will let it come to a vote.

Mr. SMOOT. Mr. President, I have spent a little time in looking up the rates that were charged the different boats, and while I notice from the list the chairman of the committee has here that in many instances there was an insurance rate of 25 per cent, there is a list I have seen which shows that there was 35 and 40 and even 50 per cent charged.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from Oregon?

Mr. SMOOT. I do.

Mr. FULTON. I think the Senator surely must be mistaken. I had this taken from the list as it appears on file in the Committee on Claims.

Mr. SMOOT. I do not say that——

Mr. FULTON. Of course I understand the Senator thinks he is correct, and possibly he is correct, but it does seem to me he must have this confused with some other matter, because I had this list compiled from the records in the Committee on Claims.

Mr. SMOOT. I do not say it is not compiled from the list that the chairman of the committee has, but I do claim there is a list showing in many cases higher rates charged than on this list. It seems to me if the insurance was charged at a war rate, and if the Government told these companies it would protect them against loss, then they should not have charged a war rate for the insurance.

Mr. KEAN. The Senator from Ohio and I are perfectly willing that the amendment shall go over. We withdraw it.

The VICE-PRESIDENT. The amendment is withdrawn.

Mr. SCOTT. I offer the amendment I send to the desk.

The SECRETARY. On page 106, in the items for West Virginia, after line 22 and after the amendment already inserted at that point in the bill, it is proposed to insert:

To the board of education of the Harpers Ferry school district, Jefferson County, W. Va., $2,121.72, the amount found due by the

Committee on War Claims of the House of Representatives, as included in Report No. 1135, Sixtieth Congress, first session.

Mr. SCOTT. Mr. President, in view of the action of the Senate I have no hope, or at least scarcely any hope, that the amendment will be adopted, but I want to say that my State was the theater of very stirring scenes from 1861 to 1865. I have probably 50 or 75 amendments which I ought to offer that are as deserving as the one which I have just sent to the desk. This is for property taken by the Government. The Government sold the property and got the money, and my constituents have been waiting now for forty years for it, and I suppose they will have to wait forty years longer.

But, Mr. President, I am not going to press it, because my constituents are provided for in the bill to a reasonable amount, and I do not want to kill the bill. You know the saying, "A half loaf is better than no bread." I am going to follow what the Senator from Mississippi said a while ago and not offer these additional amendments, although every one of them is just and should be paid. I ask to have a vote on this amendment, which will determine my action as to whether it is worth while to offer any of the others.

Mr. FULTON. Mr. President, I hope the amendment will not be adopted. I do not think it is proper to insert it on this bill.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from West Virginia. [Putting the question.] The "noes" seem to have it.

Mr. SCOTT. If I thought I would have as good luck as the Senator from Colorado when he called for the yeas and nays on his amendment, I would insist upon the yeas and nays. But not wanting to take up the time of the Senate, I will be satisfied with a vote if Senators will vote on this proposition.

The VICE-PRESIDENT. The Chair will again put the question. The question is on agreeing to the amendment proposed by the Senator from West Virginia.

The amendment was rejected.

Mr. BULKELEY. I desire to offer an amendment.

The VICE-PRESIDENT. The Senator from Connecticut offers an amendment, which will be stated.

The SECRETARY. On page 42, after line 2, it is proposed to insert:

To John G. Foster and Horace M. Sanford, $206.79.

Mr. BULKELEY. This matter has been considered by the Committee on Claims, and a bill was reported to the Senate, and it seems to me it is entirely proper.

Mr. FULTON. Has the bill passed the Senate?

Mr. BULKELEY. It is now on the calendar of the Senate.

Mr. FULTON. But it has not passed?

Mr. BULKELEY. No; it has not.

Mr. FULTON. Then, Mr. President, I must object to it.

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

The amendment was rejected.

Mr. SMITH of Michigan. I offer the amendment I send to the desk.

The SECRETARY. On page 200, after line 15, and after the amendment already inserted at that point, it is proposed to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to reimburse Joseph Schrembs, out of any money in the Treasury not otherwise appropriated, the sum of $262.20, which amount was paid by said Schrembs, under protest, to the surveyor of the port of Grand Rapids and covered into the Treasury, as duty unlawfully assessed and collected by said surveyor on four cases of statuary for the use of St. Mary's Church, Grand Rapids, Mich., December 16, 1902.

Mr. SMITH of Michigan. Mr. President, Rev. Joseph Schrembs is the vicar-general of the Catholic Church in Michigan. Before he went abroad he consulted the surveyor of customs at Grand Rapids, Mich., and was told by him that there was no duty on statuary or works of art imported for religious purposes. He went to Europe and made some purchases and returned home, only to learn that the surveyor had changed his mind and levied customs duty against these church statues. The matter was appealed to the Board of General Appraisers, and the board overruled the surveyor. The case was taken finally to the court of appeals. The court held that these were works of art, imported for religious purposes, and that they were not dutiable. For four years I have been trying to get this money refunded to Father Schrembs. It is a very small sum. The bill has passed the Senate once, and I hope the claim will have no opposition now.

Mr. TELLER. What is the amount?

Mr. SMITH of Michigan. $262.20.

Mr. FULTON. The amendment is in order. A bill for this purpose has passed the Senate. I suggest, however, to the Senator from Michigan, that the bill has also been reported favorably in the other House, and it would be far better to leave it out of this bill and take the chance of getting it through there. However, that is a matter which he will determine for himself. I shall make no objection to the amendment.

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

The amendment was agreed to.

Mr. FRAZIER. I offer the amendment I send to the desk.

The SECRETARY. On page 93, after line 13, it is proposed to insert:

To Edmund W. Williams, administrator of the estate of Joseph R. Williams, deceased, $12,940.

Mr. FRAZIER. Mr. President, in view of the tacit understanding that prevailed in the Committee on Claims in reference to this bill, I would not have offered this amendment at the present time but for the peculiar hardship to the claimant if the item is not put on the bill. I may state that as a member of the committee when the discussion was had I reserved the right to offer this particular claim as an amendment to the bill.

Mr. FULTON. Has the case been to the Court of Claims?

Mr. FRAZIER. Yes.

Mr. FULTON. Has the Senator the finding?

Mr. FRAZIER. Yes. It was reported from the Court of Claims too late to go on the last omnibus claims bill. It came in after that bill was reported to the Senate, and for that reason it was not placed on the last claims bill which passed Congress.

This is a thoroughly meritorious bill. The claimants were loyal; it was so found by the Court of Claims. The claim arises for the use and occupation of buildings in the city of Memphis. The buildings were used as headquarters for the army officers and for a hospital. While the claim was for a much larger sum than has been finally reported from the Court of Claims, there can be no sort of question as to the justness of this claim. The ground upon which it was disallowed is that of laches. The report of the Court of Claims simply says, in substance, that the claim had not been presented to the claims commission and other tribunals.

Mr. President, there can not be any laches in this case, because it arises for the rent of property, and each one of these tribunals created by Congress for the purpose of hearing these claims has determined that it has no jurisdiction to hear and determine the question of rent. The Quartermaster-General, February 26, 1874, decided that he had no jurisdiction of a claim for rent. The Southern Claims Commission decided they had no jurisdiction of claims for rent. The Court of Claims decided that under the Bowman Act it had no jurisdiction to determine the question of claims for rent. So there was no tribunal that had jurisdiction before which the claimant in this case could present his claim until the passage of the Tucker Act, in 1887. Shortly thereafter a bill was introduced here and sent under the resolution of the Senate to the Court of Claims, and in 1902 was reported back to the Senate favorably.

I hope that the rule that has heretofore seemingly prevailed—or at least for the last few minutes—of voting down these amendments will not prevail in this case, because it is a peculiar case, and it is entitled to favorable consideration and ought to be placed on the bill.

Mr. FULTON. I regret very much being compelled to oppose this claim, for I know how very deeply the Senator from Tennessee [Mr. FRAZIER] feels about it. He has been very earnest in advocating its passage during all the time this bill has been under consideration. He very earnestly urged it before the committee, but it belongs to that class of claims which we have excluded, and it would be unjust to allow this and exclude the others. There is a direct finding here of laches:

The claim was not presented to the Southern Claims Commission, the Quartermaster-General, or the Commissary-General, nor to any department of the Government.

It is quite true that the claims commission did not, or it held that it did not, have jurisdiction to entertain claims for rent and for the use of real estate, but it seems extraordinary that during all that time a party having a claim, one that he considered a bona fide claim, and realizing his own loyalty to the Government, would not have presented it to the Commissary-General or the Quartermaster-General or some department of the Government; and the fact that no explanation of his delay and nondiligence in that regard has been offered justifies the assumption of negligence or laches. I hope the amendment will not be adopted.

Mr. FRAZIER. Laches has been charged where the claimant had no court that had jurisdiction to determine it. We can not put ourselves in the attitude of saying that a man is guilty of negligence for not doing a thing that he is prevented by law from doing. These courts had no jurisdiction of the

claim. Therefore there could not be a question of laches for not going into a court which had already held that it had no jurisdiction. It would have been a waste of time and money. I hope the amendment will be adopted.

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

The amendment was rejected.

Mr. ELKINS. I offer the amendment I send to the desk.

The SECRETARY. On page 132, after line 8, in the West Virginia items, it is proposed to insert:

To Wildey Lodge, No. 27, Independent Order of Odd Fellows, of Charles Town, W. Va., $2,100, the amount found due by the Court of Claims and reported in Senate Document No. 136, Fifty-ninth Congress, second session.

Mr. ELKINS. Mr. President, this is a most meritorious and worthy claim. The court in its findings sets out the facts and finds favorably to it. It arises for the destruction by fire of an Odd Fellows' Hall situated at Charles Town, W. Va. The troops took possession of the lodge on the 28th of May, 1862, and used it as a quartermaster's office, storing quartermaster's stores. Shortly after that, during the campaign in West Virginia by one of the armies invading that part of the country, on the appearance of the confederate troops the Union troops abandoned the town, and of course the quartermaster's establishment; but before doing it they set fire to it to destroy, I suppose, the stores and not allow them to fall into the hands of the enemy.

Mr. President, the court finds that this claim is just. These are the facts: Belonging to a benevolent institution, doing good——

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from West Virginia yield to the Senator from Oregon?

Mr. ELKINS. Certainly.

Mr. FULTON. Does not the Senator understand that it was an act of war; that the property was destroyed to keep it from falling into the hands of the enemy? Does the Senator assume that any government would pay such a claim?

Mr. ELKINS. I do assume that the Government would pay a just and fair claim, as it should in this case. They burned up the property in the interest of suppressing the rebellion, I suppose; they did not want these quartermaster's stores to fall into the hands of the enemy and they burned down this lodge building. It is not a private claim.

Mr. KEAN. Will the Senator yield to me for a moment?

Mr. ELKINS. Certainly.

Mr. KEAN. I should like to call the attention of the Senator from Oregon to the fact that there is a similar claim in the bill from New Mexico.

Mr. ELKINS. And allowed?

Mr. KEAN. And allowed in this bill.

Mr. FULTON. Similar to this one?

Mr. KEAN. Similar to this one; private property that would fall into the hands of the enemy and was burned.

Mr. FULTON. I recall that claim.

Mr. KEAN. It is a very poor claim, I think.

Mr. FULTON. It is rather on the border line.

Mr. ELKINS. This is the claim of a benevolent institution, not of an individual. It involves only $2,100, and I hope the amendment will be adopted.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from West Virginia [Mr. ELKINS].

The amendment was rejected.

Mr. TELLER. On page 41, after line 19, in the Colorado items, I move to insert:

To Edward F. Mitchell, of Denver, Colo., $4,000.

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

Mr. TELLER. I should like to state briefly what the claim is.

Mr. Mitchell made a contract with the Government to carry the mail in Colorado some years ago for a certain sum over a certain line. The department arbitrarily ordered him to carry it over a different line and ordered him also to carry it with the same compensation which he had bid for, and they had accepted his bid. He carried the mail for the statutory time under his bid on an entirely different and a more difficult route, and he claimed and proved before the court that it cost him $5,000 more.

If the Senator from Oregon is not willing to accept it, I will proceed to offer another amendment.

Mr. FULTON. The findings are quite lengthy. I do not remember just the facts in the case, but I do know that we went over the matter very carefully. I did not feel that we could see our way clear to accept it. I must object to the amendment.

The amendment was rejected.

Mr. TELLER. I want to present another case that did not come from the Court of Claims, and I want to say that there is not any legal liability on the Government of the United States to pay it. It is a mere question whether it is a proper and a just thing to do, and if the Senate does not think it is I shall of course be compelled to be satisfied with its finding.

I send the amendment to the desk, and after it is read I desire to say a word or two about it.

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

The SECRETARY. It is proposed to insert, on page 41, after line 19:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to William H. Crook, out of any money in the Treasury not otherwise appropriated, the sum of $4,000, as compensation for services as secretary to the President to sign land patents for the fiscal years of 1879, 1880, 1881, and 1882, inclusive, and which services were additional to his regular duties as executive clerk and disbursing clerk.

Mr. TELLER. Mr. President, for many years Congress provided a clerk to sign the patents for the President, and paid him fifteen hundred dollars a year.

Mr. FULTON. As I recall the case—and I ask the Senator whether I am correct—the party was paid a regular salary as a government employee, and he claimed that this was extra work.

Mr. TELLER. That is exactly the case.

Mr. FULTON. I will say to the Senator that the committee did not feel warranted in adding to the salary he received.

Mr. TELLER. It is true that Colonel Crook was under a salary. He was an executive clerk in the office of the President, under Mr. Lincoln, and I believe he has been there ever since, and occupies some position, I think, at present—perhaps as disbursing clerk.

It was shown very thoroughly that this required extra duties and put on him considerable service. The Committee on Claims twice or three times reported a bill to pay this claim, and the Senate has twice passed a bill for his relief, giving him $4,000. It is in order, at least. He has the statement made by the Commissioner of the Land Office that his service was worth at least the sum that it is proposed to give him, or that we did give him by law. He has a report from the President of the United States—President Hayes—saying that he rendered the service and ought to be compensated, and twice the Committee on Claims reported favorably upon the claim.

Mr. President, with that I am willing to leave it to the Senate.

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

The amendment was rejected.

Mr. TELLER. Now, I want to offer an amendment, and I wish to be frank with the Senate. I do not expect that this amendment will be adopted; but I wish to take only a few minutes to demonstrate to the Senate that we do not always do justice to the men we ought to do justice to, and that the suspicion which attaches to every claim that comes here is not a just suspicion and ought not to be indulged in.

I will send up my amendment, and, after I have made a few remarks, I know I shall not succeed in having it passed.

The VICE-PRESIDENT. The Secretary will read the proposed amendment.

The SECRETARY. It is proposed to insert the following:

That the Secretary of the Treasury is hereby authorized and directed to pay to Mary Shannon, administratrix of the estate of Joseph R. Shannon, deceased, formerly of the State of Louisiana, for the loss of the steamer A. W. Quarrier, impressed into the service of the United States in the year 1862, and destroyed in such service, the sum of $48,000, out of any money in the Treasury not otherwise appropriated, being the value of said steamer as ascertained and reported by the Third Auditor of the Treasury.

Mr. TELLER. Mr. President, Mr. Shannon, who was a loyal citizen of Louisiana, was the owner of three steamboats. General Butler, when in charge of the city of New Orleans, seized this boat and sent it up the river on an expedition, and when it got into the Confederate lines the Confederates seized it and subsequently destroyed it.

There is not any controversy about Mr. Shannon's loyalty, because the Southern Claims Commission allowed him for another boat that had been taken from him by the Government and had been lost, and subsequently another boat which belonged to him he recovered possession of.

The bill for the relief of Mr. Shannon has passed the Senate twice. It has had the favorable report of the Committee on

Claims at least three times. It has had the favorable report of the Committee of the House once or twice—once to my certain knowledge.

In a very brief statement I can show something of this case. Mr. Shannon made his claim and it was sent to the Treasury Department. The Treasury Department kept the claim there for several years and the auditor found the value of the ship. He did not find that the Government was liable for it, but he found the value of the ship to be $48,300, according to my recollection. Then Mr. Shannon came to Congress, and he has been here more or less ever since. His attorney asked me to submit this amendment because of my knowledge of the case.

Mr. President, here is a case where the Government of the United States seized, as it might, and probably as it ought at the time, a vessel belonging to a citizen of the United States, whose loyalty had been recognized by the department of the Government itself, and has never been disputed that I am aware of by anybody. After having taken it and put it in the forces of the United States, they lost it and were unable to return it. I think I need not say that, according to the laws of war, according to the laws of decency and propriety, the Government of the United States should have made compensation for the ship. Nearly ever since I have been in public life this question has been before Congress in some shape. I do not think there has ever been an adverse report upon it from any committee. I do not think there has been an adverse report from any department of the Government against the claim. It is a large claim, the amount being $48,000.

I am tempted to say some things that perhaps I had better not say about the treatment we have given to some people in these matters. I want to make the facts apparent to the Senate. The man who owned the ship, who was entitled to its possession, or who, if he was not entitled to its possession, was entitled to be paid for it when it could not be returned to him, is dead long ago, and his widow is living, a claimant, still hoping that some day the Government of the United States will pay a debt just as honest and just as binding upon it as the bonds that have the seal of the Treasury Department on them.

Mr. President, I do not suppose she will live to see it paid. Neither do I think it will be specially to the credit of the Senate and the House of Representatives that it is not paid. I know frequently when a claim comes up here you will hear that it is an old claim. I remember, more than twenty years ago, when I reported from the Committee on Claims a claim that was at least 20 years old, a Senator rose and said: "We must be very careful about these claims; this is an old claim." It arose in this way, Mr. President, and I only mention it as an illustration: When Johnson was going to Salt Lake with his army he overtook two citizens of the State of Missouri with a train. Those of us who have lived in the West know what a train meant at that time. There were 50, probably there may have been 100, oxen in the train, and there were a large number of wagons containing goods of all kinds that were being transported to California and Salt Lake in that method. They had about six or seven horses in connection with the train. Johnson took possession of the train, and there never has been any fault found with the taking possession of it. He took the goods out of the train and used them.

When the claimants came down here and made their claim, they could not find any statute that would pay for the goods that had been taken nor for the oxen. They did find a statute under which they could receive pay for the horses. So they got about $700 for the horses. They got nothing for the oxen, nothing for the wagons, and nothing for the groceries and goods that they carried in them.

Every year one or both of those men came before Congress and presented their claims. Sometimes they got a report and sometimes they did not. At last they got a report after more than twenty years. I think it was about 1879 when they got a report upon what occurred in 1857.

And what did they get, Mr. President? They got the full value of the property when it was taken. They got nothing else. The Government had the advantage of it and the benefit of it. It had saved the Government from buying goods. It had added to the comfort and power of the army. Yet, Mr. President, it was looked upon askance because it was an old claim, because there was no statute under which the Government could pay for it. We were finally able to get through a bill, and those people were paid for the goods that they ought to have been paid for at least in a year from the time they were taken.

Mr. President, I have had much experience upon the Committee on Claims. It is a most thankless task. The Senator from Oregon has served very efficiently and faithfully on that committee, and I do not wonder he said, as he did, that if he were to remain in the Senate he would decline to serve further upon the committee.

The senior Senator from Wyoming [Mr. WARREN] served many years on the committee as its chairman. He knows how many claims come there that are fraudulent or false. He knows how many claims come there that are right and just. The claim assailed by the Senator from New Hampshire [Mr. GALLINGER] to-day has the report of the senior Senator from Wyoming recommending its payment.

Mr. President, I wanted to say this in defense of the committee, and in defense of the men who have just and fair claims and come here and present them, and who come here under a suspicion that they are endeavoring to get something out of the Government of the United States, when, in fact, they are only coming here for their own. I repeat what I said yesterday: After more than thirty years' connection with these matters, in my judgment more men go away unpaid than are paid who ought not to be paid.

Mr. FULTON. Mr. President, I hope this claim will not be allowed.

Mr. TELLER. Mr. President, I withdraw the amendment. I only offered it that I might say something and that some one would not say later that Mrs. Shannon had not pressed her claim.

Mr. FULTON. I am grateful to the Senator for taking that course. I want to say to Senators now that I hope further amendments will not be offered and that the bill will not be further delayed. I am anxious that it shall come to a vote.

The VICE-PRESIDENT. The Senator from Colorado withdraws the proposed amendment.

Mr. SIMMONS. I offer an amendment, which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 78, at the end of the North Carolina items, at the bottom of the page, insert:

To George H. Bellamy, administrator of the estate of John H. Thees, late of Brunswick County, $1,800.

Mr. SIMMONS. Mr. President, I wish to make only a very brief statement regarding this claim. I sincerely trust that the Senator from Oregon will not object to it, although I presume he will.

This is a claim against the Government for salt. The court has found that John H. Thees was a loyal citizen of the United States. The court has found that by proper military authority the decedent's salt was taken by the military forces and was used by the Federal Army.

The only possible objection that can be made to the claim is the same that was made to the amendment I offered a little while ago, namely, that it was never presented to a military officer or any of the departments of the Government before the bill was introduced in Congress for its payment.

I want to say, Mr. President, to the chairman of the Committee on Claims, if—after the court has found that a claim is just that the claimant was a loyal citizen—the committee proposes to oppose its payment simply because it was not presented to an officer or to a department before the bill for its payment was introduced in Congress, the Senate ought not to consent to refer a claim of that sort to the court. It ought not to put the claimant to the unnecessary expense of litigating the claim, and it ought not to put the Government to the unnecessary expense of defending against the claim.

The chairman of the committee said a little while ago, when we were considering his amendment to repeal certain provisions of the Bowman and the Tucker acts, that it was his purpose during the present session of Congress to report to the Senate an omnibus resolution referring all claims now pending before the committee to the Court of Claims. I assume that at least one-half of those claims are in exactly the same category which this claim is in.

If that is so, Mr. President, I suggest to the chairman of the committee that if he should report such a provision as that to Congress he would be doing both the claimants and the Government a grave injustice.

Mr. President, I do not believe it was the purpose of Congress, when it permitted this class of claims to be referred to the Court of Claims under either the Bowman or the Tucker acts, after the claim had been passed upon by the court and found a just obligation against the Government, and after the court had declared that the claimant was in no wrong or rebellion against the Government, to refuse to pay the claim simply because it had not been presented to a department of the Government or to a military officer.

I trust the Senator from Oregon [Mr. FULTON] will not be so relentless with reference to this claim as he was with reference to the other. I know that if the Senator from Oregon shall put his veto upon this amendment, of course, it will not be adopted. If he opposed it, I should hardly ask for a vote of the Senate on

it. I would not even have offered the amendment, or the one which I offered previously, if it had not been for the fact that, although there was an implied understanding that there were to be no amendments accepted to this bill, the Senator from Oregon had, I believe, interposed no very serious objection as to two or three claims, and the Senate had allowed them to go into the bill.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from North Carolina [Mr. SIMMONS].

The amendment was rejected.

Mr. TELLER. I now offer an amendment that I overlooked at the time I should have offered it.

The VICE-PRESIDENT. The amendment proposed by the Senator from Colorado will be stated.

The SECRETARY. On page 95, after line 11, it is proposed to insert:

To Aitcheson Pollock, John G. Pollock, and Matthew B. Pollock, heirs at law of William Pollock, deceased, $18,060.

Mr. TELLER. Mr. President, in order that Senators may know that I am not trifling with them, I will say that the Court of Claims held that William Pollock was loyal and that the Government took that amount of money. I suppose, however, under the position taken by the chairman of the committee I can not expect to get the amendment into this bill.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Colorado [Mr. TELLER].

The amendment was rejected.

Mr. CARTER. On behalf of the senior Senator from Pennsylvania [Mr. PENROSE], who is temporarily absent from the Chamber, I offer the amendment which I send to the desk, to be inserted as indicated on the margin thereof.

The VICE-PRESIDENT. The amendment proposed by the Senator from Montana on behalf of the Senator from Pennsylvania will be stated.

The SECRETARY. Under the Pennsylvania items it is proposed to insert:

To Clayton G. Landis, administrator of the estate of David B. Landis, deceased, late of Lancaster Pa., the sum of $11,112.22 and to Peter E. Slaymaker, administrator of the estate of Jacob F. Sheaffer, deceased, late of Lancaster, Pa., the sum of $34,055, as found due and reported by the Court of Claims in Senate Document No. 86, Fifty-eighth Congress, third session.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Montana on behalf of the Senator from Pennsylvania.

The amendment was rejected.

Mr. McENERY. Mr. President, I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. Under the Louisiana items it is proposed to insert:

To Gertrude Nolasco, the sum of $540.

Mr. McENERY. Mr. President, I will read the findings of the Court of Claims in this case, which are as follows:

It appears from the evidence that Gertrude Nolasco, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

II. There were taken from the claimant, in Feliciana Parish, State of Louisiana, during the war of the rebellion, by the military forces of the United States, for the use of the army, stores and supplies of the kind and character above described which were then and there reasonably worth the sum of $540.

No payment appears to have been made therefor.

III. The claim was never presented to the Southern Claims Commission or to the Commissioners of Claims or to any department of the Government prior to its reference to this court under the act of March 3, 1887, known as the "Tucker Act."

The claimant was a married woman at the time the property was taken and owned the property in her own right. Her husband, being a northern man, left Louisiana in the early part of the war for the North, and died in 1871.

It seems to me, Mr. President, the Government of the United States having taken this amount, no technical objection should stand in the way of this poor woman recovering the sum due her.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Louisiana.

The amendment was rejected.

The bill was reported to the Senate as amended.

Mr. GALLINGER. Mr. President, it will be remembered that in the early part of the day I took exception to an amendment which was put on the bill yesterday, which was supported by the Senator from Colorado [Mr. TELLER]. I have not changed my mind about the character of that amendment. I believe it ought not to have been put on the bill. I know that if it becomes a law it will result in the District of Columbia being called upon to pay at least a million dollars for claims of that kind. I think I said then that I should resist it, but as Senators are so anxious to have this bill passed, and believing, as I do, that the conferees of the two Houses will never agree to an amendment of that kind, I am willing to withhold any further contention and let it go to conference.

The amendments made, as in Committee of the Whole, were concurred in.

The amendments were ordered to be engrossed, and the bill read a third time.

The bill was read the third time and passed.

On motion of Mr. FULTON, the title was amended so as to read: "A bill for the allowance of certain claims reported by the Court of Claims under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the 'Bowman' and the 'Tucker' acts, and for other purposes."

EXPLORATIONS IN ALASKA.

Mr. MILTON. I desire to make a favorable report from the Committee on Printing on Senate resolution 268. I ask for its present consideration.

The VICE-PRESIDENT. The Senator from Florida asks permission, out of order, to report from the Committee on Printing a resolution which will be read.

Mr. FULTON. I object to present consideration, Mr. President.

The VICE-PRESIDENT. The Secretary will report the resolution.

The SECRETARY. Senate resolution 268, by Mr. FORAKER, providing for the printing of 3,000 copies of "Explorations in Alaska," by First Lieut. Joseph S. Herron (S. Doc. No. 689).

The VICE-PRESIDENT. Objection is made to the present consideration of the resolution.

Mr. FORAKER subsequently said: It is my desire to call up a resolution which was reported a moment ago by the Senator from Florida [Mr. MILTON]. I ask unanimous consent for its present consideration.

There being no objection, the resolution introduced by Mr. FORAKER on the 28th instant and reported to-day by Mr. MILTON was considered and agreed to, as follows:

Resolved, That 3,000 copies of Explorations in Alaska, 1899, for an all-American Overland Route from Cook Inlet, Pacific Ocean, to the Yukon, by First Lieut. Joseph S. Herron, Eighth Cavalry, commanding expedition, War Department, Adjutant-General's office, Document No. 138, M. I. D., be printed for the use of the Senate.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

Mr. FORAKER. I ask that Senate bill 5729 may be laid before the Senate.

The VICE-PRESIDENT. The Senator from Ohio asks that the bill referred to by him may be laid before the Senate. The bill will be read by title.

The SECRETARY. A bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to companies B, C, and D of the Twenty-fifth U. S. Infantry, who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof.

Mr. CULBERSON. Mr. President, I understood the Senator from Ohio yesterday to give notice that he would make a motion. Is this in the form of a unanimous-consent request or is it a motion?

Mr. FORAKER. This is in the form of a request simply. I expected to make a motion, and I gave notice to that effect, but without considering the unfinished business that I might displace by it. I do not want to displace the unfinished business, and I called the bill up now for a specific purpose. I do not think the Senator from Texas will have any objection to the bill being laid before the Senate.

Mr. CULBERSON. Very well; I did not understand what was the purpose of the Senator.

The VICE-PRESIDENT. The bill will be considered as being before the Senate as in Committee of the Whole, as requested by the Senator from Ohio, in the absence of objection.

Mr. ALDRICH. I beg leave to offer an amendment in the nature of a substitute for the bill.

Mr. KEAN. Let it be also a substitute for the bill of the Senator from Missouri [Mr. WARNER].

Mr. ALDRICH. I ask that the substitute which I propose may be read.

The VICE-PRESIDENT. The Senator from Rhode Island proposes a substitute, which will be read.

Mr. ALDRICH. I move to strike out all after the enacting clause of the bill, and to insert what I send to the desk.

Mr. WARREN. I want to ask the Senator from Rhode Island a question. As I understand, this is a substitute for all of the bills on the calendar in reference to this matter—the three

items; that is, the bill of the Senator from Ohio [Mr. FORAKER], the bill of the Senator from Missouri [Mr. WARNER], and the report that is on the calendar recommending the passage of some bill of relief. It is proposed to close out the entire matter.

Mr. ALDRICH. It is to close out the entire matter. The Senator from Wyoming is correct. This is intended as a substitute for all pending Brownsville legislation.

Mr. CULBERSON. Mr. President, if I mistake not, the purpose of the Senator from Ohio in calling the matter up at this time is merely to give an opportunity for the presentation of a substitute, and is not to make it the order of business or anything of that kind so far as the present occasion is concerned.

Mr. FORAKER. No; not at this time. I shall ask in a moment for an agreement to vote upon a day to follow.

Mr. ALDRICH. I ask that the substitute which I send to the desk may be read.

The VICE-PRESIDENT. The Secretary will read the substitute offered by the Senator from Rhode Island.

The SECRETARY. It is proposed to strike out all after the enacting clause of Senate bill 5729 and to insert:

That the Secretary of War is hereby authorized to appoint a court of inquiry to consist of five officers of the United States Army, not below the rank of colonel, which court shall be authorized to hear and report upon all charges and testimony relating to the shooting affray which took place at Brownsville, Tex., on the night of August 13–14, 1906. Said court shall within one year from the date of its appointment make a final report and from time to time shall make partial reports to the Secretary of War of the results of such inquiry, and such soldiers and noncommissioned officers of Companies B, C, and D of the Twenty-fifth Regiment U. S. Infantry, who were discharged from the military service as members of said regiment under the provisions of Special Order No. 266, dated at the War Department the 9th day of November, 1906, as said court shall find and report as qualified for reenlistment in the Army of the United States shall thereby become eligible for reenlistment.

SEC. 2. Any noncommissioned officer or private who shall be made eligible for reenlistment under the provisions of the preceding section shall, if reenlisted, be considered to have reenlisted immediately after his discharge under the provisions of the special order hereinbefore cited, and to be entitled, from the date of his discharge under said special order, to the pay, allowances, and other rights and benefits that he would have been entitled to receive according to his rank from said date of discharge as if he had been honorably discharged under the provisions of said special order and had reenlisted immediately.

Mr. FORAKER. While that does not agree with my views as perfectly as I should have been glad to have them met by the proposed legislation, yet, in so far as I have power to do so, I accept the amendment. If there is any objection to my accepting the amendment, I will ask that a vote be taken and that it may be substituted for the bill introduced by me and all other bills on the subject.

Mr. McLAURIN. Mr. President——

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

Mr. FORAKER. Certainly.

Mr. McLAURIN. I should like to make a parliamentary inquiry. If this is accepted as substitute for all the other bills, will it then be susceptible of amendment?

Mr. FORAKER. Certainly. As I understand, it can be amended.

Mr. CULBERSON. Mr. President, the Senator from Ohio, as I understand, accepts the proposed substitute so far as the measure presented by him is concerned, but I have not heard from the majority of the committee.

Mr. WARNER. Mr. President——

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

Mr. FORAKER. Certainly.

Mr. WARNER. As partially answering the inquiry of the Senator from Texas, I will say that I fully accept the amendment as a substitute for the bill I introduced as having in view the same purpose.

The VICE-PRESIDENT. The Chair understands the parliamentary situation to be this: The proposed substitute is offered by the Senator from Rhode Island [Mr. ALDRICH] to one bill, and that is the bill reported by the Senator from Ohio [Mr. FORAKER], being Senate bill 5729. If the amendment shall be adopted by the Senate, the other bills on the same subject can be subsequently indefinitely postponed.

Mr. GALLINGER. That is correct.

Mr. WARREN. That is the parliamentary status.

Mr. ALDRICH. That is a correct statement.

Mr. WARNER. Let it be understood, however, that the amendment presented by the Senator from Rhode Island is to be considered a substitute for all pending legislation.

The VICE-PRESIDENT. The Chair so understands, but the proposed substitute will be considered only in connection with the bill reported by the Senator from Ohio [Mr. FORAKER].

Mr. WARREN. I think there is no misunderstanding about the matter. My question of the Senator from Rhode Island was merely to get at the essentials and find what the ultimate result was to be. The Chair ruled properly, of course.

The VICE-PRESIDENT. Without objection, the substitute will stand in lieu of Senate bill 5729, reported by the Senator from Ohio, and the bill (S. 6206) for the relief of certain former members of the Twenty-fifth Regiment of U. S. Infantry, without objection, will be indefinitely postponed.

Mr. FORAKER. Now that the bill has been amended by the adoption of the substitute, I want to inquire whether or not we can not agree upon a date when we can take a vote on the substitute for the bill. I will ask, Mr. President, in the absence of suggestions, that we take a vote next Monday, I will say, at 4 o'clock in the afternoon.

Mr. CULBERSON. Mr. President, I have not been able to be in the Chamber much to-day on account of service on a subcommittee of the Committee on the Judiciary, but I suggest to the Senator from Ohio that my information is that at least several Senators on this side of the Chamber desire to speak on this subject, and I do not think any agreement to vote at any particular date can be entertained at this time. This bill, of course, has not yet been taken up by the Senate, and, as I understood, was called up merely for the purpose of this substitution.

Mr. FORAKER. Mr. President, I was hoping that we might be able to agree upon an early date when a vote could be taken, and that I would not have to make a motion to proceed to the consideration of the bill in the ordinary way, but, of course, unless we can agree, I shall renew the notice I have heretofore given that I will make that kind of a motion, and I will suggest that next Monday, after the routine morning business, I shall move to proceed to the consideration of the bill.

Mr. McLAURIN. Mr. President——

Mr. FORAKER. Upon the suggestion of Senators about me, if the Senator from Mississippi will bear with me a moment, in order to accommodate everybody, I suggest that we vote on this bill at 4 o'clock next Wednesday. That will, I think, give every Senator time to speak who desires to be heard.

Mr. McLAURIN. Mr. President, if the Senator will allow me to make a suggestion, the substitute presents an entirely new phase of this matter. The substitute has not been printed. It is true some few of us have seen a draft or copy of the substitute, but it has not been printed, and there has been no opportunity for us to examine it. It is almost the same as if there were a new bill introduced. It seems to me that there ought not to be any request for a vote at any time until we have had an opportunity, after this substitute shall have been printed, to examine it.

Mr. FORAKER. The Senator would not be able, I imagine from his remarks, to agree to any date this afternoon?

Mr. McLAURIN. No, sir; not this afternoon.

Mr. FORAKER. Then I will give notice that on Monday morning I shall call up the bill. If we can agree upon a date when we can vote, I can ascertain that on Monday morning; and if we can not agree, I shall then make a motion to proceed to the consideration of the bill.

HOMESTEAD ENTRIES IN OKLAHOMA.

Mr. OWEN. I am directed by the Committee on Indian Affairs, to whom was referred the bill (S. 8510) to extend the time of payments on certain homestead entries in Oklahoma, to report it with an amendment. It is a local bill extending the time for the payment on certain purchases of land in Oklahoma. It has the approval of the Interior Department, and I ask for its immediate consideration, as the time will expire on the 1st of February, only a few days off.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to add to the bill the following:

That the Secretary of the Interior is hereby authorized, in his discretion, to extend the time of payments to the purchasers and their assigns applying therefor upon the lots sold, or to be sold, in pursuance of an act entitled "An act providing for the platting and selling of the south half of section 30, township 2 north, range 11 west of the Indian meridian, in the State of Oklahoma, for town-site purposes," approved March 27, 1908, and the Secretary of the Interior is authorized to permit the unpaid purchase money for such lots to be paid in such installments and at such times as he may deem proper: *Provided, however,* That said purchasers or their assigns shall be required to pay interest on all such deferred payments sufficient to pay the Kiowa, Comanche, and Apache Indians 4 per cent interest on the payments so deferred, and to pay the local authorities entitled to receive the same the equivalent of the state, county, city, and school tax at the legal rate, upon such valuation as the Secretary of the Interior may determine, and to which the lots would be liable if patented, such extension of time not to exceed four years from the date of the approval of this act: *Provided further,* That not exceeding one-half of the amount which may be set aside by the Secretary of the Interior, under the act above referred to, for the construction of two school buildings may be applied by the Secretary of the Interior to such other improvements as he may deem for the public welfare.

SEC. 2. That the extension provided for in section 1 of this act shall not apply to the following-numbered lots in the official plat: Lots 4 to 14, inclusive, in block 5; lot 7 in block 9, lot 12 in block 10, lot 4 in block 12, lot 12 in block 13, lot 9 in block 14, lot 9 in block 19; lots 1, 10, and 11 in block 20; lot 5 in block 21, lot 11 in block 24, lots 8 and 16 in block 27, lot 10 in block 29, lots 9 and 10 in block 30; lots 8, 9, and 10 in block 32; lot 5 in block 33, lots 5 and 8 in block 34, lots 3 and 12 in block 35; lots 2, 3, and 4 in block 36; lots 6 and 7 in block 37, lot 6 in block 38, lot 13 in block 39, lot 9 in block 40; lots 2, 3, and 11 in block 42; lots 1 and 2 in block 44, lot 12 in block 44; lots 4, 11, 12, 15, and 16 in block 45; lot 8 in block 46; lots 4, 5, 7, and 13 in block 47; lots 9, 10, and 11 in block 50; lot 9 in block 51; lots 3 to 7, inclusive, in block 53; lot 9 in block 54; lots 9, 10, and 12 in block 57; lots 1, 2, 3, 9, and 16 in block 58; lots 2 and 3 in block 59, lot 9 in block 60; lots 1, 4, 5, 6, and 7 in block 61; lot 15 in block 66, lot 4 in block 2; lot 15 in block 38; lot 2 in block 61.

The amendment was agreed to.

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

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

LAWSON M. FULLER.

Mr. WARREN. I ask unanimous consent for the present consideration of the bill (H. R. 5461) for the relief of Lawson M. Fuller, major, Ordnance Department, United States Army.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to reimburse Maj. Lawson M. Fuller, Ordnance Department, United States Army, for loss incurred by him of his personal effects during their transportation on board the U. S. chartered transport *Morgan City* to the Philippine Islands, by paying to him a sum equal to the loss so sustained by him.

Mr. KEAN. I inquire is there not any amount stated in the bill?

Mr. WARREN. Yes; not to exceed $1,325.

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

INDIAN SCHOOL AT FORT LEWIS, COLO.

Mr. GUGGENHEIM. I ask unanimous consent for the present consideration of the bill (S. 8223) turning over the Indian school at Fort Lewis, Colo., to the State of Colorado for school purposes.

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

Mr. GALLINGER. I should like to ask the Senator from Colorado what is the area of the land that the Government is going to give to the State? Does he know?

Mr. GUGGENHEIM. I think it is 200 acres. However, I am not sure of the fact.

Mr. GALLINGER. That is not very much. I was afraid it might be 2,000. I will not object to the bill.

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

ROMAN CATHOLIC CHURCH IN PORTO RICO.

Mr. FORAKER. I ask unanimous consent for the consideration of the bill (S. 8601) to provide for the payment of claims of the Roman Catholic Church in Porto Rico.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate $120,000, to be paid to the bishop of Porto Rico, as the representative (and trustee) of the Roman Catholic Church in that island, to be used exclusively for the benefit of the Roman Catholic Church in Porto Rico, in full satisfaction of all claims of every nature whatsoever relative to the properties claimed by the Roman Catholic Church in Porto Rico now in possession of the United States.

Mr. KEAN. I ask that the report be published in the RECORD.

The VICE-PRESIDENT. Without objection, it is so ordered.

The report referred to is as follows:

The Committee on Pacific Islands and Porto Rico has had under consideration the following bill:

[S. 8601, 60th Cong., 2d sess.]

A bill to provide for the payment of claims of the Roman Catholic Church in Porto Rico.

Be it enacted, etc., That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $120,000, the same to be paid to the bishop of Porto Rico, as the representative (and trustee) of the Roman Catholic Church in that island, to be used exclusively for the benefit of the Roman Catholic Church in Porto Rico; and that the acceptance of said sum, paid under the provisions of this act, shall be in full satisfaction of all claims of every nature whatsoever relative to the properties claimed by the Roman Catholic Church in Porto Rico which are now in the possession of the United States, to wit, the building known as the "Santo Domingo Barracks" and the land pertaining thereto, and the site of the building formerly known as the "Ballajá Barracks," now known as the "infantry barracks," both properties in the city of San Juan, Porto Rico; the Roman Catholic Church to relinquish all rights and actions regarding said properties, and the said properties to belong exclusively to the United States: *Provided further*, That upon the acceptance of this sum the Roman Catholic Church shall relinquish all claims of any kind whatsoever against the United States arising in Porto Rico prior to the approval of this act.

In view of the following report of Mr. Robert Bacon, Assistant Secretary of State, and Maj. Frank McIntyre, relative to their mission to Porto Rico to adjust the questions pending between the people of the insular government and the Roman Catholic Church, it is recommended that the bill do pass without amendment:

[House Doc. No. 1204, 60th Cong., 2d sess.]

THE WHITE HOUSE,
Washington, December 14, 1908.

To the Senate and House of Representatives:

I transmit herewith a report from Mr. Robert Bacon, Assistant Secretary of State, and Maj. Frank McIntyre, U. S. Army, of their mission to Porto Rico, under my oral instructions, to meet with representatives of the insular government of Porto Rico and of the Roman Catholic Church in that island, with a view to reaching some equitable settlement of the questions pending between that church, on the one hand, and the United States and the people of Porto Rico, on the other.

The nature of these questions and the conditions of the controversy at the time of the meeting of the commission at San Juan are fully and clearly stated in the report, as is the basis for an equitable and complete settlement of all the questions in controversy unanimously agreed on by the members of the commission in a memorandum signed on August 12, 1908.

It will be seen that under the terms of this memorandum the United States is to pay to the Roman Catholic Church in Porto Rico the sum of $120,000 in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church which are now in the possession of the United States and which are defined in the report.

The properties specifically in question form part of the land reserved for military purposes in San Juan and are now occupied by United States troops. I am informed that they are well suited to such purposes and that to provide for the garrison of San Juan elsewhere would require the expenditure of many times the sum involved in the proposed settlement.

This basis of agreement has received my entire approval, and I trust that the Congress will see the great importance of the matter and will at its present session pass such legislation as is necessary to give the basis of the agreement effect on the part of the United States.

The legislative assembly of Porto Rico has already, by a joint resolution approved September 16, 1908, ratified the basis of agreement recommended by the commissioners in so far as it affects that government and enacted the necessary legislation to make it effective.

THEODORE ROOSEVELT.

DEPARTMENT OF STATE,
Washington, September 22, 1908.

Mr. PRESIDENT: In compliance with your oral instructions to meet with representatives of the insular government of Porto Rico and of the Roman Catholic Church in that island, and come to some equitable agreement which might form the basis of a final settlement of the questions pending between that church on the one hand and the United States and the people of Porto Rico on the other, we have the honor to submit the following report:

In the transfer of sovereignty of territory from Spain, where the church and state were closely united, to the United States, where such union was incompatible with the institutions and laws of the country, many questions arose as to the ownership of properties held by the Roman Catholic Church, as well as to other properties held by the Government but claimed by the church.

In all other cases where the United States, as distinguished from the municipalities and insular governments, has been a party to these questions, the settlement has been made amicably without reference to the courts. Referring to this, the Supreme Court, in the case of the Municipality of Ponce, appellant, *v.* The Roman Catholic Apostolic Church in Porto Rico, in its decision of June 1, 1908, says:

"The properties of the church in Cuba and the Philippines at the time of the ratification of the treaty were far more considerable than those in Porto Rico. And the controversies or questions arising as to those properties have been quite generally adjusted, in both Cuba and the Philippines, partly with and partly without recourse to the courts. In Cuba, a commission was appointed to consider the whole question, and its report contains much interesting and pertinent information. It begins with the fundamental proposition that, 'The church, as a juridicial person, has held and holds the right to acquire, possess, or transfer all kinds of properties. The church has never been denied this right in Spain; rather, on the contrary, in all the provisions covering these matters this right has been recognized in the church.' (S. Rept. 2977, 57th Cong., 2d sess., p. 12.)

"On this admitted basis was concluded a satisfactory adjustment of the difficult problem incident to the transfer of sovereignty from a régime of union of church and state to the American system of complete separation.

"Even greater difficulties were settled in the Philippines, and the American Government never suggested that the church was without juristic capacity to possess or protect property rights. The suggestion that it did not possess a license from the local authorities 'to do business' was never put forward.

"Whether these ecclesiastical properties originally came from the State or any subdivision thereof, they were donated to, at once became, and have ever since remained the property and in the peaceful possession of the Roman Catholic Church."

While the property of the Roman Catholic Church in Porto Rico had, as compared to Cuba and the Philippines, never been considerable, yet there arose in that island, with respect thereto, several involved questions.

Questions as to title to the churches and temples in the peaceful possession of the church at the time of the withdrawal of Spain from the island are settled by the decision in the case of the Municipality of Ponce *v.* The Roman Catholic Church, above referred to, in which the Supreme Court held that the ownership of such property was and remained in the church, notwithstanding the fact that the municipalities may have furnished some of the funds for building or repairing the churches. Other questions in Porto Rico remained unsettled, and after several years spent in efforts to have these controversies adjusted as they had been adjusted in Cuba and as somewhat similar questions have recently been adjusted in the Philippine Islands by negotiations outside of the courts, the church brought suit against the

people of Porto Rico under an act of the legislative assembly of Porto Rico giving original jurisdiction for the trial and adjudication of such questions to the supreme court of Porto Rico.

In the brief of the plaintiff the properties claimed as held by the people of Porto Rico and belonging to the church are enumerated as follows:

1. The building, formerly convent of St. Dominic, valued at	$64,000.00
2. Rental thereon from October 18, 1898, and thereafter, at 6 per cent per annum	3,840.00
3. The grounds adjoining said buildings on the east, valued at	9,000.00
4. Rental thereon during the same period, at 6 per cent per annum	540.00
5. The building, formerly convent of St. Francis, valued at	107,000.00
6. Rental thereon during the same period, at 6 per cent per annum	6,420.00
7. The site of the market plaza, this city, valued at	40,000.00
8. Value of annual canons or fees (rental of Market Place site) paid by the municipal corporation of this city to the treasury of Porto Rico during the same period, amounting each year to	128.52
9. The site occupied by the Ballajá barracks, valued at	51,000.00
10. Rental thereon during the same period, per annum	1,060.00
11. The site occupied by the Beneficencia and lunatic asylum, valued at	64,000.00
12. Rental thereon, amounting each year to	3,840.00
13. All the censos, proceeding from the convents of St. Dominic, St. Francis, and Porta Cœl, in the possession of the people of Porto Rico, amounting to	19,764.23
14. Revenues from these censos, collected by the treasury of Porto Rico, from October 18, 1898, and thereafter	
15. Amount of capitals and revenue of censos redeemed, or that may be redeemed, during the same period	
16. Amount of five promissory notes, due by Don Antonio Catala y Canales, specified in the certified statement of the honorable treasurer, dated January 14, 1903	1,803.23
17. Amount of three promissory notes, due by Don Arturo E. Diaz, specified in aforesaid certified statement	405.00
18. The piece of ground in Cangrejos, measuring 62 cuerdas, also specified in aforesaid certified statement	

The supreme court of Porto Rico, by a divided court, three justices joining in the majority opinion, two dissenting, sustained the contention of the church in all material respects, except as to the convent of Santo Domingo and the site occupied by the Ballaja Barracks. The exception was made for the reason that title to these properties was claimed not by the people of Porto Rico, but by the United States; the properties having been reserved by proclamation of the President of the United States for military purposes under authority of an act of Congress, and the United States was not a party to the suit. With reference to these properties, however, the court stated: "That the evidence heard at the trial of this case shows that the aforesaid convent of Santo Domingo, with the lands adjacent to the same, as well as the land on which the barracks of Ballaja are located, belong to the Roman Catholic Apostolic Church," and that only for a technical reason the court did not direct their return to the Catholic Church, together with the other properties which are the subject of the reclamation made in this suit.

Briefly, the title of the United States to the property in question held by it is identical with that of the People of Porto Rico to the property which the court directed should be returned to the church.

The estimated values of these two properties, as approved by the supreme court of Porto Rico, are as follows: The convent of Santo Domingo and the lands appertaining thereto, $73,000; the site on which the Ballaja Barracks are erected, $51,000. The annual rentals of these two properties were estimated at $4,380 per annum, and $1,060 per annum, respectively, or a total to October 18, 1908, of $54,400. The court in its decision in directing the return of the properties held under identical title by the People of Porto Rico, directed also the payment of rentals from October 18, 1898. From the decision of the court the People of Porto Rico has appealed to the Supreme Court of the United States.

The foregoing briefly gives the condition of the controversy at the time of the meeting of the commission in San Juan, P. R. The church was represented by the bishop of Porto Rico and Juan Hernandez Lopez, the attorney for the church; the People of Porto Rico was represented by its attorney-general, Henry M. Hoyt, and José de Diego, the speaker of the house of delegates.

We had, prior to the meeting, carefully examined the real properties in question, and believe that the estimated values given are not excessive. In fact, the assessed value of these properties, as shown by attached copies of letters, is considerably in excess of the estimated values approved by the court.

After sessions extending over a good part of the days of August 11 and 12, all the members of the commission united in signing as an equitable and complete settlement of all the questions in controversy the following:

Memorandum of basis of settlement of all matters in dispute between the Roman Catholic Church in Porto Rico, on the one part, and the United States of America and the people of Porto Rico on the other part:

It being considered desirable to bring to an end the controversies relative to certain property situated in the island of Porto Rico, claimed to be the property of the Roman Catholic Church of Porto Rico, and held in part by the United States of America and in part by the people of Porto Rico, the undersigned, consisting of two persons appointed by the President of the United States, of two persons representing the Roman Catholic Church in Porto Rico, and two persons representing the people of Porto Rico, appointed by the governor thereof, have reached the following basis for a settlement of such controversies, and have agreed to recommend the same to their respective sources of authority, for their approval and ratification, and for submission to such legislative and governmental bodies as may be necessary for the full legalization thereof.

First. The United States to pay to the Roman Catholic Church in Porto Rico the sum of $120,000 in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church, which are now in the possession of the United States, and are specified and described in the judgment rendered by the supreme court of Porto Rico in a certain suit No. 1, brought by the church against the people of Porto Rico, in the supreme court of Porto Rico, the church to relinquish all rights and actions regarding said properties, the said properties to belong exclusively to the United States.

Second. The people of Porto Rico to pay to the Roman Catholic Church in Porto Rico the sum of $180,000 in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church, which are now in the possession of the people of Porto Rico, and are specified and described in the judgment rendered by the supreme court of Porto Rico in said suit No. 1, hereinbefore mentioned, and the church to relinquish all rights and actions regarding such properties, which properties shall belong exclusively to the people of Porto Rico.

Third. The people of Porto Rico to turn over to the Roman Catholic Church the chapel situated in Santurce, described in suit No. 10 between the Roman Catholic Church and the people of Porto Rico, the said chapel, together with the land surrounding it in the form of a rectangle, the outer lines of which shall be at least 3 meters distant from the eastern, southern, and western outer walls thereof, and which shall extend to the Carretera on the northern side, to be the exclusive property of the church in Porto Rico.

Fourth. The people of Porto Rico to return to the Roman Catholic Church in Porto Rico all censos claimed and enumerated in the judgment rendered by the supreme court of Porto Rico in the aforesaid suit No. 1, together with all interest thereon which may have been collected since October 18, 1898, and the principal of such censos as may have been redeemed from and after said October 18, 1898.

Fifth. The people of Porto Rico to return to the Roman Catholic Church in Porto Rico the parcel of land in Cangrejos, composed of 62 cuerdas, more or less, which is mentioned in subdivision No. 18 in the statement of properties which appears at the end of the brief dated February 24, 1906, submitted to the supreme court of Porto Rico by the attorney for the church in the said suit No. 1, and the property marked "No. 16" and "No. 17" in said statement.

Sixth. The sum of $180,000 referred to in clause second hereof, to be paid by the people of Porto Rico to the church in three equal installments; the first payment to be made during the current fiscal year after the ratification of this agreement by the legislative assembly of Porto Rico, on such date as may be fixed by the governor of Porto Rico, in his discretion; the second installment to be paid on or before the 20th day of June, 1910; and the third installment on or before the 20th day of June, 1911, with interest at the rate of 3 per cent per annum on the last two installments, the people of Porto Rico reserving the right to pay said installments in advance at its option, with interest thereon only up to the date of payment.

Seventh. The Roman Catholic Church to be bound to guarantee the title to such properties as are to be transferred by it to the United States and to the people of Porto Rico under this agreement; but the people of Porto Rico to be in no case bound to guarantee the title to such properties as are to be transferred by it to the church under this agreement, and such transfers to be understood to be made without ulterior liability on the part of the people of Porto Rico.

Eighth. Such moneys as shall be received by the Roman Catholic Church from the United States and from the people of Porto Rico, pursuant to the terms of this agreement, to be used exclusively for the benefit of the church in Porto Rico.

Ninth. The Roman Catholic Church to relinquish all claims of every kind whatsoever arising in Porto Rico prior to the date of the ratification of this settlement, either against the United States or against the people of Porto Rico.

Tenth. Upon the approval and ratification of any portion of this settlement, the necessary public instruments or deeds to be executed by the respective parties, but the people of Porto Rico are to be in no way bound to procure or guarantee the registry, in the registry of property, of such titles as are to be transferred to the church.

Signed in triplicate this 12th day of August, 1908, by the respective commissioners.

For the United States:

ROBERT BACON,
The Assistant Secretary of State.
FRANK MCINTYRE,
Major of Infantry, Assistant Chief
Bureau of Insular Affairs, War Department.

For the church:

W. A. JONES,
Bishop of Porto Rico.
JUAN HERNANDEZ LOPEZ,
Attorney for the Catholic Church of Porto Rico.

For the people of Porto Rico:

J. DE DIEGO,
Speaker of the House of Delegates.
HENRY M. HOYT,
Attorney-General of Porto Rico.

Under the terms of this memorandum the United States is to pay the Roman Catholic Church in Porto Rico the sum of $120,000, in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church which are now in possession of the United States. These properties are:

First. The site now occupied by the Ballajá barracks, or, as the building is now known, the "infantry barracks," in San Juan, and the Santo Domingo barracks and the land pertaining thereto. Both of these are on the lands reserved for military purposes in the city of San Juan. The values of these properties as estimated by the supreme court of Porto Rico, are:

The site occupied by the Ballajá barracks	$51,000
The building formerly the convent of Santo Domingo	64,000
The ground adjoining said building on the east	9,000

The assessed values are:

The site of the Ballajá barracks	82,110
Convent of Santo Domingo and adjacent land	100,710

As has been stated heretofore, the United States title to this property is identical with that of the people of Porto Rico to the several properties which were the subject of the suit above referred to.

The opinion of the court was that the property was the property of the church, and adjudged to the church the possession of that held by the people of Porto Rico and a rental of 6 per cent per annum on the estimated value of said property from October 18, 1898. This rental in the case of the property held by the United States amounted to $54,400 on October 18, 1908.

The settlement now recommended requires payment to the church of a lump sum in full settlement of claims to ownership, rental and all other claims of any nature whatsoever which it may have against the property held by the United States. The property is to belong exclusively to the United States, the church to guarantee the title thereto.

The Roman Catholic Church is further to relinquish all claims of every kind whatsoever arising in Porto Rico prior to the date of the ratification of this settlement either against the United States or the people of Porto Rico. In other words, a final and full settlement of all controversies is provided for.

The character of the claim of the church to the ownership of this property is reviewed in the opinion of the supreme court of Porto Rico, as well as in the dissenting opinion. Briefly, the facts of this controversy, as certified to the Supreme Court of the United States by the supreme court of Porto Rico, in so far as the property held by the United States is concerned, are as follows:

Don Juan Ponce de Leon, the conquerer and first governor of the island of Porto Rico, donated to the Dominican friars a piece of land situated in the northern part of the city of San Juan, extending to the wall looking to the sea, in order that they might establish and found a convent, and the convent, now called the barracks of Santo Domingo, as well as the Ballajá barracks are on the land thus given by Ponce de Leon to the Dominican friars.

Late in the year 1838 the religious communities of men in the island of Porto Rico were suppressed and all of their properties were seized by the government without payment of damages or indemnification. They were expelled from their convents by public forces, and the convents were converted into barracks for the lodging of the troops of the garrison of San Juan.

The Government continued disposing freely of the properties thus seized, alienating some of them and using all of their products, until the signing of the treaty or concordat of March 16, 1851, between His Holiness Pope Pius IX and Queen Isabella II, which concordat has since that time formed a part of the public law of Spain. Among other things, this concordat provided that the properties which belonged to the suppressed religious orders, then in the possession of the Government, and which had not been alienated, should be restored without delay to the communities referred to, and be delivered to the representatives of the same—that is, to the diocesan prelates in whose jurisdiction the convents were situated.

Certain difficulties having arisen in carrying into effect the stipulations of the concordat of 1851, there was entered into an additional concordat of 1859 between the same authorities. This concordat specifically recognized the right of the church to acquire, retain, and enjoy the usufruct of all kinds of property, and provided, in Section IV thereof: "By virtue of the same right the Government of Her Majesty recognizes the church as the absolute owner of each and all of the properties that have been restored to it by the concordat." It further provided for the determination by the bishops, with the approval of their clergy, of the value of the church properties in their respective dioceses, and the Government was to give in exchange for these properties and their cession to the State 3 per cent bonds of the consolidated public debt of Spain to cover the total value of said properties. While this agreement was carried out in Spain, not so in Cuba and Porto Rico.

The Government, however, took upon itself the defrayment of the expenses of the clergy and worship in the island in accordance with the agreement also contained in the concordat of 1851.

While some of the properties proceeding from the religious communities which had been abolished in the island were sold and the proceeds thereof were paid in the treasury, the remaining property continued in the possession of the Government until the change of sovereignty and the conclusion of the treaty of Paris, articles 2 and 8 of which provided for the cession of the island of Porto Rico to the United States, together with all buildings, wharves, barracks, forts, structures, public highways, and other public property, which, in conformity with law, belonged to the public domain, and as such belonged to the Crown of Spain, it being, however, understood that such cession could not in any respect impair the ownership or the rights which, with regard to said properties, by law belonged to ecclesiastical or civic bodies.

The convents of Santo Domingo and San Francisco, with the lands annexed thereto, as well as the lands occupied by the Ballajá Barracks, proceed from the religious communities of Dominican and Franciscan friars which existed in San Juan and were abolished by the Government in 1838. Briefly, this is the statement of facts on which the court held the property in question to be the property of the Roman Catholic Church.

The dissenting opinion held that in no case could the claim for rental be justified prior to May 1, 1900, the date on which the people of Porto Rico became a body politic under the organic act passed by Congress on the 12th of the previous April. It further held that the court could not properly take judicial notice of the authority of the diocesan prelate, or bishop of Porto Rico, to represent the Roman Catholic Church in litigation nor to ascertain by any other means than by evidence properly introduced the relations of the Franciscan and Dominican friars to the Roman Catholic Church, and that it may be that they held their own lands and property entirely independent of the church, and that neither the Pope nor the bishop had any control over them whatever, and that there was no evidence in the case to show that the church had any right to represent these monastic orders or authority to bring a suit in their behalf; that any claim which the church may have had for the nonfulfillment of the terms of the concordat of 1859 was one against the Crown of Spain for what was justly due, but even as against the Crown of Spain the church could not claim the property itself, much less from a purchaser who acquired the same in good faith long after the concordat had been made.

It was further recited in the dissenting opinion that it is judicially known to the court from the public laws of Spain and the Province of Porto Rico that annual appropriations were made for the support of the clergy and public worship and for pensions to the dispossessed friars, altogether amounting, during some of the years prior to the American occupation, to nearly $200,000. That this large and liberal appropriation made from year to year by the Spanish Government and the provincial government of Porto Rico was probably accepted in lieu of the bonds or certificates of the public debt which could have been claimed under the concordats or by the communities of friars or other ecclesiastical authorities, and was doubtless regarded as a fair settlement of any claims supposed to exist against the Government on account of the secularization of the monasteries and other property belonging to these brotherhoods.

The defendant pleads the statute of limitations, which, in Porto Rico in real actions, requires the lapse of thirty years to bar the action. The friars were, as shown by the testimony of three aged witnesses, beyond a doubt, ejected in the year 1838, and ever since that time, it is claimed by the defendant, the Government, either Spanish, American, or insular, has been in adverse, peaceable, and uninterrupted possession of all the properties claimed. The dissenting opinion agrees with the defendant as to this.

The above very briefly outlines the points of difference. A full understanding of the case may be obtained from the following documents:

Senate Report No. 2977, Fifty-seventh Congress, second session.

Transcript of Record, Supreme Court of the United States, October term, 1908, No. 151. "The People of Porto Rico, appellants, *v.* The Roman Catholic Church in Porto Rico. Appeal from the supreme court of Porto Rico."

Briefs of plaintiff and defendant in the supreme court of Porto Rico.

The Senate report gives, on pages 11 et seq., the report of the commission of judges, in accordance with which was settled the identical question in Cuba. The commission reported that the property then in question was the property of the church.

Your commissioners believe that the settlement recommended is a wise one and in accordance with the precedents of terminating similar controversies in Cuba and the Philippines. It is essentially a compromise, and no effort has been made to forecast what might be the decision of the highest court in the case.

While the report of the commission of judges in Cuba and the decision of the supreme court of Porto Rico have both been in favor of the church, its representatives have expressed themselves as favoring a compromise, receiving but part of their claim, rather than proceeding with litigation which they have entered into unwillingly and as a last resort short of yielding what they conceive to be rights that they can not sacrifice without being unfaithful to their trust.

Your commissioners earnestly recommend your approval of the basis of agreement, and that you recommend the necessary appropriation to make it effective.

Attached hereto is the draft of a bill which will, it is believed, carry into effect the proposed agreement.

Very respectfully,

ROBERT BACON,
Assistant Secretary of State.
FRANK MCINTYRE,
Major of Infantry, Assistant to Chief of Bureau of Insular Affairs of the War Department.

The PRESIDENT,
The White House.

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

PUBLIC BUILDING AT BEATRICE, NEBR.

Mr. BURKETT. I ask unanimous consent for the present consideration of the bill (S. 7348) authorizing the procuring of additional land for the site of the public building at Beatrice, Nebr.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 2, after the word "hereby," to strike out "appropriated" and insert "authorized," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, additional land for the enlargement of the site of the federal building in the city of Beatrice and State of Nebraska, for the purpose of affording means for future enlargement of said building to meet the necessities of the public business, and for that purpose the sum of $15,000, or so much thereof as may be necessary for such additional land, is hereby authorized.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill providing for the procuring of additional land for the site of the public building at Beatrice, Nebr."

ADMINISTRATION OF JUSTICE IN THE NAVY.

Mr. PERKINS. I ask consent for the present consideration of the bill (S. 7872) to promote the administration of justice in the navy.

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

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

FLANDREAU TRIBE OF INDIANS IN SOUTH DAKOTA.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill (S. 7381) authorizing and directing the Secretary of the Interior to pay to the Flandreau tribe of Indians in South Dakota certain funds to the credit of said Indians.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Interior to pay to the Flandreau tribe of Indians in the State of South Dakota per capita the balance remaining in the Treasury to their credit, approximating $8,000, accruing to them under the act of March 2, 1889.

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

TOWN SITES ON RECLAMATION PROJECTS.

Mr. BORAH. I desire to call up, by unanimous consent, for present consideration the bill (S. 8376) providing for the reap-

praisement of unsold lots in town sites on reclamation projects, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Irrigation with an amendment, on page 1, line 4, after the word "necessary," to insert "at any time after two years from date of former appraisement," so as to read:

That the Secretary of the Interior is hereby authorized, whenever he may deem it necessary, at any time after two years from date of former appraisement, to reappraise all unsold lots within town sites on projects under the reclamation act heretofore or hereafter appraised under the provisions of the act approved April 16, 1906, entitled "An act providing for the withdrawal from public entry of lands needed for townsite purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes," and the act approved June 27, 1906, entitled "An act providing for the subdivision of lands entered under the reclamation act, and for other purposes;" and thereafter to proceed with the sale of such town lots in accordance with said acts.

The amendment was agreed to.

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

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

DISBURSING OFFICER FOR GOVERNMENT INSANE HOSPITAL.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane.

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

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

ALCOHOLIC COMPOUNDS FROM PORTO RICO.

Mr. KEAN. I ask unanimous consent for the present consideration of the bill (H. R. 22884) to impose a tax upon alcoholic compounds coming from Porto Rico, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that upon bay rum, or any article containing alcohol, hereafter brought from Porto Rico into the United States for consumption or sale there shall be paid a tax on the spirits contained therein of $1.10 per proof gallon.

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

BLAINE AND SUMAS, WASH.

Mr. PILES. I ask unanimous consent for the immediate consideration of the bill (S. 7862) to extend the privileges of the first section of the act of June 10, 1880, to the subports of Blaine and Sumas, in the State of Washington, and allowing the Secretary of the Treasury to fix the compensation of the deputy collectors at Seattle and Tacoma.

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

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

SAMUEL W. CAMPBELL.

Mr. CLAPP. I desire to call up, by unanimous consent, for immediate consideration the bill (S. 7971) for the relief of Samuel W. Campbell.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate the sum of $696 to the credit of Samuel W. Campbell, Indian agent at Lapointe Indian Agency, Wis., on account of money paid by him to Delia M. Rabideau for clerical services. The Secretary of the Interior is authorized to make such payment.

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

L. B. WYATT.

Mr. JOHNSTON. I ask for the present consideration of the bill (H. R. 3388) for the relief of L. B. Wyatt.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to pay to L. B. Wyatt, late postmaster at New Decatur, Morgan County, Ala., $135.60, in full compensation for fumigating the mails during the yellow-fever epidemic between September 22 and November 12, 1888, made under proper authority.

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

PUBLIC BUILDING AT ELWOOD, IND.

Mr. HEMENWAY. I ask unanimous consent for the consideration of the bill (S. 7742) to increase the limit of cost for purchase of site and erection of a post-office building at Elwood, Ind.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that the limit of cost fixed by the act of Congress for the purchase of site and erection of a post-office building at Elwood, Ind., be extended from $50,000 to $75,000.

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

FORT PECK INDIAN RESERVATION, MONT.

Mr. DIXON. I ask unanimous consent for the consideration of the bill (S. 8273) to amend an act approved May 30, 1908, entitled "An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 17 of the act referred to so as to read:

SEC. 17. That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise disposed of shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country, and that the Indian allottees, whether under the care of an Indian agent or not, shall for a like period be subject to all the laws of the United States prohibiting the sale or other disposition of intoxicants to Indians.

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

FRANCES F. CLEVELAND AND MARY LORD HARRISON.

Mr. CARTER. I ask unanimous consent for the present consideration of the bill (H. R. 25019) granting a franking privilege to Frances F. Cleveland and Mary Lord Harrison.

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

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

SOLOMON M. BENNETT.

Mr. SCOTT. I ask unanimous consent for the present consideration of the bill (S. 5756) to remove the charge of desertion from the military record of Solomon M. Bennett.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to remove the charge of desertion from the military record of Solomon M. Bennett, late of Company C, Third West Virginia Cavalry, and to grant him an honorable discharge.

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

IMPROVEMENT OF LAKE MICHIGAN.

Mr. SMITH of Michigan. I desire to call up Senate concurrent resolution 62.

The VICE-PRESIDENT laid before the Senate the concurrent resolution submitted by Mr. SMITH of Michigan on the 7th instant, which was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made on the shores and waters of Lake Michigan at Leland, Leelanau County, Mich., with a view to determining the advantage, best location, and probable cost of a breakwater to form a harbor of refuge at that point, and submit a plan and estimate for such improvements.

PUBLIC BUILDING AT BOISE, IDAHO.

Mr. HEYBURN. I ask unanimous consent for the consideration of the bill (S. 4090) to provide for the acquiring of additional ground and for the enlarging of the government building at Boise, Idaho.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 6, before the word "thousand," to strike out "fifty" and insert "twenty-five," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $125,000, for the purpose of acquiring, by purchase, condemnation, or otherwise, additional land and grounds for the extension of and for the enlargement of the government building at Boise, Idaho.

The amendment was agreed to.

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

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

AUGUSTUS BANNIGAN.

Mr. KEAN. There is a small bill on the calendar, involving only $414, which I should like to call up. It is the bill (H. R. 16191) to refund certain moneys paid into the Treasury of the United States through mistake by Augustus Bannigan.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to repay Augustus Bannigan $414, paid into the Treasury of the United States by mistake by him.

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

MONUMENT TO BRIG. GEN. JAMES SHIELDS.

Mr. CURTIS. I ask unanimous consent for the immediate consideration of the bill (S. 6554) for the erection of a monument to the memory of Brig. Gen. James Shields in St. Mary's Cemetery, Carrollton, Mo.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Library with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of War be, and he is hereby, authorized and directed to cause a suitable monument to be erected over the grave of Brig. Gen. James Shields in St. Mary's Cemetery, at Carrollton, Mo., and for this purpose the sum of $3,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill for the erection of a monument over the grave of Brig. Gen. James Shields in St. Mary's Cemetery, Carrollton, Mo."

LIGHT-HOUSE SERVICE ON HAWAIIAN COASTS.

Mr. FORAKER. I ask unanimous consent for the present consideration of the bill (H. R. 6145) to refund to the Territory of Hawaii the amount expended in maintaining light-house service on its coasts from the time of the organization of the Territory until said light-house service was taken over by the Federal Government.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate $23,393.69, to be paid to the Territory of Hawaii to reimburse it for money paid, laid out, and expended by it in maintaining light-houses, bell buoys, and light-house service on its coasts from the time the Territory became territory of the United States until such aids to navigation were transferred to and taken under the management and control of the Light-House Board.

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

CLAIMS UNDER THE NAVY DEPARTMENT.

Mr. FULTON. I ask unanimous consent for the present consideration of the bill (S. 4033) to satisfy certain claims against the Government arising under the Navy Department.

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

Mr. KEAN. Is there a provision in the bill for the *Mayflower* claims?

Mr. FULTON. There is no provision in the bill for the *Mayflower* claims. I did not wish to take up the time in offering the amendment. There should be, however, a provision for it.

Mr. KEAN. Has the Senator the amendment at hand?

Mr. FULTON. I have one here I intended to offer, but I am going to yield to the Senator from Georgia [Mr. BACON]. He has an amendment that he wishes to offer.

Mr. BACON. I offer an amendment, to be inserted at the proper place in the bill.

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

The SECRETARY. Add at the end of the bill the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Pacific Pearl Mullet, administratrix of the estate of the late Alfred B. Mullett, the sum of $2,062.06, in full for the balance due her husband, the said Mullett, on account of compensation and his actual expenses incurred as commissioner appointed from civil life on the navy-yard commission under the provisions of the act of August 5, 1882, making appropriations for the naval service, said balance being based upon vouchers heretofore issued and approved by the Secretary of the Navy and now in the possession of the widow of said Mullett.

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

The amendment was agreed to.

Mr. FULTON. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. After the amendment just agreed to, insert the following:

That the sum of $12,315.27, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay, upon the presentation of satisfactory evidence in each instance, the claims arising out of the collision between the U. S. S. Mayflower and the schooner Menawa in Long Island Sound on July 22, 1908, the same being in full for and the receipt of the sums to be taken and accepted in each case as a full and final discharge of the respective claims.

The amendment was agreed to.

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

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

CORWIN M. HOLT.

Mr. WARREN. I ask for the present consideration of the bill (H. R. 4931) to correct the military record of Corwin M. Holt.

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

The bill was reported from the Committee on Military Affairs with an amendment, in line 9, after the words "eighteen hundred and sixty-five" to insert the following proviso:

Provided, That no pay, bounty, or other emolument shall become due or payable by virtue of the passage of this act.

So as to make the bill read:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to remove the charge of being absent without authority now standing on the rolls of the army against the name of Corwin M. Holt, late a first lieutenant of Company B, One hundred and third Regiment Ohio Volunteer Infantry, and grant him an honorable discharge as of May 1, 1865: *Provided*, That no pay, bounty, or other emolument shall become due or payable by virtue of the passage of this act.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

WILLIAM J. SCOTT.

Mr. OWEN. I am directed by the Committee on Indian Affairs, to whom was referred the bill (S. 8839) for the removal of restrictions from the third selection or allotment of lands selected by William J. Scott, a minor member of the Osage tribe of Indians, and for other purposes, to report it without amendment, and I submit a report (No. 888) thereon. I ask for the present consideration of the bill.

Mr. KEAN. I do not know that I object to the bill, but I think it ought to be explained.

Mr. OWEN. I will explain it. This particular land lies at the junction of two railways and is intended for a town site. It is recommended by the Interior Department and would do harm to the minor if he were not permitted to take advantage of the opportunity. The town otherwise would go elsewhere.

Mr. KEAN. But the town would probably go where the railroad is.

Mr. OWEN. It would occupy other land, being only a small town possibly, and this minor would lose the opportunity.

Mr. KEAN. I do not object to the bill, but I should like to have bills on the calendar a little beforehand so that I can see the reports.

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

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

STEAMSHIP MONTARA.

Mr. PILES. I ask for the present consideration of the bill (S. 8429) to refund certain tonnage taxes and light dues levied on the steamship *Montara* without register.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to refund $1,695, assessed and collected under sections 4219 and 4225, Revised Statutes, in the case of the steamship *Montara*, entered at Seattle on July 9, 1906, from Yokohama without register, upon application by the Pacific Coast Steamship Company.

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

STANDING ROCK INDIAN RESERVATION.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill (S. 7641) setting apart certain lands in the Standing Rock Indian Reservation, in the State of South Dakota, for cemetery purposes.

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

The bill was reported from the Committee on Indian Affairs with an amendment, in line 9, after the word "Reservation," to insert:

And the same shall not be subject to taxation so long as the same may be used for cemetery purposes.

So as to make the bill read:

That the following-described tract of land situated in Boreman County, in the State of South Dakota, and described as follows, to wit: The west 10 chains of lot 3, in section 26, of township 20 north, of range 25 east, of the Black Hills principal meridian, be, and the same hereby is, reserved for cemetery purposes for the perpetual use of the Indians of the Standing Rock Indian Reservation, and the same shall not be subject to taxation so long as the same may be used for cemetery purposes.

The amendment was agreed to.

Mr. GAMBLE. I offer an amendment. On page 1, line 5, I move to strike out the words "the west 10 chains," and to insert in lieu thereof, "a strip of land 10 chains wide on the west side."

The amendment was agreed to.

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

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

ESTATE OF MARK S. GORRILL.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (H. R. 18744) for the relief of the estate of Mark S. Gorrill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to issue to the estate of Mark S. Gorrill, late of Methuen, Mass., duplicates in lieu of United States 4 per cent bonds of the funded loan of 1907, or to pay to the estate of Mark S. Gorrill the principal and interest due upon the bonds therein described. But the legal representatives of the estate shall first file in the Treasury a bond in the penal sum of $12,500, with good and sufficient sureties, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any loss on account of the bonds and interest coupons.

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

Mr. KEAN. I was going to move an executive session, but the Senator from Virginia [Mr. DANIEL] is very anxious to be recognized, and therefore I withhold the motion.

NORFOLK COUNTY WATER COMPANY.

Mr. DANIEL. I ask the Senate to consider the bill (H. R. 4836) granting to the Norfolk County Water Company the right to lay and maintain a water main through the military reservation on Willoughby Spit, Norfolk County, Va.

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

Mr. KEAN. The bill has the approval of the Secretary of War, I suppose?

Mr. DANIEL. Yes, sir; and it has all the customary restrictions in it. It has passed the House and is recommended by the Committee on Military Affairs of the Senate.

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

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

Mr. WARREN. Will the Senator from New Jersey withhold the motion for a moment that I may have a short bill passed?

Mr. KEAN. Certainly.

GEORGE M. VOORHEES.

Mr. WARREN. With the courtesy of the Senator from New Jersey, I ask leave to call up the bill (H. R. 17572) for the relief of George M. Voorhees.

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

Mr. KEAN. That is a queer bill.

Mr. WARREN. There is an amendment.

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

The SECRETARY. The bill was reported from the Committee on Military Affairs with an amendment, in line 9, after the word "Infantry," to insert:

And to issue to said George M. Voorhees an honorable discharge as of date October 13, 1862.

So as to make the bill read:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and instructed to interpret and consider Special Orders, No. 59, date February 5, 1863, approved February 10, 1863, equivalent to the honorable discharge of George M. Voorhees, late captain Company D, Ninety-third Regiment New York Volunteer Infantry, and to issue to said George M. Voorhees an honorable discharge as of date October 13, 1862: *Provided*, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

EXECUTIVE SESSION.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 50 minutes p. m.) the Senate adjourned until Monday, February 1, 1909, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 29, 1909.

POSTMASTERS.

ARKANSAS.

John W. Terry to be postmaster at Marvell, Ark. Office became presidential January 1, 1909.

CALIFORNIA.

Winslow L. Rideout to be postmaster at Lakeport, Cal., in place of Winslow L. Rideout. Incumbent's commission expires February 3, 1909.

FLORIDA.

Leland M. Chubb to be postmaster at Winter Park, Fla. Office became presidential January 1, 1909.

William C. Eddy to be postmaster at De Funiak Springs, Fla., in place of William C. Eddy. Incumbent's commission expires February 2, 1909.

Samuel J. Giles to be postmaster at Carrabelle, Fla. Office became presidential January 1, 1909.

GEORGIA.

James L. Sibley to be postmaster at Milledgeville, Ga., in place of James L. Sibley. Incumbent's commission expires March 1, 1909.

IOWA.

James M. Hutcheson to be postmaster at Blanchard, Iowa. Office became presidential January 1, 1909.

Herman Ternes to be postmaster at Dubuque, Iowa, in place of Joseph S. Morgan, resigned.

KANSAS.

James M. Brown to be postmaster at Wilson, Kans., in place of Fannie M. Hutchison. Incumbent's commission expires February 1, 1909.

Allen C. Carson to be postmaster at Lucas, Kans. Office became presidential January 1, 1909.

LOUISIANA.

L. B. Ligon to be postmaster at Kentwood, La., in place of Edgar A. Bassett, resigned.

W. E. Singleton to be postmaster at Mansfield, La., in place of Isabel C. Taylor. Incumbent's commission expires February 10, 1909.

MINNESOTA.

Jacob Geib to be postmaster at Gaylord, Minn. Office became presidential January 1, 1909.

Mathias B. Jenson to be postmaster at Clarkfield, Minn. Office became presidential January 1, 1909.

Mark M. Woolley to be postmaster at Howard Lake, Minn., in place of Mark M. Woolley. Incumbent's commission expired January 27, 1909.

MISSISSIPPI.

Laura M. Gowdy to be postmaster at Batesville, Miss., in place of Laura M. Gowdy. Incumbent's commission expired December 14, 1908.

Monroe L. Lott to be postmaster at Sumrall, Miss., in place of John H. Nutt, resigned.

OKLAHOMA.

John C. Byrd to be postmaster at Wagoner, Okla., in place of Samuel S. Cobb. Incumbent's commission expired February 12, 1907.

PENNSYLVANIA.

Andrew C. Allison to be postmaster at Mifflintown, Pa., in place of Andrew C. Allison. Incumbent's commission expired December 15, 1908.

Clarence L. Dindinger to be postmaster at Zelienople, Pa., in place of Nelson B. Duncan. Incumbent's commission expired January 6, 1909.

Sylvester C. Stout to be postmaster at Glenside, Pa., in place of Sylvester C. Stout. Incumbent's commission expired March 8, 1908.

SOUTH DAKOTA.

Arthur W. Bartels to be postmaster at Gary, S. Dak. Office became presidential January 1, 1909.

J. Charles Russell to be postmaster at Midland, S. Dak. Office became presidential January 1, 1909.

VERMONT.

Carroll B. Webster to be postmaster at Barton, Vt., in place of Ellery H. Webster, resigned.

WISCONSIN.

Marilla Andrews to be postmaster at Evansville, Wis., in place of Marilla Andrews. Incumbent's commission expired January 6, 1909.

Robert J. Audiss to be postmaster at Westfield, Wis., in place of Robert J. Audiss. Incumbent's commission expired January 23, 1909.

John G. Burman to be postmaster at Amery, Wis., in place of John G. Burman. Incumbent's commission expired January 9, 1909.

Danal P. Butts to be postmaster at Frederic, Wis. Office became presidential January 1, 1909.

Frank J. Salter to be postmaster at Prentice, Wis., in place of Frank J. Salter. Incumbent's commission expired January 16, 1909.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 29, 1909.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. of Engineers Willits Pedrick to be senior engineer in the Revenue-Cutter Service.

Second Lieut. of Engineers William Crocket Myers to be first lieutenant of engineers in the Revenue-Cutter Service.

Third Lieut. of Engineers George Wilson Cairnes to be second lieutenant of engineers in the Revenue-Cutter Service.

COMMISSIONER-GENERAL OF IMMIGRATION.

Daniel J. Keefe, of Michigan, to be Commissioner-General of Immigration in the Department of Commerce and Labor.

APPOINTMENT IN THE ARMY.

MEDICAL RESERVE CORPS.

Edward Holman Skinner, of Missouri, to be first lieutenant.

PROMOTIONS IN THE ARMY.

ORDNANCE DEPARTMENT.

Lieut. Col. Orin B. Mitcham, Ordnance Department, to be colonel.

Maj. John T. Thompson, Ordnance Department, to be lieutenant-colonel.

Capt. Edwin D. Bricker, Ordnance Department, to be major.

POSTMASTERS.

LOUISIANA.

Edward I. Hall to be postmaster at Jennings, La.

Adah Rous to be postmaster at Lake Providence, La.

MARYLAND.

William H. Stevens, jr., to be postmaster at Hurlock, Md.

MISSISSIPPI.

James N. Atkinson to be postmaster at Summit, Miss.

Edward F. Brennan to be postmaster at Brookhaven, Miss.

Jasper F. Butler to be postmaster at Holly Springs, Miss.

Thomas Richardson to be postmaster at Port Gibson, Miss.

NEW YORK.

George W. Armstrong to be postmaster at Manlius, N. Y.

Arthur B. Burrows to be postmaster at Andover, N. Y.

Charles W. Clark to be postmaster at Oriskany Falls, N. Y.

Edwin B. Hughes to be postmaster at Staatsburg, N. Y.

Herbert J. Rouse to be postmaster at Cazenovia, N. Y.

Judson S. Wright to be postmaster at Tully, N. Y.

OKLAHOMA.

N. W. Hibbard to be postmaster at Kiefer, Okla.

PENNSYLVANIA.

Alexander H. Ingram to be postmaster at Oxford, Pa.

SOUTH CAROLINA.

Joseph H. Abbey to be postmaster at St. George, S. C.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 29, 1909.*

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.

REPRINT OF REPORT, AGRICULTURAL APPROPRIATION BILL.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to withdraw House Report No. 1919, being the report accompanying the agricultural appropriation bill, in order that certain typographical errors contained therein may be corrected, and that the same be reprinted.

The SPEAKER. Does the gentleman desire to discharge the Committee of the Whole House on the state of the Union from further consideration of it and to recommit the report?

Mr. SCOTT. Mr. Speaker, it seemed to me that that was hardly necessary. I simply desire to have a reprint made of the same report in order that certain typographical errors contained therein may be corrected.

The SPEAKER. The gentleman from Kansas asks unanimous consent to withdraw House Report No. 1919, accompanying the agricultural appropriation bill, make certain corrections in the same, and that it be reprinted. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

BANKRUPTCY LAW.

Mr. SHERLEY. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Ordered, That for the remainder of this session the bill (H. R. 21929) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by an act approved February 5, 1903, shall have the privilege of bills reported by committees having the right to report at any time: *Provided*, That in the consideration of the said bill no procedure shall be permitted to interfere with the offering of an amendment in the nature of a substitute which shall provide for the repeal of the existing bankruptcy law.

The SPEAKER. Is there objection?

Mr. TOWNSEND. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if the object of this order is to make that bill privileged, so that it will take precedence of everything except matters in the nature of appropriation bills?

Mr. SHERLEY. It would give the same status to this that bills reported from committees having the right to report at any time have, which, interpreted, practically means that it would have a privilege subject to appropriation bills and conference reports.

Mr. HULL of Iowa. Would not that order place it on an equality with appropriation bills that come from committees?

Mr. SHERLEY. I think not; and it would be always within the privilege of the House upon calling up the matter to determine whether it would or would not consider it.

Mr. HULL of Iowa. That is true of appropriation bills.

Mr. SHERLEY. I understand; but appropriation bills, in my judgment, would take precedence over this, if the order were agreed to.

Mr. TOWNSEND. Mr. Speaker, I feel I shall have to object.

Mr. SHERLEY. I think the gentleman is mistaken in his view. It is not going to interfere with the bill that he has in mind, and which is the reason for his objection. This order would not give the bill any higher dignity than rests with the bill the gentleman has in mind.

Mr. TOWNSEND. Then what is the object of the gentleman's asking for this special privilege, if he can take it up on a par with all similar measures?

Mr. SHERLEY. I do not think that is the exact status.

Mr. HENRY of Texas. The gentleman from Michigan does not object, does he?

Mr. TOWNSEND. I do object, but I will withhold it if the gentleman does.

Mr. HENRY of Texas. Mr. Speaker, I desire to say that there are a number of us on the Committee on the Judiciary who do not agree to all of these amendments, but if the bankruptcy law is to remain on the statutes we think there are some features of it that might well be amended. This simply puts the measure in such a situation that it can be considered when appropriation bills and conference reports are not in the way. We have reserved the right to offer an amendment repealing the bankruptcy law, and other amendments can be offered, and as a member of the Judiciary Committee, I see no reason why it should not be considered by Congress at this session anyway. Therefore I do not feel like objecting, and I do not think any member of that committee does.

The SPEAKER. Is there objection?

Mr. TOWNSEND. Mr. Speaker, I shall have to object.

The SPEAKER. The gentleman from Michigan objects.

RIGHT OF WAY THROUGH PUBLIC LANDS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 24833.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the following bill, and to consider the same in the House at this time. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 24833) to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States."

The bill was read.

The SPEAKER. Is there objection?

Mr. HENRY of Texas. Mr. Speaker, reserving the right to object, I would like to hear a little something about this bill.

Mr. MONDELL. Mr. Speaker, this bill is an exact copy of the bill of June 26, 1906, providing for the cancellation of railroad rights of way where the grantees had not complied with the provisions of the law under which the rights of way were granted. While those rights of way are conditioned upon the performance of certain acts, they can not be canceled and the public lands unencumbered of those rights except by act of Congress. This bill is intended to bring down to date the act of June 26, 1906, of which it is a copy.

Mr. HENRY of Texas. I will ask the gentleman if he has furnished a copy of this bill to the gentleman from Missouri [Mr. CLARK].

Mr. MONDELL. I will say to the gentleman I have furnished a copy to the gentleman from Missouri and discussed the matter with him.

Mr. HARDWICK. Mr. Speaker, I would like to ask the gentleman what is the need of this proviso——

Mr. HENRY of Texas. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

DONATING CANNON TO MARSHALL COUNTY, W. VA.

The SPEAKER laid before the House the bill (H. R. 24151) to authorize the Secretary of War to donate two condemned brass or bronze cannon or fieldpieces and cannon balls to the county court of Marshall County, W. Va., with amendments, which were read.

Mr. HUBBARD of West Virginia. I move that the House agree to the amendments proposed by the Senate.

The SPEAKER. The gentleman from West Virginia moves that the House agree to the Senate amendments.

The motion was agreed to.

PHILIPPINE ISLANDS.

Mr. COOPER of Wisconsin. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the Clerk's desk.

The SPEAKER. The bill is on the Union Calendar, and the request of the gentleman is to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill and to consider the same at this time. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 25155) to amend an act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands and for other purposes."

Whereas section 7 of the act of Congress of July 1, 1902, provides as follows: "The legislature shall hold annual sessions, commencing on the first Monday of February in each year and continuing not exceeding ninety days thereafter (Sundays and holidays not included): *Provided*, That the first meeting of the legislature shall be held upon the call of the governor within ninety days after the first election;" and

Whereas in practice such contingencies may arise as will make impossible the holding of the regular annual sessions on the first Monday of February in each year, as provided in the said section of the act of Congress of July 1, 1902: Now, therefore,

Be it enacted, etc., That the seventh section of the act entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," approved July 1, 1902, is hereby amended to read as follows:

"SEC. 7. The legislature shall hold annual sessions, commencing on the first Monday of February in each year and continuing not exceeding ninety days thereafter (Sundays and holidays not included): *Provided, however*, That the Philippine legislature may by law fix the date for the commencement of its annual sessions: *And provided further*, That the first meeting of the legislature shall be held upon the call of the governor within ninety days after the first election: *And provided further*, That if at the termination of any session the appropriations necessary for the support of government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid."

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

The preamble was agreed to.

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

On motion of Mr. COOPER of Wisconsin, a motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS MONONGAHELA RIVER, PENNSYLVANIA.

Mr. WANGER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 25552.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 25552) to amend an act entitled "An act to amend an act entitled 'An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company,' approved March 2, 1907," approved March 16, 1908.

Be it enacted, etc., That an act entitled "An act to amend an act entitled 'An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company,' approved March 2, 1907," approved March 16, 1908, be, and is hereby, amended to read as follows:

"That section 2 of an act entitled 'An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company,' approved March 2, 1907, be, and is hereby, amended to read as follows:

"'SEC. 2. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from March 15, 1909.'"

Mr. WANGER. Mr. Speaker, there is an amendment.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none, and the Clerk will report the amendments.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That section 2 of an act entitled 'An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company,' approved March 2, 1907, as amended by an act approved March 16, 1908, be, and is hereby, further amended to read as follows:

"SEC. 2. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from March 15, 1909."

Amend the title by striking out in line 1 the following words: "An act to amend an act entitled," and by striking out all of lines 5 and 6 after the word "seven."

The amendment in the nature of a substitute was agreed to.

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

The title was amended so as to read: "A bill to amend an act entitled 'An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company,' approved March 2, 1907."

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. 7276. An act providing for the improvement, repair, and an addition to the public building at Pensacola, Fla.;

S. 4116. An act authorizing the Secretary of War to place the name of Joseph F. Ritcherdson on the rolls of Company C, One hundred and twenty-second Illinois Volunteer Infantry, and issue him an honorable discharge;

S. 8695. An act extending the time for the construction by James A. Moore, or his assigns, of a canal along the government right of way connecting the waters of Puget Sound with Lake Washington; and

S. 5900. An act to amend an act entitled "An act to repeal timber-culture laws, and for other purposes," approved March 3, 1891.

The message also announced that the Senate had passed without amendment bills and joint resolution of the following titles:

H. R. 24492. An act to authorize the Secretary of War to donate one condemned bronze fieldpiece and cannon balls to the county of Orange, State of New York;

H. R. 26073. An act to legalize a bridge across Indian River North, in the State of Florida; and

H. J. Res. 200. Joint resolution granting to Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District.

SENATE BILLS REFERRED.

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

S. 5900. An act to amend an act entitled "An act to repeal timber-culture laws, and for other purposes," approved March 3, 1891—to the Committee on the Public Lands.

S. 4116. An act authorizing the Secretary of War to place the name of Joseph F. Ritcherdson on the rolls of Company C, One hundred and twenty-second Illinois Volunteer Infantry, and issue him an honorable discharge—to the Committee on Military Affairs.

S. 7276. An act providing for the improvement, repair, and an addition to the public building at Pensacola, Fla.—to the Committee on Public Buildings and Grounds.

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. 21957. An act relating to affairs in the Territories;

H. R. 26606. An act to authorize the Lewis Bridge Company to construct a bridge across the Missouri River;

H. R. 26920. An act to repeal section 12 of an act entitled "An act to provide for a union railroad station in the District of Columbia, and for other purposes," approved February 28, 1903, and to provide for the location and erection of a substation on the parking at the corner formed by the intersection of the east side of Seventh street and the south side of C street SW., in the city of Washington, D. C., by the Philadelphia, Baltimore and Washington Railroad Company, and to provide for the approval of the same by the Commissioners of the District of Columbia; and

H. R. 26709. An act to amend an act to provide for the reorganization of the consular service of the United States.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. R. 118. Joint resolution to enable the States of Tennessee and Arkansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory.

NEW JUDICIAL DIVISION, TENNESSEE.

Mr. HULL of Tennessee. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 24635, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Tennessee [Mr. HULL] asks unanimous consent for the present consideration of the following bill on the House Calendar, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 24635) to create a new division in the middle judicial district of the State of Tennessee.

Be it enacted, etc., That a new division of the middle judicial district of the State of Tennessee, to be known as the northeastern division of the middle judicial district of Tennessee, be, and the same is hereby, established, to be composed of the following counties, to wit: Putnam, Jackson, Clay, Overton, Pickett, Fentress, Cumberland, White, Van Buren, Dekalb, Smith, and Macon; and said counties be, and the same are hereby, transferred to said northeastern division of said middle district of Tennessee, but no additional clerk or marshal shall be appointed in or for said district.

SEC. 2. That terms of the circuit court and of the district court of the northeastern division judicial district of Tennessee shall be held at Cookeville, in said State, each year on the first Mondays in April and October, after the passage of this act.

SEC. 3. That the clerks of the district and circuit courts for the middle district of Tennessee, and the marshal and district attorney for said district, shall perform the duties appertaining to their offices, respectively, for said courts of said northeastern division judicial district, and except when court is in session and a judge present the clerk's office of said courts may be at Nashville, where all records for said courts may be kept as of the same court and all duties performed as though the clerk were at Cookeville; but should, in the judgment of the district judge and the clerk, the business of said courts hereafter warrant the employment of a deputy clerk as Cookeville, Tenn., new books and records may be opened for the court herein created and kept at Cookeville, and a deputy clerk appointed to reside and keep his office at Cookeville.

SEC. 4. That all suits not of a local nature in said circuit and district courts against a single defendant, inhabitant of said State, must be brought in the division of the district in which he resides; but if there are two or more defendants residing in different divisions of the district such suits may be brought in either division.

SEC. 5. That all prosecutions for crimes or offenses hereafter committed in either of the divisions of said district shall be cognizable within such division, and all prosecutions for crimes or offenses heretofore committed in the middle district as heretofore constituted shall be commenced and proceeded with as if this act had not been passed.

SEC. 6. That all grand and petit jurors summoned for service in each division shall be residents of such division. All mesne and final process subject to the provisions hereinbefore contained, issued in either of said divisions, may be served and executed in either or both of the divisions.

SEC. 7. That in all cases of removal of suits from the courts of the State of Tennessee to the courts of the United States, in the middle district of Tennessee, such removal shall be to the United States courts in the division in which the county is situated from which the removal is made, and the time within which the removal shall be perfected, in so far as it refers to or is regulated by the terms of the United States courts, shall be deemed to refer to the terms of the United States courts held in said northeastern division of the middle judicial district.

SEC. 8. That each of said courts shall be held in a building to be provided for that purpose by the county or municipal authorities and without expense to the United States.

SEC. 9. That this act shall be in force from and after the 30th day of June, A. D. 1909, and all acts and parts of acts so far as inconsistent herewith are hereby repealed.

Also the following committee amendment:

In line 2, on page 2, strike out the words "first Mondays in April and October" and insert in lieu thereof the words "second Mondays in May and November.

Mr. PAYNE. Mr. Speaker, reserving the right to object, I will say this is a class of bills to the consideration of which I have uniformly objected in the House.

Notwithstanding that, the Judiciary Committee seem to be unanimous in their desire to create new divisions in different parts of the United States. During the time that we had a call of the calendar a number of these bills were reached after the hour had been set, and were passed by the House. The House seems to have a disposition to pass these bills. I do not think it fair to single out the bill of the gentleman from Tennessee [Mr. HULL] as one of the bills to be objected to; and therefore, while I do not believe the bill ought to pass, the Judiciary Committee seem to have a contrary opinion, as I understood from some of the members, from the universal desire to create new districts and new judges. This being a safety valve out of that dilemma—and to give new judges and new districts would create a large and additional expense—I shall not object to this bill.

Mr. JENKINS. I want to ask the gentleman from Illinois [Mr. MANN] a question, if he will permit it, by way of explanation.

Mr. MANN. I want to ask the gentleman, or the gentleman from Tennessee, a question, simply as to whether this bill makes any new offices.

Mr. HULL of Tennessee. None.

Mr. KEIFER. Does it not create new clerks and assistants?

Mr. HULL of Tennessee. No, sir, I would say to the gentleman.

Mr. KEIFER. I would like to ask how many counties are included?

Mr. HULL of Tennessee. Twelve counties.

Mr. KEIFER. What particular things connected with those twelve counties make it necessary for a new judicial district?

Mr. HULL of Tennessee. Well, there is quite a variety of litigation, violations of the United States internal-revenue laws in one section of this territory to a considerable extent, and a considerable amount of land litigation between nonresident citizens and citizens of the State.

Mr. JENKINS. Mr. Speaker, reserving the right to object, I do so for the purpose of making a statement somewhat in answer to my friend from New York [Mr. PAYNE]. I want to say to the House that the Judiciary Committee in its wisdom did report the bill unanimously, as they have many other bills. I would rather infer from my friend from New York that he is casting some reflection upon that committee.

Mr. PAYNE. Not at all. I hope the gentleman will not so understand it. I disagree with the gentleman's committee, but that does not cast any reflections. I may be wrong and the committee right.

Mr. JENKINS. I want to say to my friend from New York [Mr. PAYNE] that there is going to be a large opening in that committee next session, and I trust that he will be placed there in order to do justice on these several matters.

Mr. PAYNE. Mr. Speaker, I trust not.

Mr. JENKINS. Mr. Speaker, this bill has the approval of the judge who is interested and the United States attorney. It has been considered by the Department of Justice, and with so many demands upon it the committee did not feel like refusing their request, and in the judgment of that committee this bill should pass. I have no objection.

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

The Chair calls the attention of the gentleman from Tennessee [Mr. HULL] to what is evidently a typographical error in line 17, page 2, before the word "Cookeville."

Mr. HULL of Tennessee. Mr. Speaker, I ask unanimous consent that the necessary correction may be made, by striking out the word "as," before the word "Cookeville," in line 17, page 2, and inserting in lieu thereof the word "at."

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the committee amendment.

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

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

On motion of Mr. HULL of Tennessee, a motion to reconsider the vote by which the bill was passed was laid on the table.

ADMINISTRATION OF JUSTICE IN THE NAVY.

Mr. ROBERTS. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill H. R. 6252, and ask that the same be considered in the House at this time.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 6252) to promote the administration of justice in the navy.

Be it enacted, etc., That courts for the trial of enlisted men in the Navy and Marine Corps for minor offenses may be ordered by the commanding officer of a naval vessel, by the commandant of a navy-yard or station, by a commanding officer of marines, or by higher naval authority.

SEC. 2. That such courts shall be known as "deck courts," and shall consist of one commissioned officer only, who, while serving in such capacity shall have power to administer oaths, to hear and determine cases, and to impose, in whole or in part, the punishments prescribed by article 30 of the Articles for the Government of the Navy: *Provided*, That in no case shall such courts adjudge discharge from the service or adjudge confinement or forfeiture of pay for a longer period than thirty days.

SEC. 3. That any person in the navy under command of the officer by whose order a deck court is convened may be detailed to act as recorder thereof.

SEC. 4. That the officer within whose command a deck court is sitting shall have full power as reviewing authority to remit or mitigate, but not to commute, any sentence imposed by such court; but no sentence of a deck court shall be carried into effect until it shall have been so approved or mitigated.

SEC. 5. That the courts hereby authorized shall be governed in all details of their constitution, powers, and procedure, except as herein provided, by such rules and regulations as the President may prescribe.

SEC. 6. That the records of the proceedings of the courts hereby authorized shall contain such matters only as are necessary to enable the reviewing authorities to act intelligently thereon. Such records, after action thereon by the convening authority, shall be forwarded directly to, and shall be filed in, the office of the Judge-Advocate-General of the Navy, where they shall be reviewed, and, when necessary, submitted to the Secretary of the Navy for his action.

SEC. 7. That no person who objects thereto shall be brought to trial before a deck court. Where such objection is made by the person accused, trial shall be ordered by summary or by general court-marshal, as may be appropriate.

SEC. 8. That the courts authorized to impose the punishments prescribed by article 30 of the Articles for the Government of the Navy may adjudge either a part or the whole, as may be appropriate, of any one of the punishments therein enumerated.

SEC. 9. That the Secretary of the Navy may set aside the proceedings or remit or mitigate, in whole or in part, the sentence imposed by any naval court-martial convened by his order or by that of any officer of the Navy or Marine Corps.

SEC. 10. That general courts-martial may be convened by the President, by the Secretary of the Navy, by the commander in chief of a fleet or squadron, and by the commanding officer of any naval station beyond the continental limits of the United States.

SEC. 11. That a naval court-martial or court of inquiry shall have power to issue like process to compel witnesses to appear and testify which courts of criminal jurisdiction within the State, Territory, or District where such naval court shall be ordered to sit may lawfully issue.

SEC. 12. That where any person duly summoned as a witness before a naval court-martial or court of inquiry makes default in attending, or, being in attendance as a witness, refuses to take the oath legally required by the court, or refuses to answer any question put to him as such witness to which the court may legally require an answer, or refuses to produce any document in his custody or control legally inquired by the court, or is guilty of any other act of contempt, the president of such naval court may certify the offense of such person to the nearest United States court, to be by that court inquired into, and after examination of any witnesses that may be produced against or for the person so accused and after hearing any statement that may be offered in defense, such United States court shall, if it seems just, punish such witness in like manner as if he had committed the offense in a proceeding before that court.

SEC. 13. That the depositions of witnesses stationed or residing at such a distance from the place at which a naval court is ordered to sit, or who are under orders and about to go to such a distance that it is not practicable to secure their personal attendance without incurring great expense or serious loss of time, if taken on reasonable notice to the opposite party and duly authenticated, may be put in evidence before such court in cases not capital.

SEC. 14. That persons confined in prisons in pursuance of the sentence of a naval court-martial shall, during such confinement, be allowed a reasonable sum, not to exceed $3 per month, for necessary prison expenses, and shall upon discharge be furnished with suitable civilian clothing and paid a gratuity, not to exceed $25: *Provided*, That such allowances shall be made in amounts to be fixed by, and in the discretion of, the Secretary of the Navy and only in cases where the prisoners so discharged would otherwise be unprovided with suitable clothing or without funds to meet their immediate needs.

Also the following committee amendments:

In line 4, after the word "offenses," insert "now triable by summary court-martial."

Page 2, line 2, strike out the word "thirty" and insert in lieu thereof "fifteen."

Page 2, line 19, after the word "thereon," insert "except that if the party accused demands it within thirty days after the decision of the deck court shall be known to him, the entire record or so much as he desires shall be sent to the reviewing authority."

Page 3, line 7, add the following proviso:

"*Provided*, That the use of irons, single or double, is hereby abolished, except for the purpose of safe custody or when part of a sentence imposed by a general court-martial."

Page 3, line 19, after the word "which," insert "United States."

Page 4, line 3, strike out the word "inquired" and insert in lieu thereof the word "required."

Page 4, line 6, after the word "States," insert the word "District."

Page 4, line 10, after the word "States," insert the word "District."

Page 4, strike out all of section 13.

Page 4, line 21, strike out "14" and insert in lieu thereof "13."

Page 5, add the following section:

"SEC. 14. Section 1624, article 34, Revised Statutes of the United States, is hereby amended as follows: 'The proceedings of summary courts-martial shall be conducted with as much conciseness and precision as may be consistent with the ends of justice, and under such form and rules as may be prescribed by the Secretary of the Navy with the approval of the President, and all such proceedings shall be transmitted in the usual mode to the Navy Department, where they shall be kept on file for a period of two years from date of trial, after which time they may be destroyed in the discretion of the Secretary of the Navy.'"

The SPEAKER. Is there objection?

Mr. HULL of Iowa. Reserving the right to object, it was impossible for me to hear the reading of the bill, and I would like to ask the gentleman from Massachusetts wherein it changes the present law in regard to courts-martial in the navy?

Mr. ROBERTS. Under the present law, in order to try a man in the navy for a petty offense, there must be a summary court, which requires the presence of four commissioned officers. This bill provides what is known as a "deck court," to be held by one commissioned officer, which is exactly on all fours with the so-called "garrison court" of the army that has been in operation some ten years. The navy is short now in the matter of commissioned officers, and it seriously interferes with the routine and discipline of ships to take four commissioned officers from their regular duties to sit on these little petty cases that are now under the jurisdiction of summary courts.

Mr. MACON. Will the gentleman yield to me?

Mr. ROBERTS. One moment. I want to make another statement. The bill provides for the holding of courts in territory outside of the United States by a single officer, thereby doing away with the keeping men in prison for months awaiting trial for petty offenses. One instance I may cite, of two men who deserted from a ship in Guam. Shortly after the ship sailed the deserters were apprehended and put in prison. A recommendation for a court-martial was made by the officer in charge. It had to be sent to Washington. The department approved the court-martial; the papers were sent back; the men were tried; then the findings of the court had to be transmitted to Washington for approval and return.

Now, the sentence of the court was four months' imprisonment; but before the papers got to Washington for final approval the men had been in confinement six months. As in all cases of that sort, the department remitted the four months' imprisonment and ordered the rest of the sentence carried out.

Mr. BARTLETT of Georgia. How does his bill remedy that particular evil that occurred in that case?

Mr. ROBERTS. It allows the commanding officer of the station to constitute a deck court.

Mr. MACON. Now, a deck court, from the provisions of the bill, I take it, is a kind of "unanimous-consent" court, that everybody had to consent to it.

Mr. ROBERTS. I will state for the benefit of the gentleman that every man liable to a deck court, under the provisions of this bill, has the right to object to it and to insist upon trial by a summary court or by general court-martial. All rights are fully guarded in that respect.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. ROBERTS. I shall be very glad to yield.

Mr. BARTLETT of Georgia. In discussing the trial of offenses out of the United States by this one officer, the gentleman confined it to offenses committed not in the United States. For instance, under the bill a member of the navy might commit an offense just as the ship was going away, and might be tried in a foreign country. Now, ought not your bill to confine the trial of offenses in other places than the United States to

offenses committed while the person is outside the United States? In other words, your bill does not confine the trial of offenses in foreign countries by this officer to offenses committed while the ship is away from the United States.

Mr. ROBINSON. I make the point of order that the House is not in order.

The SPEAKER. The point of order is well taken, and the House will be in order.

Mr. BARTLETT of Georgia. I did not notice that the bill, as read at the Clerk's desk, contained any limitation as to the power of this one-man court to try for offenses committed solely while the offender was in a foreign country. It might be construed, very properly, to give the right to try also in a foreign country, and to try for an offense committed while the offender was in the United States; but I apprehend that is not the purpose of the bill.

Mr. ROBERTS. Why, Mr. Speaker, it may not always be possible to try a man immediately after he commits the offense and try him on the spot where the offense was committed——

Mr. BARTLETT of Georgia. I understand that.

Mr. ROBERTS. In naval practice——

Mr. BARTLETT of Georgia. But suppose it is not possible. The man is on board ship and carried to a foreign country and tried under the provisions of your bill. How are you going to obtain the witnesses if the ship has left the country?

Mr. ROBERTS. That, Mr. Speaker, is one of the difficulties that is inherent in all trials of criminal or semicriminal cases. You must always be able to produce the witnesses to convict the man of the offense of which he is charged.

Mr. BARTLETT of Georgia. And he might be able to produce witnesses that would not allow conviction. We ought not to make a law to convict people, but to give them a trial and an opportunity to show that they are not guilty.

Mr. ROBERTS. I understand, but there are cases that come up where you are not able to get your witnesses to determine the question of guilt or innocence, and it is conceivable that such cases might happen as the gentleman from Georgia cites; but on the average, in the long run, the administration of justice in the navy would be much better served by adopting the provisions of this bill, with perhaps an occasional case, such as the gentleman refers to, escaping just punishment.

Mr. BARTLETT of Georgia. They have occurred within my knowledge not occasionally, but frequently.

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

Mr. ROBERTS. Yes.

Mr. KEIFER. I think objection had better be made. I would not object to considering this bill section by section; but it is too important to pass in this way, by unanimous consent.

Mr. ROBERTS. Does the gentleman object?

Mr. KEIFER. Yes; I object.

CALENDAR TRANSFERS OF BILLS.

The SPEAKER announced the transfer from the House Calendar to the Union Calendar, in accordance with the rules of the House, of the bill (H. R. 15463) providing for changing the title of warrant machinist, United States Navy, to machinist, for the promotion of machinists after six years from date of warrant, according to law governing the promotion of other warrant officers, and for other purposes.

The SPEAKER also announced the transfer from the Union Calendar to the House Calendar, under the rules of the House, of the bill (H. R. 26984) extending the time for the construction by James A. Moore or his assigns of a canal along the government right of way connecting the waters of Puget Sound with Lake Washington.

ORDER OF BUSINESS.

Mr. HULL of Iowa. 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 the bill (H. R. 26915) making appropriations for the support of the army for the fiscal year ending June 30, 1910.

Mr. HASKINS. Mr. Speaker, pending that, I ask unanimous consent that the next legislative day after the completion of the army appropriation bill be substituted in lieu of to-day for the consideration of bills upon the Private Calendar in order under the rule.

Mr. MORSE. Mr. Speaker, reserving the right to object, is it the intention of the chairman to give up claims day to-day?

Mr. BARTLETT. This is war-claims day.

Mr. MORSE. It is his intention to give up war claims to-day?

The SPEAKER. The gentleman has not the power to give it up or to refuse to give it up.

Mr. HASKINS. I do not care to stand in the way of appropriation bills. I want those hurried over to the other end of the Capitol as rapidly as possible, but I want the next legislative day after the conclusion of the army bill for the consideration of bills in order under the rule to-day.

The SPEAKER. The Chair will call the attention of the gentleman to the fact that in this, as in all other cases, the business of the House is subject to the vote of a majority. If the House votes down the motion to go into Committee of the Whole House on the state of the Union to consider the army appropriation bill, which is in order, then, of course, automatically, this being private bill day, it would be in order to consider private bills.

The gentleman from Vermont [Mr. HASKINS] asks unanimous consent that the next legislative day after the completion of the army bill be considered as Friday, for the consideration of business in order to-day. The Chair calls the attention of the gentleman from Wisconsin [Mr. MORSE], as well as other Members, to the fact that a single objection would prevent that request being granted, and then the House could determine the question between the army bill and private bills to-day.

Mr. MORSE. Then I object, Mr. Speaker.

Mr. HASKINS. Now, I move that the next legislative day——

Mr. HULL of Iowa. I raise the point of order that there is one privileged motion already pending.

The SPEAKER. The Chair calls the attention of the gentleman to the fact that the motion to consider the army bill has precedence under the rules of the House. The gentleman can arrive at what he desires if a majority of the House see proper to vote down the motion. If the House does that, then, without a motion, under the rule, the business in order on Friday would come up automatically.

Mr. CLARK of Missouri. Mr. Speaker, the gentleman from Vermont [Mr. HASKINS] is trying to substitute another day for this one.

The SPEAKER. He asks unanimous consent, and to that unanimous consent the gentleman from Wisconsin [Mr. MORSE] objects.

Mr. CLARK of Missouri. I thought he was objecting to what the gentleman from Iowa [Mr. HULL] was trying to do. I was trying to help them all out.

ARMY APPROPRIATION BILL.

The motion of Mr. HULL of Iowa 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 army appropriation bill (H. R. 26915), with Mr. PERKINS in the chair.

Mr. HULL of Iowa. Mr. Chairman, in answer to the gentleman from Illinois on yesterday for information, I desire to submit to the House the reply from the Paymaster-General, and I ask that the Clerk may read it, that it may go into the RECORD.

The Clerk read as follows:

WAR DEPARTMENT,
OFFICE OF THE PAYMASTER-GENERAL,
Washington, January 29, 1909.

To the Chairman Committee on Military Affairs,
House of Representatives.

SIR: In response to your telephone message of this date, I have the honor to submit to you a statement regarding the increase in the item "Pay of enlisted men." Of course you will understand that these figures represent only the *proposed appropriation*, $1,550,000, and *not* the number of men *estimated* for, viz, $16,748,010. Neither are the enlisted men of the staff departments, the Hospital Corps, the Porto Rico regiment, nor the Philippine Scouts included.

For your information, I might add that the enlisted strength at the present time, inclusive of all the above-named forces, is about 82,000 men, while the *authorized* strength at the present time is 85,961.

Respectfully,

C. H. WHIPPLE,
Paymaster-General, U. S. Army.

Statement regarding increase in appropriation "Pay of enlisted men."

The proposed appropriation represents the new rate of pay for 65,410 enlisted men	$15,500,000
The appropriation for the present fiscal year represents the old rate of pay for 54,128 enlisted men	10,000,000
65,410 less 54,128 equals 11,282 enlisted men, which, if appropriated for at the old rate of pay, would amount to	1,805,120
Difference between old and new rate of pay, as established by the act of May 11, 1908, for 65,410 men	3,694,880
	15,500,000

Mr. HULL of Iowa. Mr. Chairman, I would like to ask the gentleman from Virginia [Mr. HAY] if he will not use some of his time.

Mr. HAY. I will yield twenty minutes to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. Mr. Chairman, I send to the Clerk's desk the following telegram, and ask that it be read.

The Clerk read as follows:

[Cable message.]

HABANA, *January 27, 1909.*

Congressman RAINEY,
House of Representatives, Washington:

I assume you have been misled into uttering the sheer and absolute falsehoods concerning me you are reported to have spoken yesterday. I have never had any business association of any kind or description, past, present, or prospective, with William Nelson Cromwell, nor any interest of any kind or with anybody, past, present, or prospective, on the Isthmus of Panama, and I confidently rely upon your loyalty to the truth to retract what you said about me in the same high place where you made yourself responsible for those misstatements.

CHARLES P. TAFT.

Mr. RAINEY. Mr. Chairman, I have not the slightest desire to controvert in any way the statement of Mr. Charles P. Taft, which has just been read. On the contrary, I congratulate him upon his absolute and complete repudiation of William Nelson Cromwell and his methods. [Applause on the Democratic side.] It, however, does not become necessary for me to retract anything I said in my speech. I do not desire, at the present time, to add anything to what I said, nor to change it in any way. In order that what I said about Mr. Charles P. Taft may appear here in the CONGRESSIONAL RECORD, in connection with his telegram, I desire now to read from my speech of January 26, and I read now, from the first column on page 1470 of the CONGRESSIONAL RECORD for this session, the following:

On Sunday night, the 27th day of December, Obaldia called to his palace certain members of the General Assembly, and they then and at that time demanded of him to know who the men were back of John Ehrman, representing that John Ehrman had no particular financial standing; and at that time they were told that the men who were back of this infamous, outrageous scheme were William Nelson Cromwell, Roger L. Farnham, his confidential clerk, W. S. Harvey, and Charles P. Taft.

The country will be glad to know that Mr. Taft's name is being used there without his consent. I desire to say, in this connection, that Mr. Taft could render a great service, and his denial will be of greater value, if he should without delay address a telegram to the general assembly of Panama denying his connection with the scheme I have described, and repudiating Mr. Cromwell on the Isthmus of Panama with as much enthusiasm as he has in his telegram to me repudiated all connection with that gentleman. [Applause.]

I think I might also with propriety suggest that the President-elect could, at the present time, render no greater service to his country than he can render by withdrawing his frequent public indorsements of William Nelson Cromwell. At the present time Mr. Cromwell and Mr. Farnham are proceeding under certificates of good character given them in the past by the President-elect. [Applause on the Democratic side.]

The next President of the United States could render no greater service to his country in Panama matters than he could render by, immediately after his term of office commences, removing both Cromwell and Farnham from their present official positions and from the positions of trust and confidence they now apparently hold with reference to him, and I sincerely hope that his repudiation of Mr. Cromwell will be as enthusiastic and as complete as the repudiation contained in the telegram of Charles P. Taft, which has just been read. [Applause on the Democratic side.]

In order that some other gentlemen who think they have denied something I said in my speech may attain the same prominence in connection with this matter, I send to the Clerk's desk to be read an extract from the New York Times of the date of yesterday.

The Clerk read as follows:

SAYS PANAMA DEAL WAS NOT CROMWELL'S—RANDOLPH G. WARD DECLARES RAILWAY PROPOSITION DENOUNCED BY RAINEY WAS ALTOGETHER HIS—WILL AID PANAMA, HE SAYS—W. S. HARVEY HAS NO INTEREST IN PANAMA RAILWAY BUILDING OR LAND GRANTS, SAYS SECRETARY.

In regard to the remarks made in the House of Representatives on Tuesday by HENRY T. RAINEY, of Illinois, in which William Nelson Cromwell, Charles P. Taft, and others were accused of complicity in a scheme involving the grant of 1,000,000 acres of land by the Government of the Republic of Panama to float a railroad less than 200 miles long, the following letter has been received by the New York Times from Randolph G. Ward:

To the Editor of the New York Times:

In the press dispatches from Washington published in all the leading New York papers of this date Representative RAINEY, of Illinois, is quoted as having charged that Mr. William Nelson Cromwell and other well-known gentlemen are in some way or other responsible for what he terms the "most infamous railroad proposition ever submitted to any government."

As I am the individual who alone, and unassociated with any other person or persons, submitted to the Government of the Republic of Panama the railroad proposition thus characterized, but which, I am confident, will stand the test of competent and conscientious criticism, I take this opportunity of exonerating Mr. Cromwell and each and all of the other gentlemen named from any connection whatever with such proposition, and I unhesitatingly assume the entire responsibility for having submitted it, and challenge Representative RAINEY to submit a fairer proposition or one better calculated to promote the welfare of the people of the Republic of Panama.

In the years which have gone by the people on the Isthmus have depended almost wholly for support upon the business developed by the traffic in transit from ocean to ocean. In the future, when, owing to the completion of the canal, this source of livelihood will be cut off in part, if not entirely, they must depend upon the development of their own territory and the advantages of their commercial location. The building of railroads and the development of the port of Panama contemplated in the proposition submitted by me will do more than anything I know of to give employment to and provide support for the people of the Republic of Panama, and to prevent the "bread line" of idleness and want pictured by Representative RAINEY.

RANDOLPH G. WARD.

NEW YORK, *January 27, 1909.*

J. F. Scott, secretary to William S. Harvey, made public yesterday a statement in which it was denied that Mr. Harvey was in any way interested in land grants in the Republic of Panama.

"Mr. Harvey," says the statement, "is away on a business trip, and probably will not return until February 4.

"Respecting the statements made by Mr. RAINEY in his speech yesterday, as published, in relation to contracts in Panama, I will state that the Congressman is very much in error. Mr. Harvey is in no way connected with or interested in any contract or proposal for railroad building or land grants in the Republic of Panama nor with any parties who may be. Nor is he associated, directly or indirectly, in the remotest manner with William Nelson Cromwell or Charles P. Taft in any enterprise of any sort in Panama or elsewhere.

"Some time ago Mr. Harvey and certain friends engaged in the lumber business in this country made a proposal to the Panama Government to buy certain standing timber on a part of the wild lands in Panama. This proposal was not approved by the national assembly, and, I believe, the matter was dropped. With this proposal neither Mr. Cromwell nor Mr. Taft had the slightest connection, and I doubt if either gentleman ever heard of the proposal until they read of it in the newspapers."

Mr. Cromwell himself continues to refuse to reply to Mr. RAINEY. He sent out a statement to all reporters who called yesterday, which was, briefly, as follows: "I have nothing to say at present about the matter."

Mr. RAINEY. Mr. Chairman, I do not have the pleasure of a personal acquaintance with Mr. Randolph G. Ward. In addition to his other characteristics, whatever they are, he is evidently a humorist. The immunity bath he attempts to give Mr. Cromwell, coming from him, will not do that gentleman any good. If Mr. Ward had challenged me to suggest a more outrageous proposal than he has suggested, I would have been absolutely unable to accept his challenge. It is impossible to suggest a railroad plan that would not be fairer than his, and he surely is laboring under the impression that I have not succeeded in getting a copy of it. I have, and I have printed it in the CONGRESSIONAL RECORD of this session, at page 1476, and it speaks there for itself.

The trouble with these gentlemen is they take particular pains to deny things I did not say. I expressly stated in my speech that I did not know who was back of Randolph G. Ward. On account of the fact that these two projects—the timber scheme and the railroad scheme—were proceeding with such absolute harmony, on account of the fact that neither of them impinged upon the other, I thought the same persons might be behind both of them. This scheme of Ward's is outrageous enough in its character to be fathered by William Nelson Cromwell, and is entirely worthy of that gentleman. The Ward project takes everything on one side of the Republic of Panama, and the timber proposal takes everything on the other, and they do not impinge anywhere, either of them, upon the plans of the other.

Now, with reference to W. S. Harvey, I did not say he had anything to do with the proposed railroad contract. His secretary gives out the statement, probably with his consent, that at one time he was interested in a timber contract which was refused by President Amador, and I made that statement in my speech. President Amador did refuse to sign it; but President Obaldia, after his election was brought about, signed it, and he and his administration are pushing it at the present time. I have inserted in the CONGRESSIONAL RECORD at page 1475 a letter from Señor Ramon M. Valdes, a member of the cabinet of Obaldia in the Republic of Panama—a public letter printed in the Spanish edition of the Diario, a newspaper published in Panama. I had it translated by a competent person and have inserted it here in the RECORD. In that letter this member of Obaldia's cabinet states that he is writing the letter and making it public on behalf of the President of Panama. The letter contains the following statement, referring to the present pending timber contracts:

Those interested in this business of the purchase of timber are Messrs. W. S. Harvey, Alfred E. Drake, and Jonas E. Whitley, of the United States.

[Applause.]

I present that as a complete denial to anything Mr. Harvey, through his secretary, has said in this connection.

Mr. Chairman, when any of these gentlemen care to deny any of the facts I have stated in my speech, I want to serve notice on them now that I am ready with the proof. [Applause on the Democratic side.] I have here a clipping from the New York Herald of the day following the delivery of my speech in the House, and as that great paper has not yet been charged with libeling the Government, what it says may still be of value.

With much enterprise, after the delivery of my speech the New York Herald obtained from its correspondent on the Isthmus of Panama the following statement with reference to some of the things to which I called attention. I offer it as a complete answer to the statement that these timber contracts are dead and are no longer being discussed on the Isthmus of Panama. As a matter of fact, they are very much alive; and the President and his Cabinet are pressing them, and meetings are being held in the public parks protesting against them. I now send to the Clerk's desk this clipping from the New York Herald of January 27, 1909, and ask that it be read in my time.

The Clerk read as follows:

[New York Herald, January 27, 1909.]

PANAMA EXCITED AT TIMBER PROJECT—PRESIDENT OBALDIA TRYING TO FORCE "CROMWELL GRANT" THROUGH AN UNWILLING CONGRESS.

(Special Correspondence of the Herald.)

PANAMA, *January 27, 1909.*

Panama is in a ferment of excitement on account of the project of the present administration to make what is termed "a gift" of the entire Caribbean coast of the Republic to an American syndicate. President Obaldia has sent two special appeals to the Chamber of Deputies urging the ratification of the timber concession, and the result has been the stormiest sessions held by the legislative body since it came into existence.

One of the members of the cabinet was grossly insulted by a deputy because he appeared for the President, and in the debates there have been open allegations of dishonesty. There is a grave question now whether the concession will be ratified. It is the pet measure of President Obaldia, and the opposition to it is supposed to indicate that he has lost ground in the Chamber, as some of those who are bitterest in their denunciation have hitherto been on his side in politics.

The concession has been designated on the Chamber floor as the "Cromwell grant," and an effort has been made to create the impression that William Nelson Cromwell will be the chief beneficiary if the bill should pass.

FEELING RUNNING HIGH.

The speeches in the Chamber have roused intense feeling throughout the Isthmus. The syndicate seeks a timber concession on all the land on the Caribbean side from low water to the divide, or top of the watershed, from Costa Rica to Colombia; in other words, about two-thirds of the Republic. It is alleged by the deputies that the Republic could obtain millions of dollars in cash for this land by dividing it into large sections and offering them to the highest bidders. The prospective value is terrific, as practically all the land is suitable for fruit growing, and the owners could start new growths as soon as they had cleared away the existing ones.

One point accentuated in the Chamber is that the agitation for the fortification of the canal is increasing in the United States, and that all Mr. Cromwell's friends apparently indorse the plan. It is assumed that the United States may seek to obtain the Chiriqui lagoon, which has been mentioned by Capt. A. T. Mahan as one of the strategic naval bases of the Caribbean. The concession includes the lagoon, and the American Government might find itself called upon to pay a fancy price for a fraction of what Panama has given away.

TOOK OBALDIA'S SIDE.

Several peculiar features of the transaction have been discussed in the debates. During the presidency of Doctor Amador application was originally made for the concession. President Amador, after consulting his personal attorney, Doctor Valdez, declined to grant it.

Mr. Cromwell admitted in an interview published by the New York Herald that he had suddenly taken sides with Señor Obaldia before the last presidential election. Obaldia triumphed and Doctor Valdez is now in his cabinet and at the head of the department of justice. There have been many comments upon Doctor Valdez's change of front, as he is actually a strong advocate of the bill. As the official legal adviser of the Government his position has changed radically from that he held as the unofficial counsel for the former President.

Speakers have sarcastically inquired why the Government does not find another set of Americans and grant them the Pacific slope of the Republic, so as to complete the transaction at the same time, and have each company administer affairs on its own side under Mr. Cromwell's guidance.

During the reading of the above the time of Mr. RAINEY expired and he was granted five minutes more by the gentleman from Virginia [Mr. HAY].

Mr. RAINEY. Mr. Chairman, I yield back the balance of my time, if I have any left. [Applause.]

Mr. PARKER. Mr. Chairman, by direction of the gentleman from Iowa [Mr. HULL], in charge of the bill, I yield five minutes to the gentleman from Massachusetts [Mr. LOVERING].

Mr. LOVERING. Mr. Chairman, after what the gentleman has said with regard to the Panama contracts, I desire to be heard for a moment with respect to one of the gentlemen named in his address. I can not tell where the gentleman obtained all the sensational facts with which he has regaled this House, but I have this to say in behalf of Mr. William Nelson Cromwell. I asked Mr. Cromwell what were his relations to these Panama contracts and received the following answer:

49 AND 51 WALL STREET,
New York, January 28, 1909.

Hon. WM. C. LOVERING,
Washington, D. C.

MY DEAR MR. LOVERING: Although the affairs of the Panama Government are not properly a subject of consideration by the American Congress, I wish to waive all technicality and say at once that I never have had, and have not now, any interest of any kind, direct or indirect, present or prospective, in any concession, contract, proposition, or other business affair in any part of the Republic of Panama, save only a small stock interest in the local electric light company of Panama City, which I joined some years ago at the request of Panama citizens to encourage a local industry, the conditions of which investment were fully stated by me before the so-called "Morgan inquiry."

Thanking you in advance for any courtesy you may be able to extend, I am,

Very truly, yours, WM. NELSON CROMWELL.

Mr. Chairman, I wish to say that all this talk here in the House is of little avail. If I understand correctly, the gentleman from Illinois [Mr. RAINEY] did early in this session offer a resolution of inquiry to investigate the transfer of the Panama Canal to the United States Government. Such an investigation would include this whole business. I am heartily with him, and I believe that every gentleman he has named in connection with this is with him. We hope that the investigation will take place immediately, and not a man will shrink from it, as I understand. It would seem as though the gentleman had been filled up with a lot of material that comes from a well-known source, much of which has already been exploited here.

Mr. RAINEY. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. LOVERING. I have but a moment.

Mr. RAINEY. I ask the gentleman to explain further and say what the source is to which he refers.

Mr. LOVERING. I will say the New York World. [Laughter on the Republican side.]

Mr. RAINEY. Mr. Chairman, I want to say——

The CHAIRMAN. The gentleman from Massachusetts has the floor. Does the gentleman from Massachusetts yield to the gentleman from Illinois?

Mr. LOVERING. I yielded and answered the gentleman's question.

The CHAIRMAN. Does the gentleman yield again?

Mr. LOVERING. Yes.

Mr. RAINEY. I want to say that never——

Mr. LOVERING. Is this a question?

Mr. RAINEY. No.

Mr. LOVERING. I yield only for a question.

Mr. RAINEY. Then, I shall ask the gentleman from Virginia to yield me two minutes after the gentleman from Massachusetts is through.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. LOVERING. Mr. Chairman, I have nothing more to say, except that I hope the gentleman will push his resolution, and I will help him in every way possible. [Applause on the Republican side.]

Mr. RAINEY. Mr. Chairman, I ask for two minutes.

Mr. HAY. Mr. Chairman, I yield two minutes to the gentleman from Illinois——

The CHAIRMAN. The gentleman from New Jersey.

Mr. PARKER. Mr. Chairman, by direction of the chairman of the Committee on Military Affairs, I yield fifty-five minutes to the gentleman from Wisconsin [Mr. JENKINS].

Mr. HAY. Mr. Chairman, I hope the gentleman will permit me to yield two minutes to the gentleman from Illinois at this point.

The CHAIRMAN. The Chair was in error and the Chair will recognize the gentleman from Virginia on this side.

Mr. HAY. Mr. Chairman, I now yield two minutes to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. Mr. Chairman, I desire to say in the most emphatic manner I never have received from the New York World or from any person connected with that great newspaper or from any other newspaper in all the world the slightest assistance in the investigations I have made, and they have furnished me with none of these documents I put in the RECORD; nor have they furnished me with the slightest information that enabled me to obtain any one of them. Whatever evidence the New York World may have they have not revealed to me in any particular, and I can not make this denial too strong. I have consulted the New York World in no possible way and have received not the slightest assistance from them. [Applause.] I desire also to say that I have extended to the representatives of that paper no courtesies that I have not extended to all the other gentlemen of the press. I might also say that I have conducted my investigations at my own expense and have received no financial assistance from any source and expect to receive none. [Applause.]

The CHAIRMAN. Does the gentleman from Virginia desire to occupy some time now or does he yield to the gentleman from New Jersey?

Mr. HAY. I yield to the gentleman from New Jersey.

Mr. PARKER. Mr. Chairman, I now yield fifty-five minutes to the gentleman from Wisconsin [Mr. JENKINS].

The CHAIRMAN. The gentleman from Wisconsin is recognized for fifty-five minutes.

Mr. JENKINS. Mr. Chairman, I propose this morning to discuss a very important question, and in presenting my individual views to this House I purpose to say that I am doing it in the discharge of what I conceive to be an important duty. Mr. Chairman, the Committee on the Judiciary, and at times this House, has been charged with failure to pass certain what have been called "important" measures, and the one that I have in mind is one of considerable importance to many; and as I have read different newspaper statements in regard to the same and as I have heard individuals expressing themselves, I have made up my mind that as a general proposition the most important question has never been considered by those who have been talking so readily and so hurriedly in regard to it. Mr. Chairman, the only thing that has prompted me with reference to the matter I propose to discuss has been an important constitutional question.

If there had been no constitutional question involved, I think the House might possibly, as far as my vote is concerned, have been permitted to pass upon it; but I have felt, in my position, that I owed a certain duty to the House and to the country, and I have not been favorable to reporting certain measures because of the very grave importance of the constitutional questions involved. I do not want it understood, as far as I am concerned, that there has been any desire upon the part of myself or the committee on which I have so long served to smother or prevent consideration of these important questions; but, as I have said, I felt that the questions were not only constitutional, but of very great importance to this country, and it evidences how little the average man of this country knows with reference to those great questions. In discussing it, I simply propose to present to the general public the bills themselves and the nature of the bills and the important questions lying within them. I want the people of this country to judge for themselves, and at least give the Committee on the Judiciary of this Congress credit for being at least honest with reference to these great matters. I know a great many of our friends say, as they pass along, that it is useless to inject a constitutional question. But a few days ago I sat and listened to a gentleman, who has obtained fame in the Supreme Court of the United States, discussing one of those questions, and he made this remark. He said:

> I am absolutely sick and tired of hearing about a constitutional question. They have forgotten that the American people are in power in this country and that it is a question for the American people, and not for any individual, not for any committee or any Congress of the United States, to say what is constitutional or not. I say—

Said he, speaking for himself and, I trust, himself only—

> that the American people are greater than the Constitution of the United States.

I could not possibly agree with that gentleman.

Mr. Chairman, I have been brought up to believe, and my education in this House has been such, that the Constitution of the United States is the highest law in this country, a supreme law that ought to control each and every gentleman when he comes to act with reference to the Federal Government and with reference to the States. I have no sympathy with any attack in favor of the States as against the Federal Government, and I am bitterly and unalterably opposed to any attempt on the part of the Federal Government to interfere with the rights of the States.

But as this question comes to us to-day we are confronted with grave constitutional questions. The labor interests of this country, that are very dear to us all, come here and say, "We have certain propositions which we have prepared, which we submit for the consideration of the Congress of the United States, and we insist upon having those views written into the statute books of this country." As a Member of this House, I have felt like giving consideration to the very deep and important constitutional questions involved, and I have no interest in this question beyond the great constitutional question involved. I want the people of this country who are interested in the perpetuity of American institutions to know what questions have been presented to the Committee on the Judiciary. I want them to know that every gentleman upon that committee has carefully, conscientiously, and earnestly considered each and every one of these propositions for himself. I am not at liberty to reflect the views of any gentleman upon that committee. I speak for myself only. I want to leave behind me the reasons that have actuated my vote and my actions with reference to these very important questions.

Mr. Chairman, I am one of those in this country that believe that these great and important questions have long since been neglected by the American people. Since the civil war we have heard nothing with reference to these important matters. I do not want it understood that by reason of the settlement of the vexed questions involved in that war we no longer have a dual system of government, that we no longer have a federal government, and no longer have a government of the States. We can not perpetuate this country except we preserve the rights and powers of the Federal Government and the rights and powers of the States, and when we depart from these constitutional lines anarchy will result.

We have had these great and momentous questions pressed upon us. I have earnestly and seriously considered them, and I speak for myself only. I do not want it understood for a moment that I reflect the views of a single gentleman upon the floor of this House. I have earnestly considered every bill brought into the House affecting this great question. I have brought here every single bill that involves the great questions between labor and the capital of this country, and I desire, Mr. Chairman, in the brief time allotted to me to rapidly present my views upon this important question.

The bills are as follows:

[H. R. 69, 60th Cong., 1st sess.]

A bill in relation to restraining orders and injunctions.

Be it enacted, etc., 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 herein contained shall be held to authorize the issuance of any injunction or restraining order not now authorized by law.

[H. R. 94, 60th Cong., 1st sess.]

A bill to regulate the issuance of restraining orders and injunctions and procedure thereon and to limit the meaning of "conspiracy" in certain cases.

Be it enacted, etc., That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and an employee, or between employers and employees, or between employees, or between persons employed to labor and persons seeking employment as laborers, or between persons seeking employment as laborers, or involving or growing out of a dispute concerning terms of conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be particularly described in the application, which must be in writing and sworn to by the applicant or by his, her, or its agent or attorney. And for the purpose of this act no right to continue the relation of employer and employee or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind, or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

SEC. 2. That in cases arising in the courts of the United States or coming before said courts, or before any judge or the judges thereof, no agreement between two or more persons concerning the terms or conditions of employment of labor, or the assumption or creation or termination of any relation between employer and employee, or concerning any act or thing to be done or not to be done with reference to or involving or growing out of a labor dispute, shall constitute a conspiracy or other criminal offense or be punished or prosecuted as such unless the act or thing agreed to be done or not to be done would be unlawful if done by a single individual, nor shall the entering into or the carrying out of any such agreement be restrained or enjoined unless such act or thing agreed to be done would be subject to be restrained or enjoined under the provisions, limitations, and definition contained in the first section of this act.

SEC. 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

[H. R. 17137, 60th Cong., 1st sess.]

A bill relating to conspiracies, restraining orders, injunctions, contempts of court, and for other purposes.

Be it enacted, etc. That no agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any labor dispute between employers and employees in the District of Columbia or in any Territory of the United States, or between employers and employees who may be engaged in trade or commerce between the several States, or between any Territory and another, or between any Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be actionable, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce. Nothing in this section shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy for which punishment is now provided by any act of Congress, but such act of Congress shall, as to the agreements, combinations, and contracts hereinbefore referred to, be construed as if this section were therein contained.

SEC. 2. That no restraining order or injunction shall be granted by any court created by Congress, or any judge or judges of such court, restraining or enjoining any person or persons from entering into or carrying out any agreement, combination, or contract referred to in section 1 of this act.

SEC. 3. That no restraining order or injunction shall be granted by any court created by Congress, or any judge or judges of such court, in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same.

SEC. 4. That contempts of court are divided into two classes, direct and indirect, and shall be proceeded against only as hereinafter prescribed. That contempts committed during the sitting of the court or of a judge at chambers, in its or his presence, or so near thereto as to obstruct the administration of justice, are direct contempts. All others are indirect contempts. That a direct contempt may be punished summarily, without written accusation against the person arraigned, but if the court shall adjudge him guilty thereof a judgment shall be entered

of record in which shall be specified the conduct constituting such contempt, with a statement of whatever defense or extenuation the accused offered thereto and the sentence of the court thereon. That upon the return of an officer on process or an affidavit, duly filed, showing any person guilty of indirect contempt, a writ of attachment or other lawful process may issue and such person be arrested and brought before the court; and thereupon a written accusation setting forth succinctly and clearly the facts alleged to constitute such contempt shall be filed and the accused required to answer the same, by an order which shall fix the time therefor, and also the time and place for hearing the matter; and the court may, on proper showing, extend the time so as to give the accused a reasonable opportunity to purge himself of such contempt. But pending the trial, and until the final trial and termination of the case, the accused shall be admitted to bail in such sum as the court may direct. After the answer of the accused, or if he refuse or fail to answer, the court may proceed at the time so fixed to hear and determine such accusation upon such testimony as shall be produced. If the accused answer, the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him; but such trial shall be by the court, or upon application of the accused a trial by jury shall be had as in any criminal case. If the accused be found guilty judgment shall be entered accordingly, prescribing the punishment. That the testimony taken on the trial of any accusation of direct contempt may be preserved by bill of exceptions, and any judgment of conviction therefor may be reviewed upon direct appeal to or by writ of error from the Supreme Court, and affirmed, reversed, or modified as justice may require. Upon allowance of an appeal or writ of error execution of the judgment shall be stayed upon the giving of such bond as may be required by the court or a judge thereof, or by any justice of the Supreme Court. That the provisions of this section shall apply to all proceedings for contempt in all courts of the United States except the Supreme Court; but this section shall not affect any procedure for contempt pending at the time of the passage thereof.

[H. R. 19745 (in part), 60th Cong., 1st sess.]

A bill to regulate commerce among the several States or with foreign nations, and to amend the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

* * * * * * *

Nothing in said act approved July 2, 1890, or in this act, is intended, or shall any provision thereof hereinafter be enforced, so as to interfere with or to restrict any right of employees to strike for any cause or to combine or to contract with each other or with employers for the purpose of peaceably obtaining from employers satisfactory terms for their labor or satisfactory conditions of employment, or so as to interfere with or to restrict any right of employers for any cause to discharge all or any of their employees or to combine or to contract with each other or with employees for the purpose of peaceably obtaining labor on satisfactory terms. * * *

The only question is as to their constitutionality.

Those interested for and against the several bills have very ably presented their respective views upon the merits; and I very much regret that the important constitutional question that I believe disposes of all the bills alike has not been discussed. What is said with reference to the bills has no relation whatever to the District of Columbia or the Territories.

Congress is asked to surrender its protective power over trade and commerce, in order that crime if committed may go unpunished; to deprive the court of the power to protect the citizen in the enjoyment of life, liberty, and property; to declare that what is now a crime against persons and property shall not be criminal, in order to permit persons so disposed to interfere with the constitutional right of the citizen to enjoy life, liberty, and property; to declare that what has always been considered vested, valuable, personal, and property rights, guaranteed by the Constitution, shall not be entitled to protection; to deprive the citizen of the power to protect his property; to tear away the very substructure of government erected to protect the citizen in the enjoyment of life, liberty, and property. The bills present several important questions of constitutional law.

Is the judicial department of government coextensive in power with the legislative department of government?

Can Congress deprive the courts of judicial power, conferred by the Constitution?

Does Congress possess the power to prevent the judicial branch of government from administering the law of the States for the protection of personal rights and property rights between citizens of different States when not in conflict with the Constitution or the laws of the United States?

Does Congress possess the power of preventing the citizen from enforcing in the courts of the United States personal and property rights derived from state laws not in conflict with the Constitution or laws of the United States, whether the case be commenced in the courts of the United States or commenced in the courts of the State, and removal into the courts of the United States?

Is not every citizen entitled to the full protection of the judicial power of the United States, both at law and in equity, in all cases not in conflict with the Constitution or laws of the United States, except as to rights conferred by a rule of law?

Does Congress possess power to deny to any citizen the full protection of the full judicial power of the United States for his life, liberty, property, and rights, and subject his life, liberty, property, and rights to the will of any person?

Does Congress possess the power to subject the life, liberty, property, and rights of any citizen to the will of any other person?

Does Congress possess the power to take from the citizen rights and remedies given by state law when not in conflict with the Constitution or laws of the United States?

Is it not both possible and probable that if a court is prevented from issuing an injunction it may place it beyond the power of a court to pronounce a judgment that can be made effective? Therefore, does it not follow that to refuse a party an injunction, it might amount to a denial of justice and deprivation of rights, rendering a judgment ineffectual?

Is not the granting of an injunction an exercise of judicial power vested in the courts and extended as provided in the Constitution?

Does Congress possess the power to prevent a citizen from obtaining from the courts, state or national, protection to life, liberty, or property according to the due course of law as administered in the courts of law and equity?

Does Congress possess the power to provide that any person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and in like circumstances?

Does Congress possess the power to discriminate to such an extent that the legislation would be a denial of the equal protection of the law? Can Congress deny one that is allowed another under like circumstances?

Does Congress possess the power to say that no contract entered into between different parties, no matter what it may provide for, shall be deemed to be criminal?

Does Congress possess power to legalize crime? Does Congress possess the power to surrender its protective power over trade and commerce? Does Congress possess the power to surrender its protective power over trade and commerce in order that personal and property rights may be destroyed and the citizen deprived of the power of protection to life, liberty, and property? Does Congress possess the power to regulate or in any manner interfere with contracts, unless the same in enforcement would regulate or operate as a restraint upon interstate commerce?

Does Congress possess the power to deny to citizens of the United States equal protection of the law? Does Congress possess the power to deny to citizens any remedy in law or in equity for any injuries or wrongs which they may sustain to person or property?

A great many of the ablest students of history and constitutional law agree that "every government must, in its essence, be unsafe and unfit for a free people where a judicial department does not exist with powers coextensive with those of the legislative department."

Montesquieu said:

There is no liberty, if the judiciary power be not separated from the legislative and executive powers.

In every well-organized government, with reference to the security both of public rights and private rights, it is indispensable that there should be a judicial department to ascertain and decide rights, to punish crimes, to administer justice, and to protect the innocent from injury and usurpation.

As a general proposition, I apprehend it will be conceded that Congress can not change the law of any State, not intending to include a case of a State exercising a concurrent power in aid of commerce, when the subject of the power is local, but according to the rule given us by Hamilton—

This exclusive delegation, or rather this alienation of state sovereignty, would only exist in three cases; where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union and in another prohibited the States from exercising a like authority; and where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant. (32 Federalist.)

The bills seek to deprive citizens of the constitutional right to the enjoyment of life, liberty, and property and seek to prevent the courts from protecting the citizen in the enjoyment of life, liberty, and property.

It is a fundamental proposition of free government, an elementary principle of law older than our Government and older than any State in the Union, a constitutional right given to every citizen by his State, that he is entitled to a certain remedy in the law for all injuries or wrongs which he may receive to his person or his property, completely and without denial, promptly and without delay, conformable to the laws. And this valuable right is guaranteed and protected by the Constitution of the United States, and there is no power in Congress to prevent the exercise of the remedy or take it away or abridge it or deny him the equal protection of the law, and is not in

conformity with the constitutional requirements of equality of all men before the law.

It will be important and valuable to learn how far Congress can go in depriving the courts of judicial power conferred by the Constitution.

To a proper understanding of this question it will be necessary to ascertain the extent of the power of the courts of the United States and the power of Congress over these courts. This will have to be learned from the Constitution. Believing as I do that Congress can not erect a court of equity and then deprive it of its judicial power, I shall at the outset invite attention to some cases requiring notice to be given on an application for an injunction.

The question first arose in the case of the State of New York *v.* State of Connecticut (4 Dallas, 1). The case was decided at the August term, 1799.

First Statutes at Large, chapter 22, page 333, approved March 2, 1793, section 5, provided that no writ of injunction 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. And the court held an injunction will neither be granted by the court nor a single judge without reasonable notice to the adverse party or his attorney.

The same ruling was made in Mowrey *v.* Indianapolis and Chicago Railroad Company (4 Bliss., 78, 17 Federal Cases, No. 9891, p. 930), where the court said:

> The injunction ordered on the 28th of May was decreed without much consideration on my part. I followed a practice which has long prevailed in the courts of the State of Indiana. But, on further reflection, I think my order for a temporary injunction was premature. Equity would seem to demand that, in cases of emergency, where irreparable injury would follow unless an immediate injunction were ordered, the national courts should have power to grant temporary injunctions without notice of the application for them to the party enjoined. But the act of Congress of March 2, 1793, forbids that any writ of injunction 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." (1 Stat., 335.)
>
> In view of this act, as well as of the fifty-fifth rule in equity of the Supreme Court, it should seem that no special injunction can be granted by this court but on due notice. And in the case of New York *v.* Connecticut (4 Dall.; 4 U. S., 1) the Supreme Court has decided that an injunction can neither be granted by the United States courts nor any judge thereof without due notice to the adverse party or his attorney. I therefore dissolve the injunction ordered on the 28th of May.

The same ruling was made by Mr. Justice Daniel, when holding court in the State of Arkansas in 1855, in the case of Wynn *v.* Wilson Hempst (698, 30 Federal Cases, No. 18116, p. 751).

The constitutional question now presented was not raised, therefore not considered in these cases.

The material provisions of the Constitution are as follows:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives. (Art. I, sec. 1.)

The Congress shall have power to constitute tribunals inferior to the Supreme Court. (Art. I, sec. 8, subdivision 9.)

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. * * * (Art. III. sec. 1.)

The judicial power shall extend to all cases in law and equity arising under this Constitution, laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State or the citizens thereof and foreign States, citizens, or subjects.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make. (Art. III, sec. 2.)

It will be important and necessary to understand what is meant by the words "judicial power." Much has been written in defining the meaning of the same. Many writers agree that it is authority to hear and determine rights between persons, and the State and persons.

Mr. Justice Miller, very carefully considering this subject in his valuable work on the Constitution, page 314, in part said:

> It will not do to answer that it is the power exercised by the courts, because one of the very things to be determined is what power they may exercise. It is indeed very difficult to find any exact definition made to hand.

But he comes to this conclusion:

> It is the power of a court to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision.

The entire constitutional provision on this subject might just as well be considered together. Mr. Justice Story said:

> That the enumerated power found in Article I, section 8, subdivision 9, is but a repetition of what is contained in Article III. The framers of the Constitution not only provided a judiciary, but declared that the national judiciary ought to possess powers coextensive with those of the legislative department. (Journal of Convention, 69, 98, 121, 137, 186, 188, 189, 212; Federalist, Nos. 77, 78; 2 Elliot's Debates, 380, 394, 404.)

This branch of the subject can be better understood by referring to the leading case of Martin *v.* Hunter (1 Wheat., 304), in an opinion rendered by Mr. Justice Story in 1816. After discussing the constitutional provisions herein cited, the learned jurist said:

> Such is the language of the article creating and defining the judicial power of the United States. It is the voice of the whole American people solemnly declared in establishing one great department of that Government which was in many respects national and in all supreme. It is a part of the very same instrument which was to act not merely upon individuals, but upon States; and to deprive them altogether of the exercise of some powers of sovereignty and to restrain and regulate them in the exercise of others.

Let this article be carefully weighed and considered. The language of the article throughout is manifestly designed to be mandatory upon the legislature. Its obligatory force is so imperative that Congress could not, without violation of its duty, have refused to carry it into operation. The judicial power of the United States shall be vested (not "may be vested") in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish. Could Congress have lawfully refused to create a Supreme Court or to vest in it the constitutional jurisdiction? "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office." Could Congress create or limit any other tenure of the judicial office? Could they refuse to pay, at stated times, the stipulated salary or diminish it during the continuance in office? But one answer can be given to these questions. It must be in the negative. The object of the Constitution was to establish three great departments of government—the legislative, the executive, and the judicial departments. The first was to pass laws, the second to approve and execute them, and the third to expound and enforce them. Without the latter it would be impossible to carry into effect some of the express provisions of the Constitution. How, otherwise, could crimes against the United States be tried and punished? How could causes between two States be heard and determined? The judicial power must therefore be vested in some court by Congress, and to suppose that it was not an obligation binding on them, but might, at their pleasure, be omitted or declined, is to suppose that under the sanction of the Constitution they might defeat the Constitution itself. A construction which would lead to such a result can not be sound.

The same expression "shall be vested" occurs in other parts of the Constitution, in defining the powers of the other coordinate branches of the Government. The first article declares that "all legislative powers herein granted shall be vested in a Congress of the United States." Will it be contended that the legislative power is not absolutely vested? That the words merely refer to some future act, and mean only that the legislative power may hereafter be vested? The second article declares that "the executive power shall be vested in a President of the United States of America." Could Congress vest it in any other person, or is it to await their good pleasure, whether it is to vest at all? It is apparent that such a construction, in either case, would be utterly inadmissible. Why, then, is it entitled to a better support in reference to the judicial department?

If, then, it is a duty of Congress to vest the judicial power of the United States, it is a duty to vest the whole judicial power. The language, if imperative as to one part, is imperative as to all. If it were otherwise, this anomaly would exist, that Congress might successively refuse to vest the jurisdiction in any one class of cases enumerated in the Constitution, and thereby defeat the jurisdiction as to all, for the Constitution has not singled out any class on which Congress are bound to act in preference to others.

The next consideration is as to the courts in which the judicial power shall be vested. It is manifest that a supreme court must be established; but whether it be equally obligatory to establish inferior courts is a question of some difficulty. If Congress may lawfully omit to establish inferior courts it might follow that in some of the enumerated cases the judicial power

could nowhere exist. The Supreme Court can have original jurisdiction in two classes only, viz, in cases affecting ambassadors, other public ministers, and consuls, and in cases in which a State is a party. Congress can not vest any portion of the judicial power of the United States except in courts ordained and established by itself, and if in any of the cases enumerated in the Constitution the state courts did not then possess jurisdiction, the appellate jurisdiction of the Supreme Court—admitting that it could act on state courts—could not reach those cases, and consequently the injunction of the Constitution that the judicial power "shall be vested" would be disobeyed. It would seem, therefore, to follow that Congress are bound to create some inferior courts in which to vest all that jurisdiction which, under the Constitution, is exclusively vested in the United States, and of which the Supreme Court can not take original cognizance. They might establish one or more inferior courts; they might parcel out the jurisdiction among such courts from time to time at their own pleasure, but the whole judicial power of the United States should be, at all times, vested, either in an original or appellate form, in some courts created under its authority.

This construction will be fortified by an attentive examination of the second section of the third article. The words are, "The judicial power shall extend," etc. Much minute and elaborate criticism has been employed upon these words. It has been argued that they are equivalent to the words "may extend," and that "extend" means to widen to new cases not before within the scope of the power. For the reasons which have been already stated, we are of opinion that the words are used in an imperative sense; they import an absolute grant of judicial power. They can not have a relative signification applicable to powers already granted, for the American people had not made any previous grant. The Constitution was for a new government, organized with new substantive powers, and not a mere supplementary charter to a government already existing. The confederation was a compact between States; and its structure and powers were wholly unlike those of the National Government. The Constitution was an act of the people of the United States to supersede the confederation, and not to be ingrafted on it, as a stock through which it was to receive life and nourishment.

If, indeed, the relative signification could be fixed upon the term "extend," it could not (as we shall hereafter see) subserve the purposes of the argument in support of which it has been adduced. This imperative sense of the words "shall extend" is strengthened by the context. It is declared that "in all cases affecting ambassadors, etc., the Supreme Court shall have original jurisdiction." Could Congress withhold original jurisdiction in these cases from the Supreme Court? The clause proceeds: "In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make." The very exception here shows that the framers of the Constitution used the words in an imperative sense. What necessity could there exist for this exception if the preceding words were not used in that sense? Without such exception Congress would, by the preceding words, have possessed a complete power to regulate the appellate jurisdiction, if the language were only equivalent to the words "may have" appellate jurisdiction. It is apparent, then, that the exception was intended as a limitation upon the preceding words to enable Congress to regulate and restrain the appellate power as the public interests might from time to time require.

Other clauses in the Constitution might be brought in aid of this construction, but a minute examination of them can not be necessary, and would occupy too much time. It will be found that whenever a particular object is to be effected the language of the Constitution is always imperative and can not be disregarded without violating the first principles of public duty. On the other hand, the legislative powers are given in language which implies discretion, as from the nature of legislative power such a discretion must ever be exercised.

It being, then, established that the language of this clause is imperative, the question is as to the cases to which it shall apply. The answer is found in the Constitution itself. The judicial power shall extend to all the cases enumerated in the Constitution. As the mode is not limited, it may extend to all such cases, in any form in which judicial power may be exercised. It may therefore extend to them in the shape of original or appellate jurisdiction, or both, for there is nothing in the nature of the cases which binds to the exercise of the one in preference to the other.

In what cases, if any, is this judicial power exclusive, or exclusive at the election of Congress? It will be observed that there are two classes of cases enumerated in the Constitution between which a distinction seems to be drawn. The first class includes cases arising under the Constitution, laws, and treaties of the United States; cases affecting ambassadors, other public ministers and consuls, and cases of admiralty and maritime jurisdiction. In this class the expression is that the judicial power shall extend to all cases; but in the subsequent part of the clause, which embraces all the other cases of national cognizance and forms the second class, the word "all" is dropped, seemingly ex industria. Here the judicial authority is to extend to controversies (not to all controversies) to which the United States shall be a party, etc. From this difference of phraseology, perhaps, a difference of constitutional intention may with propriety be inferred. It is hardly to be presumed that the variation in the language could have been accidental. It must have been the result of some determinate reason; and it is not very difficult to find a reason sufficient to support the apparent change of intention. In respect to the first class, it may well have been the intention of the framers of the Constitution imperatively to extend the judicial power, either in an original or appellate form, to all cases; and in the latter class to leave it to Congress to qualify the jurisdiction, original or appellate, in such manner as public policy may dictate.

It is useless to spend time trying to establish a line of demarcation between jurisdiction and judicial power. The Constitution calls it judicial power, and says:

> This authority to hear and determine rights between persons and between persons and their governments shall be vested in one Supreme Court and such inferior courts as Congress may ordain and establish, and shall extend to all cases in law and equity arising under the Constitution.

It will simplify matters to state a few unanswerable propositions. The Supreme Court is created by the Constitution; the inferior courts by Congress, by authority of the Constitution, with a limitation and a duty. It is the duty of Congress to create a court or courts with powers coextensive with those of the legislative department, in which every person can have any legal or equitable right arising under the Constitution protected.

If more than one court is ordained and established, it is for Congress to say what causes, case, subject-matter, or rights each inferior court shall take cognizance to decide and determine—in other words, what is commonly known as and called "jurisdiction of the cause." But when the particular court is given jurisdiction of the particular cause, the court can exercise over this cause full judicial power at law or in equity, and it would be not only unconstitutional, but revolutionary, for Congress to attempt to deprive the particular court of judicial power over the cause it has been given jurisdiction over—that is, one court may have judicial power over all cases at law; another may have judicial power over all cases in equity; another may have judicial power over all criminal cases; another judicial power over all cases of bankruptcy—and anything short of this would be a denial by Congress of rights the people are entitled to, provided for in the Constitution. As the Constitution could not erect the inferior courts and provide judicial power for each, the authority for it was given to Congress with the expectation that it would be exercised; and when the inferior court is ordained and established there is vested in it by the Constitution judicial power at law or in equity without any limitation, and there is not a line or word in the Constitution that will justify the thought that Congress can take from a court any judicial power at law or in equity over any cause placed by Congress within its judicial power.

In other words, Congress names the subject over which the court shall exercise judicial power, but the Constitution fixes the extent of the judicial power, and Congress can not limit or impair it. If Congress could in one particular, it could in more or in all, and we would have an equitable case confided to a court that could not, by an act of Congress, exercise equitable power and try and determine the case according to equitable rules. It would be revolutionary in Congress to fail or refuse to ordain and establish a court or courts to exercise all judicial power conferred by the Constitution. And when the court or courts have been ordained and established and the subjects separated and assigned to each court, Congress can not interfere and limit the judicial power of the courts, for, as Justice Story said, "It is the duty of Congress to vest the whole judicial power." Take away the power of the court to issue a writ of injunction when the moving papers disclose a case of absolute emergency and it may prevent a complainant from recovering what he is legally and equitably entitled to, and the whole judicial power would not be vested in the courts. If a court can be prevented from issuing a writ of injunction without previous notice—ten days' notice may be required—and the court may be prevented from issuing an injunction in any case. A right to an injunction in a proper case is a constitutional right,

and it is a constitutional right that it should issue whenever it is made to appear that irreparable injury will follow a failure to have an immediate injunction.

The right to issue an injunction in a proper case is a part of the judicial power of the United States. All legislative power is not conferred upon Congress; only such legislative power as is granted in the Constitution—that is, if there is a legislative power in the Constitution it must be exercised by Congress—and as far as this judicial question is concerned the only legislative power is to ordain and establish a court or courts that can exercise all judicial power of the United States and not to take from the courts a power to exercise judicial power over a case confided to it.

In Riggs *v.* Johnson County (6 Wall., 166) the court said:

Process subsequent to judgment is as essential to jurisdiction as process antecedent to judgment, else the judicial power would be incomplete and entirely inadequate to the purposes for which it was conferred by the Constitution.

And in the same case the court further said:

Authority of the circuit courts to issue process of any kind which is necessary to the exercise of jurisdiction and agreeable to the principles and usages of law is beyond question.

In other words, Congress can not deprive a court of judicial power over a subject or case if the subject or case is placed within the judicial power of the court by Congress, as in cases removed by act of Congress from state courts to federal courts. Congress, in the discharge of its constitutional duty, has provided for the removal of a certain class of cases, and, when removed, Congress can not prevent the court from exercising all judicial power, except by abolishing the court.

If Congress can prevent the issuing of an injunction in a proper case without notice, Congress can prevent the issuing of an injunction in any case. A citizen of a State may derive his right from a state law, and may attempt to enforce his right in a state court. It may be a proper case for removal to the federal court, and either party may find it necessary, in order to protect their rights, to have an injunction. It certainly would be unjust to any litigant to deprive him of the right to an injunction in the federal court.

To advocate taking away power from courts of equity and preventing a person from obtaining certain rights from the court is to concede that same person has a right to the protection of such power, and it is a step toward anarchy to suggest that a person shall be denied his constitutional rights in a court created by the Constitution to aid him to obtain his constitutional rights.

On February 28, 1793 (1 U. S. Stat., 324), Congress passed an act to require judges of the United States courts to execute an act of Congress.

The United States judges, entertaining great doubt under the circumstances to proceed, and appreciating that a grave constitutional question was involved, communicated to the President of the United States their reasons for declining to execute an act of Congress.

The circuit court for the district of New York, consisting of Jay, chief justice; Cushing, justice; and Duane, district judge, proceeded on April 5, 1791, to consider the question, and were unanimous of opinion and agreed—

That, by the Constitution of the United States, the Government thereof is divided into three distinct and independent branches, and that it is the duty of each to abstain from and to oppose encroachments on either; that neither the legislative nor the executive branches can constitutionally assign to the judicial any duties but such as are properly judicial and to be performed in a judicial manner.

The circuit court for the district of Pennsylvania, consisting of Wilson and Blair, justices, and Peters, district judge, made the following representation to the President on April 18, 1792:

To you it officially belongs to take care that the laws of the United States be faithfully executed. Before you, therefore, we think it our duty to lay the sentiments which on a late painful occasion governed us with regard to an act passed by the legislature of the Union. The people of the United States have vested in Congress all legislative powers granted in the Constitution. They have vested in one Supreme Court, and in such inferior courts as the Congress shall establish, the judicial power of the United States. * * * This Constitution is the supreme law of the land. This supreme law all judicial officers of the United States are bound by oath or affirmation to support. It is a principle important to freedom that in government the judicial should be distinct from and independent of the legislative department. To this important principle the people of the United States in forming their Constitution have manifested the highest regard. They have placed their judicial power not in Congress, but in courts.

The circuit court for the district of North Carolina, consisting of Iredell, justice, and Sitgreaves, district judge, made the following statement to the President on June 8, 1792:

That the legislative, executive, and judicial departments are each formed in a separate and independent manner, and that the ultimate basis of each is the Constitution only, within the limits of which each department can alone justify any act of authority.

Frederic Jesup Stimson in his recent work on the Law of the Federal and State Constitutions of the United States, chapter 4, Chancery and the Injunctions, says, page 28:

There has, of course, been no constitutional limitation of the powers of equity in England, nor is there in the Federal Constitution, which clearly contemplated giving all judicial power which then existed in England to the federal judiciary in cases where they had jurisdiction; but the state constitutions are beginning to deal with the subject and several States have attempted statutes. * * * They have so far been adopted in the constitution of seven States. Whether in the absence of a constitutional provision a statute to that effect would be valid is a matter so untouched as yet by any decision of a high court that the author can only hazard his own opinion.

Independent of any constitutional question, Congress is asked to reverse its policy of protection to trade and commerce against unlawful restraints and go on record as now being opposed to the letter and spirit of the title to the so-called "Sherman Act," to protect trade and commerce against unlawful restraints and monopolies, passed July 2, 1890.

The Supreme Court of the United States has closed the door to further argument. In Kansas *v.* Colorado (206 U. S., 46, p. 42) that court said:

In article 3, which treats of the judicial department, * * * we find that section 1 reads: "That the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

By this is granted the entire judicial power of the Nation. Section 2, which provides that the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, etc., is not a limitation or enumeration. It is a definite declaration, a provision that the judicial power shall extend to—that is, shall include—the several matters particularly mentioned, leaving unrestricted the general grant of the entire judicial power. There may be, of course, limitations on that grant of power, but if there are any they must be expressed, for otherwise the general grant would vest in the courts all the judicial power which the new Nation was capable of exercising.

When the Constitution was adopted the issuing and granting of injunctions was a part of the judicial power which was adopted and planted in the Constitution. The recognized power in equity was the issuing of injunctions before the adoption of the Constitution. The judicial power extended to and included the issuing of injunctions and was included in the Constitution, and can not be taken out by any act of Congress.

It is believed to be one of the chief merits of the American system of written constitutional law that all the powers intrusted to government, whether state or national, are divided into the three grand departments—the executive, the legislative, and the judicial. That the functions appropriate to each of these branches of government shall be vested in a separate body of public servants, and that the perfection of the system requires that the lines which separate and divide these departments shall be broadly and clearly defined. *It is also essential to the successful working of this system that the persons intrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other.* (Kilbourn *v.* Thompson, 103 U. S., 168–190.)

Congress can not annul private contracts not designed to restrain or regulate interstate commerce. (Railroad Co. *v.* Richmond, 19 Wall., 584; Addystone Pipe and Steel Co. *v.* U. S., 175 U. S., 211.)

The proposed legislation is not in accord with either the letter or the spirit of the Constitution. That instrument was created to protect the citizen in person and property, according to the preamble to establish justice, promote general welfare, and secure the blessings of liberty. The very object and purpose of government is protection to the citizen in his person and property. This is a natural right, and governmental relations were intended to strengthen rather than weaken this right, and it would not be seriously considered for one moment that a government could by legislation deny to a citizen the equal protection of the law. The power of Congress to legislate is to be found in the Constitution. Not one of the enumerated powers can be relied upon expressly or by construction to deny a citizen the protection of the law. It was not necessary to provide that Congress should not deprive a citizen of the protection of the law, for it is so opposed to the object and purpose of government. Such legislation certainly would deprive a citizen of life, liberty, and property without due process of law. This is a limitation upon the power of Congress. No further limitation is needed.

The only power Congress has is to be found in the Constitution. Certain express provisions are therein enumerated. Not one of the express powers disclose any authority upon the part of Congress to pass the proposed legislation. Is it inferable from the construction given by Marshall, Chief Justice, in McCulloch *v.* Maryland (4 Wheat., 316)?

But we think the sound construction of the Constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which

will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

The proposed legislation is not only at variance with the views of the great Chief Justice, but does violence to the letter and spirit of the Constitution, taking from the people inalienable rights. What express power of the Constitution can be relied upon to support the contention that the proposed legislation is necessary and proper to carry that or any power into execution? Is such legislation most beneficial to the people? Is the end legitimate? Is it within the scope of the Constitition? Is it an appropriate means to carry any express power into execution? Does it consist with the letter and spirit of the Constitution? If it is the constitutional duty of Congress to create courts so that personal and property rights can be adjudicated, can it be inferable from any express power in the Constitution that Congress can prevent a citizen from enjoying the protection of the courts, to life, liberty, and property? For Congress to deprive persons of legal rights and of the protective power of the courts is to deprive them of rights given them by the Constitution.

I concede there is no express power in the Constitution to prevent Congress denying any person or class of persons the equal protection of the law, and I insist that it is not necessary. The power resides with the people, the States, and the Federal Government, and as the people are the power creating the Government it would be unnecessary to say in express terms that a government created by the people, for the people, should not deny to any person or class of persons the equal protection of the law, and as long as there is no affirmative power there is no necessity for a negative. A negative power would only be necessary when some affirmative power should be limited.

It might very properly and justly be said that all such private rights are not created by government at all, but that government was created to protect the right to life, liberty, and property, yet we can most certainly say, the power to acquire rights of any and all descriptions, the right to acquire property to do with it at will, to make contracts to carry on business, to enforce rights and protect life, liberty, and property, and the right of protection of and to the same, is derived from the laws of the State and not from Congress, and is older than the Constitution itself, that instrument giving additional security. In other words, created by the police power of the State.

The right of personal liberty, the right of property, the right of protection to person and property, is a fundamental maxim of free government, restrained only so as to prevent the infliction of injury upon others.

Congress can not enlarge or impair these rights or interfere with their protection or enforcement. They are vested rights, not rules of law subject to change. Congress does not possess the power to confer these valuable rights or to impair them, but they are under protection of the Constitution of the United States. The right of the one is given by the State, and the wrong of the other is declared by the State.

Congress can not deprive the citizen of his rights or the court of the power to protect the citizen, or say that what has always been regarded as vested rights shall not be considered in the enforcement of rights. The letter and spirit of the Constitution of the United States protects the people in the enjoyment of life, liberty, and property, and it would be a violation of that instrument to attempt by legislation to deprive the people of those valuable rights and of the security for the same, afforded by the police power of the States. From a constitutional standpoint no more dangerous invasion of the police power of the States and usurpation of unconstitutional power by the Nation, seriously affecting the rights of every citizen, has ever been suggested.

That part of article 5 of the amendments to the Constitution providing no "person shall be deprived of life, liberty, or property without due process of law" has strong application, for the Supreme Court of the United States, in Kilbourn *v.* Thompson (103 U. S., 168), says:

> It has been repeatedly decided by this court, and by others of the highest authority, that this means a trial in which the rights of the party shall be decided by a tribunal appointed by law, which tribunal is to be governed by rules of law previously established. An act of Congress which proposes to adjudge a man guilty of a crime and inflict a punishment would be conceded by all thinking men to be unauthorized by anything in the Constitution.

If the Congress can not do that, Congress can not punish a man by refusing to protect him in his person and property, therefore the rights of a person can not be impaired by the legislation asked for, for it would be a plain attempt to deprive a person of life, liberty, or property without due process of law.

It is true Congress may declare what shall be crimes, and as there are no common-law crimes in the United States, nothing done or omitted is a crime under national law until so declared by Congress, but Congress can not pass a law the effect of which would be to protect a person from prosecution for interfering with the life, liberty, property, and rights of a citizen granted by the police power of the State and not in violation of the Constitution or laws of the United States, or permit a person to interfere with the vested rights of any person or take from any person the protection of the law afforded by the Constitution and the police power of the States. Congress can not do indirectly what is forbidden to do directly. No one will dispute the proposition that Congress can not take the property of one person and give to another. By a parity of reasoning Congress can not pass any law that will permit one person to so conduct himself as to prevent some other person from acquiring property and enjoy his property and enforce his rights or that will permit one person to molest another person in person, property, or rights.

As well might Congress point out how one person might murder another without being punishable therefor.

Within the limited power of Congress it is absolutely within the exclusive power of Congress to say what shall be a crime against the United States. Therefore, speaking generally, it might be said that Congress would not be guilty of a violation of duty if it refused to make certain acts or omissions criminal, for Congress must be permitted in the interest of good government to exercise an honest discretion in such matters of legislation, for instance, as the sale of goods by a peddler on an Indian reservation. But is it not, according to Story, J., obligatory upon Congress to make all laws necessary to protect the citizen in his constitutional right to enjoy life, liberty, and property, whether a man of labor or leisure? And would not Congress be guilty of a violation of duty if it refused, by appropriate legislation, to protect the citizen in the enjoyment of life, liberty, and property? How much greater would be the violation of duty for Congress to withhold from the citizen his constitutional right of protection and legalize an invasion of those constitutional rights by others.

The National Government was organized to protect the citizen in the enjoyment of life, liberty, and property; promote the general welfare and secure the blessings of liberty, not to prevent general welfare and destroy the blessings of liberty. To create courts, to protect the citizen in the enjoyment of those rights; not to prevent a constitutional court from protecting the citizen in those rights. Congress is clothed with power to make all laws necessary and proper to protect the citizen in the enjoyment of life, liberty, and property; not to make laws that will refuse protection and legalize an invasion of those rights. The letter and spirit of the Constitution creates a protection to the citizen, not a denial of protection.

It is a far more reaching question than one between labor and capital. It is one that vitally affects the very substructure of Government and will so seriously shock it that the superstructure of our Government will totter and fall; and this great Government, constructed upon the broad basis of the equality of all before the law, will be a mass of ruins, impoverishing labor as it may impair capital. There is no power to compel Congress to legislate. The framers of the Constitution proceeded upon the theory that when a given power was conferred upon Congress, that power would be exercised whenever the public interest required it, and then legislate for the public interest, and it is unconstitutional not to so legislate. If conditions are such that the demanded legislation is necessary, let the Constitution be amended to meet the requirement.

The Congress in its legislative action must proceed in accordance with a constitutional duty, not according to a sentimental demand. Legislation must not only be constitutional but with reference to the common good of all; not class or sectional in its nature, giving to the citizen the greatest constitutional liberty possible. The rights sought to be limited are civil rights of great moment to the citizen, no matter what his standing in life or calling may be, and Congress must approach the responsibility of such legislation with great care. The first question of constitutionality must be disposed of by Congress. Congress has a constitutional duty to perform and can not shirk it. On the question of constitutionality, the danger in legislation is rather to pass unconstitutional measures than to refuse to pass constitutional ones. Congress has limited legislative power and can not exceed that power. When that power is challenged, it is the duty of those charged with the responsibility to examine that question and pass upon it. It is not fair or just for a body with limited power to act without limitation according to wish and will. If Congress can and ought to pass

every measure without reference to its power, what was the use of limiting that power?

No one interested in good government, willing to concede constitutional rights to all, can be unmindful of the importance of the subject or fail to appreciate the deep and earnest feeling pertaining thereto. Earnestly striving to protect the rights of all, appreciating the importance, the right, and power of the labor of this Nation; anxious at all times to advance their rights, believing their cause to be the cause of humanity, I am of the opinion that their interests can not be advanced or their rights protected by such unconstitutional measures. The strained relation betwen the laborer and the capitalists of the Nation must not be increased, but lessened. Certainly do not let us in an unconstitutional way add a greater burden to the labor of this country, to the detriment of the Nation.

It is the constitutional duty of the courts of the United States to administer the laws of the several States between citizens of the different States. And this, Congress is asked to prevent. "State statutes are enforcible in the courts of the United States." (Case of Broderick's Will, 21 Wall., 503; Holland *v.* Challen, 110 U. S., 15; Frost *v.* Spitley, 121 U. S., 552.)

As so often said, that which does not belong to commerce is within the jurisdiction of the police power of the State. The principal object of the commerce clause of the Constitution is to protect the interstate product when in transit. That power was by the Constitution taken away from the States and given to Congress, the great object being to protect the interstate-commerce product from interference by State or individual. It can not be possible that Congress, to whose care interstate commerce is confided by the Constitution for the purpose of protecting it in transit from any interference, has the power to clothe one person with the power to deprive another person of rights given by the police power of the State, while undertaking to exercise his right of shipment; for, in order to exercise a right under the commerce clause of the Constitution he would be compelled to be shorn of rights conferred by the police power of the States. In order to obtain one right he would have to lose another. Congress can not annul private contracts or usurp the police powers of the States to interfere with any contract unless the same, when put into effect, will operate to restrain or regulate interstate commerce. And certainly Congress can not, for want of power, provide that no agreement, combination, or contract shall be deemed criminal, no matter who are parties thereto, even if engaged in interstate commerce, for in effect it is asking Congress to legalize crime.

Regarding the question involved of great importance, I have given the entire subject very careful consideration. I appreciate the delicacy of passing upon the constitutionality of a proposed measure, but duty must be performed. No one charged with the duty can shrink from it. The question must and can be answered yes or no. I have no hesitancy in saying that no doubt exists in my mind but that each one of the bills referred to is unconstitutional.

Mr. Chairman, I desire to yield to the gentleman from New Jersey [Mr. HUGHES] for a moment.

Mr. DRISCOLL. I would like to ask the gentleman a question.

Mr. JENKINS. I yield to the gentleman from New York.

Mr. DRISCOLL. I was very much interested in this address on the law delivered by the gentleman from Wisconsin, and I listened to it with a good deal of care. Perhaps I was a little stupid in not clearly getting the gentleman's idea, and I would like to ask him the concrete question now: Whether he believes that Congress has the power to enact a law to the effect that a temporary injunction shall not issue without first giving notice to the adverse party? That exact question.

Mr. JENKINS. Mr. Chairman, I have no hesitancy in answering the gentleman from New York by saying that my views are, as I expressed them, that Congress has no power. I want to answer him by saying that if Congress can say that an injunction can not issue except upon an hour's notice, Congress is given absolute power to insist that an injunction shall not issue at all.

Mr. DRISCOLL. In other words, Congress has no power to alter or to regulate the practice or procedure of issuing injunctions?

Mr. JENKINS. Congress has no power to interfere with the constitutional power of the courts, as I have endeavored to explain. I yield to the gentleman from West Virginia [Mr. HUBBARD].

Mr. HUBBARD of West Virginia. I would like to ask the gentleman from Wisconsin whether the exercise of judicial power does not assume the existence of a controversy between parties who have a right to be heard, and who must therefore have an opportunity to be heard, which opportunity can only be secured to them by giving of notice?

Mr. JENKINS. Why, I say to my friend from West Virginia, for whom I have a very great respect, that is a very difficult question to answer after my argument. But I am insisting all the time we have three great departments of government, and the Constitution of the United States says that all judicial power, both at law and at equity, shall be vested in these courts.

Mr. HUBBARD of West Virginia. And I fully agree with that statement, and I accept unreservedly the definition, restated by the gentleman, of judicial power—that it is a power to hear and determine; but it is a power to hear, as well as to determine.

Mr. JENKINS. I yielded to a question, not to an argument. I now yield to the gentleman from New Jersey for a question.

Mr. HUGHES of New Jersey. I do not know whether I can state the situation and confine my remarks strictly to a question, but I will try. The gentleman stated, and with great vehemence, that he insists upon the three branches of the Government being kept absolutely separate and distinct, and decries the desire of the legislative to encroach upon the judicial branch. Now, I want to ask the gentleman this question. Of course he is familiar with the Blackstone definition of law—a rule of conduct prescribed by the superior, and which the inferior is bound to obey.

Mr. JENKINS. I yielded for a question.

Mr. HUGHES of New Jersey. Now, when a judge issues an injunction, I ask the gentleman if he is not setting up a standard of conduct for everybody who comes within the purview of the injunction, and as he may punish anyone not obeying it, is the judge not then legislating?

Mr. JENKINS. I do not think the gentleman from New Jersey asked me that question in candor, I want to say to him, because I want to be honest. I say to him in all candor the difference between the gentleman from New Jersey seeking votes and me is that I am speaking of what is absolutely right, and it is impossible for any gentleman to answer his question. I yield back my time to the gentleman from New Jersey.

Mr. HAY. I yield twenty minutes to the gentleman from Florida.

Mr. CLARK of Florida. Mr. Chairman, taking advantage of the latitude of general debate, I want to call the attention of the House to the provisions of a bill that challenged the attention of the House for a few minutes on last Monday, and which will probably again come before this House during the present session. I desire to call attention to the provision of that bill now, because when the bill itself is before the House, under the peculiar rules which have been so much discussed here, I am fearful that I will not have the time to present my views then. Therefore I desire briefly to present some views on that bill in order that they may be printed in the RECORD and that this House may have no excuse for enacting into a law what, in my opinion, is the most outrageous measure that I have met with during my short service here.

It is true, Mr. Chairman, that the bill itself does not pretend to deal with matters which we generally consider of very grave importance, but it does strike at the very foundation of the Government itself. It strikes at the most sacred right, I think, which the Government does confer and undertake to protect.

I refer to the bill H. R. 12898, a bill introduced by the gentleman from New York [Mr. OLCOTT]. It is a bill which undertakes to regulate admission into the Government Hospital for the Insane. The bill purports upon its face to do nothing more or less than abolish jury trial in those cases. But the bill goes further than that. I will not say that the bill is artfully worded; I will not say that it is adroitly constructed; I will not say that it is drawn purposely to conceal its meaning; but I do say that if that had been the purpose of it, it could not have been better drawn.

This is a bill which seeks to change the practice in court procedure in certain cases and ought, by every rule of orderly parliamentary practice, it seems to me, to have gone to the Committee on the Judiciary. It went to the Committee on the District of Columbia. As I say, being a bill to regulate procedure in the courts, it occurs to me it ought to have gone to the Judiciary Committee. It certainly ought not to have gone to the Committee on the District of Columbia, because it is not local in any sense of the word.

I want to say to the House that this hospital for the insane was originally established for only one class of patients—the insane of the army and navy. As the years have come and gone, we find now that three classes of patients are admitted to that institution—the insane of the army and navy, the indigent insane of the District of Columbia, and the federal criminal insane from all over the country.

In the Fifty-ninth Congress I introduced a resolution for the appointment of a special committee for the investigation of the affairs of that institution. The committee was appointed, and the gentleman from New York [Mr. OLCOTT], who is the proposer of this bill, was made chairman. That committee was appointed on April 21, 1906. It took testimony covering 2,247 pages of printed matter and reported its findings and recommendations on February 18, 1907, almost twelve months after its appointment and just thirteen days before the Congress expired by limitation, too late for the House to become conversant with the facts; too late for anything to be done toward remedying the errors that were found in its management.

I shall not take time to read any of the testimony. It is printed and Members can secure it; but I want to say that the testimony taken by that special committee established mismanagement, incompetency, and cruel treatment of inmates during the administration of Dr. William A. White, the present superintendent. I want to say that the testimony in that case will show that the criminal insane were intermingled with the innocent insane; and every alienist in the land, every person in this country who has ever had anything to do with the management of that unfortunate class of our people, agrees that that ought not to be done. Only a few months ago, if gentlemen will remember, the newspapers of this city published the fact that a negro man, an inmate of that institution, running at large among the other inmates, murdered a white woman patient, murdered a guard or an attendant, and disabled two or three other persons before he was finally captured and put under control.

Now, I want to call attention to the bill itself. If any lawyer *in this House will read it*, he will agree with me that a more outrageous bill, a bill more far-reaching in its consequences in the direction of deprivation of rights of the citizen, has never come into this House in my limited experience. This bill, as I say, seeks to prevent jury trial; but it goes further than that. It abolishes jury trial in insanity cases, involving both liberty and property. And without going minutely into the details, I want to say that if a citizen of the State of California or the State of Washington should be found in this city and this bill was the law, and some designing person desired to incarcerate him in that asylum and administer upon his estate and dispose of his property, it could be done within twenty-four hours, without notice to anybody interested in him, without the opportunity to have a witness summoned, without an opportunity to have a jury, without the opportunity to have counsel, without the opportunity to be represented in the slightest degree.

The bill is vague, indefinite, and uncertain as to the requirements, as to statements of fact in the preliminary petition. It is provided that the petition shall be presented to one of the judges of the supreme court of the District, stating the facts necessary for admission to said hospital as *heretofore* provided by law; not as *now* provided by law, not the facts necessary under the law as it exists to-day, but the facts as necessary under some law that existed *heretofore*. At what time the bill does not state, and the time intended can not be ascertained from a reading of the bill.

Further, the bill provides that the petition shall not be filed until the court shall be *satisfied* as to the responsibility of the persons, and so forth. There is no provision as to the *measure* of testimony which shall satisfy the court, no provision as to *how* he shall be satisfied, but simply that the court shall be *satisfied* by some peculiar rule which each individual judge will establish or adopt for himself.

The bill provides for service on the alleged lunatic and the District Commissioners. How much service? "At least *one day* before the hearing." So, if this bill is enacted into law, a man is to be given at least *one day's notice* before he is carried before the court and his right to liberty investigated, his property sequestered, his whole estate administered on.

It is further provided in the bill that service also is to be had on the husband or the wife, father or mother, or next of kin of such insane person. It may be they are the very people who are trying to get him into the asylum; the person with whom such alleged insane person may reside, or at whose house he may be, or such other person as the justice in his discretion may name, at least *one day* preceding the time fixed for such hearing.

Now, Mr. Chairman, there is one other feature of this bill to which I desire to call attention, and I shall not have the opportunity to discuss it at all, but that is the feature which is the crux of the whole bill. It is this: In section 5, on page 4, of the bill, you find this:

SEC. 5. That the order of the court on the hearing of the application on the petition and the evidence shall be made without an inquisition by jury, and all the proceedings under the petition shall be entered in the minutes of the court: *Provided, however*, That the justice to whom application is made may, if no demand is made for a hearing, proceed forthwith to determine the question of insanity, and if satisfied that the alleged insane person is insane may immediately issue an order for commitment to the Government Hospital for the Insane.

Now, then, when a petition is filed in open court, if no demand is made for hearing *then*, the bill presupposes when the petition is prepared and presented to one of the justices that the alleged insane person, or some one for him, will be in the judge's chamber ready to make application for a hearing. If he is not there, if some one is not there, at the very moment that the petition is presented to the judge, then the judge may, *if no demand is made*, proceed *forthwith, without a jury*, without a witness being summoned, without service being had, without notice of any character, he may proceed *forthwith* to determine the question of sanity or insanity and commit the party to the asylum if he believes he is insane on that hearing. No measure of testimony is prescribed, no method of procedure is laid down, no notice to the person whose rights are involved is provided, no opportunity to make demand for hearing is allowed; but if the demand for hearing is not made, *right then and there*, the judge may proceed *forthwith* to investigate and commit the person to the asylum, and there is no possible escape.

I want to say, Mr. Chairman, that in the face of this testimony, which has been taken openly, the committee spending nearly twelve months in hearing evidence, a condition of affairs was shown to exist in that institution which shocked the moral sense of this Nation, and yet we find bills introduced here to strengthen the hands of this incompetent and unfit superintendent of that asylum. We find bills introduced here, referred to and reported favorably by the District Committee, changing the procedure of the courts in certain cases, changing the practice of the courts in most important cases, and undertaking to hurry them through the House, giving this man more power instead of stripping him of the power which he has abused, and which ought not to be in his keeping.

Now, I want to put these statements of fact and criticisms of the evidence in the RECORD, simply that the House, if the membership cares to make an investigation of this question, may act on this bill with full knowledge as to its real character. It is not a local bill; it affects the whole Nation; it affects persons from one end of the country to the other; it affects the most sacred right of liberty; it affects the right of property and the right to dispose of property as the owner may see fit.

As I have said, there is nothing local about this bill, which has been favorably reported by the District Committee. It should never have gone to that committee; it should have gone to the Committee on the Judiciary and should have been considered by a committee of lawyers. As I have said, no rule of testimony is prescribed; no power to summon witnesses is given; jury trial is taken away; and the whole method of procedure, so far as can be ascertained, is locked up in the breast of the individual judge to whom the petition may be presented.

I shall not go further at this time, Mr. Chairman; and with the permission of the committee to put the statements and comments on the testimony which I have prepared in the RECORD, I yield back the remainder of my time.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to extend his remarks in the RECORD by the insertion of the papers referred to. Is there objection?

There was no objection.

Mr. CLARK of Florida. The matter referred to is as follows:

SOME INCIDENTS OF DOCTOR WHITE'S MANAGEMENT AND SUPERVISION.

Over 30 witnesses testify to failure of the superintendent to visit the building and inspect the wards for long intervals. For instance, the following witnesses, all hospital attendants and employees, describe his visits as follows:

Mr. C. W. Teates (p. 1262). Four visits in one year.
Miss Rose Herbert (p. 615). Four visits in fifteen months.
Mrs. Mary McLaughlin (p. 273). Two visits in ten months.
Albert C. Hayden (p. 344). Two visits in twenty months.
C. J. Harbaugh (p. 299). Four visits in two and one-half years.
Arthur Nabors (p. 294). Three visits in two and one-half years.
W. J. Lyon (p. 1158). Not once in fifteen months.
Albert Ball (p. 289). Not in kitchen for past eighteen months.
N. R. Harnish (p. 1138). Never comes at all.

And many others testified to same effect.

The superintendent lives in one of the buildings and has to pass most of them on his way to and from his office in the grounds.

Over 50 witnesses, nearly all hospital employees, testify to the food being bad, unclean, tough, poorly cooked, unpalatable, and sometimes not sufficient of that; no butter and unsavory quality of oleomargarine; shortness in sugar; no fruit, such as oranges, lemons, bananas, apples, and so forth; poor tea and coffee; meals served cold; no poultry, eggs, or milk, except in sick and

special diets; old soldiers eating black molasses on their oatmeal.

And yet the superintendent has the largest per capita of any of the large institutions—$220 plus pensions (p. 857), private boarders, and ex-officers' allowance of $1 per day, bringing per capita to about $315 (p. 895).

Over 60 witnesses have testified to the cruel and brutal treatment of patients.

Nearly one-half of these are hospital employees, who admit harsh and brutal handling of patients as a matter of necessity because of lack of sufficient or the right kind of help or the obstinate character of the patients.

These occurrences were denied when the charges were first made public and before this investigation started.

So was the use of strait-jackets, bed saddles, handcuffs, and other restraints.

But the frequent use of these appliances for restraint were proven beyond question, then admitted and explained and excused.

Of course the superintendent knew nought of all this. Why should he? He rarely, if ever, saw any of these wards and patients. He had his own private table and special cook and waitress; his meals are first class and well served. And what he did not see he had no knowledge of, and his admitted attitude discouraged talking upon part of those who did see and endeavored to inform him.

The witness, Burroughs (p. 17), told the superintendent of the continuous cruelty to patients in the laundry and of the drunkenness of the foreman, Maenche, and wrote to him repeatedly before the charges were made public by the Medico-Legal Society, after which he started an "investigation," but he did not discharge Maenche. When Doctor White was testifying (p. 881), he explained that he *did not give attention to Burroughs, because he thought it a bad principle of administration to give attention to complaints of subordinates against their superiors.* Burroughs is now United States meat inspector, Agricultural Department, Philadelphia.

The experienced attendant, Thornton O. Pyles, complained to the superintendent frequently about the poor food, and cruelty to patients, and other matters relating to their treament and comfort. But Doctor White explains (p. 862) "that he did not think Mr. Pyles's mental condition was such as to warrant any particular action on his part."

(Testimony of three physicians and two prominent lay witnesses was offered by Mr. Evans, attorney for the Medico-Legal Society, to prove Mr. Pyles's good mental condition at that time, but the committee refused to hear them (p. 1267).

Mr. Pyles subsequently formulated his complaints in a petition, which was signed by 52 attendants (pp. 91, 936), and he got discharged for his pains. (Petition, p. 931.)

"What happened to Pyles" satisfied the rest that to keep mum was the best policy.

Mr. Pyles is now chief guard of the boys' department at the Reform School, District of Columbia, under Department of Justice.

And the superintendent gives the same reason (p. 927) for ignoring the complaints of Mr. McKnight (p. 357) of cruel and abusive treatment.

Then, when funds were running short this superintendent sought to economize by taking experienced attendants from their duties on the wards, short handed as they were, and making them do laborers' work on the grounds, cleaning brick, sweeping and shoveling the dirt from the roadways and wheeling it away.

In consequence of this Milton Berry (p. 1053) and Clarence Pendleton (p. 1041), and Bernard Allen (p. 196), and Thomas Seaton, and some 12 or 15 other experienced attendants (p. 1097), quit or were discharged for "insubordination" because they refused to leave the wards and become street sweepers, etc.

Their places were filled by new fellows—young men from the farms—at $15 per month.

Good for the hospital exchequer, but bad for the unfortunate patients on the wards.

And yet this superintendent, and all the other superintendents who have testified, and the supervisors, bemoan and bewail scarcity of and difficulty in securing competent attendants for the patients, and *ward service.*

OLD AND INFIRM PATIENTS WALK IN SLIPPERY PLACES.

Many black eyes, bruises, broken arms, legs, and hips among particularly the older and more infirm patients are ascribed to and explained by the slippery floors of the wards, which are polished and waxed to a mirror and ballroom surface.

The testimony of John A. Shearer, who was put on as an enthusiastic champion for the superintendent, states in his own language (p. 1255):

> They talk a great deal about broken hips and broken arms. I have seen broken arms and broken hips, but it was not done by attendants by a long shot. One good old lady, 80 years old, fell and broke her arm, and she had hardly gotten rightly over it until she slipped and broke her hip. The floors are very slippery. In fact, I have got to be very careful in walking over them. * * * Another lady by the name of Fannie Redmond fell a few weeks ago and broke her arm. That is not done by the attendants. This is done because they fall.
>
> He also speaks very flippantly of the epileptics slipping and falling right and left and cutting their heads and blacking their eyes. But this was not the fault of the attendants.

The testimony of C. W. Teates, a witness for the hospital, shows, at page 1258—

> Question by Mr. Hay. A great deal has been said here this morning about people falling down and breaking their legs and hips. Is that caused by the floors being so slippery?—Answer. To a certain extent; yes, sir.

The testimony of Mrs. Cole (p. 751), Miss Griffin (pp. 100–488), Mrs. Carraher (p. 184), Mrs. Pavey (p. 1146), Mrs. Washburn (p. 180), and others describe how the patients are tied in bed, under indescribable conditions, for long periods of time to prevent their wandering around on the slippery floors and injuring themselves, while the single attendant or nurse, or perhaps two of them, are engaged elsewhere washing windows, cleaning the lawns and walks, and so forth.

But what business was this of the superintendent? He did not fall and break his leg on a slippery floor, so why should he bother about these minor incidents?

It is true that these floors might have been protected and these patients might have been dressed and put in easy chairs on the attractive porches overlooking the beautiful lawns, but this would have occasioned some attention and thought upon the part of the superintendent and diverted his mind from the finances, landscape gardening, architectural features, and farming problems, and from his literary labors, social functions, automobile trips, and other important interests devolving upon this "Pooh Bah," as he describes himself.

And then the subject of employment and recreation for the patients not bedridden, especially for the old soldiers in the "bull pen," was above his notice and troubled him not at all.

The testimony from all the superintendents from other institutions shows great stress laid upon these important features of treatment.

Field days and athletic sports, athletic grounds with grand stands for the patients, and prizes for all the contestants; picnics in the woods; social visits between different wards; games—croquet, lawn tennis, baseball; employments not in line of the patient's trade or profession, but with a view to his physical and mental uplift; all these at other institutions. But at St. Elizabeth, what? Personal observation and information show very little, indeed, of any of these.

One croquet set used by colored male patients near the main entrance.

One incomplete croquet set for all the female patients.

One lawn-tennis court on the male side for two sets of players, used by the male physicians and attendants principally.

A so-called "baseball field," with one diamond, used principally by the physicians and attendants.

No seats or accommodations for the patients generally, but those on parole could sit around on the grass and look on if they chose.

In the "bull pen," nothing whatever but stagnation and dry rot, and same conditions generally prevail. Some 500 or 600 old soldiers, without employment or recreation, confined in an inclosure of about 2 acres, surrounded by brick buildings and high walls.

It is true that during the winter there are some entertainments at night, and a dance now and then.

But only a few can enjoy these, principally the young male and female attendants. There is also a band, composed of attendants; patients are not permitted to take part, as they might make discords.

This band plays occasionally around the grounds, as well as it can. Whether the patients are edified is a question.

And the epileptics, light and severe, sane and insane, herded together, dined together, with the old soldiers. No special diets and no treatment save "custodial care," as Dr. Harry R. Hummer testifies (p. 1186), although he seems to be waking up to possible improvement of conditions.

The largest per capita cost, the worst food, least thought and attention, and poorest percentage of employment and means for stimulating the minds of these patients is the record of this hospital as compared with other institutions.

Automobiles and carriages the superintendent has galore, for his use and the entertainment of his guests.

Two vehicles for the use of the patients—in driving them out, and so forth.

These two vehicles accommodate about 20 patients and make two trips a day. There are 2,500 patients. Deducting the bedridden and criminal classes, there would be left some 1,800 patients to have these outings. It is an easy calculation to make as to how often the individual patient, exclusive of the favored ones, gets a ride outside of the walls of that institution.

But why should the superintendent consume valuable time or thought over these matters? He does not have to bother with such trivial details. He is otherwise busy and interested and entertained.

After this investigation began he started some "long contemplated" improvements, and the visiting superintendents appear to concur in the opinion that when he gets these ideas and improvements in practice he will have a model institution. But why did he wait three years, and then have to be stirred up with an investigation to stimulate his thoughts in lines for benefit of the patients?

FAVORITISM.

Maenche, unquestionably a drunken, abusive, vulgar person, but for some reason the superintendent could not discover any evidences of this, although it was well known to insiders, including a physician, Doctor Glascock—and outsiders as well. His own testimony convicts him.

R. L. Browning and W. Green, attendants, can come into their wards drunk and fight each other and endeavor to tear the telephone down so the watchman could not phone to the night doctor. (Hedges, 1122.)

A reprimand was sufficient in these cases.

But others not with the pull nor with such manifestations of indulgence, as the testimony shows, had to surrender their keys and be discharged peremptorily for trivial reasons.

One of the attendants—Curry Thrift—who left because his promised increase of $2.50 each six months, as a graduate nurse, was not given him as promised, described how the superintendent transacts business (p. 1093). He says:

> I let it go for the next six months, and there was no increase then. So I waited on Doctor White concerning it, and he advised me to go and see the financial secretary, as he had nothing to do with it. I went to see Mrs. Hardy (the financial secretary), and she advised me to see the supervisor. I went to see the supervisor, and he advised me to see Doctor Logie, the physician I was working under. He said he would talk to Doctor White, and he would refer it to the financial secretary and see what could be done. I waited two years and a half for it; I didn't get it at all.

The lack of personal inspection and attention to the wants of the patients, in all respects, and to the ward service and the comfort and satisfaction of the attendants and nurses exhibited by the superintendent is only exceeded by that of the board of visitors, as shown by all the testimony.

Every superintendent of insane asylums brought from other States criticised the hospital in one way or another—too large, poor service, and so forth.

CRITICISMS BY SUPERINTENDENTS OF OTHER ASYLUMS.

While the numerous superintendents and officials brought from outside institutions were, of course, complimentary to Doctor White, there was not one who did not, inadvertently perhaps, criticise his management in some particular detail, better conditions being shown to prevail in their own institutions in either quality, preparation and service of food, character of clothing, employment and recreation for patients, treatment of the epileptics, use of restraints, the "bull pen," separation of criminal insane, classification of patients, supervision of the wards, and so forth.

With reference to the supervision of the various departments wherein Doctor White rarely, if ever, visits, as shown by the testimony, these outside physicians all show necessity for constant personal supervision and visits by the superintendents. For instance:

Doctor Hutchinson, of Dixmont, Pa., says (1544):

> I am on my wards with my assistants every day.

Doctor Wolfe, of Norristown, Pa. (1603):

> I try to get around once every day.

Doctor Drewry, of Petersburg (1611):

> The superintendent ought to get around to each and every department at least once a week.

Doctor Eyman, Massillon, Ohio (1626):

> I am to see every patient at least every week.

Doctor Mabon, Ward's Island, N. Y. (1690):

> I try to get all through the place once in two weeks.

And so on through the list.

Cruel and abusive treatment, testified to by many witnesses, principally former attendants and employees, is, of course, denied and attempted to be disproven. The following instance will furnish a shining example:

Joseph W. Belt, a former attendant, testified to numerous occurrences, among which was the case of an attendant named Hawkins, who was in the habit of using a doubled electric wire on the patients' heads (327) until they would get their "heads nearly to the floor and holler murder and fire and everything else before he quit."

Hawkins (712) of course denied the soft impeachment, but also denied that he ever had a wire for any purpose; but this was proven untrue by a witness, Harry Talbott (1104), who was an electrical worker in the hospital, and who testified that Hawkins asked him for a piece of wire, and he gave it to Hawkins, who stated "it was a good thing to tan patients with."

Mr. PERKINS. Mr. Chairman, I desire to make some remarks in reference to the very practical question of the approaching revision of the tariff. We have now the question of revision in the hands of one of the committees of this House which will, ere long, make its report for the consideration of the House and of the country.

There are some of us, Mr. Chairman, that have often in the past years suggested that a revision of the tariff was required. Our suggestions have not always been met with the prompt favor that would have been agreeable, but at last the question has become one that must be dealt with practically. A bill is to be passed which will, I doubt not, conform to the pledges of the Republican party in its platform and recognize the changes that are required by changed industrial and commercial conditions.

It has been suggested that a revision of the tariff might mean a revision up as well as a revision down, but I think all recognize the fact now that, in view alike of business conditions and of popular sentiment, a revision of the tariff, in the opinion of a majority of the people of the country, means a revision down.

Now, Mr. Chairman, any tariff bill must necessarily deal with a great multiplicity of items. I have not thought it wise to occupy the time of this committee in the attempt to go through the details that will be required when the tariff bill comes up for discussion. But there are a few general propositions that I believe underlie this great question, which I desire very briefly to suggest to the House this afternoon.

We are, Mr. Chairman, the greatest manufacturing nation in the world, and for this there are good reasons. We have natural resources that can be equaled in no other land in the world. We have a laboring population that in intelligence and industry and inventiveness can be equaled in no other land, and we have in our business men a capacity for meeting new questions, for adopting new improvements not found, I believe, in any other country. So as a result of natural processes we have attained a position which I do not think I overstate in saying makes us the chief manufacturing country of the world to-day. The great question before us, Mr. Chairman, the most important question in my belief which the American people have to meet is not only to continue, but to extend and perpetuate the commercial supremacy of the United States, and that that may be maintained and extended as the future will demand, it is necessary that the manufactures of the United States should be sold in the markets of all the world.

The control of our own markets we have and can easily have, but we have a population of 80,000,000. We have the facilities and the capacities for manufacturing which would supply with the articles of use and of desire not 80,000,000 people, but 800,000,000. If this country is to increase as its resources permit and its people expect, it is essential that what hold we have now on the world's markets we should retain, and that that hold should be largely increased. And if we are to sell our manufactured goods not only in Europe, but to 400,000,000 people in China, to 300,000,000 people in the East Indies, and to untold millions of people all over the world, we must meet in those markets the manufacturers of any other country on equal terms. We must be able to compete with the manufacturers of Germany or of England or of France or of any country to whom, just in the same extent as to us, the possible markets of the world are open, and if we are to sell our goods in those markets the American manufacturer must sell as good an article for as low a price as can be furnished by his competitor from any part of the world. Upon our ability to do that depends not only our present prosperity, not only our future prosperity, but our future extension and safety, because if the manufacturing energies of this country are to be controlled by the bounds of the land, if they can find no outlet for activity outside of the limits of the United States, broad as those are, great as is the popula-

tion that lives within them and will live within them, still the potential manufacturing development of the country will come against a dead wall and be brought to a stop, with the sure result of commercial crises, of checks in the development of the country, which would be dangerous not only for our manufacturing prosperity, but for our social peace.

So the problem is, Mr. Chairman, What can be done to increase our hold, to give our manufacturers the fairest possible chance in their contention for the world's markets? There are two or three considerations which bear upon the importance of this question and which may be taken in mind by thoughtful men. The great volume of our exports during most of our past history has been from the products of the soil, from the articles with which life is sustained. It is as certain as that day follows night that the tendency in the future must be to a diminution of the volume of such exports from the country. While the population has not yet caught up with the product of the soil, it is much nearer to it than was the case twenty-five years ago. With the growth of population that is before us, and upon which we can rely with absolute certainty, the time will come, and not so very far off, when the production of the articles of the soil necessary for consumption for food in this country will not very largely exceed, if it exceeds at all, the demands of our own population. Then, necessarily, the importance of our exports of manufactures will be very greatly increased.

There is another consideration which it befits all thoughtful men to have in mind, and that is the great problem of the conservation of the natural resources of the land. Already we realize that those natural resources are not boundless, already we realize that the consumption of the potential wealth that is above the soil and still more underneath the soil is going on at a rate that not only can not continue forever, but can not continue for a long period, as periods go in the history of a nation.

It seems to me, Mr. Chairman, that it is the part of wise legislation to draw so far as can be done from every other land in the world the raw material which we may take and manufacture and sell in the world's markets, and so far as can be done preserve our own. If there is a ton of coal, if there is a ton of lead in the United States that stays in the mines, it is not lost. It is as safe there as if it were money in a savings bank. Sooner or later the time will come when it must be used, and the value of a ton of raw product which is saved for twenty-five years will be greater at the end of the twenty-five years than it is to-day. All of these reasons suggest that it is the part of wisdom so far as can be done to obtain from other countries what can be used by us in our manufacturing industries and to preserve our own resources. Doubtless, under any circumstances the contribution by other countries of raw material to be consumed in our manufactures will be comparatively small, and yet in the aggregate it may be of much importance.

As the problem is to improve the opportunities of our manufactures in obtaining possession of the markets of the world, this leads to a consideration of what are the things that make up the cost of a manufactured article and what is the situation of our country compared with other countries in reference to them. Roughly speaking, there are two elements of cost.

One is raw material; the other is the work that is put on the raw material. What can be done by law in either of these directions to assist the manufacturer in the problem before him of being able to sell his goods in the world's markets at the lowest possible price? In reference to the cost of labor, all recognize the fact that the safety and prosperity of this country rests and must continue to rest upon well-paid labor. That no one contests or questions. And yet, Mr. Chairman, when considering the rivalry between us and other nations I think too much importance is sometimes paid to the relative price of our labor compared to that paid to the workmen of other lands, because the problem is not what you pay the man, but what you pay for the work the man does, and the difference in the efficiency and skill between the average American laborer and the average laborer elsewhere is so considerable that the problem of relative cost is somewhat modified. But however important that may be, nothing can be done or should be done that in any way would tend to diminish the satisfactory system of wages upon which our country's prosperity is based. So, Mr. Chairman, it seems to me all the more important to see that the law does all it can to enable the American manufacturer to obtain the raw material he needs at the lowest possible price.

Mr. SHACKLEFORD. May I ask the gentleman a question in that connection?

Mr. PERKINS. Yes.

Mr. SHACKLEFORD. What about the producer in this country, mainly the farmer?

Mr. PERKINS. Well, I will say something about him, too.

Mr. DOUGLAS. I would like, if the gentleman does not mind an interruption——

Mr. PERKINS. Oh, no.

Mr. DOUGLAS. To ask one question, and that is in connection with the definition you have given of those things, the natural resources of other countries, being brought here and the salvation of our own; what are they, in your mind, other than mineral products?

Mr. PERKINS. I am going to refer in my remarks to three or four. Of course, Mr. Chairman, the term "raw material" is always an embarrassing one because there is some labor bestowed on everything. Nothing reaches the shop or reaches the individual so as to be of any value unless man's work has done something to it. The lumber of the forests does not by some force of nature tumble into the carpenter's shop, but some work must be bestowed upon it. The ore in the mine does not come out by any natural process, by any evolution, by any earthquake force, but some labor must be bestowed upon it, and yet when we come to deal with this question, as all such questions must be dealt with, as a practical question, I think we have little difficulty.

A certain amount of labor for which due consideration must be had has been given to the tree that has been chopped down and floated down the stream and comes to the market, and yet the amount of labor on that is insignificant compared with the percentage of labor that is given to the contents of that tree when finally it appears in the furniture of the house or in the building of the house itself for man's occupation. A certain amount of labor is given in the ore that is produced, but an infinitely greater amount of labor is bestowed on the ore when it is finally turned into some form fit for human use. As I said a moment ago, upon a sufficient wage rests our prosperity, and it is of special importance to see that our manufacturer, in his struggle all over the world, is aided by the cheapest possible raw material, because the cheaper he gets the material, the better able is he to see that fair wages shall be paid to his men. When we consider whether we shall adopt artificial measures to enhance the price of an article which receives a very small amount of labor, or shall assist the man, the manufacturer, in the production of whose goods a great amount of labor is bestowed, necessarily it is the part of wisdom to see that the law does not impose its burden upon the person who has the most important work to do and by whom the greatest body of laborers are employed.

And another consideration arises in reference to some of the articles of raw material. There is no branch of a tariff law that does not affect different people differently. It is hardly possible to conceive of a change in any schedule of the tariff which would not affect certain persons favorably and certain persons unfavorably. So where we find a duty, the result of which imposes a burden upon comparatively few, and of which the benefit is reaped by many, such a provision, it seems to me, should remain in the law; and where we find a provision the benefit from which is enjoyed by comparatively few and the burden of which falls upon comparatively many, then that is a provision of the tariff, Mr. Chairman, that it seems to me should be modified and where revision is needed.

Now, with these general considerations that I have suggested, I want to say a few words in reference to some particular items of detail. It would be impossible at this time to attempt any discussion of the multiplicity of items that must come before this House for its action, but I want to suggest two or three where it seems to me the principles that I have suggested have special application. They are all of them materials upon which a small amount of labor has been bestowed when they come to the manufacturers, in comparison with the great amount of labor that will be bestowed upon them before they come to the final consumer. They are all of them articles, the resulting benefit from the tariff imposed upon which is enjoyed by few, whereas the burden falls upon very many.

And so, under the considerations which, it seems to me, should guide us in any revision of the tariff, they are items which specially demand a proper and judicious revision in the way of reducing the imposts upon articles which constitute a burden upon our manufacturers and take some money out of the pockets of many to go in larger bundles into the pockets of a very few.

The first item which I care to discuss is the duty upon lumber.

Mr. CLARK of Missouri. Mr. Chairman, before the gentleman proceeds further I would like to ask him a question or two, if it will not break up the continuity of his speech.

Mr. PERKINS. Not at all.

Mr. CLARK of Missouri. Now, as to this question of raw material. It is absolutely true that what is a finished product to one man is raw material to another, is it not?

Mr. PERKINS. Yes.

Mr. CLARK of Missouri. Now, take the woolen question, for instance. The farmer presents his finished product, so far as he is concerned, in the shape of raw wool. The next step in the process is what they call tops, and the next process is yarn, and the next process is the cloth. Now, if you are going to distribute the benefits of the tariff, I want to ask the gentleman this question: What is the reason that the first one has not as much right to assistance, if that is what you want to call it, as the second, the third, or fourth man in that chain?

Mr. PERKINS. Well, the point, and the only point, which I intend to discuss in the brief remarks which I shall make to-day is to suggest certain items of large importance to the manufacturing industries, where it seems to me that the benefits to be derived by the reduction will be shared by very many and the loss to be imposed by reduction will fall upon very few, and of those, and those only, do I intend to speak to-day. The woolen question, suggested by my friend, is a very broad and complex one, which I have no time to discuss to-day.

Mr. CLARK of Missouri. All right.

Mr. PERKINS. Now, take lumber. That any person should be opposed to a change in law which will render it more easy for us to obtain any amount of lumber from another land is certainly a thing that excites wonder. One of the great problems before us, constantly dinged into our ears, and justly dinged, is the denudation and destruction of our forests. It is said, and truly said, that this may affect most injuriously the water supply of the country. There are portions of the world now as barren as the Desert of Sahara that once were fertile lands, that have been turned into deserts from an improper and unfortunate destruction of the forests, which has destroyed the water supply, until what once was fertile land is now barren land. And the same thing, Mr. Chairman, may occur in certain portions of our own country. We make appropriations, and I do not think any appropriations are more judicious, for preserving the forests on account of their great value. I do not think there is any money voted by this Congress that is voted more wisely, and yet when it is possible, to some extent, to lessen the unfortunately and inevitably rapid destruction of the forests by getting from foreign lands whatever relief we can, opposition is made.

Apart from any question of use for manufactures, apart from any question upon whom the burden falls, any process of law by which we get the wooded product of a single acre of land from any other land and save the wood that stands upon an acre of our own land would be a wise thing if it had no other explanation behind it. But, further, I state, and I think it can not be too often said, that we should consider in these laws where the burden falls and where the benefit goes. There is no great industry, and it is still a great industry, that to so large an extent is in in the hands of a few men as the ownership of timber land. Of the available timber land of this country a great proportion is in the hands of a few great corporations or a few great owners. If the price of lumber is enhanced by artificial means, they get the benefit. Upon whom does the burden fall? It falls on every man in the United States who builds a frame house. There is no more important problem for us than that men of moderate means should be comfortably and with reasonable economy furnished with habitations. In the case of every frame house in the United States the price of lumber is enhanced by the tariff. The price of every fence put up by the farmer is enhanced by the tariff, and the price of the chair on which a man sits in his own house is enhanced by the tariff. Let us consider another thing. The price of lumber has increased enormously in the last four years. Hemlock, which was sold at $12 a thousand feet not so long ago, now sells at $25 a thousand, and perhaps more.

Now, that great rise, of course, is not due entirely to the action of the tariff. It is due in part to that and in larger part to the diminution in the supply of timber; but, Mr. Chairman, there is no man that owns timber land who has not seen the price of his products enormously increase. As the result of natural laws the hemlock he was selling a few years ago at $12 a thousand he is now selling at twice that price. He has reaped the benefit and an enormous enhancement in the price of his product has to be paid by every man in the United States that uses his product. It comes with a very poor grace for the owners of timber land who have profited so greatly from natural causes to insist on obtaining an additional $2 per thousand by retaining the duty on lumber. No men have prospered more in the last few years than the owners of timber land, and a duty for their benefit increasing the already greatly enhanced value of their property makes every man who builds a frame house pay them so much more. I do not believe that a duty, the benefit of which goes to a few men who are rich and the burden of which falls on many men who are poor, should continue on the statute book.

In this connection, considering where a change in the tariff will be to the advantage of the largest industry—to the industry which employs the greatest number of men—I wish to say a word in passing on the question of wood pulp. It has been discussed before in this House liberally, and will be again.

I call attention to the fact that the enhanced price of wood pulp is a burden upon one of the greatest industries of the land, and that is the news paper making industry. There is between the industry that makes news papers and the industry that makes pulp a great disparity. It may be safely said that the news-paper manufacturers employ 40 men where the manufacturers of wood pulp employ 1 man. It is a fact that the making of wood pulp in this country, as stated by the Census Bureau, in a single year strips bare an area of timber land as large as the State of Rhode Island; and so, both from the motive of conserving, as far as we can, our forests, and the motive of benefiting, so far as we can, a great industry, the abolition of this tax may well be considered by those who have in charge the duty of tariff revision.

Now, let us pass to another duty about which I wish to say a few words and which seems to be especially obnoxious, and that is the duty on lead. The lead mines of this country are owned by comparatively very few. They are owned for the most part by a few very rich corporations. I find no fault with them. But when the question is as to who gets the benefit of the tax and upon whom the burden falls, this may be well taken in account by our law revisers. Undoubtedly they are entitled to fair profits, but not to exorbitant gains that injure other branches of business. Considering the richness of our mines, I believe lead ore can be produced in this country as cheaply as in any other part of the world.

Let me suggest in passing that a very large proportion of this ownership is controlled, as I had occasion to say in this House two or three years ago (and what I said then has never been controverted to my knowledge), by the American Smelting Company. I have neither the time nor the desire to go into the history of that corporation; but as we have been told that there are good trusts and bad trusts, certainly there can be no question that the American Smelting Company belongs to the latter division.

Upon whom falls the burden? It falls first upon very many large manufacturing industries. The people who make telephone goods, for instance, a very great industry in this land, have to pay an additional price for their lead by reason of the tariff upon lead. Going to the other extreme, the man who puts a sink in his house and has a lead pipe to carry off the surplus water has also, to the small extent that it falls upon him, to pay an increased price for lead as a result of the tariff.

Now, there was put in the Dingley tariff (and as far as I can find out few even of those who are most emphatic in support of that law think it was wisely put in) a duty of 1½ cents per pound on lead, or $30 a ton, and 2⅛ cents, or something over $40 a ton when it appears in the shape of pig lead and other partially manufactured forms. What is the result? Lead enters largely into the uses of our great manufacturers, who are competing for the world's markets.

The manufacturer in London who uses lead in his goods, the manufacturer in Toronto who uses lead in his goods, can get it, taking an average price, for, we will say, 3½ cents per pound. The dealer who makes his goods in Buffalo or Rochester, just across the line from Toronto, the dealer who makes his goods in New York or in any other part of this country, has to pay on an average 5 cents a pound, when his competitor in Canada or in England is paying 3½ cents a pound. That imposes upon every American manufacturer who uses lead as a raw product a duty of pretty nearly 50 per cent when he comes to compete in the world's markets with other manufacturers.

Now, Mr. Chairman, I believe in the protection of American manufacturing industries. I believe in their enhancement and their growth; and I believe in assisting their enhancement and growth by legislation that will help them and not check them by legislation that will harm them, and that is why I do most sincerely hope that in the revision of the tariff we shall see a large reduction in the duty upon lead.

One other item, and then I will weary the committee no longer, because I do not believe that a great amount of time should be taken in this discussion, which is to some extent premature; but I want before closing to say a few words more about a subject that has been so often discussed in this House and in which discussions I have sometimes taken a small part. That is the duty upon hides, which is paid by the manufacturers of

boots and shoes, and also by the manufacturers of leather goods of every sort and by tanners.

I will take one branch only, the manufacturers of boots and shoes. Let us see to how large an extent a Congress that believes in protecting American industries and American manufactures, that believes in enhancing the volume of American goods to be sold in other markets, should listen to the claims of that industry. How important is that industry; how largely has it the right to ask, as it does ask, not affirmative legislation of its benefit, but at least that there shall not be imposed upon it any burdens that tend to cripple it?

Mr. SHEPPARD. May I ask the gentleman a question?

Mr. PERKINS. Oh, yes.

Mr. SHEPPARD. Is not the industry to which he now refers practically dominated by a trust?

Mr. PERKINS. The gentleman is entirely wrong. I do not know of any great industry which is more entirely free from trust control than the manufacture of boots and shoes. There are hundreds, I do not know but that there are thousands, of manufacturers of boots and shoes from the Atlantic to the Pacific, and there not only has never been a trust to control them, but there has never been any combination to control the price. In the city where I live there must be, I should say at a guess, 70 or 80 manufacturers of boots and shoes, larger or smaller, each one earning his own living by the sale of his own goods as best he may. My friend from Texas is wrong in that suggestion.

Mr. SHEPPARD. The gentleman from New York will do me the fairness to state my suggestion properly. I asked whether the industry was dominated by a trust. Now, I will ask him if the United States Leather Company is not a trust and if it does not control 75 per cent of the business?

Mr. PERKINS. That has nothing to do with the manufacture of boots and shoes.

Mr. SHEPPARD. They use hides.

Mr. PERKINS. Oh, yes; they use hides.

Mr. SHEPPARD. And you will be acting in the interest of this trust when you remove the duty on hides without at the same time removing the duty on leather.

Mr. PERKINS. Oh, I am not disturbed by any doubt that the manufacturers of boots and shoes will not get the benefit of it. Now, Mr. Chairman, that industry employs over 100,000 people. That 100,000 people probably furnish sustenance to four or five hundred thousand people. That is a large industry even in this great land, one that furnishes a livelihood to almost a half million people. It is an industry upon which it seems to me we do not want to impose any burdens that nature does not impose. If we do not protect them, whom shall we protect?

Mr. REEDER. Will the gentleman from New York yield for a suggestion?

Mr. PERKINS. Certainly.

Mr. REEDER. I should like to suggest to the gentleman that there are about three times 500,000 people in Kansas alone who are raising hides.

Mr. PERKINS. I do not profess to be an authority upon any economic question, but I sometimes can cite names which I think are recognized authorities. James G. Blaine, a good authority on protection——

Mr. KEIFER. Oh, no.

Mr. PERKINS. Sufficient to be a candidate of the Republican party for President.

Mr. KEIFER. Not many years ago he was just the other way.

Mr. PERKINS. Was he? He said in reference to this tax, what history has verified, that the tax upon hides would be for the benefit of the butcher, the man who needed it least, and the enhanced cost would fall on every man who bought shoes for himself or his children.

Mr. GARNER. Will the gentleman yield?

Mr. PERKINS. I will yield to the gentleman.

Mr. GARNER. If the burden falls upon the consumer, how would the manufacturer get the benefit if you took off the duty?

Mr. PERKINS. I do not understand the gentleman.

Mr. GARNER. The gentleman says that Mr. Blaine contended that the burden would fall on the consumer. I ask, if the burden falls on the consumer, how would the manufacturer get the benefit of the removal of the duty?

Mr. PERKINS. Because now he has to pay more for his shoes.

Mr. GARNER. How would the manufacturer get the benefit if the consumer finally pays?

Mr. PERKINS. By larger sales. The gentleman must remember always that the problem before us is not merely the sale of boots and shoes to 80,000,000 people, but to 800,000,000 people. Burdened as it is, such is the ability of American inventiveness and of American labor that boots and shoes can be made in the United States in competition with all the world, and are sold to some extent now in London, Paris, and the other great capitals, because, no matter what the price is, the American shoe is so much better a shoe than can be made anywhere else in the world that it sells, regardless of the price.

Let us give the manufacturer who by his skill is able to sell his shoes, no matter what the price is, to a certain extent, all the advantage he can have, that the American boot and shoe may be sold not only in London and Paris, but to the Chinese who live in that flowery land, and to the people of India. The possible development of the boot and shoe industry alone, I do verily believe, is of such importance that, with this duty on hides removed, its magnitude would confound us. I look forward to the time, and let Congress do all it can to hasten the time, when the boots and shoes that are now sold to 80,000,000 people will be sold in all lands, to the benefit of those who will wear them and to the profit of those who will sell them.

Mr. BANNON. Will the gentleman yield?

Mr. PERKINS. Certainly.

Mr. BANNON. The gentleman referred to a letter written by Mr. Blaine.

Mr. PERKINS. I think it was a statement.

Mr. BANNON. No; it was a letter. Is not the gentleman aware of the fact that at the time Mr. Blaine wrote that letter the value of the raw cattle hides was less than 25 per cent of what they are at the present time?

Mr. PERKINS. I do not know how that is. I do not see how it affects the question.

Mr. BANNON. If the value of the raw hide taken from a head of cattle is equal to 20 per cent of the entire value of that animal, as it is, would the gentleman from New York say that the hide was such an unimportant by-product that the farmer got no benefit from it, and that the butcher was the man who did get all the benefit? When Blaine wrote his letter hides were so cheap they might have been considered an unimportant by-product.

Mr. PERKINS. The most satisfactory way to consider these things is to consider the course of the market. We can all reason and say, for instance, that wheat ought to sell for a dollar a bushel, or for 80 cents a bushel, and prove it to our own satisfaction; but the proof is in the price at which that commodity does sell.

And we can all of us reason and say if hides go up beef goes up, and the individual seller of an individual steer on the farm is going to get something more for his steer because hides have gone up, but the course of prices for years shows what is the necessary result, I think, of any fair process of reasoning. There is not a steer in the United States market from the Atlantic to the Pacific that is raised and bred that the man may sell him for his hide. He is raised and bred to be sold for his meat. That is why we never can have a sufficient supply of hides, no matter what the demands of the boot and shoe people are. In this country, usually, where there is a demand there is also a supply, but when it comes to the demand for hides it can not be supplied. Why? Because no matter what the price is, the man is not going to raise steers simply for the hides. He will raise the number of steers that are required to be eaten that he can sell at Chicago or Kansas City to be slaughtered, those and those alone, and the result——

Mr. GRIGGS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Georgia?

Mr. PERKINS. For a question; yes.

Mr. GRIGGS. I understand the gentleman is in favor of free hides.

Mr. PERKINS. I am; yes, sir.

Mr. GRIGGS. Is he in favor of free leather?

Mr. PERKINS. Yes.

Mr. GRIGGS. And free boots and shoes?

Mr. PERKINS. Oh, yes. That does not trouble us a little bit, if we have corresponding reduction on the cost of the material.

Mr. BANNON. And is the gentleman in favor of free harness and free saddlery for the farmer?

Mr. PERKINS. Surely. [Applause.] Yes. It should be correspondingly reduced.

Mr. DAVIS. The gentleman certainly would not want to rob the producer of the hides for the benefit of the manufacturer?

Mr. PERKINS. No; and I do not think he is going to be robbed.

Mr. DAVIS. I will say I agree with the gentleman there, under existing conditions. I would ask the gentleman to devote a

little time, please, to the fact as to whether the producer of the hides reaps any benefit from the present tariff on hides.

Mr. PERKINS. I do not see that he does. I base that on figures. It seems to me that, necessarily, he can not get much benefit, because where an animal is sold by weight on the hoof the article that must control the price is necessarily the value of the chief article, which is the meat, and the by-product does not make much difference to the seller. Furthermore, let us take some statistics. For instance, in 1893—and I could take a dozen illustrations, though I have taken only two—steers sold at 6 cents a pound, and in 1893 hides sold at 9 cents a pound. Very well, those were the conditions then. I think at that time—I may be wrong—there was no duty on hides. It makes no difference. When they were selling at 9 cents a pound steers were selling at 6 cents a pound. My friend from Ohio [Mr. BANNON] suggests, if the price goes up, should not we farmers get some of the benefit? It is certainly desirable that the farmer should get all the benefit he can from anything, but we find seven years later—I think it was in 1900—that hides had gone up and there was a duty on hides, and the man that bought hides to put them into boots and shoes, instead of paying 9 cents a pound, paid 13 cents, an enhancement of almost 50 per cent, which is a great element in the cost of an article in these days of close competition and large manufactories. Where was the benefit of the seller—not of the butcher, not of Armour & Co., who, if they had any hides, sold them at 13 cents instead of at 9 cents? Where was the benefit to the farmer, in whose behalf my friend from Ohio asks the question? What was he getting? He was still getting 6 cents a pound for the steers in the markets of Chicago. The price of hides had gone from 9 to 13 cents, and the man who brought his steer there, who sold it by its weight on the hoof, got to a dollar the same price for his thousand-pound steer that he got in 1893.

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

Mr. PERKINS. I do not believe I can. I hate to seem discourteous to my friend, but my time is very short.

Mr. DOUGLAS. I was simply going to suggest that, he might have gotten less for his steer if hides had been cheaper.

Mr. PERKINS. That is all very well, but when the duty is imposed on a certain article and the question is who gets the benefit, and I find that the article on which the duty is increased has gone up 50 per cent and the butcher is still paying the raiser the same price, I am going to believe that the profit goes to the butcher. [Applause.]

Now, in this industry of boots and shoes, to illustrate how great are the problems, the duty on hides, of course, first must necessarily be paid on all the hides brought from South America. Furthermore, the result of the duty is to enhance the price of all the hides that are sold in this country, and the enhancement in the cost of hides used by the boot and shoe manufacturers, if the figures given me are correct, is approximately, we will say, $4,000,000. In other words, the representatives of one of the great industries of the country pay $4,000,000 more for the hides they must use than they would pay if there was no duty on hides.

The entire volume of the boot and shoe business is less than $300,000,000. Let us call it $300,000,000. In these days of close competition if a great manufacturing industry reaps a net profit of 5 per cent on the total volume it does well. So, if we assume the entire profit of the boot and shoe industry is $15,000,000, divided among all the innumerable manufacturers from New York to San Francisco, we are not far out of the way. We talk about protecting and building up manufacturing industries. We want to enhance the manufactures of the United States that they may grow in prosperity, that the number of their employees may be increased, and that the amount of money they can pay them may be enhanced, that their sales may go all over the world and the manufacturing supremacy of our country be assured, and on one great industry we impose as a result of one duty an additional cost which is more than 25 per cent of the entire profit of the industry. Now, Mr. Chairman, as I said before, I believe in protecting American industry, and that is the direction I hope the revision of the tariff will take. I believe that we should act with wisdom and consider upon whom falls the burden, and where it is the part of wisdom to lay the tax in the revision of the tariff. You probably can not change any duty without imposing some loss on somebody who before profited by it. The part of wisdom is to consider where shall we do the greatest good to the greatest number, where shall we make our changes so as to preserve, increase, and enhance the great manufacturing industries of the United States; where shall we place our duties so as to bring about results by which a permanent supremacy of the United States may be secured, so as to put it within the power of the manufacturers of the United States to compete from the North Pole to the South with any manufacturer from any other land.

Mr. Chairman, we have in this country natural resources that can not be equaled in any other land. We have a body of manual labor which, in industry, in intelligence, in the result of its labor, can not be equaled in any other land on which the sun shines. We have business men and those in control of business interests who, in their intelligence, in their activity, in their power to meet new problems, have not their equals in any other land. There is but one thing that can prevent the commercial supremacy of the United States increasing by leaps and bounds and lasting until long after this generation shall cease to have anything to do with the affairs of this world, and that is check it, hinder it, and repress it by unwise legislation. Such legislation I trust will not be the result of the deliberations of this Congress. [Loud applause.]

Mr. DOUGLAS and Mr. WATSON rose.

Mr. HULL of Iowa. Mr. Chairman, I yield five minutes more to the gentleman to answer such questions as he may desire.

Mr. PERKINS. I do not desire, but I am perfectly willing to do so.

Mr. DOUGLAS. I would like to ask the gentleman if he is in favor of free hides and free leather and free boots and shoes and free saddles and free harness, what is he in favor of protecting?

Mr. PERKINS. Oh, there are a thousand things.

Mr. DOUGLAS. I want to find out on what side the gentleman belongs.

Mr. PERKINS. I belong on the side that believes in building up American industries and I understand that is the Republican side.

Mr. DOUGLAS. By protection?

Mr. PERKINS. Why surely by protection, but by wise protection, not by unwise protection, not by protecting the millionaire owner of timber lands. I do not think that is wise protection.

Mr. WATSON. Would not the argument the gentleman has made in reference to hides apply with equal force to wool?

Mr. PERKINS. No; I do not think it would.

Mr. WATSON. Why?

Mr. PERKINS. It would take me an hour to discuss that question. That is a very complicated question which I have no time to talk about. When that comes up for discussion, when the bill is reported, then we can discuss the question fully. I can not answer the gentleman in two minutes, it would take an hour, and although he may differ with me in reference to hides we will probably be more nearly in accord with reference to wool than his question suggests.

Mr. MANN. Will the gentleman yield further?

Mr. PERKINS. Oh, yes.

Mr. MANN. The gentleman gave figures as to the price of hides and beef on the hoof. Will the gentleman tell us what the figures refer to and what he obtains them from?

Mr. PERKINS. Those figures I have obtained from some compilations of trade prices.

Mr. MANN. Of course, the prices of beef are so variable, not only from day to day, but every day, as to quality, unless the gentleman states what the price is for——

Mr. PERKINS. These were the average prices that were contained in some statistics that I examined—the average prices on the hoof sold in Chicago.

Mr. MANN. The gentleman is mistaken when he thinks that 6 cents is the average price at which beef is sold on the hoof at Chicago.

Mr. PERKINS. These are statistics prepared by those interested in the business. Of course I must take those second hand.

Mr. MANN. I am not questioning what the gentleman says, except to ask where the information comes from.

Mr. PERKINS. They are statistics that have been furnished in the various hearings and arguments in reference to the bills by parties in interest, and, I assume, have been substantially correct.

Mr. MANN. I wish I could find out, if it were possible, in order to ascertain whether they are correct.

Mr. BUTLER. Will the gentleman answer me a question?

Mr. PERKINS. I will if I can.

Mr. BUTLER. I am very sorry I did not hear all of the gentleman's speech.

Mr. PERKINS. The gentleman lost very little.

Mr. BUTLER. I lost a great deal, if the gentleman will allow me to have my own opinion. Will the gentleman inform the committee about how much reduction will be made in the price of shoes provided all of that duty is taken off of hides?

Mr. PERKINS. I am sure I can not even tell the gentleman, such is my ignorance about the details of the duty, not having the honor of being on the Committee on Ways and Means.

Mr. BUTLER. Did the gentleman understand my question?

Mr. PERKINS. All I have been talking about is the duty on hides and not on shoes.

Mr. BUTLER. The gentleman has not been informed of how much reduction will be made to the consumer on the shoes he may buy?

Mr. PERKINS. I am informed by a gentleman who represents the great boot and shoe industries of Massachusetts that it would be 7 to 12 cents a pair.

Mr. BUTLER. It will be reduced 7 to 12 cents?

Mr. PERKINS. I yield to the gentleman from Massachusetts [Mr. TIRRELL] to answer the question.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEIFER. I would like to answer that question.

Mr. HAY. Mr. Chairman, I yield thirty minutes to the gentleman from Tennessee [Mr. GAINES].

Mr. GAINES of Tennessee. Mr. Chairman, for the last five or six years, as the debates of the House show, Congress has had to deal incidentally, if not directly, with the trouble that has grown out of possibly a faulty patent law, or the practice that obtains about patents that are procured by officers and employees of the Federal Government when they are working in the line of duty, and are directed to investigate a particular subject, and make a discovery as a result of that investigation, and patent it in their own name and claim it as their own property.

The particular patent which I have in mind is what is known as the "smokeless-powder patent." There are several others of this class. The complications that have arisen as a result of private parties claiming this powder patent caused Congress to pass a resolution, in the Fifty-ninth Congress, directing the Department of Commerce and Labor to investigate the subject and report thereon.

I called at the department a day or two ago to get the report, and the obliging law officer of the department informed me that the Committee on Patents sent for his report before he had finished all of it, but the part that refers to the issuance of patents to employees, and so forth, is complete, and I hold it in my hand. The resolution reads:

Joint resolution directing the Secretary of Commerce and Labor to investigate and report to Congress concerning existing patents granted to officers and employees of the Government in certain cases.

Resolved, etc., That the Secretary of Commerce and Labor be, and he is hereby, directed to investigate and report to the Congress what existing patents have been granted to officers or employees of the Government of the United States upon inventions, discoveries, or processes of manufacture or production upon articles used by the Government of the United States.

Now, that is one proposition which is answered. The department has reported on that. The next is:

And how and to what extent such patents enhance the cost or otherwise interfere with the use by the Government of articles or processes so patented, and shall also report what royalties, if any, have been paid to officers or employees of the Government on any articles or processes patented.

Approved, February 18, 1907.

No report made on that portion of the resolution.

I hope I will be able to show before I conclude the importance of Congress dealing with this matter by legislation, and possibly otherwise. I shall deal with it generally. You will remember that last session of this Congress passed a bill allowing parties "hereafter" to sue the Government when the Government uses their patents. I voted against the bill, because I knew of this smokeless-powder patent trouble, and other similar cases, and I was afraid it did not protect the Government sufficiently.

Of course, if the Government takes or uses a man's property it ought to pay for it, but the question in this case is, Whose property is the patent? Is it the employee's or officer's, under certain circumstances, or is it the Government's?

Now, to show you that there is something wrong either in this bill Congress passed last session or somewhere else, the President stuck that bill in his pocket—gave it a "pocket veto"—although Congress passed it. I cite this for what it is worth. I do not know why he did not approve it. I understand he says nothing about it in any of his messages. I would be glad to have all his reasons for vetoing that bill.

Gentlemen, the main purpose of my discussion to-day is to bring sharply to your attention the law on this subject, so that we may know to-morrow more than we do to-day as to what the rights of the Government are and what the rights of the employees and officers are while in the line of duty, under special directions to improve on an article, they make a discovery. I hold in my hand the opinion of the Court of Claims in the case of Solomons *v.* The United States.

The judgment in this case was affirmed by the Supreme Court of the United States in an opinion written by Justice Brewer, and found in One hundred and thirty-seventh United States Report, page 345, here on my desk. I will read the syllabus, Mr. Chairman, of the opinion, so as to be exact, hoping that my remarks shall be educational, if nothing else:

I. Where an officer is properly assigned to the task of devising an instrument, implement, or subject of manufacture for the public service, the Government bearing the expenses incidental to the invention, the officer continuing to receive his salary, a presumption of implied contract does not arise, and no action to recover a royalty can be maintained.

II. The fact that the invention was made by the officer before he was assigned to the task of devising one does not take the case out of the foregoing principle, if the cost of perfecting it was borne by the Government, the work being done in the bureau of which he was chief and by workmen under his control.

III. Where an officer is assigned to the duty of selecting a thing for public use he owes the utmost good faith to the Government, which is entitled to his unbiased judgment.

IV. An officer occupying a position of public trust is, in the matter of the selection of a thing to be used in the public service, a guardian of the public welfare. It would be contrary to public policy and to the principle which governs the transactions of guardian and ward, or of trustee and cestui que trust, to allow him to take advantage of the trust. In such cases the law does not imply a contract.

* * * * * * *

VI. Though the Government may not obtain a monopoly of an invention made by one of its officers in its service, nor a right to share in the profits, or exclude other persons from the use of it, nevertheless it may acquire the right to manufacture and use without liability to the inventor.

In that case Soloman was employed to make an internal-revenue stamp. He produced one he had previously made while chief of the bureau, which he had "perfected by the means and appliances of the Revenue Department." He got a patent on it, and he or his assigns sued the Government for a royalty. The Government won in all the courts. Judge Nott, of the Court of Claims, the first time this case was tried, said:

In the case of Burns (12 Wall., 246) the Supreme Court said: "If an officer in the military service, not specially employed to make experiments with a view to suggest improvements, devises a new and valuable improvement in arms, tents, or any other kind of war material, he is entitled to the benefit of it."

The alternative which the Supreme Court suggested seems to be presented by the present case. Here an officer of the Government in the civil government was "especially employed to make experiments with a view to suggest improvements."

Now, in the smokeless-powder matter, an officer was "specially employed" to experiment with this powder and improve on it. He was given by the Government everything he needed or desired to do the work. He discovered the smokeless-powder process and obtained a patent on that process.

Now, that man was Professor Munroe, who had been professor of chemistry at the Naval Academy for twelve years. He was succeeded afterwards by another member of the navy.

The Supreme Court of the United States (137 U. S. R., 346). passing upon the Soloman case, said:

An employee performing all the duties assigned to him in his department of service, may exercise his inventive faculties in any direction he chooses, with the assurance that whatever invention he may thus conceive and perfect is his individual property. There is no difference between the Government and any other employer in this respect.

But this general rule is subject to these limitations:

If one is employed to devise or perfect an instrument, or a means for accomplishing a prescribed result, he can not, after successfully accomplishing the work for which he was employed, plead title thereto as against his employer. That which he has been employed and paid to accomplish becomes, when accomplished, the property of his employer.

Whatever rights as an individual he may have had in and to his inventive powers and that which they are able to accomplish he has sold in advance to his employer.

So, also, when one is in the employ of another in a certain line of work, and devises an improved method or instrument for doing that work, and uses the property of his employer and the services of other employees to develop and put in practical form his invention, and explicitly assents to the use by his employer of such invention, a jury or a court trying the facts is warranted in finding that he has so far recognized the obligations of service flowing from his employment and the benefits resulting from his use of the property and the assistance of the coemployees of his employer as to have given to such employer an irrevocable license to use such invention.

There are later similar opinions, but Members can see the point from these opinions and as applicable to the facts set out in the report of the Department of Commerce and Labor on this subject, from which I quote the following:

Smokeless powder (navy).—Prof. Charles E. Munroe, John B. Bernadou, commander, U. S. Navy, and George A. Converse, rear-admiral, U. S. Navy, retired, were connected with the development of smokeless powder in the navy. Professor Munroe received patent No. 489684 for explosive powder and process for making same; to Bernadou and Converse were granted patents Nos. 550472 upon a process of making nitrocellulose powders; 551306 upon apparatus for making explosives; to Bernadou, patents Nos. 586586 upon smokeless powder and process of same; 652455, process of making smokeless powder; 652505 smokeless powder; 673377, colloid explosive and process of making same. As it appears from the reports of the Secretary of the Navy that these patents were the results of experiments conducted by these officers at the United States torpedo station, Goat Island, Newport, R. I., a somewhat detailed investigation has been made of their development.

* * * * * * *

The work undertaken at the torpedo station in this connection was to discover a powder which would be practically smokeless and which would be entirely consumed in the course of explosion, and in addition to this give a muzzle velocity as great and an internal pressure no greater than that of gunpowder.

Commander Goodrich was in charge of the station when this work began and he was succeeded by Commander Jewell. The work progressed under Goodrich during 1887, 1888, and 1889.
report of 1890, Commander Jewell, in charge of the station, discussed

The results of the work at the torpedo station up to this point are covered by patent No. 489684, granted to Prof. Charles E. Munroe for explosive powder and process for making same, dated January 10, 1893. Professor Munroe states that at the time of taking out this patent he requested the Chief of Ordnance to secure the patent covering the discoveries which had been made at the torpedo station up to this time, in order to protect the Government in this pioneer development of the subject in America. That officer declined to take this action, whereupon Professor Munroe took out the patent himself, with this end in view.

The torpedo station passed under the command of Commander George A. Converse, U. S. Navy, and upon the resignation of Professor Munroe, who had been in charge of the chemical laboratory for seven years, Lieutenant Bernadou took active charge of the experimental work.

These patents, says the department, representing the success of the work at the government experiment station, the licenses to the Government to manufacture thereunder in consideration of sums ranging from $1 to $120, and the sale of the title to the patents to private manufacturers, are dated just on the eve of the introduction of smokeless powder into the army and navy and its appearance among powder manufacturers as an item of great economic value. He says:

"Several private firms in the United States have indicated their willingness to undertake the manufacture of smokeless powder on the specifications prepared by the department, and contracts for this purpose will be shortly made."

In 1897 the Secretary of the Navy estimated that it would require $6,500,000 to at once refill all the vessels of the Navy with smokeless powder.

In reference to the amount of royalty or other profit accruing to the three individuals who received the patents hereinbefore described, based upon the experimental work at the torpedo station, Prof. Charles E. Munroe states that the pioneer patent taken out in his name was applied for solely for the purpose of protecting the Government in the use of the discoveries made at the experiment station, and he has never received any royalty or remuneration whatsoever other than his salary while in charge of the work.

Commander John B. Bernadou, U. S. Navy, states that he received the sum of $1 in the case of each patent from the Navy Department in payment for the assignment to the Navy Department of a license to use the patent (the records of the Patent Office show that this sum ranged from $1 to $120); that he benefited by the proceeds of the sale or assignment to a private individual of rights outside of those held by the Government; that said sales were outright and contained no stipulation for the payment of a specified sum per amount of powder manufactured; that Rear-Admiral George A. Converse, U. S. Navy, was associated with him in the development of some of the steps in the manufacture of smokeless powder, and followed his guidance in the matter of the sales of patents, receiving such share of the proceeds as Bernadou deemed him entitled to; that he has acted independently in this matter, and has no relations with other patents or persons in connection therewith; that he was told that two other officers were urging the private sale, but he did not see what they had to do with the matter; that he was asked to give part of the proceeds from the sale of the patent to another officer, which he refused to do, as he did not see what that officer had to do with the matter; that the Navy Department has used these patents for many years, and that he has been told, and has reason to believe, that they are now being used by the War Department and have been for some time.

Rear-Admiral George A. Converse, U. S. Navy, states that the patents on smokeless powder were taken out in order to protect the interests of the Government in the processes and machinery originated and developed at the station; that, with the consent of the Navy Department and under the provision of the act of March 3, 1893, the Bureau of Ordnance took out the patents in the name of Bernadou and himself; that a free license to manufacture or have manufactured, in any private factory it might designate, all powder required for the use of the naval service was granted to the Navy Department. The act of March 3, 1893 (27 Stat. L., 731), referred to, permitted "the purchase of, or payment for, the right to use and employ such patented processes or to manufacture and use such patented devices, apparatus, models, and designs as may, in the judgment of the Secretary of the Navy, be necessary or desirable to increase the efficiency of the armor and armament for naval vessels." Rear-Admiral Converse further states as follows:

"No profits accrued to me during the time that I retained an interest in the patents. No product has been sold to the Government, or machines used in the manufacture of such product, since I disposed of my interest in the patents. To the best of my knowledge and belief, no powder manufactured under these patents has ever been furnished to the army."

With reference to this statement, it appears from the statement of Admiral Converse's copatentee and the records of the Patent Office that the profits accruing to the patentees came from the purchase money derived from the sale to Charles A. Rutter, who transferred the patent to the International Smokeless Powder and Dynamite Company. It will be noted, also, that Commander Bernadou believes that powders covered by these patents have been manufactured for the army.

With reference to the two patents to Bernadou and Converse, Nos. 550472 and 551306, the Bureau of Ordnance states that the latter was used for two years at the torpedo station and one year by the E. I. du Pont Company. The only other patent out of the total number granted upon smokeless powder which the Bureau of Ordnance reports as having been used is No. 586586, to John B. Bernadou, which was used for two years at the torpedo station, and with reference to this patent the patentee states that it is the principal one of the entire list and was developed by him alone. The somewhat conflicting statements of the inventors and of the Bureau of Ordnance with relation to the extent to which the various patents have been employed might be explained by the fact that the whole subject was in the formative period of development; that the methods were being rapidly improved and new processes substituted in such a manner as to make it almost impossible to decide precisely the extent of the use of any one process.

I call your attention to these words of the department:

From a general study of the whole process of development, however, it seems reasonably certain that the progress in the art and the practical employment of the art and the practical employment of the various formulas are all based directly upon the experiment done at the torpedo station under the direction of the Navy Department.

Mr. Chairman, under these circumstances certain members of the navy have taken patents out in their own name and then sold them to outsiders, and these outsiders have sold these patents to what is known as the "powder trust." Now, then, what are the rights of the patentee? He is entitled to own a patent under the law. I do not mean to say that these gentlemen have done anything morally wrong. I am not going to discuss the question of morals; I am talking about the law side of the case.

Now, we are confronted with this trouble: When the Secretary of the Navy or the Secretary of War invites bids for the making of smokeless powder, no one but the "powder trust" can bid, because they alone control the patents by which process this powder must be made. That is a condition the Government is in.

Mr. BURTON of Delaware. Will the gentleman permit me to interrupt him?

Mr. GAINES of Tennessee. Certainly.

Mr. BURTON of Delaware. I understood you to say that from your reading of the law on the subject that the party in whose employ the inventor was had a license to use that invention.

Mr. GAINES of Tennessee. It is a question whether or not the employer owns the right or patent entirely, or the person or employee who discovers the process owns it, and simply gives a license to his employer—the Government.

Mr. BURTON of Delaware. To whom was the patent granted?

Mr. GAINES of Tennessee. The first patent was granted to Professor Munroe. He asked the department to take out a patent to protect the department, and the department would not do it, and he did it himself. Later, there were two other patentees—navy men.

Mr. BURTON of Delaware. Was it granted in Munroe's name?

Mr. GAINES of Tennessee. Granted in his name.

Mr. BURTON of Delaware. Was not that, then, the fault of the Commissioner of Patents in granting the patent?

Mr. GAINES of Tennessee. With the lights before me, I will say to the gentleman that the question is an open question, hence I am discussing it here to-day. I am trying to get Congress to pass a statute on the subject to protect the Government under these circumstances, and to protect the navy, our officers and employees—define the rights of the individual.

Mr. BURTON of Delaware. Has not the Government always used any of these patents at its pleasure free of charge?

Mr. GAINES of Tennessee. By grace, I would say, and not as a legal right, I think. These navy men have given the Government the use of this, to make powder for the Navy Department only. They do not even go so far as to let them use it for the War Department. That shows they claim title.

Mr. BURTON of Delaware. You say they have been allowed to use it by grace?

Mr. GAINES of Tennessee. Yes.

Mr. BURTON of Delaware. Then, so far as you know, the question has never arisen as to whether they have a legal right, because it was not necessary.

Mr. GAINES of Tennessee. The courts have never passed on these particular cases. The Attorney-General has not even been asked to pass an opinion upon it, says General Crozier. The Judiciary Committee of the House or Senate have never passed upon it—everything is in the air, so to speak—but these gentlemen have taken the patents in their own names and gone and sold them to outside parties, and when the Government wants to make powder the only outside parties that can bid on it and can come up to the requirements are the parties to whom these patentees have sold their patents, so that the thirty or forty independent powder makers of the United States can not compete, because they have not the patents.

The powder trust has them and holds them as their private property.

Mr. BURTON of Delaware. As I understand, the patentee has sold the rights that were granted to him by the regular authorities.

Mr. GAINES of Tennessee. Yes; the Patent Commissioner.

Mr. BURTON of Delaware. And that has not been called into question—his right to sell that?

Mr. GAINES of Tennessee. No; not in the courts nor in the Department of Justice nor elsewhere, to my knowledge, except in Congress in debate. If the bill which the President stuck in his pocket had become law, the question would have soon, perhaps, been in the courts.

These patentees were directed to experiment to discover—they discovered these processes. These decisions and others I have read show that the patents belong to the Government.

I think that Congress put up the laboratory. The department directed them specifically to experiment with some powder samples and improve on them. They did experiment and did discover improvements, and patented them. Now, if these patents belong to the Government, then Bernadou and Converse, who made the discovery, had no right to sell them to the powder trust or to anyone else.

Mr. HARDY. Is not the Government estopped by the acts of the Patent Commissioner issuing these patents to these parties?

Mr. GAINES of Tennessee. Well, that question I can not answer. I am not a patent lawyer. If estopped, the Government could reply, perhaps, fraud.

Mr. HARDY. The plain doctrine of estoppel would apply.

Mr. GAINES of Tennessee. I want to say that Professor Munroe asked the government authorities to take out a patent for the Government, but it was not done. The authorities declined to take action, whereupon Professor Munroe took out the patent with this end in view—protecting the Government.

Mr. Chairman, I do not care to make a speech; I am bringing this important matter before Congress. I want the facts bare and plain to Congress. These facts are important in a number of ways. We are enlarging our powder factory.

Mr. HARDY. Will the gentleman yield again?

Mr. GAINES of Tennessee. I will yield to the gentleman.

Mr. HARDY. Would not the proper practical suggestion be to direct that where a discovery was made by an officer in the employ of the Government in the pursuit of experiment, that the Government in that case should be prohibited from issuing a patent to anybody?

Mr. GAINES of Tennessee. Except perhaps to protect the Government and the people, who, after all, bear the burden. I will tell you what Secretary Wilson does—that splendid old Scotchman. The rule that he made in his department is that when one of the employees of the Agricultural Department discovers anything, he shall turn it over to his department for the Government and the people, and it is done. Here is a list of some of the things, says the Department of Commerce and Labor in this report, that have been patented in his department:

Apparatus for determining water in butter.
Serum for prevention and treatment of hog cholera.
Method of extracting potash from feldspathic rock.
Naturalist's camera.
Sampling machine.
Apparatus for determining the moisture in grain.
Hand blotter.
Seed-packet filler.
Nitroculture germs.
Loose-leaf files.
Labels for inspected meats.
Wireless telegraph, about which there are some complications.

Now, nearly all of these have been turned over to his department under this rule, based upon the act of 1883. I presume he thinks that when they discover in the line of duty—taking up the government time, opportunity, and money—that the fruits of their labor belong to the public, and he requires them to turn the whole thing over for the benefit of the public. I read from this report:

On March 3, 1883, the Congress enacted into law a provision that if an employee of the Government would dedicate the free use of his invention to the Government—the people of the United States—a patent would be issued to him without the payment of fees. As this provision cuts off all hope of remuneration from the patent, both from its use by the Government and the public, the inventors in the government service have not generally resorted to it. This law is, in form, merely permissive, but the Secretary of Agriculture has attempted to make it compulsory in his department by his general order of May 8, 1905, in which he requires employees making useful discoveries or inventions connected with the work of the department, through the expenditure of government time and government money, to cause the patent to be applied for through the law officer of the department under the terms of this act.

Now, you see what Mr. Wilson has done, and you will observe that a number of these patents are useful.

Now, Congress was, in 1898, driven to put up a powder factory at Indianhead. We made an appropriation ($250,000) here a few days ago to enlarge that plant, and General Crozier (for the War Department) is calling for $175,000 to enlarge the one authorized in 1906 at Sandy Hook. The War Department, under the license given by the navy officers, could not use these patents at Sandy Hook. The letter of Rear-Admiral Mason, Chief of the Bureau of Ordnance, states that the wording of the license precludes the use of the patent for the War Department. It is in reply to Senator PERKINS.

Rear-Admiral Mason says:

From this wording the patent can not be used by any other department of the Government than the Navy Department.

UNITED STATES SENATE,
COMMITTEE ON NAVAL AFFAIRS,
Washington, D. C., March 21, 1906.

Rear-Admiral N. E. MASON, U. S. Navy,
Chief Bureau of Ordnance, Navy Department.

DEAR ADMIRAL: Will you kindly inform me what consideration, if any, our Government paid for the licenses to manufacture smokeless powder for the Navy Department under patents 673377, 652455, and 652505?

May I also ask if, in your opinion, our Government has the right to use the formulæ contained in these patents in manufacturing smokeless powder under the license named for any branch of the Government other than the Navy Department?

Thanking you in advance for your reply by the bearer, I remain,
Very truly, yours,

GEO. C. PERKINS,
United States Senate.

Rear-Admiral Mason replied as follows:

DEPARTMENT OF THE NAVY,
BUREAU OF ORDNANCE,
Washington, D. C., March 21, 1906.

SIR: Replying to yours of March 21, 1906, relative to letters patent Nos. 673377, 652455, and 652505, covering processes for the manufacture of smokeless powder:

1. The bureau has to inform you that the licenses to manufacture smokeless powder under the three licenses mentioned in your letter were made to the Bureau of Ordnance, Navy Department, for a nominal consideration of $1 each.

2. These licenses are to the Bureau of Ordnance, Navy Department, only, and state they can be used for the purposes of the United States Naval Powder Works at Indianhead, Md., or at any other works that may hereafter be built by the Navy Department of the United States.

3. From this wording, it is the opinion of the bureau that the patents could not be used by any other department of the Government than the Navy Department.

Respectfully,

N. E. MASON,
Chief of Bureau of Ordnance.

Hon. GEORGE C. PERKINS, U. S. S.
United States Senate, Washington, D. C.

Now, in 1906 the appropriation was made for the War Department powder plant. That department seems to have got some sort of a process by which it now makes 300,000 pounds of smokeless powder. They ask now for $175,000 to enlarge the plant to make it a war-capacity plant. The Navy Department asks for the navy plant $250,000, to raise that up to a war-capacity plant—all to relieve from high prices and meet emergencies. There was a board of army officers, whose report I find here in this House document of 1906, composed of Major-General Story, Brigadier-General Crozier, Brigadier-General Mackenzie, and others which, in concluding its recommendation about preparations for war, say:

The present capacity of the plant would not be sufficient in time of war.

That was in 1906 or 1907, and General Crozier stated the same thing in substance to the Senate committee. He also came last year and asked the Appropriations Committee for $175,000 to bring the war plant up to a war basis. He comes this year and asks the committee to give him $175,000 to bring it up to a war standard. He states that the recommendations of the war board are that we must have a large amount of "reserve powder," a reserve for war and not for peace, and that it will take some six or seven years to get that amount of war powder, and possibly longer. Hence he asks for the capacity of the powder plants to be enlarged. Gentlemen, you have either got to drive the Government of the United States into making all of its powder at its government powder plants or you have got to do something with this smokeless-powder patent, because the other powder manufacturers say that they can not bid because they have no patent, it being owned by the powder trust.

Now, then, Mr. Chairman, what is the powder trust? I propose to say what I have to say, not simply because I do not agree with the manner in which the politics of that concern are run. Not a bit; I have no malice in the matter whatever. I am working for the benefit of my country, and when I think I can not in good faith do that I will not only close my mouth, but I shall beat a retreat. What does General Crozier say? He says that—

There is no competition between these four companies. They all supply powder at the same price. There has been no competition between them for a couple of years at least.

That was in 1906 or 1907.

That is, you advertise for bids and all the bids are alike?

Senator Allison asked General Crozier that question and he replied "Yes." Then Senator Allison says, "At the same price?" And General Crozier answered "Yes." Further along General Crozier says that the navy has a powder manufactory at Indianhead, down the Potomac River about 22 miles, but that the army has none.

Now, Mr. Chairman, we have built the army factory. We have just got it to work. It was ordered built in 1906—a little slow. It takes "seven months after powder is made before you

can use it," says General Crozier. Here is the war board and here is General Crozier and his aids calling for an increase in the actual output of powder, and they are calling for an increased capacity at our plants, and yet they are required to make the powder by those patents in the Navy Department, and not in the War Department, and no outsider can bid. Perhaps the Du Pont powder concern permits them to use their patent at the war plant because they get the bids; they furnish our powder, save what we make. It is very difficult to find out how much powder we use. I believe I will ask the gentleman from Iowa who is in charge of this bill how much powder the army uses.

Mr. HULL of Iowa. I can tell the gentleman when I get the hearings how much we appropriate for. I can not give the gentleman what is used in the Artillery Corps, which is in another bill. I think there are about 3,500,000 pounds of powder used, but I may be entirely mistaken on that.

Mr. GAINES of Tennessee. I have industriously sought to find out.

Mr. HULL of Iowa. I will give the gentleman that information when we reach that point of the bill.

Mr. GAINES of Tennessee. Here is what General Crozier says——

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

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

The CHAIRMAN. Is there objection?

There was no objection.

Mr. REEDER. Mr. Chairman, I desire to occupy the time allotted to me in discussing a matter which I regard as of very much importance to the Nation, and a matter that I do not believe is receiving deserved attention at the hands of this House. My connection with irrigation has brought to my attention the subject which I propose to discuss this afternoon, and I have been working incessantly upon the same since the passage of the national irrigation law in 1902. I realize we will probably not be able to pass a bill this Congress that will enact the desired regulation into a law. I had counted that public opinion and the innate rightness of the proposition had convinced the Members of the House so that if the matter I am going to speak of was brought before them we would have no difficulty in presenting it to the House nor in obtaining the votes necessary to secure its passage, but I find that the Members have so many things they are interested in personally, and that there are so many other matters which the House must take care of at once that they do not have time to give attention to matters which are not pressing for immediate consideration.

This, without doubt, is the reason the matter has not impressed itself upon the minds of the Members of the House as it has upon me. The point I have been trying to make is to save the funds that were so generously granted by Congress for the purpose of making homes from our desert lands in the West, and to retain the rough portion of the timber lands of the Nation for perpetual use in the growth of forests. With these two very important objects in view, important because they lie right at and form a part of the foundation of our future welfare and greatness as a nation, and because the effects will reach so far into the future, I introduced a bill soon after the passage of the national irrigation law, which was referred to the Committee on Irrigation, and the reference changed the next morning to another committee, where it yet sleeps the sleep of the just. Again I introduced the bill at the opening of the Sixtieth Congress, when it was again referred to the Committee on Irrigation, considered and reported by this committee to the House, and it is now on the calendar. I am not saying that under the circumstances it should be considered.

But, owing to the fact that many of the Members have not given the subject sufficient consideration to regard it as important, and others fear it can not receive proper consideration with so many other matters which must be looked after, leaves little hope that it can reasonably receive attention at this session. This does not, however, detract from the importance of the subject, but rather furnishes an additional reason that the subject should be speedily and thoroughly agitated. Matters of minor importance sometimes demand immediate attention, while matters of vastly greater importance, the effects of which will be felt only in the future, are often temporarily set aside.

Some Members of the House who know well in regard to the matter I desire to have considered have constituents who are interested in seeing that a law such as I have been proposing be not adopted. These constituents are personally interested, and I am not blaming them for their interest, nor do I blame the Members for catering to some extent to the wishes of such constituents. I may add that in almost every section the public conscience to an extent is made up and governed by the interests of that particular section. In fact, I have heard it stated there is in the West such a thing as what we may call "public-land conscience." I have lived in the West for a great many years and I am inclined to think that such a conscience is prevalent there. I am also convinced that those persons who have taken or desire to take advantage of the laws in regard to timber on the public domain in the West are not so different from the rest of us as one might imagine, and I cite you to my friend, the Senator from South Carolina, and to myself, for I am perfectly free to say that if I were in the timber section of the West and could acquire a quarter section of that timber land for $400, which could be sold for $4,000 to $6,000, I would secure it.

So I insist I am not laying any particular blame in the matter to anyone. There is no question but what if I could have presented this bill to the House and had the support of those who have no interest except the good of all for the future, it would have received favorable consideration and have become a law by a large majority. Then the question arises, if I have been working on this matter for four or five years, why should not I have publicly called the attention of the House to it before? I answer this by saying I have felt sure that public opinion in the United States upon the question was such that everybody was convinced of the advisability of this legislation. Almost every great gathering of people in the United States in different conventions for the past four or five years, and especially the great manufacturers' association that has met in Washington once or twice recently, have emphatically indorsed the proposition, as have nearly all the other great organizations in their conventions, and I am surprised, especially when considering what my friend from New York [Mr. PERKINS] has said this afternoon in favor of this proposition, that the impression is not strong enough in the House to bring it before the House, as well as to carry it through. The most fatal mistake that has been made by nations in ages past has been the improper distribution of land. Nations have tottered and fallen because of this improper distribution of their lands. I am not sure but that the land policy, which has been in vogue so long that we scarcely question it, is fundamentally wrong.

That is property in land or property in the soil. This may be fundamentally wrong. The sustenance of all must come from this soil, and I am very doubtful whether there should be laws which will permit a monopoly of that which God has given us and made necessary to the sustenance of every human being. I believe England's greatest weakness to-day is her land distribution. The fall of Rome was largely due to the same cause. But when nations fall, whatever may be the cause, people can still utilize the soil. This is not true, however, when the forests are destroyed. Then come desolation and depopulation. Smiling plenty becomes a desert. The gentleman from New York [Mr. PERKINS], while speaking this afternoon, referred to forest destruction in different parts of the world and stated that for this reason these countries had actually become uninhabitable. There is no question but that when forests are destroyed the soil is washed from the hillsides and the country becomes uninhabitable. I cite you to Palestine and Manchuria. Manchuria lies near one of the most densely populated parts of the world; and yet it has become practically uninhabited, because they have destroyed their forests. We are showing a great deal of ability in this Nation of ours to improve the great opportunities that we enjoy. I do not think that any people on earth at any time in the past has had such an opportunity to build a great nation, and we are showing our ability to utilize these opportunities by early realizing our necessity for frugality in their use—as we have.

I wish now to advert for a few moments to the Forest Service of our country. There is a complaint in the western section of this country to-day that the Forest Service is infringing on the rights of the people. This is not true. Our Forest Service is one of those beneficent moves which show our ability to look forward before we have largely destroyed our opportunity for effectual work in caring for our forests as have other nations in their treatment of forest problems.

For instance, our sister Republic, France, noted for the frugality and foresight of her citizens, did neglect this important matter so long that now she is endeavoring to repair the waste by the use of $40,000,000 directly from her treasury to stop the soil waste occasioned by just such a cutting of the forest as we have had under our timber and stone law, lieu-land scrip, and so forth.

They are even using cement on their hillsides in places to prevent further erosion of the soil.

Yet some of our wise legislators say that reckless cutting of the timber, with careless strewing of the ground with limbs

and refuse, which causes fires to destroy all young trees and other forest cover, does not accelerate soil washing from the hillsides.

I purpose trying to show you that the Forest Service is treating the people of the West with absolute fairness. I believe I will first cite you to the report of the Chief Forester to show that this is true.

This report shows that citizens, schools, and churches in the neighborhood of a forest reserve are permitted to have whatever timber they may need for their own use, and in 1908 30,714 private permits were granted for 131,582,000 feet of boards, valued at $168,720. The increase in these privileges, as the people come to understand them, is shown by comparison with the year 1907, when only 63,000,000 feet of lumber, valued at $75,000, was given away to people within the neighborhood of the reserves.

The same classes of people—that is, settlers living on or adjacent to the reserves, prospectors, campers, and travelers—are allowed free grazing for 10 head of milch cows or the same number of horses or other work animals, and those who purchase timber are given the same privilege for the horses needed in their work. In Arizona and New Mexico 30 goats may be grazed free upon the public domain by any family.

The total receipts from timber sales each year have been, as follows: 1905, $60,136.62; 1906, $245,013.49; 1907, $668,813.12; 1908, $849,027.24.

In making timber sales the Forest Service seeks small in preference to large sales, and aims to safeguard a supply for future needs rather than to swell the immediate receipts. Were it desired, the present receipts from timber sales could be quickly doubled. During the year it was found necessary in the interest of a continued supply to restrict the sales on many forests. Nevertheless, use of the national forests as a source of timber supply was more general than ever before.

In classifying sales as large or small a sale means, of course, the total amount of timber disposed of under a single contract, not the amount covered by each cash payment made under the terms of a contract.

The minimum price set has often been higher than the prevailing local price of stumpage. In fixing this minimum price the Forest Service has had in view the following principles:

(1) The Government must not take advantage of local needs to exact a monopoly price.

(2) The Government must act as a trustee in the interest of the public to prevent undue depletion of a necessity of life which can not be replenished without long delay.

(3) A reasonable price for national forest stumpage must be fixed primarily in the light of general conditions, but with due allowance for local factors. The national forests exist not for the sake of revenue to the Government, but for the sake of the welfare of the public. The timber-sale business is managed to give stability to industry and promote the upbuilding of the country.

Care is also taken to protect the public from monopoly prices which purchasers of national forest timber in large quantities might be in position to charge. The fullest possible competition is secured through the advertisement of sales, but the Forest Service reserves and liberally exercises the right to refuse sales to would-be purchasers when the interest of the consumer of lumber will be better served by such action. Sales of more than $500 worth of lumber may be awarded to two or more bidders if this will tend to prevent monopoly, and several were so divided during the past year.

To avoid overcutting, the approximate annual yield of each forest has been computed. Sales are regulated in the light of this yearly increment and prospective local needs. Where the stand is limited and the local demand for domestic and noncommercial purposes is great, no sales are made; the timber is reserved for free use. Where the supply of timber is more plentiful, but needed for the support of local industries or the development of near-by communities, an amount not to exceed the annual yield of the forest may be sold. On forests where the annual yield allows a sufficient surplus over the amount needed locally, sales are made to supply the general market, in order that the removal of mature, defective, and dying or dead trees may open room for a new and more vigorous growth.

In the administration of our forests, as compared with the forests of the world, we are expending at present 1½ cents an acre for the protection and care of our forests. We are receiving from our forests about 1 cent an acre per annum. I wish to compare these receipts and expenditures with those of our sister Republic, Switzerland, a country which is giving the best care, I believe, of any nation in the world to its forests. Switzerland is spending about $4 an acre for the care of her forests each year, and is selling about $9 worth of products therefrom. That is $5 per acre of clear gain annually, and these forests are growing upon rough mountain land, such as this bill would retain to our Government. If we did as well with our forests we could thus clear enough to pay the expenses of this great Government of ours without even selling a postage stamp or collecting any tariff. But to secure this $9 per acre the Swiss expend annually $4 per acre where we are laying out 1½ cents per acre annually. Their property is improved. You can not expect to get from wild lands the profit which a highly improved forest will give. But we will work along and will some time come to this point ourselves, without doubt.

Mr. HARDWICK. Mr. Chairman, I find the gentleman very much in favor of the present foresty policy of the Government. I would like to inquire if the gentleman would also be in favor of extending the Forestry Service throughout the country?

Mr. REEDER. Yes, sir; and I propose discussing the subject my friend, Mr. HARDWICK, is interested in, the White Mountain and Appalachian forest reserves, later.

Mr. HARDWICK. I will be very glad to have the gentleman do that.

Mr. REEDER. Mr. Chairman, I am taking this opportunity to call the attention of the House to a bill for securing a fair value for timber sold from the public domain, and, as I have said before, I am not especially faulting anyone because of the probability that the matter will not come before Congress for consideration at this term. I introduced a bill of this kind six years ago, and I have been doing my best to get it reported from a committee since. Probably the difficulty is that not enough has been done toward creating a public sentiment here in the House in favor of such legislation. I have now succeeded, however, in getting it reported from the Committee on Irrigation, and while I do not now hope to see it come before the House for consideration this session, because of the impossibility of considering bills now that will require time for extended discussion and also get through routine business that must be given attention before March 4, yet I hope to see such a bill become a law while it will save of the government domain a few million acres of rough lands for future forest growth. The object of the bill is to repeal the timber and stone act, and yet do nothing that will encroach on the rights of another important committee of this House, the Commitee on Public Lands; so we provide that we may sell the timber in the States covered by the law of 1902 only where it is within the public domain and is worth more than $2.50 an acre, and at an appraised value, hoping thus to get something near its value, and we base our rights to consider it on the fact that the money received from this sale of timber goes into the irrigation fund by a law already on our statute books.

The fact is, if such a bill had become a law when the national irrigation law passed in 1902 the national irrigation fund would be vastly increased, and such increase would not have cost the Government a cent. It would simply have been a saving from the sale of timber. In addition to this, a most important thing would have occurred, and that is, that the rough lands, and all the lands in fact, would remain in the hands of the Government. And between the time that that bill was first introduced, six years ago, and now, we would have about seven or eight million acres of land yet in the possession of the United States which is now in the hands of speculators. They did not want the land. They did not buy the timber to get the land. They bought it to get the lumber. They have gotten the timber and probably have largely disposed of it. If we could have that six or seven millions of acres, we would have given to homesteaders all that is suitable for cultivation and retained that which is too rough to cultivate to grow timber on continuously, and thus augment future timber supplies, hold back floods, preserve water power, and conserve water for irrigation at no cost, but at an actual profit to the Government. And I desire to say to those people who are interested in the Appalachian and White Mountain forest reserves, you can readily see what position we will be placed in in the future if for lack of public ownership, which we can now retain at a profit, the destruction in the western country occurs as the private ownership of the Appalachian and White Mountain forests is causing that section now in damaging your water powers and the navigation of your rivers. And it will then, as now, be exceedingly difficult to get money from the Public Treasury to buy that land which we ought now to retain.

Mr. STEENERSON. Will the gentleman yield for an interruption?

Mr. REEDER. Yes, sir.

Mr. STEENERSON. Under your bill you provide for the disposal of the timber on the public lands in the State of Minnesota, as well as in the irrigation States, do you not?

Mr. REEDER. Yes, sir.

Mr. STEENERSON. Then, the bill proceeds to turn the proceeds of the timber on the public lands of Minnesota into the irrigation fund, whereas the State is not included in the irrigation lands?

Mr. REEDER. I will say to the gentleman from Minnesota that this provision was simply an oversight. It was not the intention to have it apply to the State of Minnesota or any other, except the States included in the law of 1902, but we think it does, and if the bill comes up for consideration, we would have accepted an amendment suggested ourselves to cover that point.

If this bill could have been passed six years ago, it would have saved $100,000,000 to this irrigation fund by this time. The irrigation fund is now about $42,000,000. It is said that the man who succeeds in making two blades of grass grow where one grew before is a public benefactor.

I wish to say that with this $42,000,000 the Reclamation Service are making from seven to ten homes for families every day—that is, every time the sun goes down we have from seven to ten homes, each of which will support a family, where there was practically not a blade of grass growing before, and homes under the very best conditions possible for developing good citizenship. At the time we were trying to have this fund created some Eastern and Middle State Members talked about the worthlessness of this land, and again the same suggestions were made when we were talking of bringing in Arizona and New Mexico as one State; some spoke of the land in Arizona and New Mexico as absolutely worthless. The facts are that out in that western country, say in the Yakima country in Washington, or in the Grand Junction country in Colorado, or in the country about Phoenix, Ariz., land sells for as high as $2,000 an acre, and will pay a profit on account of what it will produce from the soil. There is probably no land in Illinois or in Iowa or in New York that will produce a reasonable profit on over $200 an acre from crops raised thereon, except some garden patches near cities. So that in actual fact the production of crops on western land is often several times more valuable than the most fertile eastern land, and yet some eastern people talk about it being perfectly worthless.

Mr. LEVER. Will the gentleman permit me to interrupt him?

Mr. REEDER. Certainly.

Mr. LEVER. As I understand, the irrigation fund is $42,000,000?

Mr. REEDER. Yes, sir.

Mr. LEVER. Under the operation of your bill you would increase it up to $100,000,000?

Mr. REEDER. I was speaking of what we might have had in the fund if we had repealed the timber and stone act in 1902 on the passage of the national irrigation law and sold the timber at a fair valuation. Besides, we would have in the possession of the Government some twelve to twenty million acres of land for home and for future timber growth.

Mr. LEVER. But what I desire to ask you is to what extent you expect to increase this fund by the operation of your bill?

Mr. REEDER. We will increase it just as much as possible, but the increase will not be very large. The reason is this: The hearings on this bill before the Committee on Irrigation last year brought out the fact that land which in some cases contains over 50,000 feet, board measure, to an acre—and that same timber is now selling at $4.50 a thousand in some cases, or for something over $200 an acre—was being sold under the timber and stone law at $2.50 per acre. And it was also developed at those hearings that the law did not so provide, but it was merely a ruling of the department. The law does provide that $2.50 shall be the minimum price, and the department was holding that $2.50 was the maximum price until last year, when these hearings developed what the law really is, and now it will sell the timber at the appraised value or for pretty near the price under the law as it is that it would bring if this bill became a law; and if the Land Department had so construed the law for the past six or eight years much the same saving would have been had as under this bill had it become a law. The only great advantage in passing this bill now would be the retention of the land for settlers or for future forest growth.

Mr. LEVER. I had in mind this idea: We are now spending $42,000,000 a year in irrigation, which goes to that work of irrigation. Now, there are some 80,000,000 acres of land in this country susceptible of drainage, which will give 20,000,000 homes, and I was in hopes that your plan was to increase this fund so that it could be used in those States needing drainage, as well as in the States where it is to be applied for irrigation. I would be just as interested in making homes out of swamp lands as out of desert lands. Homes owned by the families who occupy them and get their sustenance therefrom are the greatest bulwark a nation can have.

If we can pass a law that will not take a cent from the Treasury, except such amounts as present laws provide may go into the pockets of speculators, and from such savings make homes for 20 families a day—500 such homes each month—where families are extraordinarily sure of a sustenance for their toil, and where few are likely to become abnormally rich, we have built one tower of great strength to our Nation.

Few realize that with, say, 60,000,000 acres of desert that can be reclaimed, and 60,000,000 more acres of swamps that can be drained, we can continue to make these 20 homes each day for at least two hundred and fifty years and for at least 40,000,000 citizens. I regard this as just a little more important than a few battle ships or a slight change in tariff schedules.

Mr. MANN. Will the gentleman allow me to ask him a question?

Mr. REEDER. I yield to the gentleman from Chicago.

Mr. MANN. I have not heard all the gentleman has said, but if he reaches the point in the bill where he discusses the authority to sell in large quantities, half at the time and half in three years, I would like at that point to ask him a few questions.

Mr. REEDER. I will come to that very soon. My friend, the genial Member from Illinois, whom I regard and have often said was a public benefactor in the number of bad bills he prevents passing this House, is among the Members who think the provisions of this bill would not produce the very best results possible in the way of selling the timber for what it is worth, or for as much as the present law as it is now construed would sell it, and hence much of my difficulty in getting a consideration of the bill. I think they are mistaken, and as this is the very question my friend desires to talk about, I believe I will discuss it right now. As I said, I think they are mistaken, and for this reason: If a man wants to buy 160 acres of land, nine times out of ten he is purchasing it for speculation. He does not want the land or the timber, and he could not use either, probably. Under the present regulations the department has the value of the timber on the land appraised. The individual will not purchase it because this makes the price too near its value.

Mr. PARSONS. When you say "purchase," are you alluding to the purchase from the Government?

Mr. REEDER. Yes, sir. The individual will not purchase this land from the Government because there is no speculation in such purchase, and it leaves it so that there is no competition with the lumber companies that desire to buy the timber on the land, and the lumber companies can not afford to buy it in such small quantities because they can not handle it thus. Thus there is not an opportunity to sell the timber for as good a price as there would be under the provisions of this bill, in my judgment.

I have said, however, that it will make no great difference in the price received for this timber, but the difference, if any, under the new ruling as to such sales would be in favor of sales under the bill I have presented and for above reasons. Larger amounts would be sold, and mill owners could thus secure enough timber to warrant them putting in a mill to cut it. The bill also provides that small buyers shall have preference in such sales.

By selling in the larger amounts, these lumber companies could afford to buy and probably would buy for nearer what the timber is worth. If they buy timber under the provisions of the bill, they leave the land in the hands of the Government, and with proper care trees will continue to grow on the land, and it seems to me clearly a good deal better disposition to make of the land than to put it in the hands of the people who do not care anything about it. The difference is about this: Under the present law the Government loses the land.

The timber is cut without restriction, the brush is scattered about, and soon fires destroy the brush together with all the new forest growth, and the fires often spread over large sections of live timber. Then comes soil erosion, lower lands are destroyed with the wash, water power lessened in value, and navigation at least much depreciated—all of which would be exactly the opposite under the bill I would press for consideration. So it seems to me it is a much better arrangement than the present timber and stone law. I have admitted it does not make any very great difference in the price the timber will bring, but I believe the difference in favor of this bill is well worth our consideration. Does the gentleman wish to ask any questions?

Mr. MANN. I should like to ask this question: What part of the bill is it that gives preference to these small buyers?

Mr. REEDER. It is in the bill. I have not the bill before me, but it is there.

Mr. MANN. I have the bill right before me, and I am not able to find anything that gives any preference to the man who wants to buy a hundred acres over the man who wants to buy a million.

Mr. REEDER. To buy the timber you mean?

Mr. MANN. Yes.

Mr. REEDER. I do not know how quickly I can find the provision, but it is in the bill.

Mr. MANN. If the gentleman says it is in the bill, it means that the gentleman wants it there; and if it is not there, it is very easy to put it there.

Mr. REEDER. It is in the bill now.

Mr. MANN. Now, as I understand the bill, and I have read it very carefully—I am only asking the gentleman a question—it authorizes any person to make application to the Interior Department to have certain pieces of timber land sold under rules and regulations, in large or small quantities?

Mr. REEDER. That is right as to the timber on the land. But sales are to be at the discretion of the Secretary of the Interior and under rules and regulations laid down by him.

Mr. MANN. Then it is advertised for sale for eight weeks only, giving the person or company making the application a very decided priority. Now, does the gentleman think that more or less timber would be sold to large companies under a bill such as he proposes, authorizing large areas of timber lands to be sold to one person, or under the existing law authorizing only 160 acres to be sold to one person?

Mr. REEDER. In the first place, there is a distinction here. The laws as they are authorize the sale of the land. This bill does not authorize the sale of the land at all; so the gentleman is entirely mistaken, because there is no desire to sell any of the lands.

Mr. MANN. I am talking about the timber.

Mr. REEDER. You said land.

Mr. MANN. Timber land.

Mr. REEDER. You said land.

Mr. MANN. If I said land, I will change it. I mean timber. The gentleman's argument in his exhaustive report, which I have read with pleasure and care, is wholly based upon the proposition of saving the timber to the country.

Mr. REEDER. The gentleman is mistaken again. The purpose is to sell the timber as soon as needed and use the proceeds in building homes.

Mr. MANN. Is the gentleman more likely to save the timber in small quantities rather than in large quantities, and if his bill passes, would not all the timber be in the hands of large companies in a few years?

Mr. REEDER. The gentleman is mistaken again. The purpose of the report and the bill is not to save the timber. The purpose is to sell the timber for something near its value; if men want to cut the timber and dispose of it, we are willing they should do so, but we desire to retain the land for continued growth of timber and get the money out of the timber for the irrigation fund. Instead of getting $2.50 an acre, the price that we were getting when this bill was reported, we desire to get the value out of the timber. We do not wish or expect to save the timber; we want to save the land for continued growth of timber and for homes for the people where it is fit for cultivation.

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

Mr. REEDER. Certainly.

Mr. KEIFER. What kind or species or variety of timber grows upon this land?

Mr. REEDER. Largely pine.

Mr. KEIFER. Is the land good for cultivation after the timber is removed?

Mr. MANN. Oh, this applies to all public land in the United States; all varieties of timber, of course, grow upon it.

Mr. KEIFER. But the gentleman from Kansas is now speaking of a particular region, I think.

Mr. MANN. He can not say that one kind of timber grows upon all the land covered by the arid States.

Mr. REEDER. Well, largely pine. Let me say further——

Mr. KEIFER. I would like to have the gentleman state if the soil is good for anything for cultivation after the timber has been taken off.

Mr. REEDER. I have spoken about that; but I will say again that some of the soil is much better than the soil in the State of Ohio, and in some sections sells for $2,000 per acre because of its capability in the production of crops.

Mr. HULL of Iowa. Two thousand dollars an acre!

Mr. REEDER. Yes, sir; I am referring to the Yakima country in Washington, and other sections of the Great American Desert.

Mr. KEIFER. Washington; the gentleman does not mean timber land?

Mr. MANN. No; he means land with large apple orchards on it, producing great quantities of fruit.

Mr. REEDER. I admit it will not sell for this price growing sagebrush.

Mr. HULL of Iowa. Does the gentleman mean to say that the land without anything on it is worth $2,000 an acre?

Mr. REEDER. Without anything but growing crops some of this land sells for $2,000 an acre; say when it is planted to orchards, or hops, or other crops.

Mr. HULL of Iowa. And there must be improvements on it, too.

Mr. REEDER. No improvements except growing crops.

Mr. KEIFER. Is any of it "pine land," as the quality is generally designated?

Mr. REEDER. Some of the valleys are covered with heavy timber, say, 50,000 feet board measure and over per acre, and when the timber is removed it will make fine farming land. Does not the gentleman from Washington say so [referring to Mr. HUMPHREY]?

Mr. HUMPHREY of Washington. Yes.

Mr. REEDER. I wish to go a little further with this statement. I want to bring this matter up because I believe for lack of information, largely on account of the great amount of important business the Members who run this Congress have on their hands, we are failing to do our duty in retaining these lands for the benefit of future generations in the growth of timber thereon. I believe we are making a mistake. If we could pass this bill, we would save six or seven million acres of rough land and twelve or fourteen million acres of land which would make homes for people because it would be valuable for cultivation. If we could have passed this law six years ago, at the time we passed the national irrigation law, we would have saved at least $100,000,000 to the irrigation fund, and where we are now making 6 to 10 homes for families each day we would be making 20 homes each day where there was no home before. By the way, this is one very good way for us to find a market for our manufactures. No foreign market will ever equal a home market, if the consumers own their own homes and make a good living from the soil.

I wish to say to the people who favor drainage that there is as much land in the United States proper to be drained as to be irrigated, and probably more. We are making a mistake if we do not proceed to drain these lands. I have been in favor of letting the gentlemen who are in favor of draining share one-quarter of the fund that would be saved, and I do not understand how anybody could be against the proposition if we can save the money to use on the draining of the land and the irrigation of the land and not go into the Treasury for it. A home for a family on good land looks good to me, whether of desert or swamp land. One real objection to government drainage is that most of the swamp land is in private ownership, and those who would utilize it must pay a bonus to some speculator, but in a very few years any young couple who would own a home in this Nation must first contribute a considerable sum to some speculator, owing to a custom so old we do not dare to question it, which is probably fundamentally wrong—that is, property in the soil.

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

Mr. REEDER. Certainly.

Mr. LEVER. Would the gentleman be in favor of dividing the present irrigation fund between drainage and irrigation?

Mr. REEDER. I would not.

I would be in favor of dividing what we could save by means of the new method of disposing of the timber on the public domain with the drainage fund, as a home made on swamp land is as much of a benefit to our Nation as a home made for a family on desert land.

Mr. LEVER. Why not divide the present fund?

Mr. REEDER. We have it already in use and projects now commenced that will cost, when completed, $89,000,000, and it would be a great mistake now to stop this improvement.

Mr. MANN. Will the gentleman yield?

Mr. REEDER. Yes, sir.

Mr. MANN. The gentleman refers to saving the fund?

Mr. REEDER. Saving the money.

Mr. MANN. Well, I suppose the gentleman means by that that we would get a higher price for the timber that is sold?

Mr. REEDER. That is right.

Mr. MANN. Is it not the fact that this timber is to-day being sold at its full market value when sold at all?

Mr. REEDER. I have said once or twice that I do not think it would make as much difference now as it would at any time

before this bill was reported, owing to a change in the application of the law as it is, but there is a great advantage in this bill in that it saves this land for the Nation instead of giving it away to people who do not want it, which would be followed by the West coming to Congress and asking an appropriation to buy it in the future to grow forests. The plan adopted in this bill would without doubt sell the timber for a higher price than the present law, but not to any great extent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HULL of Iowa. Mr. Chairman, I yield five minutes more to the gentleman from Kansas.

Mr. REEDER. Mr. Chairman, I will ask gentlemen not to interrupt me further, as I have but five minutes to close. The public do not need any further discussion of this subject. They are generally convinced that the thing to do is to repeal the timber and stone law. That has been indicated, as I have said, by the great gatherings of different associations in their conventions for the past few years. Every great gathering of people, without an exception, which has expressed an opinion on the subject of our timber and stone law for the past five years have passed strong resolutions urging or demanding its repeal. Why do we not heed these demands? The purpose of this bill is to repeal the timber and stone law, and not infringe on the rights of another committee of this House.

The Appalachian and White Mountains people are urging us to appropriate $10,000,000 to purchase about a million acres of land on these mountains. They have come to the place where theories do not convince. They know that the soil on their hillsides is being washed away, and that they are losing their water powers, and that navigation is becoming impossible where the same was of much value when their stream flow was more regular and sediment did not clog the channels of their rivers. Would we not do well to heed the warning of this condition? And now, when we can in a few hours pass legislation that will save three to five times as much rough land as they will now have to pay at least $7,000,000 to $10,000,000 to secure, especially when by the same enactment we can retain a like amount or more that can be utilized for homes for our citizens.

There is no more important question before this House or before this Nation than to now save the rough land yet in the public domain, and so care for it that it will continue to grow timber perpetually. This will not be done in private ownership. [Applause.]

Mr. HULL of Iowa. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, while I would like to discuss the bill introduced and referred to by the gentleman from Kansas [Mr. REEDER], that is not my intention at the present time. I have introduced into the House two or three bills in regard to interstate and foreign commerce in habit-forming and poisonous drugs. Many Members of the House have asked me in reference to one or two of these bills recently, owing to correspondence from their constituents, and the bill that is the special object of reference is House bill 21982. I rise now simply for the purpose of asking unanimous consent to insert into the RECORD a criticism of that bill by Doctor Johnson, of this city, which criticism I sent to Doctor Wiley, in order that he might make a more careful answer so far as the chemical propositions were concerned, and I wish to insert his answer in the RECORD in connection with the criticism of Doctor Johnson.

The CHAIRMAN. Is there objection?

There was no objection.

The papers referred to are as follows:

OFFICE OF H. L. E. JOHNSON, M. D.,
Washington, D. C., December 14, 1908.

Hon. J. R. MANN,
Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR SIR: I respectfully request that your honorable committee report adversely on H. R. bill 21982, Sixtieth Congress, first session, entitled:

"A bill relating to the transportation of habit-forming and poisonous drugs in interstate and foreign commerce, and for other purposes."

In support of my request, I submit the following reasons and explanations:

SECTION 1. Section 1 provides that it shall be unlawful for any person, firm, or corporation to send, carry, ship, or bring into any State, Territory, or the District of Columbia by freight, express, mail, or otherwise from any other State, Territory, or the District of Columbia, or from any foreign country directly to a consumer, or to sell, or furnish, or give away, or have in his or her possession certain drugs or any derivative or preparation or compound of the same, except on the original written prescription or order of a legally authorized practitioner of medicine * * * which prescription shall be dated and shall contain the name of the person for whom prescribed. Such written prescription or order shall be kept on file for not less than three years by the person or corporation compounding the same. Shall not be again compounded or dispensed except upon the written order of the original prescriber for each and every subsequent compounding or dispensing. It also provides for inspection of these prescriptions at all times by any federal or state official designated by the Secretary of Agriculture. It also limits the amount of certain drugs, singly or in combination, which may be ordered in a physician's prescription.

Section 1 prevents a regular registered, civil, or military physician from having in his possession certain drugs necessary and essential to the successful practice of medicine or surgery and the relief of human suffering by requiring him to write a prescription and have it compounded in each case before such medicines shall be administered to the patient. He can not have in his possession morphine tablets for emergency or other cases, and can not administer a hypodermic injection to relieve severe pain or apply cocaine locally in a surgical operation, unless he first write a prescription for the same, sign it, and write thereon the date and the name of the patient for whom the drug is intended. The unfortunate patient requiring the hypodermic of morphine or the local application of cocaine to relieve his severe pain, or to arrest an acute inflammation, would be subjected to a long and cruel delay in obtaining relief while the prescription was being sent to the druggist, compounded, and finally reaching him. Distance and delay in filling the prescription, especially at night when many of the drug stores are closed, frequently consumed several hours, thus prolonging suffering and endangering life. Administration of the restricted drugs by the surgeon of the ambulance or the railroad-relief train attending the injury would be delayed by this law in relieving suffering and saving life. Physicians are restricted in dispensing their medicines or purchasing them at wholesale from out-of-town druggists because of the prescription and quantity limit requirement, and physicians of the District of Columbia called to a State or Territory in consultation, or an emergency case, or those called here under similar conditions, could not bring with them the restricted drugs, though it was absolutely necessary to save life, unless they complied with the prescription and quantity clause of section 1, and the conflicting and inconsistent poison label clause of section 2, or make themselves liable to the severe penalty of both sections.

Section 1, requiring all prescriptions or orders, originals or renewals, for any of the restricted drugs to be written and signed by the prescriber, deprives the physician of the right, privilege, or convenience of telephoning for these prescriptions or renewals, even in emergencies, for desperately ill patients, at night, residing at a distance; nor is he permitted to telephone directing the nurse to administer a hypodermic of morphine; nor is his physician assistant permitted in any kind of an emergency to order the renewal of the prescription of his chief if it contain any of the restricted drugs.

Section 1 also requires that such prescriptions shall contain the name of the patient and shall be kept on file for a period of three years by the compounder, subject to inspection at all times by any federal or state official delegated by the Secretary of Agriculture. This delegation of inspection power to a "secret-service man" or some one else does not guarantee judicious, discreet, or nongossiping inspectors, but does invade the confidential relations of the physician and patient, subjecting young girls and women, married or single, to mortification, distress of mind, gossip, and possibly investigation should the suspicion, curiosity, or technical ignorance of an inspector, uninformed of the necessities of the patient's malady, consider the use of some drug of the restricted class excessive or illegal. A daughter suffering at a functional period, a wife or mother suffering from a painful incurable cancer, or a father suffering from the excruciating pain of locomotor ataxia requiring the frequent use of a restricted drug, though they be prescribed by the most reputable physician in the United States, could all be subjected to mortification by the prying inspection and investigation instituted by the Agricultural Department at the suggestion of some misguided or overzealous inspector.

Section 1 arbitrarily limits by statute the amount of certain drugs which may be transported, given away, sold, or had in possession, and makes the physician's prescription the only medium through which they can be obtained, but prevents the physician determining the quantity of the drug he shall order in one prescription. This section could be evaded or practically annulled by the writing of 10 or 200 prescriptions, each containing the limit allowed, which combined could total 1 pound of the restricted drugs. I do not countenance violation or evasion of any statute, but in the proper use of chloral hydrate for the successful treatment of disease or to preserve pathological specimens for the laboratory multiple prescription writing would have to be practiced. The maximum amount, one-fourth of an ounce (2 drams) or one-eighth of an ounce (1 dram) in combination, of chloral hydrate allowed in this bill in one prescription is insufficient, being but one dose by a method of administration employed in the treatment of convulsions of women pregnant, or in labor, while 120 doses of cocaine, or 640 doses of morphine, or 7,680 doses of hyoscine, all dangerous and habit producing, is permitted by this bill in one prescription. In the proviso of section 1 of the bill, page 2, line 25, druggists are practically exempt from all restrictions when dealing in or using among themselves, personally or in trade, the drugs enumerated in this section. An habitue or "drug fiend" can well regard this proposed law as a beautiful green field from which to obtain his "dope."

SEC. 2. Section 2 provides that no person, firm, or corporation shall sell, carry, ship, import, or bring into any State, Territory, or the District of Columbia, by freight, express, mail, or otherwise, from any other State, Territory, or the District of Columbia, or receive for shipment into any State, Territory, or the District of Columbia, or sell, or furnish, or give away in the Territories or the District of Columbia certain substances, their compounds, preparations, or derivatives, or any compound containing them, unless the bottle, box, carton, or any other package, including any wrapper or covering containing any of the following-named substances, compounds, preparations, or derivatives is labeled "poison," with the skull and crossbones, the names of one or more suitable antidotes, and the name and address of the person, firm, or corporation manufacturing, shipping, importing, or selling the same. On conviction of any violation of the act, any person, firm, or corporation shall be fined not exceeding $200 for the first offense and not exceeding $300 for each subsequent offense, or be imprisoned not exceeding one year, or both such fine and imprisonment, in the discretion of the court.

Section 2 is inconsistent with and annuls the physician's written prescription and the quantity clause of section 1 for certain identical drugs, to wit: In section 1 chloral hydrate, morphine, opium, scopolamine, their derivatives and preparations, can be transported, sold, etc., and held in possession only on physician's written prescription, with limitation on the quantity ordered. In section 2 the same drugs—chloral hydrate, morphine, opium, scopolamine, their derivatives and preparations—can be transported, sold, etc., and held in possession in unlimited quantity by complying with the poison-label clause, independently of the physician's written prescription and quantity-limit requirement of section 1.

Section 1 does not require the above-named drugs, their derivatives and compounds in prescriptions to be labeled "poison;" section 2 is mandatory as to the poison label and makes no exception or exemption to these drugs when compounded in a physician's prescription. The penalty clause for violations applies equally to both sections, notwithstanding their positive inconsistency. An invalid leaving this District for a health resort (say, at the ocean), taking with him to use en route a prescription compounded in conformity with section 1, but containing any drug restricted by section 2, or an invalid entering this District with the same compounded prescription, though it was compounded in a State having no such statute requirement, would violate this law and, if detected by an inspector of the Department of Agriculture, both would be subject to arrest, trial, fine or imprisonment, or both, if the poison label was not affixed to the box, bottle, or other container. The following substances, compounds, preparations, or their derivatives are enumerated in section 2 and can not be transported, received for shipment, sold, or given away unless they conform with the poison-label clause, viz:

The caustic hydroxides of ammonium, potassium, and sodium; the concentrated mineral acids; the essential oils of bitter almonds, pennyroyal, rue, and savin; wood alcohol and yellow phosphorus or any preparation or compound containing the same; the salts and derivatives of antimony, arsenic, barium, chromium, copper, gold, lead, mercury (excepting calomel), silver, and zinc, or any preparation or compound containing the same; the following-named substances and their derivatives or any compound or preparation containing the same, namely, acetanilide, acetphenetidine, aconite, antipyrine, belladonna, cannabis indica, cantharides, carbolic acid, chloral hydrate, chloroform, coculus indicus, codeine, colchicum, conium, cotton root, creosote, croton oil, damiana, diacetyl morphine, digitalis, ergot, formaldehyde, hydrocyanic acid, hyoscine, hyoscyamus, ignatia, laudanum, lobelia, morphine, nux vomica, opium, oxalic acid, paragoric, Paris green, phenacetine, physostigma, phytolacca, pyramadon, scopola, stramonium, stropanthus, strychnine, sulphonal, tansy, trional, veronal, veratrun viride, or any other virulent poison.

The bringing into or carrying from the District of Columbia or any other Territory or State simple substances which are in common use and necessary in the arts, trades, or households, and many regular pharmaceutical preparations and physicians' prescriptions, put up in convenient form by reputable drug houses for the convenience of the physician and the public, if not labeled poison with skull, crossbones, etc., would be in violation of section 2 of this act and subject the person to a fine or imprisonment or both.

The following simple things in everyday use are either compounds, preparations, or derivatives of substances restricted in this bill by section 2 and must, under penalty of fine and imprisonment, be labeled poison with skull and crossbones, viz:

Made from caustic hydroxides of ammonium.—Ammonia liniment. Aromatic spirits of ammonia. Chloride of ammonia tablets, for sore throat. Chloride of ammonia, for telephone and telegraph electric batteries.

Made from caustic potassium and sodium.—Common washing soap. Soft soap. Soap liniment. Soap plasters. Compound cathartic pills and asafetida pills contain soap.

Made from concentrated mineral acids.—Acid mixture, used by tinners for soldering roofs. Aromatic sulphuric acid. Most of the sulphates, nitrates, and muriates of metals, used in the arts.

Essential oils.—One of which, the oil of pennyroyal, used to drive off mosquitoes and the treatment for relief of mosquito bites.

Phosphorus.—Common blue-head matches.

Containing salts of antimony.—Sirup of squills, Brown Mixture, Brown Cough Tablets, and cough mixtures containing the above.

Containing arsenic.—Some natural mineral waters. Old-fashioned fly paper, and in the manufacture of other papers.

Containing barium.—Dipilatories, for removing superfluous hair.

Containing chromium.—Tanning mixtures for hides and leathers. Mixed paints. Electric-battery solutions. Solution for setting colors of fabrics.

Containing copper.—Mixed paints. Solution for electric batteries for railroad-signal relays, medical and scientific batteries.

Containing gold.—Gold paint and compounds, for decorating glass, china, etc.

Containing lead.—A base for most mixed paints, for wagons, houses, etc. Adhesive plasters. Common and family liniments, or household liniments, for man and beast.

Containing mercury.—Plasters and ointments. Antiseptic soaps, for surgeons' use. Dog soaps. Fireworks. Bisulphide mercury, for pocket batteries.

Containing silver.—Indelible ink. Films for kodaks. Dyes.

Containing zinc.—Zinc ointment. Adhesive plaster.

Containing acetanilide.—Migrane tablets.

Containing belladonna.—Ointments for piles. Belladonna plasters. An ingredient in most laxative pills.

Containing cantharides.—Hair tonics. Fly blisters.

Containing chloral hydrate.—Physicians' prescriptions. Solutions for preserving pathological specimens.

Containing chloroform.—Liniments in common use for man and beast.

Containing codeine.—Physicians' prescriptions. Many pharmaceutical preparations.

Containing colchicum.—Physicians' prescriptions. Most common gout remedies.

Containing hyoscyamus.—Ointments for piles. Laxative pills.

Containing nux vomica.—Laxative pills.

Containing phenacetin.—Many standard pharmaceutical preparations.

Containing stramonium.—Ointments for piles.

The principal effect of this bill, if enacted, will be the embarrassment of the legally registered physicians and surgeons in the lawful practice of their profession. The universal or indiscriminate use of a poison label will defeat the protective purpose of the law proposed.

The following criticism is made by a prominent member of the bar practicing before the supreme court of the District of Columbia and the Supreme Court of the United States:

"Memorandum. H. R. bill 21982, relating to the transportation of habit-forming and poisonous drugs in interstate and foreign commerce, etc.

"The first section of this bill prohibits the transportation by any method into any State or Territory or this District of certain enumerated drugs or of any derivative or preparation thereof or the possession of such by anyone within the Territories or this District, 'Except upon the original prescription or written order of a legally authorized practitioner of medicine, dentistry, or veterinary medicine.' It also prescribes the maximum amount of these drugs which one prescription may contain, and that the name of the person who is to use the medicine shall be written on the prescription.

"No renewal of such medicine or compound shall be furnished to any person except upon a new written order of the original prescriber.

"The articles which, together with their derivatives and all preparations containing them, are embraced in this section are:

"Chloral hydrate; cocaine; eucaine (alpha and beta); hyoscine; morphine; opium; scopolamine.

"The act prohibits selling, furnishing, or giving away of any such specified articles, their derivatives, or any preparations containing any of them. If enacted into law, the following will be some of the consequences of this act:

"1. The maximum dose or quantity for either external or internal use of these drugs is no longer a question of medical science, but is fixed by act of Congress, so that, no matter what may be the necessity or advantage in the preservation of health or life in providing for a larger quantity than the act permits, the patient must be deprived of a rightful remedy, unless the physician and druggist are willing to bear the penalty of the statute.

"2. The citizen could not lawfully obtain a dram of paregoric for the purpose of administering 15 drops on a little sugar for his infant child, but must summon and pay a physician a fee and a druggist for putting up a prescription.

"3. The mother could no longer relieve her child's earache by administering a few drops of laudanum in warmed sweet oil, but must summon and pay a physician a fee and incur the expense of the druggist's charge for the prescription.

"4. No citizen may indulge in toothache drops or other like remedies for the relief of a maddening toothache without the expense of a physician's prescription or that of a dentist.

"5. No citizen may obtain a little lead and opium lotion to apply to a badly bruised leg or arm except at the expense of the physician's prescription and the druggist's charge.

"6. Simple and familiar household remedies and home treatment would be abolished; remedies familiar to us for generations, and which may be obtained from any apothecary for a nickel or a dime, will cost the citizen $3 and upward under this beneficent provision, in order that victims of the drug habit may be embarrassed in their indulgence, though neither cured of the appetite nor actually prevented from indulgence.

"7. A physician called in an emergency can not administer a hypodermic of morphine to relieve the excruciating agony of a person pinned under a fallen timber or other heavy object or otherwise critically injured until he has written a prescription giving the statutory limit of dose and the name of the probably unknown patient and sent it to a drug store to be compounded and recorded.

"8. A physician in his office can no longer apply the local anæsthetic cocaine to a patient before operating upon eye, ear, nose, or throat; but must send out a prescription, to be compounded and recorded in the case of each patient, thus adding an absurd inconvenience, loss of time, and expense to the treatment."

This section is further emphasized by the inconsistent provisions of the second section, under which anyone may sell, furnish, give away, in any quantity in bulk, chloral hydrate, hyoscine, morphine, opium, and scopola, all within the prohibition of the first section, together with a number of the most dangerous poisons, provided the package be conspicuously labeled as "poison."

Under the second section a simple cough mixture, most beneficial and absolutely harmless, must be marked "poison" and decorated with a skull and crossbones because it contains a trace of antimony and opium in each dose; so an ordinary adhesive plaster, to bind a cut or other wound, must bear the skull and crossbones and be marked "poison" because it contains a little zinc.

A large number of simple remedies, which have been familiar medicine in the family for half a century or more, must suddenly assume an alarming appearance, practically deterrent of their use, because of the warning crossbones and poison label, though a quart of the mixture would not contain a harmful quantity of the prohibited drug.

If the second section became a law, in addition to the burden it would impose it could be of little, if any, effect. The provisions of interstate-commerce legislation end when once the transported package has been broken up and commingled with the other goods in the State of delivery, so that the prohibition of the statute could be readily overcome by a form of package which would convert the poison label into a sort of railway or steamboat ticket, to be thrown away when the transportation was complete and the merchandise then reappear in the new State in a new suit of clothes.

If the legislation within the various States should be in harmony with the proposed act, the act of Congress is unnecessary. If the States, however, decline to follow Congress in this new bill, the act of Congress would be wholly ineffectual after transportation was completed.

[Extract from the Medical Journal of the Medical Society of the District of Columbia, Vol. VII, No. 5, p. 392, November, 1908.]

The following bill (House bill No. 21892) was introduced into the House of Representatives May 12, 1908, and referred to the Committee on Interstate and Foreign Commerce. It is claimed by some that the first section of the bill would prevent physicians dealing directly with pharmaceutical houses outside the District of Columbia; that a physician who dispenses more or less of the products of such houses would be compelled to buy from jobbers and retail druggists in the District, and then only on a prescription; that if he should want to give a hypodermic injection of morphine at midnight to some suffering patient he would have to write a prescription for the same and wait till the druggist filled it. It is thought best, therefore, to print the bill in full for the information of the members of the Medical Society.

Respectfully,

H. L. E. JOHNSON.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY,
Washington, D. C., January 7, 1909.

Hon. J. R. MANN,
House of Representatives, Washington, D. C.

DEAR SIR: Your favor of December 19, together with criticisms of H. R. 21982 by Dr. R. L. E. Johnson of this city, at hand, and in reply desire to state that we have conversed with several of the parties who brought the original bill to my attention, and they are of the opinion that the criticisms of Doctor Johnson are mostly without foundation in that they are either criticisms of the present District law, or involve points not within the purview of the bill. The bill embodies

those features of the District law which deal with habit-forming and poisonous drugs, being modified for interstate commerce, extended to cover several additional pernicious drugs, and restricting the amounts that a single prescription may call for. The District law, considered one of the best on the subject, was passed by Congress at the request of the various branches of the medical and pharmaceutical professions of the District. The law received the full sanction of the medical fraternity, and therefore criticism involving this law by Doctor Johnson is unwarranted, and comes with ill grace from one who poses as a public reformer. The bill deals only with agents to be used for medicinal purposes, and not commodities intended for technical, battery, and similar purposes. At least 90 per cent of the doctor's criticisms are either indirect criticisms of the District law, or cover subjects not within the purview of the bill. For your information a few of them will be briefly considered:

Phosphorous matches, arsenical fly paper, tanning material, battery supplies, mordants, fireworks, kodak films, dyes, paints, acids used by tinners for soldering purposes, chloral hydrate for preserving pathological specimens, etc., are not drugs within the meaning of the bill.

Neither the doctor or his patient is prohibited from carrying medicines from one State to another, as can readily be seen from inclosed Food Inspection Decision No. 57.

Nothing in the law could be construed to interfere in any manner with physicians dispensing their own medicines.

Telephoning prescriptions is not only a hazardous business, but would permit habitués ordering any amount of cocaine, morphine, etc., in the name of some physician. The druggist could not recognize the fraud over the phone.

I fail to find either conflict or inconsistency between sections 1 and 2—the one simply supplements the other.

Probably 75 per cent of the States have laws requiring the filing and official inspection of prescriptions calling for habit-forming drugs. This, in my opinion, is the least that should be required for controlling the evil of drug addition. Remove this restriction, and the curse is rampant.

The bill requires the attachment of poison labels to the caustic hydroxides and concentrated mineral acids and not to preparations in the manufacture of which they or their salts are used.

In my opinion, every mother in the land should be advised against the use of laudanum, with or without "sweet oil," in the treatment of earache. The oil and water are either absorbed or dissipated, leaving residual matter, forming an excellent nidus for bacterial growth and thus aggravating conditions. I do not recall a single toothache remedy which contains any of the prescribed drugs, and if there is such a remedy, its use is absolutely uncalled for, because there are plenty of efficient remedies that can be used which are free from habit-forming agents.

Cough mixtures containing cocaine, morphine, opium, codeine, heroine, chloral hydrate, etc., singly or combined, can not in any sense of the word be considered harmless. I have before me one of these cough remedies containing 110 grains of chloral hydrate to the ounce, sent into the home without restriction, containing no warning whatever, either by dosage or otherwise, relative to its dangerous character. It is to be used for croup, whooping cough, etc. A single teaspoonful would land a child in eternity. The promiscuous, indiscriminate use of cough sirups containing the drugs named in the bill is liable to form a pernicious, life-wrecking habit.

The above, I think, are sufficient to indicate the character of certain criticisms offered by the doctor.

I shall now turn to several points which, in my opinion, deserve careful attention:

The doctor claims that the present bill permits druggists purchasing these products unrestricted, which is correct. I believe that the law to be finally enacted should require that every druggist, wholesaler, manufacturer, or otherwise, should keep a complete record of all purchases and sales of certain habit-forming drugs. This excellent feature now constitutes a part of the laws of New York and New Jersey.

It is claimed that the prescribed limitation relative to the amount of drugs that may be called for by a single prescription is too restricted in the case of chloral hydrate, and an attorney makes the criticism that the amounts would not permit the physician sufficient range to enable him to give proper dosage. There is no objection whatever to increasing the amount of chloral hydrate to 1 ounce, but the claim that there is not enough material permitted to give sufficient dosage to patients is incorrect, because there is enough material provided in each case, with the exception of chloral hydrate, to kill a score or more of men.

The doctor claims that the law could easily be circumvented by giving numerous prescriptions calling for given drugs. While this is correct, it also places on record the transactions of the physicians, and thus enables the authorities to investigate the final use to which these drugs may be put. In this respect I believe that the Gallinger bill (S. 4892) contains an important nucleus. I believe the Government will be called upon sooner or later to supervise the manufacture, distribution, and final consumption of the drugs forming pernicious habits, with a view to decreasing the present illegal consumption. It is estimated that at least one-half of the cocaine, opium, morphine, etc., at present used in the United States is used for improper purposes. There is now a movement on foot to place a prohibitory importation duty on cocaine and its derivatives, and at the same time impose an internal-revenue tax to cover the expense of supervising the sale and distribution of cocaine and its derivatives.

The poison-schedule list is virtually the same as that in the District law, excepting that there have been added to this list opium, morphine, cocaine, heroine, chloral hydrate, codeine, acetanilide, antipyrine, and phenacetine.

There is no question in my mind but that all of these should be included. Some objections may be raised relative to acetanilide, antipyrine, and phenacetine, but we have in our possession positive proof that these drugs, their mixtures, or combinations have caused at least 1,666 cases of poisoning, 55 deaths, and 169 habitual users, a record which certainly renders these products eligible to membership in the poison schedule.

Attention should also be directed to the fact that many of the poisonous agents are put up in the form of sugar-coated pills and are sent throughout the United States by mail and otherwise to various consumers without any information whatever relative to their dangerous character, and parents not being warned in any manner relative to their poisonous nature are probably not as careful as they otherwise would be. The attractive sugar-coated pills and tablets appeal to the child who, from their taste, believes them to be candy, eat same, and a life is sacrificed.

Last, but not least, I desire to say a word relative to abortifacient drugs and agents intended to bring about abortion. We have now in the bureau at least 100 different brands of these products, and it is certainly little enough to ask that the public be informed relative to their dangerous character by the simple application of a poison label. In my opinion, such products should be absolutely prohibited from sale except by direct advice of physicians.

There is at present an imperative need of a federal law regulating interstate shipments of certain pernicious habit-forming drugs, for the purpose of assisting state officials and others in their efforts to diminish crime, depravity, debauchery, and general wrecking of life among certain classes.

Respectfully, H. W. WILEY, *Chief.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.

FOOD INSPECTION DECISIONS 54–59.

54. Declaration of the quantity or proportion of alcohol present in drug products. 55. Method of stating quantity or proportion of preparations (containing opium, morphine, etc.) used in manufacturing other preparations. 56. Names to be employed in declaring the amount of the ingredients as required by the law. 57. Physicians' prescriptions: The status of packages compounded according to physicians' prescriptions and entering into interstate commerce. 58. The labeling of products used as food and drugs as well as for technical and other purposes. 59. National Formulary appendix.

(F. I. D. 54.)

DECLARATION OF THE QUANTITY OR PROPORTION OF ALCOHOL PRESENT IN DRUG PRODUCTS.

The question of stating the percentage of alcohol present in drug products has caused a multitude of inquiries. The following questions along this line serve as examples:

"Is it necessary to give the amount of alcohol present in U. S. Pharmacopœial or National Formulary products? It seems to me that such a requirement is absurd, and not contemplated within the spirit of the act. None of them are patent medicines. Will I be compelled to tell how much alcohol is present in such goods?

"If we apply for and obtain a serial number, must we in addition to putting this number on our labels state the per cent of alcohol?

"Will it be necessary to give the per cent of alcohol present in such products as ether, chloroform, collodion, spirit of nitrous ether, and similar preparations?"

The law is specific on the subject of declaring the amount of alcohol present in medicinal agents, as can readily be seen from the following language: "An article shall also be deemed misbranded * * * if the package fail to bear a statement on the label of the quantity or proportion of any alcohol * * * contained therein." No medicinal preparations are exempt, whether they are made according to formulæ given in the United States Pharmacopœia or National Formulary or formulæ taken from any other source. The serial number, with or without the guarantee legend, does not exempt a preparation from this requirement. The law does not make any statement as to the amount of alcohol that may or may not be employed. It requires, however, that whatever amount be present shall be set forth on the label. The percentage of alcohol given on the label should be the percentage of absolute alcohol by volume contained in the finished product. The manner in which it should be printed is shown in F. I. D. 52.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 13, 1907.*

(F. I. D. 55.)

METHOD OF STATING QUANTITY OR PROPORTION OF PREPARATIONS (CONTAINING OPIUM, MORPHINE, ETC.) USED IN MANUFACTURING OTHER PREPARATIONS.

Many inquiries are received as to the method of stating the quantity or proportion of preparations (containing opium, morphine, etc.) used in the manufacture of other preparations. Of these the following are typical:

"If the label on the bottle were to bear the words 'Tincture of Opium,' I reason that as this is a definite preparation, constituting a preparation of opium, and so definite as to its composition that to any intelligent person it expresses definitely all that it is desirable to express, the use of this title alone should be sufficient. I feel that as a preparation it is distinct from opium, and if this particular tincture is used in the manufacture of a preparation the mention of it alone should be sufficient."

"Where extract or tincture of cannabis indica, or extract of opium, is employed in making other drug products, would it not be complying with the law if the use of such articles be clearly indicated on the label, as prescribed by the law, or is it necessary to give the actual amounts of the drugs themselves represented by these preparations?"

Names of drug products bearing any of the names of the ingredients enumerated in the act are construed as representing "preparations" within the meaning of the act; and if the same are clearly declared upon the label, as required by regulations 17 and 30, it will not be necessary to give the actual amount of the primary drugs used or represented by such article. It is desirable, however, that the word or words used in the law shall constitute the first part of the name of the product. For example: "Opium, Tincture of;" "Cannabis Indica, Extract of," followed by the amount of tincture or extract used.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 13, 1907.*

(F. I. D. 56.)

NAMES TO BE EMPLOYED IN DECLARING THE AMOUNT OF THE INGREDIENTS AS REQUIRED BY THE LAW.

Many inquiries are coming to this department relative to the names that may be employed in declaring the quantity or proportion of the ingredients as required by Congress.

The following are representative:

"The word 'alcohol' has received so much unfavorable notoriety during the last few years that we hesitate to place it upon our labels. Could we not employ some other words in place of it, such as 'cologne spirits,' 'spirits of wine,' 'pure grain alcohol,' etc.?

"Would it be satisfactory for us to use 'Phenylacetamide,' or the following formula, $C_6H_5NH(CH_3CO)$, for the chemical acetanilide?

"One of our preparations contains trichlorethidene ethyl alcoholate, which would undoubtedly under the law be considered a derivative of chloral hydrate. Will it be satisfactory for us to use this name on our trade packages in giving the amount of this chemical present in the product?

"In the manufacture of some of our products we use opium. It would, however, be a financial loss to state this fact on the label. Could we not say this preparation contains 20 grains of the concentrated extract of Papaver somniferum to the fluid ounce?

"Dover's powder is mentioned in the regulations as one of the preparations of opium. It would seem at first glance that Dover's powder as a preparation, if mentioned on the label, would be all that could be required as to opium."

One of the objects of the law is to inform the consumer of the presence of certain drugs in medicines, and the above terms do not give the average person any idea as to the presence or absence of such drugs. In enumerating the ingredients, the quantity or proportion of which is required to be given upon the principal label of any medicinal preparation in which such ingredients may be present, the act uses only common names, and the permission to use any but such common names for any ingredients required to be declared upon the label is neither expressed nor implied in any part of the law.

The term used for acetanilide is "acetanilide" and not phenylacetamide. No reference is made to the use of the chemical formula in designating the presence of chemicals. The words "chloral hydrate" appear in the act, but not the chemical name trichlorethidene glycol. It can readily be seen that if the act were not closely adhered to in this connection there would soon be such a confusion and multiplicity of names and phrases that one of the objects of the act would be defeated.

The names to be employed in stating the quantity or proportion of the ingredients required by the act to appear on the label of all medicinal preparations containing same are—

First. Those used in the law for the articles enumerated; example, "alcohol," not "spiritus rectificatus."

Second. In the case of derivatives: (*a*) The name of the parent substance used in the act should constitute part of the name; example, "chloral acetone," not "trichlorethidene dimethyl ketone." (*b*) The trade name, accompanied in parentheses by the name of the parent substance; example, "dionine (morphine derivative)."

Third. Names of preparations containing the name of some ingredient used in the act. In such cases the name used in the act should constitute the first portion of the name of the preparation. (See F. I. D. 55.)

Fourth. Common names (such as laudanum, Dover's powder, etc.) of preparations containing an ingredient enumerated in the law, provided such name or names are accompanied in parentheses by some such phrase as "preparation of opium" or "opium preparation," followed by the number of minims or grains, as specified in the regulations; for instance, "laudanum (preparation of opium), 40 minims per ounce."

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 13, 1907.*

(F. I. D. 57.)

PHYSICIANS' PRESCRIPTIONS.

THE STATUS OF PACKAGES COMPOUNDED ACCORDING TO PHYSICIANS' PRESCRIPTIONS AND ENTERING INTO INTERSTATE COMMERCE.

Packages resulting from the compounding of physicians' prescriptions under the food and drugs act are the subject of many queries, of which the following are representative:

"If a druggist compounds a physician's prescription and sends it into an adjoining State, will it be necessary to state upon the label the amount of alcohol, morphine, etc., that may be present?

"Supposing a regularly licensed practicing physician has patients located in various States of the Union and supplies medicines to them through the mails, by express, and otherwise, do such packages come under the provisions of the law; and, if so, can the required information be given in pen and ink on the label?

"We treat drug addictions on a very gradual tonic treatment reduction plan. For instance, if John Doe writes for information as to the home treatment for his addiction, I send him a symptom blank which contains, among other questions, an inquiry as to the kind of drug he uses, how he uses it, the length of time he has used it, etc. In addition to giving me a complete history of his case, he states he is using 10 grains of sulph. of morphine (each twenty-four hours), hypodermically or internally, as the case may be. In prescribing in his case I immediately put him on just one-half of the amount he reports as his daily allowance, combining same with a bitter tonic.

"It is necessary for the reduction in drug cases to be made without the patient's knowledge. It is, of course, understood by all physicians that you can not trust a drug habitué to properly make his own reductions, for, as a matter of fact, if he knew to what extent I was reducing his daily allowance of opiates he would imagine the reduction too rapid, he would get frightened, and would take to his former drug for relief. Treatment prepared in this way I do not think would come under the head of a proprietary preparation or a patent medicine, as I prescribe the contents of each bottle to meet the requirements of each individual patient. All instructions as to the conduct of treatment and the use of auxiliary remedies are given by letter; consequently there are no printed labels or cartons containing any claims concerning the efficacy of this treatment.

"I would be pleased to have you inform me whether in your opinion I would be violating the pure-food law in any manner, shape, or form should I continue to label my preparations as I am now doing, and in having them prepared in ——— and forwarded direct to my patients in this and other States."

If a package compounded according to a physician's prescription be shipped, sent, or transported from any State or Territory or the District of Columbia to another State or Territory or the District of Columbia by a compounder, druggist, physician, or their agents, by mail, express, freight, or otherwise, the label upon such package is required to bear the information called for by Congress. If, however, the patient himself, or a member of his household, or the physician himself carries such package across a state line, and such package is not subject to sale, it is held that such package need not be marked so as to conform with the law, because such a transaction is not considered one of interstate commerce.

The package may be marked so as to comply with the act by either stamp, pen and ink, or typewriter, provided all such written matter is distinctly legible and on the principal label, as prescribed in Regulation 17.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 13, 1907.*

(F. I. D. 58.)

THE LABELING OF PRODUCTS USED AS FOODS AND DRUGS, AS WELL AS FOR TECHNICAL AND OTHER PURPOSES.

Frequent requests for information relative to the proper labeling of products bearing the names of foods and drugs, but used also for technical and other purposes, are received. The following are typical:

"We will kindly ask you to advise us in regard to the new law that governs the line of oils. We manufacture a compound product, so-called 'turpentine,' which contains pure turpentine and a very fine petroleum product. It is used in most branches where pure turpentine is used, with the exception of medicinal purposes, for which we do not sell it.

"We understand that if we were to sell any cotton-seed oil so branded as to indicate that it was intended to be used as a food, as, for example, under the brand 'Blank Salad Oil,' it would be necessary to observe the requirements of the law referred to; but we are in doubt and would be glad to have your opinion as to whether a sale or shipment of this oil (for lubricating purposes) under the ordinary trade brand of cotton-seed oil, and without anything to indicate that it was of a quality suitable for use as a salad oil, would subject us to the provisions of the act."

During personal interviews the question of marking chemical reagents has also been discussed.

Products used in the arts and for technical purposes are not subject to the food and drugs act. It is, however, a well-recognized fact that many articles are used indiscriminately for food, medicinal, and technical purposes. It is also well known that some products employed for technical purposes are adulterated or misbranded within the meaning of this act. Inasmuch as it is impossible to follow such products into consumption in order to determine to what use they are finally put, it is desirable that an article sold under a name commonly applied to such article for food, drug, and technical purposes be so labeled as to avoid possible mistakes. The ordinary name of a pure and normal product, whether sold for food, drug, technical, or other purposes, is all that is necessary. Pure cotton-seed oil or turpentine may be sold without any restrictions whatever, whether such article is sold for food, medicinal, or technical purposes, but it is suggested that a cotton-seed oil intended for lubricating purposes, or a so-called "turpentine" consisting of a mixture of turpentine and petroleum oils, used by the paint trade, be plainly marked so as to indicate that they are not to be employed for food or medicinal purposes. Such phrases as the following may be used: "Not for food purposes," "Not for medicinal use," or for "Technical purposes only," or "For lubricating purposes," etc.

In order to avoid complication it is suggested that chemical reagents sold as such be marked with such phrases as the following: "For analytical purposes," or "Chemical reagent," etc.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 13, 1907.*

(F. I. D. 59.)

NATIONAL FORMULARY APPENDIX.

The National Formulary is one of the standards recognized under the law. The question has been asked a number of times whether the appendix of this authority would be construed as part and parcel of the book itself. On page IV of the preface it is distinctly stated that the formulæ collected in the appendix of the National Formulary are "no longer designated as 'N. F.' preparations." This shows that these formulæ are not integral parts of the book under the law, which covers only those products of the National Formulary recognized as such by this authority. By this it is understood that if a drug product is sold under a name contained in the appendix of the National Formulary it will not be necessary for such product either to conform to the standard indicated by the formula or to declare upon the label its own standard strength, quality, and purity if a different formula is employed in its manufacture. Such articles are, however, subject to the law in every other respect, as is the case of other medicinal products not recognized by the United States Pharmacopœia or National Formulary.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 13, 1907.*

LIST OF FOOD-INSPECTION DECISIONS.

F. I. D. 1–39 practically concern imported foods only and were not issued under the food and drugs act, June 30, 1906.

F. I. D. 40. Filing guaranty.
41. Approval of labels.
42. Mixing flours.
43. Relabeling of goods on hand.

F. I. D. 44. Scope and purpose of food-inspection decisions.
45. Blended whiskies.
46, as amended. Fictitious firm names.

F. I. D. 47. Flavoring extracts.
48. Substances used in the preparation of foods.
49. Time required to reach decisions on different problems connected with the food and drugs act, June 30, 1906.

F. I. D. 50. Imitation coffee.
51. Coloring of butter and cheese.
52. Form of label.
53. Formula on the label of drugs.
54. Declaration of the quantity or proportion of alcohol present in drug products.
55. Method of stating quantity or proportion of preparations (containing opium, morphine, etc.) used in manufacturing other preparations.
56. Names to be employed in declaring the amount of the ingredients as required by the law.
57. Physicians' prescriptions: The status of packages compounded according to physicians' prescriptions and entering into interstate commerce.
58. The labeling of products used as food and drugs as well as for technical and other purposes.
59. National Formulary Appendix.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY,
Washington, D. C., January 14, 1909.

Hon. JAMES R. MANN,
House of Representatives.

DEAR SIR: Replying to your favor of January 12, I am returning herewith Doctor Johnson's criticisms, and I beg to state that I have no objection to having our letter published with his criticisms in the CONGRESSIONAL RECORD.

Respectfully,
H. W. WILEY, *Chief.*

Mr. HULL of Iowa. Mr. Chairman, a question may come up to-morrow, and I hope will, dealing with the question of aeronautics in connection with war. I know that in the minds of a great many people it seems absurd that a ship in the air can be of any service to the country, and possibly they are right. But the chance of such people being right is much less now than a few years ago. I am not prepared to say positively whether that will be a valuable adjunct to our military force, but I am not prepared to say it will not be the most valuable one of all modern inventions. I can remember in my lifetime—while it has been reasonably long it is not as long as I hope it will be before I am through with it——

Mr. TOWNSEND. I share the hope.

Mr. HULL of Iowa. That we made a great deal of a jest of the first telephone. It seemed perfectly absurd that people would seat themselves in houses a block apart and talk with each other, and yet to-day we notice we can talk from New York to Chicago. When the first proposed electric telegraph was presented in this House to come from Baltimore to Washington a majority of the Members in the beginning believed it was simply an absurdity to appropriate any money for that purpose. When wireless telegraphy was first given the world very few believed it possible to send messages through the air, and yet within a week we have seen its great value. We are now advancing in all lines of invention so rapidly, both for peace and war, that it seems to me that the Congress of this Nation is not justified in ignoring any proposed advancements, no matter in what line they may be.

I want to insert in the RECORD, and discuss this matter more fully to-morrow, what other nations are doing. We find that in Russia more than $1,000,000 is appropriated this year for aeronautical experiments. Germany subscribed, in addition to what the Government gave, more than $1,000,000 by citizens of the German Empire. This Nation alone of all the nations, if this Congress refuses to make an appropriation for this line of investigation, will refuse to do anything to promote this new line of aerial navigation. You can not, gentlemen, fight an airship with anything except another airship. If it is possible to develop them to the point that they can be made effective, the nation that controls the air will be more formidable than the nation that controls the fortifications on the land; and for that reason, whether anything shall come of it or not in the future, I hold it is the duty of this Congress to make such appropriations for investigation that will keep us abreast of the other nations of the earth in these experimentations.

Mr. SLAYDEN. Mr. Chairman, I would like to ask the gentleman, the chairman of the committee, if it is not true that there has already been brought to the attention of at least the members of the committee that has to deal with military affairs the fact that already aerial navigation has been developed to that extent that as a source of information it is of practical and extreme value to any army?

Mr. HULL of Iowa. There is no doubt about that. I could make these extracts longer, but I do not want to encumber the RECORD. I only desire to get in enough to insure the reading of it; but, as my colleague says, it has been developed until it is absolutely certain the dirigible balloon is a possibility, if not an accomplished fact.

Mr. SLAYDEN. It is a fact now.

Mr. HULL of Iowa. It is a fact now; and not only that, Mr. Chairman, it is in the estimates, and I hold that the Committee on Military Affairs has absolute jurisdiction over it. But you may have to pass on the question to-morrow. It pertains to work of the line of the army and not the coast defense in any regard as a separate proposition. I desire to present this question to the House to-morrow, and I have alluded to it now so that we may know what I desire the House to-morrow to consider; and I now ask unanimous consent to insert in the RECORD this information as to what other nations are doing.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to insert in the RECORD certain information. Is there objection? [After a pause.] The Chair hears none.

The extracts are as follows:

Résumé of status of military aeronautics, January, 1909.

RUSSIA.

Our military attaché at St. Petersburg reports under date of December 15, 1908, that the Russian Government has allotted the sum of $1,083,750 for dirigible balloons for the year 1909. The war department has placed an order for one dirigible balloon of the Republique type to cost 300,000 francs, which will be completed in June, 1909. There are 79 officers and 3,255 enlisted men in the balloon corps of Russia.

FRANCE.

The French army has in actual service three large dirigible balloons. The latest type is the Republique, completed in 1908. The Liberté is to be delivered during the current year, and is to be stationed at Belfort. The French army has 24 officers and 432 enlisted men organized into an aeronautical battalion, exclusively employed in aeronautical work.

GERMANY.

After the destruction of the Zeppelin No. 4 on August 5, 1908, popular subscriptions throughout Germany donated a million dollars for an aeronautical plant and air ships in Germany. The German army now has four dirigible air ships in actual operation. The cost of the Zeppelin type air ships is about $112,000 each. The cost of the smaller type of air ship is about $60,000 in Europe, and the import duty to this country is about 45 per cent. Six more Zeppelin air ships are to be constructed this year. Twenty officers and 465 enlisted men make up the balloon battalion of the German army.

The treaty of The Hague conference relative to dropping explosives from air ships was not signed by any first-class European or Asiatic power.

It has never been the policy for the United States to maintain a large military force, but it has been the policy to furnish the American army with the latest and best types of war material as fast as they are developed, namely, the best guns, ammunition, and equipment of all kinds.

It is agreed by all military authorities that the only way of effectively opposing military air ships is by means of air ships. It is not considered possible to protect against air ships by stationary guns from the earth. This new weapon of war is now a part of the military establishment of the principal European powers, against which this country has no means of protecting itself either at home or in case of operations abroad. It is entirely practicable to-day, with a single dirigible balloon of the type of the new La Republique of the French army, to destroy by means of explosives, and particularly incendiary mixtures, the shipping of any of our large seacoast cities, as well as property of enormous value, against which this Government has no means to protect itself.

Military authorities summarize the applications of air ships to warfare as follows:

a. To gain information in peace time respecting harbors, fortifications, etc.
b. Patrols and frontier guards.
c. For reconnoissance and photographic work.
d. Dispatch work.
e. Checking an enemy's reconnoissance on land or sea.
f. Signaling and wireless-telegraph stations.
g. Directing artillery fire and drawing enemy's fire.
h. Destroying the enemy's aerial fleet.
i. Attacking an enemy's base line, destroying stores, etc.
j. Destroying railways and other communications.
k. Raiding the capital of the enemy's country.
l. Making night or surprise attacks on field forces, using explosives or incendiary mixtures.
m. Raiding harbors and naval bases.
n. Carrying out over-sea raids.
o. Locating and capturing or destroying submarines.
p. Locating mines.
q. Following up a victory by land or sea and completing the route.

EXTRACT FROM REPORT OF THE MILITARY ATTACHÉ OF THE UNITED STATES AT ST. PETERSBURG, RUSSIA.

The first dirigible balloon built in Russia was tried last September. It is a small balloon, built on the model furnished by Captain Shapski, Russian army, after the La Patrie type. Captain Shapski received as a reward for the model from the war department 8,000 rubles. The balloon was built at the Aeronautic Park of the Government. The motor power was 16 horsepower, 2 motors. On the trial it ascended to a height of 460 meters, attaining a speed of 6 meters per second with the wind. It successfully described circles when going against the wind. Its cost was $100,250, of which $43,000 was for the engines.

A larger balloon of this model will be built in Russia of Russian material. Specifications for balloon: Length, 61 meters; diameter 11 meters; gas capacity, 4,000 cubic meters; carrying capacity, 2,644 pounds. One motor of 90 horsepower.

The war department has also given an order for the construction of a dirigible balloon to the firm of Lebaudy, of Paris, of the Republique type, to cost 300,000 francs. It is to be ready by the end of June, 1909. Its size is to be about 3,500 cubic meters, and it will have 2 motors of 80 horsepower each.

The war department has allotted $25,000 for experiments with heavier-than-air machines, and has granted $2,500 to the Aero Club, of Odessa, on condition that any property of the club will be placed at the disposal of the Government in time of war.

The war department has also made the large grant of $1,083,750 for dirigible balloons during the year 1909.

EXTRACTS FROM REPORT OF THE MILITARY ATTACHÉ OF THE UNITED STATES AT BERLIN, GERMANY.

* * * * * * *

The entire country has shown its interest in the matter by the subscriptions that poured in when the Zeppelin balloon was accidentally destroyed. The Crown Prince has made at least two ascensions in the Zeppelin balloon and one or more in the Gross military balloon, and the King of Wurtemberg has shown his interest on several occasions and also made ascents. The Emperor himself has also encouraged Von Zeppelin by visits and decorations, as well as by donations to the fund, and he has also several times inspected the Gross military balloon as well as the Von Parseval balloon. All these incidents indicate the nation's interest and pride in its balloons.

* * * * * * *

THE VON ZEPPELIN AIRSHIP.

* * * * * * *

Zeppelin did not believe in first building a small model and trying to learn from that how to construct a real, full-sized airship, but proceeded at once to the latter. His experiments have been expensive, but

as far as they went they have also been final, and it is a remarkable fact that, with all his accidents, through eight years of trials, there has been no loss of life involved.

* * * * * * *

The radius of action is about 1,426 miles, which makes it possible to travel from Lake Constance to Konigsberg, on the Baltic, and back again. The new balloon was fitted out with a searchlight for traveling at night, and also with both sending and receiving stations for wireless telegraphy. The cost was about $100,000.

* * * * * * *

The cubic contents of the balloon are about 13,000 cubic meters (460,000 cubic feet), and when fully loaded for a thirty-hour trip it can still carry 4,620 pounds ballast.

The compartment system of ships has been adopted for the balloon, and the gas is taken up by 19 separate spherical balloons inside. This prevents a single bullet from bringing down the balloon.

* * * * * * *

July 3, 1908. The series of trials to test the new airship with its third filling of gas ended in a short trial, with the King and Queen of Wurttemberg as passengers. The King alone went up first.

At 3.30 p. m. the balloon left the hall and circulated over the palace of Friedrichshafen, and at 4.04 landed again on the lake, near the balloon hall. The King went ashore and the Queen took his place aboard. After a short tour over the palace the balloon landed again at 4.40 near the balloon hall and the Queen went ashore. The air ship started out a third time, and at 5 made another landing, but went up again for a short time, stopping finally at 6.35 on account of an approaching thunderstorm.

The Emperor of Germany sent the count a congratulatory telegram.

July 7, 1908. Count Zeppelin reported to the Imperial Government that the new balloon had been taken to the balloon hall recently acquired by the Government.

July 13, 1908. The trial trip of the Von Zeppelin balloon for its official acceptance by the Government had been postponed for about a week on account of bad weather, but on this day the weather looked promising for an ascent on the morrow, and all preparations were made.

* * * * * * *

An accident, however, prevented the balloon from getting off. The new tugboat did not work well, and the wind, suddenly veering about at the same time that the towboat ported, sent the balloon against the balloon hall.

A hole was made in the balloon envelope by a loosened plank. The other compartments were uninjured, but it would probably take two or three weeks to repair the damage.

It is assumed, however, that immediately after the trial trip the air ships Nos. 3 and 4 will be turned over to the Government, while Count Zeppelin will retain No. 5, now building. Six new ones after the model of No. 5 are to be ordered.

* * * * * * *

All Germany had been greatly elated by the success of Count Zeppelin in going as far as Metz, so that when the catastrophe was announced the reaction was very great. Soon, however, the people, after expressing their sympathy, began sending in subscriptions from all over Germany, and in a few days a million or more marks had been subscribed, and the rebuilding of the old balloon, as well as the construction of an entirely new one, was at once begun.

* * * * * * *

CONCLUDING REMARKS.

The Zeppelin air ship, as is thus seen, has practically proven its efficiency on innumerable occasions, and must be regarded as a success and reckoned with in future as an engine of war.

Whatever may be the success of the flying machine, or of the smaller dirigibles, the air ship will have a strategic value in a campaign that can not be estimated at present, but which will certainly be very great.

SUPPLEMENTARY NOTES ON ZEPPELIN AIR SHIP.

* * * * * * *

November 19, 1908. The competitive plans for the new balloon hall for two Zeppelin air ships were submitted this day. Over 70 plans were submitted.

November 24, 1908. The jury of award (Professor Müeller, of Berlin; Professors Dietz and Ebert, of Munich) gave the first prize for the design for the new hall to the Brückenbauanstalt (Bridge-building Company), Flender, in Beurath, near Düsseldorf; the second to Guto-Hoffnungshütte, in Oberhausen on the Rhine; the third to Vereinigten Maschinenfabriken, Augsburg-Nurnberg.

Another 100,000 marks was paid over to Count Zeppelin out of the government fund.

* * * * * * *

December 1, 1908. The payment of the 1,500,000 marks for Zeppelin I was completed to-day.

Zeppelin III will not be begun until one of the two halls now occupied by I and II, respectively, become available.

This completes the history of the Zeppelin air ship to date.

THE MILITARY BALLOON OF MAJOR GROSS.

* * * * * * *

The new balloon is 216.5 feet long and has a diameter of 36 feet. The entire envelope is mounted on a frame of steel tubing and rests in a long trough-shaped aluminum plate, to which it is tied and screwed. The frame is entirely covered with balloon stuff, so that it is not exposed to view.

The gondola, which is 16 feet long and 6 feet wide, is also made of steel tubes and is connected with the keel of the balloon by means of a frame resting on ball bearings.

There are two 75-horsepower Coerting motors in the gondola. Each motor drives a propeller with three aluminum screws. The screws are run by ropes. The propellers are over the gondola close under the balloon, to the keel of which they are fastened.

In long trips only one motor is to be used.

* * * * * * *

August 20, 1908. In the morning at 7 o'clock the military balloon (in company with the Parseval balloon) maneuvered for one and one-half hours over Berlin. The wind blew about 8 meters a second from east-northeast. Both balloons sailed over Jungfernheide, along the Spandau canal, then turned around the victory column, flew over the Tiergarten to the Brandenburger Thor, and along the Linden to the palace. After maneuvering there for a quarter of an hour, they returned to Tegel and effected an easy landing.

At 10.45 a. m. the military balloon again rose and passed over Reinickendorf, Wittenau, and Weidmannslust to Hubertustock and Werbellinsee, about 32 miles north of Berlin, returning at 3 p. m.

August 22, 1908. At 9 a. m. General v. Moltke, chief of the general staff, made an ascent in the military balloon, maneuvering for three-fourths of an hour in a strong wind (about 25 miles an hour). It was landed with difficulty.

August 21, 1908. The military balloon was inspected by the crown prince and princess. At 5.30 p. m. the balloon made a brief ascent and landed easily again.

The crown prince then at 7 p. m. made an ascent, remaining up and maneuvering about for half an hour or more at a height of 1,000 feet.

August 27, 1908. The military balloon, after a rest of nearly a week, again began its ascents. At 11.25 a. m., with the wind blowing about 5 meters a second, it rose and sailed against the wind over Charlottenburg and Spandau to Potsdam, where it arrived at 1 p. m. There it went several times around the marble palace; then returned to Jungfernheide, landing in Tegel at 2 p. m.

* * * * * * *

September 11, 1908. The Gross military balloon started on a long night trip at 10.30 p. m. At 6.50 a. m. Stendal was reached. At 8.10 a. m. the balloon passed over Magdeburg, where, at a height of only about 500 feet, it performed a number of evolutions.

From Magdeburg the balloon returned to Tebel over Stendal and Rathenow, arriving at 11.31 a. m., maneuvering at a height of 1,600 feet for some time and landing at 12 m.

September 12. The balloon was, therefore, over thirteen hours in the air, thus breaking the world's record.

The balloon was in perfect condition and needed only a supply of benzine.

The wind during the night blew very strong, about 10 meters a second. At times the balloon went as high as 3,900 feet. The distance covered was about 175 miles.

* * * * * * *

On the way to Magdeburg both motors had to be used; on the way back only one was necessary. It took both motors nine and one-half hours to go to Magdeburg, whereas one motor brought the balloon back in three and one-half hours.

* * * * * * *

The ballast used during the journey amounted to 33 pounds, and the benzine and oil supply was sufficient for four hours more.

The radius of action is therefore about seventeen or eighteen hours.

* * * * * * *

November 7, 1908. The military balloon made another ascent with 8 persons in the gondola. The wind was blowing from the northeast about 7 meters per second.

* * * * * * *

THE VON PARSEVAL BALLOON.

The trials of the von Parseval dirigible balloon were continued throughout the year.

* * * * * * *

August 20, 1908. The Parseval balloon, at 7.15 a. m., made an ascent and trial of one and one-half hours, in company with the Gross military balloon.

The duke went in the military balloon on this day. Both balloons went over Berlin and back to Tegel.

* * * * * * *

August 22, 1908. The Parseval balloon made an ascent in company with the military balloon, in spite of the threatening weather and strong wind.

The military balloon got back safely to its hall, but the Parseval balloon was not so successful. While working at full speed of the motors, at a height of 1,600 feet, a plate of the cooling apparatus broke, and to prevent overheating the number of revolutions had to be lowered, but this also diminished the speed of the balloon, and the wind (which was blowing 25 miles an hour) drove it to the northeastward. The same gas filling had been in the balloon (additions having been made to it from time to time) for six weeks, consequently the chauffeur decided to land in the vicinity of Wittenau, which was effected without difficulty.

The balloon was packed on wagons in three-quarters of an hour and brought back to its hall.

* * * * * * *

September 9, 1908. The newly-filled balloon rose at 5.30 p. m. gradually to a height of 1,000 feet. At the earth's surface there was little wind, but at an elevation of 450 feet the balloon found a 17-mile breeze blowing. After a series of evolutions over Charlottenburg the balloon, at 1.10 p. m., landed smoothly on the Tegel grounds.

* * * * * * *

Near Burg, at 4.10 p. m., the balloon turned homeward, reaching Tegel at 7 p. m., after a eleven and one-half hour trial trip.

Every part functioned perfectly, and no ballast was thrown out during the run. Benzine had been provided for a ten and one-half hour run at full speed, but there was still a quantity left at the end of the trial. The greatest elevation reached was about 1,900 feet.

* * * * * * *

The performance of the types of the three great systems of dirigible balloons are here briefly given:

1. Zeppelin: Longest trip, twelve hours; greatest speed, 15 meters per second; capacity, 15,000 cubic meters.
2. Gross: Longest trip, thirteen hours; greatest speed, 13 meters per second; capacity, 4,800 cubic meters.
3. Parseval: Longest trip, eleven and one-fourth hours; greatest speed, 15.5 meters per second; capacity, 3,200 cubic meters.

It is thus seen that, with considerably smaller volume, the Gross and Parseval balloons have done as well as the Zeppelin, and in some respects have even surpassed it.

* * * * * * *

Parseval II is nearly ready for its outdoor trials. Meanwhile the details of the new construction are being tested indoors.

The endurance test has been made and there remains only the elevation and then the emptying and filling in the field.

On acceptance by the war department the sum of 225,000 marks will be paid for it by the Government.

* * * * * * *

October 23, 1908. At 12.30 p. m. orders were received to proceed with the trial in presence of a general staff officer representing the war department. An east wind of about 8 meter-seconds was blowing at an elevation of 900 feet.

After a short run the balloon rose to a height of 1,500–1,600 meters and maneuvered there for an hour. Between 3 and 4 the balloon landed again.

November 4, 1908. The balloon to-day made final trip. At 7.15 a. m. the balloon, loaded on two wagons, was taken to a designated point on the Spandau Weg. At 12.30 p. m. the filling was completed, 720 flasks of compressed hydrogen being required for the purpose.

The balloon then rose directly from the field and sailed northwest. There was a heavy fog at the time, and it became necessary to land in Schoeneiche, near Friedrichshafen, as it was found dangerous to attempt to return to Tegel.

November 5, 1908. The Parseval balloon was not accepted by the War Department because the speed had not yet been definitely determined.

* * * * * * *

The construction of a new Parseval balloon has already begun.

* * * * * * *

The two motors, of 100 horsepower each, are so arranged to the right and left that all parts can be readily reached for the purpose of inspection or repair.

* * * * * * *

The entire gondola weighs 5,500 pounds.

The envelope for the 5,600-cubic-meter balloon has already been delivered, and the new balloon will be ready before long. Its first ascent will probably be made in Bitterfield.

The following detailed description (by Engineer W. Friedlaender, Berlin) of the Parseval balloon now owned by the German Government and in use by the army may not be uninteresting, especially since Germany is now committed to the adoption of this type of nonrigid balloon for field use, and will probably soon have a fleet of them.

The balloon consists of balloon with rigging and gondola.

The gondola was built by the Neue Automobile Gesellschaft in Ober-Schoeneweide, near Berlin. The balloon body, without any rigid framework parts whatever, was constructed by Riedinger, in Augsburg. It is 190 feet long, its greatest diameter is 31 feet, and its volume 3,800 meters. In front its surface is a semiellipsoid, with semidiameters of 15.4 and 11.8 feet, falling off gradually in its nearly cylindrical part to a diameter of 29.5 feet at a point two-thirds of its length back, and then at the rear end coming to a point.

* * * * * * *

The weight of the ballon envelope is 1,650 pounds, the rigging and tackle, consisting of holding and carrying ropes, 220 pounds, the drag rope 220 pounds, so that the entire balloon weighs 5,170 pounds, and, therefore, with its total buoyancy of 6,820 pounds, leaves about 1,650 pounds for chauffeur and engineer, passengers, ballast, implements, etc. Six persons have often gone up in it, while the ballast has never been used, not even in the long endurance trial trip.

The greatest speed thus far attained was 15 meter-seconds, or about 33½ miles an hour.

The advantages of the Parseval balloon, especially for military purposes, are very great, and the most important among them are the easy transportation, due to its nonrigid construction, and its light weight as compared with its carrying power. Its cost is also comparatively small.

* * * * * * *

CONCLUSIONS.

The balloons at present adopted in Germany are the Zeppelin and the Parseval; that is, the rigid type and the nonrigid; nevertheless, it is believed that the Gross balloon will yet prove its efficiency, and that its type, or the semirigid, will also find a place in the military establishment.

The various characteristics of the three types have been sufficiently explained and discussed. The rigid type will find its principal application in strategy over the entire theater of war, on the entire front of strategic deployment of the army on the frontier, while the semirigid and nonrigid types will be used mainly in the domain of tactics, and the nonrigid more particularly with the advance troops of the field army.

There is no doubt whatever but that the Zeppelin balloon is a practicable air ship, and the same is true of the other two, although the Gross, or military, balloon requires further improvements to make it more reliable.

As regards the absolute safety of these machines, it must be acknowledged from the foregoing accounts that there is still much to be desired, but, comparatively, their safety is about the same and is sufficient for ordinary purposes. This is evidenced by the fact that the crown prince of Germany has been taken up in every one, which would not have been undertaken or allowed had not the inventors and the Government felt sufficient confidence in their safety and reliability.

Reconnoissance in war will hereafter be more thorough than in the past, and commanding generals will have more accurate information. This will not always make their task easier, but neither will ignorance of the enemy's positions or actions be an excuse for making mistakes in strategy and tactics in the future. Indeed, the commander in chief who is a good strategist and tactician will profit by this new war material, but he who is weak in both respects must suffer from them if his adversary has the ability to properly utilize the better information he receives.

Dirigible balloons and air ships, therefore, will not make strategy, as an art, any easier, but they will facilitate the execution of sound strategic plans by furnishing better, more definite, more complete, and more comprehensive information regarding the enemy's positions and forces.

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

Mr. HULL of Iowa. Certainly.

Mr. MANN. Some years ago the military authorities set aside a sum of money for experimentation purposes for Professor Langley, Secretary of the Smithsonian Institution. Does the gentleman know whether that is out of the fund appropriated for fortifications or out of the fund appropriated through the Committee on Military Affairs?

Mr. HULL of Iowa. I think it was out of the fund appropriated by the Committee on Appropriations and not, I think, out of the fund for fortifications. I think it was specifically appropriated for that purpose and reported from that committee, as I now remember.

Mr. MANN. Oh, but the gentleman is mistaken about that. There was very bitter criticism indulged in on the floor of this House by a member of the Committee on Military Affairs because that money was to be expended in that direction without the specific sanction of Congress, and it has been always understood it broke the heart of Professor Langley and practically caused his death, as he was the foremost man in the world in reference to that subject.

Mr. HULL of Iowa. I remember, Mr. Chairman, very distinctly that the question was asked if the Committee on Military Affairs had made the appropriation. I answered "no," and I think I made light of the experimentation. I have not any doubt but I did.

Mr. MANN. I do the gentleman credit to say that I do not think the gentleman expressed any opinion on the subject at the time.

Mr. HULL of Iowa. I did. I said they could not charge up any such foolishness as that against the Committee on Military Affairs. But I want to say that, in the light of investigation and what the world is doing, I have a different opinion on the question. I hope I may say I have grown in the last five years. But I do not think they will ever reach such a state of perfection in aerial navigation that I will trust myself in one of their ships.

Mr. MANN. I do not agree with the gentleman. I want to get into the first one that I can.

Mr. HULL of Iowa. Mr. Chairman, I move that the committee do now rise. I understand that the general debate is now closed.

The CHAIRMAN. It is not closed.

Mr. HULL of Iowa. Then, I will withdraw my motion, and ask that the Clerk proceed with the reading of the bill. I ask unanimous consent.

The CHAIRMAN. The gentleman from Iowa [Mr. HULL] asks unanimous consent that the motion that the committee do now rise be vacated. Is there objection?

There was no objection.

Mr. HULL of Iowa. I ask for the reading of the bill, Mr. Chairman.

The Clerk read as follows:

Be it enacted, etc., That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the army for the year ending June 30, 1910:

Mr. HULL of Iowa. Now, Mr. Chairman, as that closes general debate, I move that the committee do now rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. PERKINS, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill H. R. 26915, the army appropriation bill, and had come to no resolution thereon.

CONTESTED-ELECTION CASE—WARMOTH V. ESTOPINAL.

Mr. MANN. Mr. Speaker, I rise to present a privileged report.

The SPEAKER. The gentleman from Illinois presents a privileged report, which the Clerk will report.

The Clerk read as follows:

The Commitee on Elections No. 1, to which was referred the memorial of H. C. Warmoth, contesting the right of Hon. Albert Estopinal to a seat in the House of Representatives from the First Congressional District of Louisiana, and also a letter from Mr. Warmoth, stating that he withdraws his contest, beg leave to respectfully report and recommend that said memorial and petition do lie upon the table.

Mr. MANN. Mr. Speaker, I move that the papers referred to do lie on the table.

The motion was agreed to.

CANAL CONNECTING PUGET SOUND WITH LAKE WASHINGTON.

The SPEAKER laid before the House the bill S. 8695, a similar House bill having been favorably reported from the Committee on Interstate and Foreign Commerce.

The Clerk read as follows:

A bill (S. 8695) extending the time for the construction by James A. Moore, or his assigns, of a canal along the government right of way connecting the waters of Puget Sound with Lake Washington.

Be it enacted, etc., That, subject to all the other provisions contained in the act of Congress entitled "An act authorizing James A. Moore, or his assigns, to construct a canal along the government right of way connecting the waters of Puget Sound with Lake Washington," approved June 11, 1906, and contained in the modification of said act made in the act of Congress entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved March 2, 1907, the time limitation for the completion of the canal authorized by said acts is hereby extended until June 11, 1912.

Mr. HUMPHREY of Washington. Mr. Speaker, I move the passage of the bill.

Mr. CLARK of Missouri. The only change it makes is to extend the time?

Mr. HUMPHREY of Washington. That is all.

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

A similar bill (H. R. 26984) was laid on the table.

WAR CLAIMS.

Mr. HASKINS. Mr. Speaker, I ask unanimous consent that the first legislative day after the army appropriation bill has been passed be set aside, in lieu of to-day, for the consideration of claims upon the Private Calendar.

The SPEAKER. The gentleman from Vermont [Mr. HASKINS] asks unanimous consent that the first legislative day after the completion of the consideration of the army appropriation bill may be treated as to-day—Friday—under the rule for the consideration of business in order on Friday.

Mr. GARRETT. May I ask the gentleman if that will include bills reported by the Committee on Claims as well as the Committee on War Claims?

Mr. HASKINS. The Committee on Claims will have next Friday.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I feel compelled to object at this time.

ADJOURNMENT.

Mr. HULL of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 58 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for fees for witnesses in trial of land-fraud cases (H. Doc. No. 1380)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting an estimate of appropriations for rental for public offices at Petersburg, Va. (H. Doc. No. 1381)—to the Committee on Appropriations and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases relating to the schooner *Rebecca*, Mildmay Smith and John Hall, master (H. Doc. No. 1382)—to the Committee on Claims and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. BANNON, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 27311) amending chapter 591 of the United States Statutes at Large, Fifty-sixth Congress, approved May 26, 1900, entitled "An act to provide for the holding of a term of the circuit and district courts of the United States at Superior, Wis.," reported the same without amendment, accompanied by a report (No. 1986), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TOWNSEND, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 8333) to authorize the Edgewater Connecting Railway Company to construct, maintain, and operate a railroad bridge across the Kansas River at or near Kansas City, Kans., in the county of Wyandotte, State of Kansas, reported the same without amendment, accompanied by a report (No. 1987), which said bill and report were referred to the House Calendar.

Mr. GREENE, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 8266) to require life-preservers on motor vessels, reported the same without amendment, accompanied by a report (No. 1991), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 8460) to provide for the deduction of hatchways and water-ballast space from the gross tonnage of vessels, reported the same without amendment, accompanied by a report (No. 1992), which said bill and report were referred to the House Calendar.

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. CANDLER, from the Committee on Claims, to which was referred the bill of the House (H. R. 7157) for the relief of W. P. Dukes, postmaster at Rowesville, S. C., reported the same without amendment, accompanied by a report (No. 1988), which said bill and report were referred to the Private Calendar.

Mr. SHACKLEFORD, from the Committee on Claims, to which was referred the bill of the House (H. R. 25064) for the relief of Angeline C. Burgert, reported the same without amendment, accompanied by a report (No. 1990), which said bill and report were referred to the Private Calendar.

Mr. HAUGEN, from the Committee on War Claims, to which was referred House bill 27336, reported in lieu thereof a resolution (H. Res. 525) referring to the Court of Claims the papers in the case of Robert Graham, accompanied by a report (No. 1989), which said resolution and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 5459) granting a pension to Ellen Harrington—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 9600) granting an increase of pension to Charles Haggett—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 27252) for the relief of Francisco Krebs and his heirs and assigns—Committee on Claims discharged, and referred to the Committee on Private Land Claims.

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. KENNEDY of Iowa: A bill (H. R. 27361) providing for the erection of a federal building at Fort Madison, Iowa—to the Committee on Public Buildings and Grounds.

By Mr. AMES: A bill (H. R. 27362) to regulate the business of insurance within the District of Columbia—to the Committee on the Judiciary.

By Mr. COOPER of Texas: A bill (H. R. 27363) to provide for improving the navigable capacity of the Sabine and Neches rivers and the canal connecting the Sabine and Neches rivers with the mouth of Taylors Bayou—to the Committee on Rivers and Harbors.

By Mr. EDWARDS of Georgia: A bill (H. R. 27364) providing for the erection of monuments, respectively, to Gens. Daniel Stewart and James Screven, two distinguished officers of the American Army—to the Committee on the Library.

By Mr. SHEPPARD: A bill (H. R. 27365) to regulate the importation of virus that may be infectious for domestic animals—to the Committee on Agriculture.

Also, a bill (H. R. 27366) for an investigation by the Secretary of Agriculture to promote the more general use of cotton goods and materials manufactured from raw cotton in the United States—to the Committee on Agriculture.

By Mr. SCOTT: A bill (H. R. 27367) to provide for the inspection of nursery stock at ports of entry of the United States, to authorize the Secretary of Agriculture to establish a quarantine against the importation and against the transportation in interstate commerce of diseased nursery stock or nursery stock infested with injurious insects, and making an appropriation to carry the same into effect—to the Committee on Agriculture.

By Mr. FERRIS (by request): A bill (H. R. 27368) authorizing the Secretary of the Interior to enroll certain intermarried persons as Kiowa and Comanche Indians—to the Committee on Indian Affairs.

By Mr. HAWLEY: A bill (H. R. 27369) to amend an act approved August 15, 1894, an agreement with the Alsea and other

Indians on the Siletz Indian Reservation, in Oregon—to the Committee on Indian Affairs.

By Mr. MILLER: A bill (H. R. 27370) to regulate the interstate-commerce shipments of intoxicating liquors—to the Committee on the Judiciary.

By Mr. COOPER of Pennsylvania: A bill (H. R. 27371) to establish a fish-cultural station in the State of Pennsylvania—to the Committee on the Merchant Marine and Fisheries.

By Mr. YOUNG: A bill (H. R. 27372) to increase the efficiency of the Engineer Corps of the United States Army—to the Committee on Military Affairs.

By Mr. HIGGINS: A bill (H. R. 27373). to provide for the construction of a revenue cutter of the first class for service at the port of New London, Conn., and adjacent waters—to the Committee on Interstate and Foreign Commerce.

By Mr. BANNON: Resolution (H. Res. 524) concerning the documents and books ordered printed by the present Congress—to the Committee on Printing.

By Mr. BURLEIGH: Resolution (H. Res. 526) to pay the drivers of the folding room wagons an additional compensation—to the Committee on Accounts.

By Mr. HARDY: Resolution (H. Res. 527) requesting the President to furnish to the House certain information concerning certain property in the city of Washington—to the Committee on Public Buildings and Grounds.

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. AMES: A bill (H. R. 27374) granting a pension to Edwin R. Walston—to the Committee on Invalid Pensions.

By Mr. BIRDSALL: A bill (H. R. 27375) granting an increase of pension to James D. Place—to the Committee on Invalid Pensions.

By Mr. BURTON of Ohio: A bill (H. R. 27376) granting an increase of pension to Edmund B. Updegrove—to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 27377) granting an increase of pension to William L. Martin—to the Committee on Invalid Pensions.

By Mr. DAWSON: A bill (H. R. 27378) granting a pension to Luella Belle Davis—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 27379) granting an increase of pension to George W. Wade—to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 27380) granting an increase of pension to Smith A. Hunt—to the Committee on Invalid Pensions.

By Mr. FORNES: A bill (H. R. 27381) for the relief of Mary Priscilla Shipman and other heirs at law of John J. Shipman, deceased—to the Committee on Claims.

Also, a bill (H. R. 27382) for the relief of Mary Priscilla Shipman and other heirs at law of John J. Shipman, deceased—to the Committee on Claims.

By Mr. FOSTER of Illinois: A bill (H. R. 27383) granting an increase of pension to Robert T. Wright—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27384) granting an increase of pension to B. M. Laur—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27385) granting a pension to John B. Carmon—to the Committee on Invalid Pensions.

By Mr. FOSTER of Indiana: A bill (H. R. 27386) granting an increase of pension to William M. Myers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27387) granting an increase of pension to William F. Atkinson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27388) granting an increase of pension to Isaac H. Myers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27389) granting an increase of pension to Rane C. Carter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27390) granting an increase of pension to Alexander H. Mills—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27391) granting an increase of pension to Amanda McGillum—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27392) granting a pension to Robert Pasco—to the Committee on Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 27393) for the relief of the owners of the schooner *T. P. Leined* or their legal representatives—to the Committee on War Claims.

By Mr. GARRETT: A bill (H. R. 27394) granting an increase of pension to P. A. Cashon—to the Committee on Invalid Pensions.

By Mr. GILHAMS: A bill (H. R. 27395) granting an increase of pension to Stephen P. Taylor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27396) granting an increase of pension to Francis M. Vedder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27397) granting a pension to Anna Spanburg—to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 27398) granting an increase of pension to Dan O'Connor—to the Committee on Pensions.

By Mr. GRIGGS: A bill (H. R. 27399) for the relief of the estate of Dr. R. H. Hardeway, deceased—to the Committee on War Claims.

By Mr. OLLIE M. JAMES: A bill (H. R. 27400) for the relief of the estate of N. N. Rice, deceased—to the Committee on War Claims.

Also, a bill (H. R. 27401) granting a pension to Robert A. Hearell—to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 27402) for the relief of the legal representatives of George W. Johnson—to the Committee on War Claims.

Also, a bill (H. R. 27403) granting an increase of pension to John C. Smallwood—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27404) granting an increase of pension to Samuel F. May—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27405) granting a pension to Clay Brandenburg—to the Committee on Pensions.

By Mr. McCREARY: A bill (H. R. 27406) granting a pension to Philip Thran—to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 27407) granting an increase of pension to Willis Blackwell—to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 27408) granting an increase of pension to William M. Elder—to the Committee on Invalid Pensions.

By Mr. PUJO: A bill (H. R. 27409) for the relief of the heirs or legal representatives of Eugene Senette, deceased—to the Committee on War Claims.

Also, a bill (H. R. 27410) for the relief of the heirs or legal representatives of Joseph Ezernack, deceased—to the Committee on War Claims.

By Mr. RANSDELL of Louisiana: A bill (H. R. 27411) granting a pension to C. D. Benton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27412) to amend an act entitled "An act in relation to the Hot Springs Reservation, in Arkansas"—to the Committee on the Judiciary.

By Mr. REID: A bill (H. R. 27413) granting an increase of pension to Vergil Hoyle—to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 27414) granting an increase of pension to Isaac Sloan—to the Committee on Invalid Pensions.

By Mr. STANLEY: A bill (H. R. 27415) granting an increase of pension to Thomas Cullin—to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 27416) for the relief of W. A. Mooney—to the Committee on Claims.

By Mr. DE ARMOND: A bill (H. R. 27417) for the relief of Robert Graham—to the Committee on War Claims.

By Mr. ENGLEBRIGHT: A bill (H. R. 27418) to correct the military record of Lieut. James M. Wiley—to the Committee on Military Affairs.

By Mr. HUGHES of West Virginia: A bill (H. R. 27419) to repeal the act of June 29, 1906, granting a pension to Jackson Adkins—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BIRDSALL: Petition of citizens of Dubuque, Iowa, against a duty on tea and coffee—to the Committee on Ways and Means.

By Mr. BURKE: Petition of the Standard Sanitary Manufacturing Company, asking partial remission at least of duties on sanitary goods exported to the Philippines—to the Committee on Ways and Means.

Also, petition of the Yellow Pine Manufacturers' Association of St. Louis, against reduction of tariff on lumber—to the Committee on Ways and Means.

Also, petition of Pittsburg Association of Credit Men, favoring proposed amendment to the bankruptcy act as per the Sherley bill (H. R. 21929)—to the Committee on the Judiciary.

Also, petition of the J. S. McCormick Company, against a tariff being placed on graphite—to the Committee on Ways and Means.

By Mr. CALDER: Petition of Joseph Wild & Co., favoring the Sherley bill (H. R. 21929), amending present bankruptcy act—to the Committee on the Judiciary.

Also, petition of the National Board of Trade, against federal inspection and grading of grain (S. 382)—to the Committee on Interstate and Foreign Commerce.

By Mr. CAPRON: Petition of Rhode Island Chapter of American Institute of Architects, against placing the Lincoln memorial near the Union Station—to the Committee on the Library.

Also, petition of Rhode Island state board of agriculture, for a national highways commission and for federal aid in road construction (H. R. 15837)—to the Committee on Agriculture.

Also, petition of Business Men's Association of Pawtucket, R. I., for preservation of the forests on the high watersheds of the White Mountains—to the Committee on Agriculture.

By Mr. DAVIS: Petition of citizens of Morrison, Ill., favoring the Davis bill, for industrial education—to the Committee on Agriculture.

Also, petition of Sigmond & Olson, of Zumbrotta, Minn., and W. H. Tomlinson and others, of Le Sueur, Minn., against parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of St. Paul Business League, against S. 7867, the Taliaferro naval stores regulation bill—to the Committee on Naval Affairs.

By Mr. DAWSON: Petition of N. B. Baker Post, No. 88, of Clinton, Iowa, against increase of pay of army officers to the prejudice of enlisted men—to the Committee on Military Affairs.

By Mr. DOUGLAS: Petition of citizens of Ohio, for a national highways commission and federal aid in construction of public highways—to the Committee on Agriculture.

By Mr. DRAPER: Petition of the Yellow Pine Manufacturers' Association, against any changes of the tariff on lumber—to the Committee on Ways and Means.

By Mr. ELLIS of Oregon: Petition of Nelson Pickering and 30 others, of Columbia County, Oreg., favoring parcels-post and savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. ESCH: Petition of Milwaukee Association of Credit Men, favoring any enactment to improve present bankruptcy law amendment, as per H. R. 13266—to the Committee on the Judiciary.

By Mr. FORNES: Petition of New York Produce Exchange, against federal inspection and grading of grain—to the Committee on Interstate and Foreign Commerce.

Also, petition of American Protective Tariff League, against a tariff commission—to the Committee on Ways and Means.

By Mr. FOSTER of Vermont: Petition of Dorset (Vt.) Grange, for H. R. 15837, in aid of highways—to the Committee on Agriculture.

By Mr. FOWLER: Petition of Hamilton W. Mabie, of Summit, N. J., favoring a federal bureau for children (H. R. 2414)—to the Committee on Education.

Also, petition of Indian Association of Morristown, N. J., Louisa Stevenson, and others, against liquor in the Montana Fort Peck Reservation—to the Committee on Indian Affairs.

By Mr. FULLER: Petition of Local No. 192, United Garment Workers of America, of Streator, Ill., favoring amendment to the Sherman antitrust law—to the Committee on the Judiciary.

Also, petition of Robert S. Waddell, president of Buckeye Powder Company, of Peoria, Ill., favoring a tariff on explosives—to the Committee on Ways and Means.

By Mr. GRAHAM: Petition of the Standard Sanitary Manufacturing Company, of Pittsburg, asking a partial remission at least of duties on exports of sanitary goods from this country to the Philippines—to the Committee on Ways and Means.

Also, petition of Pittsburg Association of Credit Men, favoring proposed amendment to bankruptcy act, as per the Sherley bill (H. R. 21929)—to the Committee on the Judiciary.

Also, petition of Yellow Pine Manufacturers' Association, of St. Louis, Mo., against any changes in the tariff on lumber—to the Committee on Ways and Means.

By Mr. GRONNA: Petition of citizens of Cass County, N. Dak., against reduction of import duty on grain—to the Committee on Ways and Means.

Also, petitions of J. K. Martin & Co., of Coteau, and citizens of Pisek, both in the State of North Dakota, against duty on tea and coffee—to the Committee on Ways and Means.

By Mr. HAYES: Paper to accompany bill for relief of Betsey E. Higgins—to the Committee on Invalid Pensions.

Also, petition of Asiatic Exclusion League of North America, against concession to any other nation of the right to determine any of our domestic questions—to the Committee on Foreign Affairs.

Also, petition of San Francisco Chapter of American Institute of Architects, against placing the Lincoln memorial near the Union Station in Washington or on any other site than that advised by the park commission—to the Committee on the Library.

Also, petition of Canners' League of California, favoring the Fulton bill, amending interstate-commerce act suspending any proposed advance in freight rates pending investigation as to its reasonableness—to the Committee on Interstate and Foreign Commerce.

Also, petition of Sacramento Valley Development Association, against the Englebright bill, changing the law in regard to the disposition of the reclamation fund—to the Committee on Irrigation of Arid Lands.

By Mr. HIGGINS: Petition of dealers in crockery, china, and glass ware, against a higher duty on such products—to the Committee on Ways and Means.

By Mr. HILL of Connecticut: Petition of State Business Men's Association of Connecticut, favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HUGHES of New Jersey: Petition of E. M. Lyman and others, of Park Ridge, N. J., favoring a national highways commission and appropriation for federal aid in construction and improvement of highways (H. R. 15837)—to the Committee on Agriculture.

By Mr. KAHN: Petition of Canners' League of California, favoring enlargement of powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of San Francisco Chapter of American Institute of Architects, favoring west end of Mall as site for Lincoln memorial—to the Committee on the Library.

By Mr. KNAPP: Paper to accompany bill for relief of Frederick Appenzeller—to the Committee on Invalid Pensions.

By Mr. KNOWLAND: Petition of Canners' League of California, for amendment to rate law granting Interstate Commerce Commission further power to suspend proposed advances in rates pending investigation of their reasonableness—to the Committee on Interstate and Foreign Commerce.

By Mr. LAWRENCE: Petition of Wareham Grange, No. 82, of Southampton, Mass., favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of Egremont Grange, of Egremont, Mass., for a national highways commission and federal aid in construction of public roads (H. R. 15837)—to the Committee on Agriculture.

By Mr. LEVER: Petition of Georgetown (S. C.) Chamber of Commerce, favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of Columbia (S. C.) Chamber of Commerce, against S. 7876 (naval-stores inspection law)—to the Committee on Interstate and Foreign Commerce.

By Mr. LOUD: Petition of merchants of Alpena, Mich., against parcels post on rural delivery routes and establishment of postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. MARTIN: Petition of South Dakota State Horticultural Society, favoring H. R. 21318, relative to insecticides and fungicides—to the Committee on Interstate and Foreign Commerce.

By Mr. NEEDHAM: Petition of Asiatic Exclusion League of North America, against concession of sovereign rights of a State, etc., in regard to immigration question—to the Committee on Foreign Affairs.

By Mr. PUJO: Paper to accompany bill for relief of heirs of Joseph Ezernack—to the Committee on War Claims.

By Mr. RANSDELL of Louisiana: Paper to accompany S. 8649, relating to Hot Springs Reservation, in Arkansas—to the Committee on the Public Lands.

Also, paper to accompany bill for relief of C. D. Benton—to the Committee on Invalid Pensions.

By Mr. RYAN: Petition of Western Fruit Jobbers' Association, favoring increase of power of Interstate Commerce Commission in certain cases—to the Committee on Interstate and Foreign Commerce.

Also, petition of New Orleans Cotton Exchange, for investigation by Secretary of Agriculture into use and substitution of other articles of manufacture for raw cotton and report thereon—to the Committee on Agriculture.

Also, petition of Texas Hardware Jobbers' Association, of Fort Worth, favoring H. R. 22901, 22902, and 22903, all relative

to authority of Interstate Commerce Commission touching changes in freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. SABATH: Petition of trustees of the Newberry Library, against increase of duty now levied on books—to the Committee on Ways and Means.

By Mr. SLEMP: Paper to accompany bill for relief of Isaac Sloan—to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: Memorial of Capital Grange, No. 540, Patrons of Husbandry, of Lansing, Mich., favoring a tariff on beans—to the Committee on Ways and Means.

By Mr. SULLOWAY: Petition of Eagle Grange, No. 294, Patrons of Husbandry, of Chatham, N. H., favoring H. R. 15837, for a national highways commission and appropriation for federal aid in road building—to the Committee on Agriculture.

By Mr. THOMAS of North Carolina: Petition of Yellow Pine Manufacturers' Association, against reduction of tariff on lumber—to the Committee on Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 30, 1909.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of yesterday's proceedings was read and approved.

BRIDGE ACROSS THE MISSISSIPPI RIVER AT BURLINGTON, IOWA.

Mr. KENNEDY of Iowa. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 26466.

The SPEAKER. The gentleman from Iowa asks unanimous consent for the present consideration of the bill which the Clerk will report.

The Clerk read as follows:

Strike out all after the enacting clause and insert, so that it will read:

"That the time fixed by the act of Congress entitled 'An act to authorize the city of Burlington, Iowa, to construct a bridge across the Mississippi River,' approved January 23, 1908, for the construction and completion of the bridge therein authorized to be constructed is hereby extended one year and three years, respectively, from January 23, 1909.

"SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved."

Amend the title so as to read: "A bill to amend an act authorizing the construction of a bridge across the Mississippi River at Burlington, Iowa."

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

The amendment recommended by the committee was read, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the time fixed by the act of Congress entitled 'An act to authorize the city of Burlington, Iowa, to construct a bridge across the Mississippi River,' approved January 23, 1908, for the construction and completion of the bridge therein authorized to be constructed, is hereby extended one year and three years, respectively, from January 23, 1909.

"SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved."

The amendment recommended by the committee was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The title was amended so as to read: "A bill to amend an act authorizing the construction of a bridge across the Mississippi River at Burlington, Iowa."

MESSAGE FROM THE SENATE.

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

H. R. 4931. An act to correct the military record of Corwin M. Holt; and

H. R. 17572. An act for the relief of George M. Voorhees.

The message also announced that the Senate had passed bills and concurrent resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8510. An act to extend the time of payments on certain homestead entries in Oklahoma;

S. 8223. An act turning over the Indian school at Fort Lewis, Colo., to the State of Colorado for school purposes;

S. 8601. An act to provide for the payment of claims of the Roman Catholic Church in Porto Rico;

S. 7348. An act authorizing the procuring of additional land for the site of the public building at Beatrice, Nebr.;

S. 7872. An act to promote the administration of justice in the navy;

S. 7381. An act authorizing and directing the Secretary of the Interior to pay to the Flandreau tribe of Indians in South Dakota certain funds to the credit of said Indians;

S. 8376. An act providing for the reappraisement of unsold lots in town sites on reclamation projects, and for other purposes;

S. 7971. An act for the relief of Samuel W. Campbell;

S. 7862. An act to extend the privileges of the first section of the act of June 10, 1880, to the subports of Blaine and Sumas, in the State of Washington, and allowing the Secretary of the Treasury to fix the compensation of the deputy collectors at Seattle and Tacoma;

S. 7742. An act to increase the limit of cost for purchase of site and erection of post-office building at Elwood, Ind.;

S. 8273. An act to amend an act approved May 30, 1908, entitled "An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment;"

S. 5756. An act to remove the charge of desertion from the military record of Solomon M. Bennett;

S. 4090. An act to provide for the acquiring of additional ground and for the enlarging of the government building at Boise, Idaho;

S. 6554. An act for the erection of a monument to the memory of Brig. Gen. James Shields in St. Mary's Cemetery, Carrollton, Mo.;

S. 4033. An act to satisfy certain claims against the Government arising under the Navy Department;

S. 8839. An act for the removal of restrictions from the third selection or allotment of lands selected by William J. Scott, a minor member of the Osage tribe of Indians, and for other purposes;

S. 8429. An act to refund certain tonnage taxes and light dues levied on the steamship *Montara* without register;

S. 7641. An act setting apart certain lands in the Standing Rock Indian Reservation, in the State of South Dakota, for cemetery purposes; and

Senate concurrent resolution 62.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made on the shores and waters of Lake Michigan at Leland, Leelanau County, Mich., with a view to determining the advantage, best location, and probable cost of a breakwater to form a harbor of refuge at that point, and submit a plan and estimate for such improvements.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 5461. An act for the relief of Lawson M. Fuller, major, Ordnance Department, United States Army;

H. R. 12899. An act to provide for a disbursing officer for the Government Hospital for the Insane;

H. R. 22884. An act to impose a tax upon alcoholic compounds coming from Porto Rico, and for other purposes;

H. R. 3388. An act for the relief of L. B. Wyatt;

H. R. 25019. An act granting a franking privilege to Frances F. Cleveland and Mary Lord Harrison;

H. R. 16191. An act to refund certain moneys paid into the Treasury of the United States through mistake by Augustus Bannigan;

H. R. 6145. An act to refund to the Territory of Hawaii the amount expended in maintaining light-house service on its coasts from the time of the organization of the Territory until said light-house service was taken over by the Federal Government;

H. R. 18744. An act for the relief of the estate of Mark S. Gorrill; and

H. R. 4836. An act granting to the Norfolk County Water Company the right to lay and maintain a water main through the military reservation on Willoughby Spit, Norfolk County, Va.

The message also announced that the Vice-President had appointed Mr. BURROWS and Mr. BAILEY tellers on the part of the Senate, as provided for in Senate concurrent resolution 57.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5473) to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service.