By Mr. TOU VELLE: Petition of Henry Callett and 20 soldiers of Ansonia, Ohio, opposing 70 years of age as limit in H. R. 23244—to the Committee on Military Affairs.

By Mr. VREELAND: Petition of residents of Conewango Valley, Cattaraugus County, N. Y., against passage of Senate bill 3940—to the Committee on the District of Columbia.

Also, petition of oil producers of Allegany County, N. Y., against any change in tariff on crude oil—to the Committee on Ways and Means.

SENATE.

TUESDAY, *February 16, 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.

INTERSTATE BUSINESS BY TELEGRAPHERS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, by direction of the President and in response to a resolution of May 28, 1908, a report showing the results of an investigation made by the Bureau of Labor into the Western Union and Postal Telegraph companies (S. Doc. No. 725), which on motion of Mr. KEAN, was, with the accompanying paper, referred to the Committee on Interstate Commerce and ordered to be printed.

IRON ORE AND PIG IRON.

The VICE-PRESIDENT. The Chair lays before the Senate a communication from the Secretary of Commerce and Labor, stating, in response to a resolution of the 10th instant calling for information in respect to the total amount of iron ore and pig iron manufactured in the United States in any twelve successive months ending not earlier than June 30, 1908, that no statistics on the subject have been collected since 1905, and suggesting that the Geological Survey may be able to furnish the information desired. The Chair calls the attention of the junior Senator from Iowa to the communication.

Mr. CUMMINS. I shall prepare a resolution directed to the Director of the Geological Survey of the Department of the Interior, that we may get the information without additional expense.

The VICE-PRESIDENT. The communication will lie on the table and be printed (S. Doc. No. 722).

FINDINGS OF THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact filed by the court in the following causes:

In the cause of the Masonic Hall Trustees of Atlanta, Ga., *v.* United States (S. Doc. No. 723); and

In the cause of Magloire G. Blain *v.* United States (S. Doc. No. 724).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had passed the bill (S. 9295) in relation to the salary of the Secretary of State.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 26725. An act to supplement an act entitled "An act to promote the safety of employees and travelers upon railroads;" and

H. R. 27891. An act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States.

ENROLLED BILLS SIGNED.

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

S. 3969. An act to amend the laws of the United States relating to the registration of trade-marks;

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors;

S. 8628. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to certain widows and dependent relatives of such soldiers and sailors;

S. 8629. An act granting pensions and increase of pensions to certain soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, N. C.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.;

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming;

H. R. 24831. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 25391. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 25806. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 26461. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned bronze cannon and cannon balls to the city of Bedford, Ind.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Board of Trade and the citizens' statehood committee of Benson, Ariz., praying for the admission of that Territory into the Union as a State, which was referred to the Committee on Territories.

Mr. CULLOM presented a petition of the Woman's Christian Temperance Union of Naperville, Ill., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquor, which was referred to the Committee on the Judiciary.

He also presented a memorial of the Civil Service Reform Association of Chicago, Ill., and a memorial of the Men's Sunday Evening Club of Peoria, Ill., remonstrating against any effort being made to pass the so-called "Crumpacker census bill" over the President's veto, which were referred to the Committee on the Census.

He also presented a memorial of Grand Army Post No. 141, Department of Illinois, Grand Army of the Republic, of Decatur, Ill., remonstrating against the enactment of legislation providing for the consolidation of certain pension agencies throughout the country, which was referred to the Committee on Pensions.

He also presented a petition of the George Rogers Chapter, Daughters of the American Revolution, of Oak Park, Ill., and a petition of the Illinois Chapter, American Institute of Architects, of Chicago, Ill., praying for the enactment of legislation providing for the erection of the Lincoln memorial in Washington, D. C., on the site selected by the Park Commission, which were referred to the Committee on the Library.

Mr. SCOTT presented a petition of the Ohio Valley Trades and Labor Assembly of Wheeling, W. Va., praying for the enactment of legislation authorizing the census printing to be done at the Government Printing Office, which was referred to the Committee on the Census.

He also presented a petition of sundry citizens of Wheeling, W. Va., praying for the enactment of legislation to create a national reserve in the State of Wyoming for the care and maintenance of the American elk, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. GALLINGER presented a petition of the Granite State Dairymen's Association, of Contocook, N. H., praying that an appropriation be made for the establishment and improvement of rural schools, which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of the Garfield Citizens' Association, of the District of Columbia, remonstrating against the enactment of legislation to regulate the construction of buildings in the District of Columbia, which was referred to the Committee on the District of Columbia.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

Mr. CURTIS presented a resolution of the legislature of Kansas, which was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

House concurrent resolution 25, relating to tariff on zinc ores. By Mr. Wescott.

Whereas a large amount of the spelter manufactured in the United States is produced from ores mined in the State of Kansas; and

Whereas no zinc ore was imported prior to the year 1905, and during the last four years over 300,000 tons of Mexican zinc ores have been imported, which ores are produced by peon labor at one-third the cost of producing ores in the State of Kansas; and

Whereas the result of said importation of foreign ores is the curtailment of development and operation of zinc mines in the State of Kansas, and has resulted recently in the material reduction of wages, throwing out of employment a large number of wage-earners and the closing of many zinc mines in this State; and

Whereas no tariff, up to the present time, has been asked on zinc ores owing to the fact that no foreign ores have been imported until recently; and

Whereas for the last forty years lead ore has been subject to an adequate tariff duty, the result of which is that the State of Kansas is to-day one of the largest lead-producing States in the Union, and since the cost of producing lead ore and zinc ore in the State of Kansas is the same: Now, therefore, be it

Resolved by the house of representatives (the senate concurring therein), That we favor a just and equitable import duty on all zinc ores, and that we request our Senators in the Senate of the United States and our Members of Congress to work and vote for such legislation as will save this important industry from destruction and produce a substantial revenue to the Government.

The above consurent resolution was offered in the house, rules suspended, emergency declared, read second time, and adopted February 11, 1909. Messaged to senate, read first time, rules suspended, emergency declared, read second time, and adopted February 11, 1909.

J. N. DOLLEY,
Speaker of House.

Attest:
W. T. BECK,
Chief Clerk of House.

W. J. FITZGERALD,
President of Senate.

Attest:
Z. E. WYANT,
Secretary of Senate.

Mr. CURTIS presented a concurrent resolution of the legislature of the State of Kansas, which was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Senate concurrent resolution 16, relating to the placing on the retired list ex-Union officers of the civil war.

Whereas the Congress of the United States some forty years after the Revolutionary war, with a desire of expressing, in a measure, their gratitude to the surviving officers who had conducted that long, perilous but successful war, enacted a law placing the old patriots on the retired list, thereby enabling them to spend a few years freed from the cares and labor of providing the necessities of life; and

Whereas the same course was pursued with the survivors of the war of 1812, thus showing to the world that republics are not ungrateful, but, on the contrary, are ever mindful of the interests of their most humble citizens and regard with the most tender care their aged and decrepit patriots; and

Whereas nearly forty-four years have passed since the surrender at Appomattox and the number of these veterans of cherished memories is being rapidly reduced: Now, therefore, be it

Resolved by the senate (the house concurring), That we instruct our Senators and earnestly request our Representatives in Congress to give all assistance in their power to the enactment of a law that will place the surviving officers of the war of the rebellion on an equal footing in regard to the retired list as are officers of the Regular Army.

Resolved, That certified copies of these resolutions be forwarded to each of our Senators and Representatives in Congress.

I hereby certify that the above concurrent resolution originated in the senate and passed that body February 4, 1909.

W. J. FITZGERALD,
President of the Senate.
Z. E. WYANT,
Secretary of the Senate.

Passed the house February 5, 1909.

J. N. DOLLEY,
Speaker of the House.
W. T. BECK,
Chief Clerk of the House.

Approved February 9, 1909.

W. R. STUBBS,
Governor.

STATE OF KANSAS,
OFFICE OF THE SECRETARY OF STATE.

I, C. E. Denton, secretary of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 10th day of February, 1909.

[SEAL.]

C. E. DENTON,
Secretary of State.
By J. T. BOTKIN,
Assistant Secretary of State.

Mr. CURTIS presented a petition of sundry citizens of Manhattan, Kans., praying for the submission to the legislatures of the several States for ratification of an amendment to the Constitution granting the right of suffrage to women, which was referred to the Select Committee on Woman Suffrage.

He also presented a petition of the Board of Trade of Wichita, Kans., praying for an extension of further powers to the Interstate Commerce Commission relative to the business interests of the country, which was referred to the Committee on Interstate Commerce.

Mr. BURKETT presented a petition of sundry citizens of Nebraska City, Nebr., praying for the repeal of the duty on hides, which was referred to the Committee on Finance.

Mr. LODGE presented a petition of Local Lodge No. 87, Benevolent and Protective Order of Elks, of Lowell, Mass, and a petition of Local Lodge No. 917, Benevolent and Protective Order of Elks, of Somerville, Mass., praying for the enactment of legislation to create a national reserve in the State of Wyoming for the care and maintenance of the American elk, which were referred to the Committee on Forest Reservations and the Protection of Game.

Mr. PENROSE presented petitions of sundry citizens of Philadelphia, New Wilmington, West Middlesex, Scranton, Wayne, Germantown, Olney, Pittsburg, and Frankford, all in the State of Pennsylvania, and of Camden, N. J., praying for the enactment of legislation granting pensions to the surviving members of the United States Military Telegraph Corps who served in the civil war, which were referred to the Committee on Pensions.

Mr. LONG presented a joint resolution of the legislature of Kansas, which was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

House concurrent resolution 25, relating to tariff on zinc ores. By Mr. Wescott.

Whereas a large amount of the spelter manufactured in the United States is produced from ores mined in the State of Kansas; and

Whereas no zinc ore was imported prior to the year 1905, and during the last four years over 300,000 tons of Mexican zinc ores have been imported, which ores are produced by peon labor at one-third the cost of producing ores in the State of Kansas; and

Whereas the result of said importation of foreign ores is the curtailment of development and operation of zinc mines in the State of Kansas, and has resulted recently in the material reduction of wages, throwing out of employment a large number of wage-earners and the closing of many zinc mines in this State; and

Whereas no tariff up to the present time has been asked on zinc ores, owing to the fact that no foreign ores have been imported until recently; and

Whereas for the last forty years lead ore has been subject to an adequate tariff duty, the result of which is that the State of Kansas is to-day one of the largest lead-producing States in the Union, and since the cost of producing lead ore and zinc ore in the State of Kansas is the same: Now, therefore, be it

Resolved by the house of representatives (the senate concurring therein), That we favor a just and equitable import duty on all zinc ores, and that we request our Senators in the Senate of the United States and our Members of Congress to work and vote for such legislation as will save this important industry from destruction and produce a substantial revenue to the Government.

The above concurrent resolution was offered in the house, rules suspended, emergency declared, read second time, and adopted February 11, 1909. Messaged to senate, read first time, rules suspended, emergency declared, read second time, and adopted February 11, 1909.

J. N. DOLLEY,
Speaker of House.

Attest:
W. T. BECK,
Chief Clerk of House.

W. J. FITZGERALD,
President of Senate.

Attest:
Z. E. WYANT,
Secretary of Senate.

REPORTS OF COMMITTEES.

Mr. SCOTT, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 9182) to increase the limit of cost for the acquisition of additional land for the site of the new post-office and court-house at Duluth, Minn., reported it without amendment and submitted a report (No. 1003) thereon.

He also, from the same committee, to whom was referred the amendment submitted by Mr. PILES on the 10th instant, proposing to extend the limit of cost of the court-house, custom-house, and post-office building at Seattle, Wash., to $12,000, etc., intended to be proposed to the sundry civil appropriation bill, submitted a favorable report (No. 1006) thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by Mr. NELSON on the 8th instant, proposing to appropriate $80,000 for the acquirement by purchase, condemnation, or otherwise of land desirable for a new site for the post-office and court-house at Duluth, Minn., etc., intended

to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed and, with the accompanying paper, referred to the Committee on Appropriations, which was agreed to.

Mr. SIMMONS, from the Committee on Post-Offices and Post-Roads, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (H. R. 21019) to reimburse Agnes M. Harrison, postmaster at Wheeler, Miss., for loss of money-order remittance (Report No. 1004); and

A bill (H. R. 3844) for the relief of E. L. Simpson (Report No. 1005).

Mr. FRAZIER, from the Committee on Claims, to whom was referred the bill (H. R. 15755) for the relief of J. C. Haggard, of White County, Tenn., reported it without amendment.

Mr. NELSON, from the Committee on Territories, to whom was referred the bill (H. R. 25823) to amend an act entitled "An act to extend the time for the completion of the Valdez, Marshall Pass and Northern Railroad, and for other purposes," approved February 21, 1907, reported it without amendment and submitted a report (No. 1007) thereon.

IMPROVEMENT OF FERNANDINA HARBOR, FLORIDA.

Mr. FRYE, from the Committee on Commerce, to whom was referred Senate concurrent resolution 90, submitted yesterday by Mr. TALIAFERRO, reported it without amendment, and it 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 to be made an examination and survey with the view to obtaining a uniform depth of 10 feet in the inland waterway between Fernandina (Fla.) Harbor and the St. Johns River, and to report, together with an estimate of the cost of the project.

IMPROVEMENT OF ST. JOHNS RIVER, FLORIDA.

Mr. FRYE, from the Committee on Commerce, to whom was referred Senate concurrent resolution 91, submitted yesterday by Mr. TALIAFERRO, reported it without amendment; and it 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 of the St. Johns River, between Jacksonville and the ocean, with a view to obtaining a depth of 30 feet at mean low water.

IMPROVEMENT OF SMITHS CREEK, NORTH CAROLINA.

Mr. SIMMONS. From the Committee on Commerce I report a concurrent resolution as a substitute for Senate bill 9334, and I ask for its present consideration.

Mr. KEAN. I shall not object to the consideration of the resolution, but after it is disposed of I shall ask for the regular order.

The concurrent resolution (S. C. Res. 93) was read, 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 an examination and survey to be made of Smiths Creek, North Carolina, with a view to the removal of obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Smiths Creek.

Mr. SIMMONS, from the Committee on Commerce, to whom was referred the bill (S. 9334) authorizing a survey and estimate for removing obstructions and deepening the channel of Smiths Creek, North Carolina, reported adversely thereon, and moved that the bill be indefinitely postponed, which was agreed to.

IMPROVEMENT OF SWIFT CREEK, NORTH CAROLINA.

Mr. SIMMONS. From the Committee on Commerce I report a concurrent resolution as a substitute for Senate bill 9335, and I ask for its present consideration.

The concurrent resolution (S. C. Res. 94) was read, 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 an examination and survey to be made of Swift Creek, North Carolina, with a view to removing obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Swift Creek.

Mr. SIMMONS, from the Committee on Commerce, to whom was referred the bill (S. 9335) authorizing a survey and estimate for removing obstructions and deepening the channel of Swift Creek, North Carolina, reported adversely thereon, and moved that it be postponed indefinitely, which was agreed to.

ADOLPHUS ERWIN WELLS.

Mr. OVERMAN. I report a bill from the Committee on Military Affairs and ask for its present consideration. I will state that this bill has once passed both Houses of Congress and it was sent to the President. There was a mistake in it and I want to get it through. It is recommended by the Committee on Military Affairs.

The bill (S. 9355) for the relief of Adolphus Erwin Wells was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That in the administration of the pension laws Adolphus Erwin Wells, of North Carolina, shall be held and considered to have been mustered into the military service of the United States as a private of Company E, Ninth Regiment Tennessee Cavalry, on the 16th day of June, 1864; to have served continuously as such to the date of the muster out of said company and regiment; and to have been honorably discharged from the military service of the United States on the date of the muster out of said company and regiment.

Mr. KEAN. I ask for the regular order.

Mr. OVERMAN. I will state that I am authorized to report this bill from the Committee on Military Affairs.

Mr. KEAN. I have no objection to the bill, but I ask for the regular order.

Mr. OVERMAN. The Senator can not have any objection to the bill. It is reported by the committee and is not open to objection. He can object to its consideration, but he can not object to the bill.

The VICE-PRESIDENT. The Senator from New Jersey demands the regular order. The bill will be placed on the calendar.

BILLS INTRODUCED.

Mr. TELLER introduced a bill (S. 9356) granting certain land to the town of Yuma, in the Territory of Arizona, which was read twice by its title and referred to the Committee on Public Lands.

Mr. LODGE introduced a bill (S. 9357) to restore to the active list of the United States Navy the name of Commodore Charles Plummer Perkins, U. S. Navy, retired, which was read twice by its title and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. CULLOM introduced a bill (S. 9358) authorizing the President to transfer First Lieut. George G. Craig, Medical Reserve Corps, U. S. Army, to the Medical Corps, U. S. Army, and place him on the retired list, which was read twice by its title and referred to the Committee on Military Affairs.

He also introduced a bill (S. 9359) granting an increase of pension to Robert H. Church, which was read twice by its title and referred to the Committee on Pensions.

Mr. OWEN introduced a bill (S. 9360) authorizing the Secretary of the Interior to set aside the forfeiture of and reinstate a coal lease to the Sans Bois Coal Company and to permit the relinquishment of lands in certain Choctaw and Chickasaw coal leases and the substitution of other lands therefor, and for other purposes, which was read twice by its title and referred to the Committee on Indian Affairs.

Mr. PAYNTER (by request) introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 9361) for the relief of George W. Lackey, surviving partner of the firm of William Lackey & Sons; and

A bill (S. 9362) for the relief of Joseph E. Lindsey, surviving partner of John Lindsey & Son.

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

A bill (S. 9363) for the relief of the estates of M. F. de Graffenried and T. D. de Graffenried, deceased; and

A bill (S. 9364) for the relief of Brown & Co. or Brown & Bryant.

Mr. McCREARY introduced a bill (S. 9365) for the relief of the county court of Graves County, Ky., which was read twice by its title and, with the accompanying paper, referred to the Committee on Claims.

Mr. FORAKER introduced a bill (S. 9366) to provide for the sittings of the United States circuit and district courts of the northern district of Ohio at the city of Youngstown, in said district, which was read twice by its title and referred to the Committee on the Judiciary.

Mr. MONEY introduced a bill (S. 9367) for the relief of the Methodist Episcopal Church of Friars Point, Miss., which was read twice by its title and referred to the Committee on Claims.

Mr. BURKETT introduced a bill (S. 9368) for the relief of Sadie A. Lewis, which was read twice by its title and referred to the Committee on Claims.

Mr. SCOTT introduced a joint resolution (S. R. 132) authorizing the Secretary of War to donate two condemned cannon to the city of Wheeling, W. Va., which was read twice by its title and referred to the Committee on Military Affairs.

Mr. TILLMAN introduced a joint resolution (S. R. 133) authorizing the Director of the Census to collect and publish additional statistics, which was read twice by its title and referred to the Committee on the Census.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GALLINGER submitted an amendment proposing to create a commission to be known as the "Commission on the Alcoholic Liquor Traffic," etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. FOSTER submitted an amendment proposing to appropriate $250,000 for the extermination of the boll weevil, intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

MAJ. G. S. BINGHAM.

Mr. TALIAFERRO submitted the following concurrent resolution (S. C. Res. 92), which was considered by unanimous consent and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 6891) for the relief of Maj. G. S. Bingham.

ROAD IMPROVEMENT IN ALASKA.

Mr. PILES submitted the following concurrent resolution (S. C. Res. 96), which was referred to the Committee on Military Affairs:

Whereas petitions have been received from the legislatures of the States of Oregon and Washington and from numerous commercial bodies on the Pacific coast and in Alaska for increased appropriations for the construction of wagon roads, bridges, and trails in the Territory of Alaska; and

Whereas several bills have been previously introduced in Congress providing for aid in railroad construction in the said Territory: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That, for a better understanding of the requirements of Alaska in these respects, and to the end that a more systematic plan may be adopted, if found necessary, for the development of its resources, the Secretary of War be, and he is hereby, authorized to cause an examination to be made of the need for further road improvement in Alaska, in connection with the military and post roads, bridges, and trails now being constructed under War Department supervision, and of the needs and advantages from a military standpoint and to the Government of aid to railroad construction in that Territory; and to report thereupon, with recommendations, at the earliest practicable date.

OWNERS OF PRIVATE DIES.

Mr. LODGE submitted the following resolution (S. Res. 290), which was read:

Resolved, That the Secretary of the Treasury is hereby directed to report at his earliest convenience to the Senate if the following amounts opposite the respective names—or, if not these, what amounts, if any—were wrongfully collected under the acts of Congress approved July 1, 1862, and June 30, 1864, for commissions due owners of private dies, viz:

Alligator Match Company	$105.00
A. Beecher & Sons	1,407.00
W. T. Brown & Co	830.00
John I. Brown & Son	2,535.00
John Bull (estate)	1,278.00
Jeremiah Curtis & Sons	4,010.00
Curtis & Brown Manufacturing Company	49.50
Andrew Dougherty	5,645.00
Henry Dalley, jr	220.13
P. H. Drake & Co	990.00
A. Eichele & Co	3,527.00
Griggs & Scott	380.00
William Gates' Sons	203.98
L. G. Hunt	155.00
Holman Liver Pad Company	21.04
S. B. Hartman & Co	345.68
Joseph Loehr	2,961.44
R. H. McDonald & Co	2,436.00
National Match Company	1,040.00
D. Ransom & Co	400.00
H. R. Stevens	348.00
Swift, Courtney & Beecher Company	7,000.00
Trenton Match Company	755.20
John Loehr	4,521.44
Demas Barnes & Co	1,890.00

Mr. LODGE. I should like to have present consideration of this resolution of inquiry. It is a repetition of one passed last week, which was in wrong form, I was informed by the department.

The resolution was considered by unanimous consent and agreed to.

MAJ. C. DE W. WILCOX.

Mr. BACON. I submit a concurrent resolution for which I ask present consideration.

The concurrent resolution (S. C. Res. 95) was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France.

Mr. BACON. I desire to state that there is a name misspelled in the bill, and it is necessary to recall it in order to have the error corrected.

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

IRON ORE AND PIG IRON.

Mr. CUMMINS submitted the following resolution (S. Res. 289), which was read:

Resolved, That the Director of the Geological Survey of the Department of the Interior be, and he is hereby, directed to furnish the Senate, as soon as practicable, a report showing the total amount of iron ore and pig iron produced and manufactured in the United States in any twelve successive months ending not earlier than June 30, 1908; and also showing the names of all persons, partnerships, or corporations producing iron ore or manufacturing pig iron and the amount produced or manufactured by each thereof.

Mr. CUMMINS. This is an exact duplicate of the resolution submitted the other day and adopted, directing the Secretary of Commerce and Labor to furnish the information. That officer suggests that the information can be furnished without any cost by the Geological Survey of the Department of the Interior. The resolution simply changes the direction.

The resolution was considered by unanimous consent and agreed to.

THE IMMIGRATION COMMISSION.

Mr. GARY. I desire to give notice that on Thursday next, after the routine morning business, I shall call up Senate resolution 279, directing the Immigration Commission to report a summary of its acts, doings, and present work, and so forth, for the purpose of submitting some remarks thereon.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. M. C. Latta, one of his secretaries, announced that the President had, on February 15, 1909, approved and signed the following acts and joint resolution:

S. 5330. An act for the relief of the Mille Lac band of Chippewa Indians, in the State of Minnesota, and for other purposes;

S. 7390. An act for the relief of Christina Rockwell;

S. 4535. An act to amend section 714 of the Revised Statutes of the United States, relating to the resignation of judges of the courts of the United States; and

S. R. 122. Joint resolution to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States, March 4, 1909.

HOUSE BILLS REFERRED.

H. R. 26725. An act to supplement an act entitled "An act to promote the safety of employees and travelers upon railroads" was read twice by its title and referred to the Committee on Interstate Commerce.

H. R. 27891. An act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States, and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States, was read twice by its title and referred to the Committee on Territories.

NAVAL APPROPRIATION BILL.

Mr. HALE. I ask that the Senate resume the consideration of the naval appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 26394) making appropriations for the naval service for the fiscal year ending June 30, 1910, and for other purposes.

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

The Secretary resumed the reading of the bill on page 25, line 18.

The next amendment of the Committee on Naval Affairs was, on page 25, line 23, before the word "thousand," to insert the words "and fifty," so as to make the paragraph read:

Navy-yard, Portsmouth, N. H.: Rebuilding and fireproofing building No. 20, $43,500; electric capstan for quay wall, $3,000; foundry building (to cost $250,000), $50,000; in all, $96,500.

Mr. DIXON. Mr. President, I should like to ask the chairman of the Committee on Naval Affairs what character of work is done at the Portsmouth Navy-Yard that would require the immediate construction of a quarter-million-dollar foundry plant.

Mr. HALE. That, Mr. President, is one of the necessities developed by the present management in the department in cutting out things not needed and providing for essential things. A foundry, as the Senator well knows, is one of the essential things. One foundry to be used for the entire yard is one of the essential things, indeed, if you keep up the yard.

This provision does not make any appropriation, but under the recommendations of the Secretary, duly estimated for and asked for, the limit fixed of appropriations to be made by Congress whenever it chooses has been extended so that it may be a complete building.

While I think I have shown very clearly that the proportion of appropriations for public works at all the yards is very small, I do not mean in any way to be taken as agreeing to any proposition that while we maintain these yards there will not be necessary some buildings for the concentrated work of the yard, as the Secretary prescribes it. There will be no yards that will not need certain buildings—a power plant, a foundry, and certain other things. The estimate of the department is intended to meet that necessity.

Mr. DIXON. What I wanted specially to know is what special thing is being manufactured at the Portsmouth Navy-Yard that would call for the expenditure of a quarter million dollars for a foundry building alone.

Mr. HALE. The main work that is done at the Portsmouth Navy-Yard, and it is in a measure true of other yards, is in the way of repairs. Another thing done there, which always has been done to great advantage, is the building of boats. They have a very competent and expert force of men there, and the yard heretofore has been utilized for the building of boats.

There is another thing that is being done at this yard which is required. I do not know how it would compare with the Puget Sound yard, but next to that, and on the Atlantic coast, it is the great sanitary resort. If a ship, as frequently happens, comes in from a southern cruise and needs every kind of fumigation, every kind of cleaning out, and cool weather, it is sent to this yard. That work can not be done without a proper force and without proper buildings.

The Senator may remember that after the battles off the coast of Cuba the ships needed to be overhauled, and they and the captured prisoners themselves, were sent to this yard, because of its great value in the way of sanitation.

While I can not give the Senator the details, I can assure him that the Portsmouth Navy-Yard is a busy place; that it has a very competent and expert set of workmen at its control; and that the appropriations are small.

Mr. DIXON. I still believe the chairman of the Naval Affairs Committee has not answered the query which I propounded. For what purpose is a foundry building costing a quarter of a million dollars needed at the Portsmouth yard at this time? I know they manufacture boats there, but the manufacture of wooden boats would not call for a quarter-million-dollar foundry.

Mr. HALE. It does not.

Mr. DIXON. Neither would the sanitation of ships call for a quarter-million-dollar foundry.

Mr. HALE. It is no use to have a foundry unless you have a good one. The department say they can not get such a foundry as they require without the amount named in this limitation. There is no appropriation in the provision.

Mr. TILLMAN. Mr. President——

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

Mr. DIXON. I do.

Mr. TILLMAN. I was going to suggest to the Senator from Maine that from my little observation a foundry embraces a machine shop to handle the castings afterwards, and the two works always go together—a foundry and a machine shop. The mere casting of iron for use in cranks, shafts, and propellers, and various other large castings, such as are used on ships, is only a primary object as compared with the machinery for turning those and smoothing them up and putting them in a condition to be used. I do not know about this particular building or anything connected with it, but it just occurred to me that that might be the meaning of this structure.

Mr. DIXON. Here is an item carrying a quarter million dollars for some specific object. All this general discussion of the needs of the navy is not pertinent to the simple question I asked, What is the immediate occasion of a quarter-million-dollar foundry building at the Portsmouth Navy-Yard? That is what I have asked, and I think it is a perefctly competent question and should be answered.

Mr. GALLINGER. Mr. President——

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

Mr. DIXON. Certainly.

Mr. GALLINGER. The Senator's question is one somewhat difficult possibly to answer, yet the fact remains——

Mr. DIXON. It should not be.

Mr. GALLINGER. I think it will be answered. Yet the fact remains that a foundry at a navy-yard is just as necessary as a machine shop or any other instrumentality for carrying on the work.

In the Portsmouth Navy-Yard there is an old foundry, built sixty years ago, I think. It is a menace every hour of every day to certain other valuable buildings that are in the immediate vicinity of it. It ought to be torn down to-morrow or to-day.

The need of a new foundry has been recognized by the technical men of the navy. It was recognized by the Navy Department itself, and after very careful consideration an estimate was forwarded here that a foundry should be built at a cost of $250,000. It is not a very large amount for a building of that kind.

The Senator asks what is being done; what have been the castings at the navy-yard.

Mr. DIXON. Yes; that is what I wanted to know.

Mr. GALLINGER. The Senator possibly is not aware of the fact that since the dry dock was built at Portsmouth, which was only four years ago, 41 vessels have been in that dock for repairs.

Mr. DIXON. What kind of vessels have those been?

Mr. GALLINGER. All kinds, large and small.

Mr. DIXON. As a matter of fact there has been but one battle ship docked there.

Mr. GALLINGER. But one battle ship very probably, but this was because we were not prepared to have battle ships go to the navy-yard until very recently. They could have sent them there, but the department did not think it was wise to do so until the channel was widened. I say 41 vessels have been in that dock. The dock has been used one day out of two since it was built.

I want to read very briefly what a naval officer says about this foundry. Speaking of the old foundry he says:

> The size of this foundry is exceedingly small, taking into consideration the fact that in a modern foundry plant it is now essential to provide core furnaces, core-making rooms, sand-preparing rooms, cleaning rooms, lavatories, and other important compartments. It is likewise absolutely necessary to provide storage room for flasks, sand, clay, pig iron, and other bulky supplies that are used in great quantities for foundry purposes.

Then he goes on to say:

> It is an absolutely dangerous menace to the coppersmith and forge shops of the Steam Engineering Department, as well as to the old boiler shop.

That is the present foundry.

> In order to provide a foundry which will possess sufficient floor and head room, that will be installed with suitable cranes, and which will possess facilities for the storage of bulky foundry supplies, and where there can be installed adequate railroad track facilities, an appropriation of at least $300,000 is required, $50,000 of which should be used for the building of storage bins. It is only necessary to state that if a reasonable amount of foundry work should be assigned this yard it would not be found possible to efficiently store more than two or three months' supply of all the bulky articles entering into foundry work.

Then, following that, the Secretary of the Navy made an estimate, which was sent here, asking for $250,000 for the construction of this building.

This naval officer further says, and it is a fact—

> In the consideration of the foundry problem, particular attention is invited to the fact that on board the modern battle ship there are installed heavy power tools, such as lathes, shapers, and drills. If the battle ships can only be furnished in an expeditious manner with castings, it is within the capabilities of the vessels to do the necessary machine work required upon the castings.

If the Senator would visit the Portsmouth Navy-Yard some time, and I hope he will, because I am sure that he is speaking through inadequate information on many of these points, he will discover that that is a very busy yard, that a very high type of skilled workmen are employed there, and that there is no idleness, but, on the contrary, the Government is getting a good return for all the money it is investing at Portsmouth.

I will appeal to the Senator because he is a reasonable man. If we are to have a new foundry at Portsmouth—it is very much needed, it is an absolute and immediate need—we ought to have a good one, and there is no particular reason why we should stick in the bark about an appropriation of $250,000 when the men who are best qualified to judge of the matter say

that that amount is very much needed, and the naval officer from whom I have read says the amount ought to be $300,000.

But the Secretary of the Navy has sent his estimate here for $250,000, and there certainly is no reasonable excuse for not allowing it.

Mr. DIXON. I perfectly agree with what the Senator from New Hampshire says. If we are going to construct a navy-yard and build battle ships and repair battle ships, the foundry ought to be a good one; but, as a matter of fact, is it not a new departure for the Portsmouth Navy-Yard to do that heavy kind of casting called for in a $250,000 foundry building over the work that has been done there heretofore?

Mr. GALLINGER. Of course, it is conceded that in the present foundry they are not capable of doing the particular work that under modern conditions will be demanded. The Portsmouth yard is now equipped to do any kind of work practically; the only weak point there is in the yard to-day is the foundry; and that want ought to be supplied.

Mr. DIXON. I want to say to the Senator from New Hampshire that I have no prejudice for one navy-yard over another. I am thoroughly convinced that we have duplicated this work up and down the Atlantic coast, and in many places at a vast expenditure of money we have equipped yards for which there is no present need.

Mr. GALLINGER. If the Senator is making war on the navy-yards on the Atlantic coast, I hope he will not select Portsmouth, for the reason that that yard is located where we have an abundance of land, of cheap land. There are hundreds and hundreds of acres of land there owned by the Government, and the yard is equipped in every possible way to meet all the modern requirements of the navy. But because it happens to be farther north than any other navy-yard and not a very great distance from Boston, I hope the Senator will not direct all his attention to this yard, with a view of undertaking to prove that it is unnecessary, because I will say to the Senator that when the navy-yards are decreased, if they are ever decreased, in my judgment the Portsmouth yard will remain a monument to the wisdom of the men who established it in 1800, and in view of the most excellent work that it has done from that time to the present.

Mr. President, the Senator's question is a proper one as to whether we need $250,000 to build a foundry, but if the Senator thinks we do not need that amount he is putting his judgment, which in the nature of things can not be very technical, against the judgment of the officers stationed at that yard and the Secretary of the Navy, who has visited the yard to my knowledge twice, and who has carefully looked into the needs of the yard.

Mr. DIXON. From all my observations of the Senator from New Hampshire, I think everyone will agree that his whole mental attitude is that of fairness. Certainly I have no prejudice against the Portsmouth Navy-Yard or the Boston Navy-Yard or the Charleston Navy-Yard. I believe a majority of the Senate does believe that the work is duplicated many times over at the various little navy-yards that this country now possesses. We equip a plant at Portsmouth to do certain work. We equip the same plant at Boston, 65 miles distant. If this was a private proposition, no great corporation on earth would duplicate plants within 65 miles of each other. I have no prejudice against the Charleston Navy-Yard, the navy-yard at Philadelphia or Key West, or anywhere; but undoubtedly we are spending vast sums of money in equipping these various yards about which there is a great question. Some one stated yesterday on the floor that Admiral Goodrich of the navy only three or four months ago recommended the abandonment of the Portsmouth Navy-Yard.

Mr. GALLINGER. Yes; and other admirals have testified that it is quite as necessary, if not more necessary, than any other yard on the Atlantic coast; and I can read the testimony of those admirals, if the Senator wishes to hear it.

Mr. DIXON. I do not question that statement in the least. I wish to ask the Senator from New Hampshire whether, as a matter of good business policy, based on the economical expenditure of this Nation's money, he does not believe that there are more navy-yards on the Atlantic coast under present conditions than there should be?

Mr. GALLINGER. I will say frankly, no; I do not think there are. I will say, furthermore, I think the Senator's contention that this work ought to be consolidated in one yard is very likely not well taken.

Mr. DIXON. I will say three yards.

Mr. GALLINGER. I know of no reason why a battle ship going into the Portsmouth yard for repairs, as three battle ships have been required to go there for that purpose, should be compelled to send to Boston, New York, or Philadelphia for castings. I know of no reason why they should not have a foundry making whatever is necessary to make those repairs.

Mr. DIXON. That is exactly what I am contending for. The trouble with the navy-yards, as I understand the situation, is this: On the Atlantic coast you can not take care of over two battle ships in any single one of them. If we had a naval engagement on the Atlantic Ocean and the battle fleet should be crippled, they would have to go one to Portsmouth, another to Boston, another to Philadelphia, another to Key West, another to Portsmouth, Va., for repairs.

Mr. GALLINGER. Where would the Senator establish this great establishment he has in mind?

Mr. DIXON. I do not know. I am not a naval expert.

Mr. GALLINGER. That is it. The Senator could not establish it in Boston; he could not establish it in New York; because there is no land there for that purpose.

Mr. DIXON. Possibly Portsmouth is one of the great naval bases. I am not arguing that part of it. I am arguing against the present method of dissipating the resources of the country in keeping up a dozen one-horse navy-yards that can not accommodate over one or two battle ships.

Mr. GALLINGER. I know a great manufacturing concern in New England that has a mill in five or six different cities, and they think it economy.

Mr. DIXON. That is probably true of our navy-yards for the purpose of peace.

Mr. GALLINGER. So are our mills.

Mr. DIXON. And our navy-yards for the purpose of peace are all right.

Mr. TILLMAN. Mr. President——

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

Mr. DIXON. Certainly.

Mr. TILLMAN. I should like to call the Senator's attention to this phase of the subject: He speaks of the necessity of having some one great naval base where we can repair a half a dozen or a dozen battle ships at one yard.

Mr. DIXON. I say three or four yards.

Mr. TILLMAN. You mentioned one yard.

Mr. DIXON. No; three or four.

Mr. TILLMAN. The magazine article which the Senator has been reading, which undoubtedly has fired his zeal, embraces one on the Pacific coast, one in the Gulf perhaps, and one on the Atlantic coast. But what I want to call his attention to is this: Suppose a naval engagement occurred somewhere in the Atlantic and our battle-ship fleet of 20 or 30 ships came in conflict with the British fleet of 50 ships, and we get licked. Then suppose the British fleet should have ships enough that were not harmed to beat our crippled ships to this one yard or naval base and blockade it. Where would our ships go then? Unless they could speed up and down the coast and go into this dock and that, they would be absolutely blocked out, and when they got where there was no navy-yard they could not be repaired at all, and all the other fleet would have to do would be to blockade our ports, and you have no navy.

Mr. DIXON. That is exactly what——

Mr. TILLMAN. It is a good thing to sit on the pinnacle of the Rocky Mountains and think of these things and read magazine articles and come here and teach men these things, and it is a good thing to have a man from the Rocky Mountains come into the Senate and tell us all this. [Laughter.]

Mr. DIXON. The Senator from the Rocky Mountains is just as patriotic——

Mr. TILLMAN. I do not question the Senator's patriotism; but I question his knowledge in this matter. I believe he is actuated by good motives; but his zeal outruns his discretion, because he has been reading some magazine articles which are full of lies.

Mr. DIXON. All right. As to whether they are full of lies or not is what I am trying to find out this morning, and plain answers to the questions that I ask need not rub anybody's feelings the wrong way.

Mr. TILLMAN. You are not rubbing my feelings the wrong way. I am just earnest about this; that is all.

Mr. DIXON. I am just as patriotic as the Senator from South Carolina ever dared to be; I am just as much interested in maintaining a fitting navy as the Senator from South Carolina ever dared to be; but I do believe, and I believe that the Senator believes, that we are annually wasting millions of dollars in the duplication of exactly the same plants at seven or eight places up and down this coast where we do not need them.

Mr. GALLINGER. Will the Senator permit me to interrupt him?

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

Mr. DIXON. I do.

Mr. GALLINGER. How can we be spending several million dollars a year when the appropriation for all the navy-yards in the country in this bill is only about $4,000,000 for all purposes?

Mr. DIXON. The Senator from New Hampshire knows perfectly well that the bagatelle of $4,000,000 in this bill for repairs and construction in these navy-yards is not a drop in the bucket to what is actually expended at each one of these navy-yards. The pay roll at Portsmouth is how much a year?

Mr. GALLINGER. I do not know how much.

Mr. DIXON. How much, approximately?

Mr. GALLINGER. I do not know; but if the work was all done in one navy-yard, they would have to have these clerks employed in that navy-yard. I have never discovered that any consolidation of work in Washington has resulted in diminishing the number of clerks, nor has the Senator.

Mr. DIXON. How much is the annual pay roll of the Portsmouth Navy-Yard?

Mr. GALLINGER. I have not looked it up.

Mr. DIXON. How much is it approximately?

Mr. GALLINGER. I should not care to make a guess, but it is not very large.

Mr. DIXON. Does it reach a million dollars?

Mr. GALLINGER. Does the Senator mean for the workmen?

Mr. DIXON. Yes.

Mr. GALLINGER. I do not know how much it is; but supposing we admit that it is a million dollars, what then?

Mr. DIXON. How many workmen are there?

Mr. GALLINGER. I can not tell the Senator.

Mr. DIXON. How many approximately?

Mr. GALLINGER. I should say probably 300.

Mr. DIXON. How much is the land force, with a rear-admiral in command? You have got more clerks and rear-admirals and captains on land in charge of these workmen than you have at sea. That is what I am complaining of.

Mr. GALLINGER. Supposing that this great naval station, which the Senator from South Carolina has very well pointed out as probable, should be blockaded by a foreign fleet if we had a war and lost a battle; we would still have to employ those workmen there, and we should not save anything from the pay roll in that direction. We might cut off a few clerks possibly, but the saving would be inconsequential.

Mr. LODGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Massachusetts?

Mr. DIXON. Gladly.

Mr. LODGE. I simply call attention to the civil establishment to which the Senator from Montana [Mr. DIXON] has referred, as the Senator from New Hampshire [Mr. GALLINGER] did not happen to have the figures. The average expenditure for the civil establishment at the Portsmouth Navy-Yard for ten years has been $9,500 a year.

Mr. DIXON. What does that include?

Mr. LODGE. That includes all of the civil establishment.

Mr. DIXON. How much per year?

Mr. LODGE. About $9,534.

Mr. DIXON. What percentage of men employed on shore are on the civil list? You have a rear-admiral in command. Does the amount given by the Senator include the pay of the naval officers?

Mr. LODGE. Oh, no; of course that does not include naval officers. They are paid anyway.

Mr. DIXON. But you would not need this great number of naval officers if you did not have these navy-yards duplicated.

Mr. LODGE. I think the Senator will find that we shall need naval officers.

Mr. DIXON. I am going to ask one or two pointed questions, and I want to say——

Mr. ALDRICH. Will the Senator permit me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Rhode Island?

Mr. DIXON. Gladly.

Mr. ALDRICH. Mr. President, the Senator from Montana evidently has definite ideas with regard to these navy-yards, and he has expressed them with great clearness. I should like to ask him a question. He has alluded to the navy-yard at New Orleans, or the one at the mouth of the Mississippi River, and stated that no work had been done there. Now, does the Senator think because no work has been done there that there should be no navy-yard on the great Gulf of Mexico?

Mr. DIXON. I think there ought to be.

Mr. ALDRICH. In view of the possibility that war may happen after the construction of the Panama Canal, are we not to have any navy-yard on the Gulf and no place where one ship or a dozen ships in turn can go for repairs in case of difficulty? Does the Senator think that we should have no navy-yards on the south Atlantic coast? Charleston may not be the best place, but is it possible because perhaps no work is being done at Charleston to-day that we should not have, in view of the great national interests involved, a navy-yard on the south Atlantic coast?

Mr. TILLMAN. I will say for the benefit of the Senator from Rhode Island that the naval board appointed to consider that question reported that Charleston had the best harbor on the Atlantic coast south of Norfolk—that of Hampton Roads.

Mr. ALDRICH. My own judgment is that there ought to be a concentration of naval work in Narragansett Bay; which I think is the best place on the whole coast.

Mr. DIXON. I am rather inclined to agree with the Senator from Rhode Island, from what I have heard of it.

Mr. ALDRICH. But we are not ready for that, and it will take several years to complete the work of concentration. In the meantime, what does the Senator from Montana propose? Does he propose to abolish all these navy-yards, to dismantle them, and have no place whatever where the ships of the United States can go for repairs?

I suggest to the Senator that criticism and construction are two different things; and I hope that in the course of his remarks he will submit some plan and say what he favors, so that the Senate may know whether or not his suggestions are wise.

Mr. DIXON. That is exactly what I am leading up to. I want to say to the Senator from Rhode Island that certainly the south Atlantic and the Gulf of Mexico ought each to have a naval base; but in this same bill that is reported a commission is provided for to look into the reorganization of the navy. Would it not be a good thing at this time to add a provision giving that commission, which should be composed of disinterested men, authority to recommend where the great naval bases should be, instead of year after year spending millions and millions of dollars in equipping navy-yards? I will ask the Senator from Rhode Island that question.

Mr. ALDRICH. I am not on the Committee on Naval Affairs and am not responsible for the details of this bill; but I understand that the commission to which the Senator refers is to be given absolute power to recommend whatever they see fit as to the reorganization of the navy, including the location of naval stations and naval bases.

Mr. DIXON. Is that the understanding of the Senator from Rhode Island?

Mr. ALDRICH. That is my understanding about it.

Mr. DIXON. Is that the understanding of the chairman of the Naval Affairs Committee?

Mr. HALE. The Senator from Montana has made a suggestion of value in the way of the dispatch of the public business when he says that he believes the Senate is tired of the present system and wants a change.

Mr. DIXON. I did not say anything like that. I did not say that.

Mr. HALE. What did the Senator say; that he thought the Senate——

Mr. DIXON. I said I believed that a majority of the Senate believe that millions of dollars of money are annually wasted in maintaining these navy-yards that have come down from a former generation, rather than expending the money in the maintenance of some great modern naval base. That is what I said.

Mr. HALE. That is what I supposed the Senator said. The only way that that can be tested is by a vote of the Senate. The only way that it can be tested is, as we come to the clauses that arouse the interest and criticism of the Senator, to let the Senate pass upon them. You can not pass upon them all together. If the Senator wants a vote on this proposition in relation to the Portsmouth Navy-Yard, the sooner we get that the better in the dispatch of business. I have a great many figures and statements in relation to that yard, but I am so desirous of pushing this bill along and letting the Senate vote upon it, clause by clause, as we reach them, that I am entirely willing now that the Senate vote on the proposition in this amendment. If it votes it out on the criticisms the Senator from Montana has made and believes with him that we have got an entirely wrong system as to navy-yards, the Senate will show that very quickly by its vote. Then we shall proceed to the next item and take the vote of the Senate on that, but I appeal to the Senator that, while

it is not for me to say what length of time shall be spent by him in criticising generally, when he says that the Senate is in sympathy with him, the best way to test that is to have a vote. I would be willing now, without putting in the great bulk of papers that I have on this proposition, to let the Senate vote on this amendment. If it votes it out, that ends it.

Mr. DIXON. Does the Senator from Maine make the candid statement to this Senate that a vote on this item would honestly determine whether or not a majority of the Senate believes that millions of dollars are not being wasted annually?

Mr. HALE. It is one of the items. Every navy-yard here has an item, and when the Senate votes them all out it will show that they do not want to spend any more money on navy-yards. You can not get at it in any better way than that. How does the Senator expect to get an expression of the Senate unless it is by a vote on the amendments as they appear?

Mr. DIXON. Of course every navy-yard has an amendment in this bill; there is no doubt about that; but I want to say, in candor and without any captious criticism of this bill, that the trouble with the naval bill, I think, is just this, and I am going to be perfectly candid about it. Of the 12 Senators who constitute the Naval Committee, I think 10 have navy-yards in their States.

Mr. GALLINGER. Oh, no.

Mr. DIXON. Am I wrong?

Mr. TILLMAN. There are 92 Senators. That would only leave 12 against 80.

Mr. DIXON. Suppose "the Senators from the Rocky Mountains," who have been referred to by the Senator from South Carolina, had charge of the great Reclamation Service, and a committee which reported annually an appropriation bill to carry on the construction of new reclamation work in the Far West was composed in the ratio of 9 to 11 of men from the districts immediately interested in the great expenditure of this money, does any Senator on this floor question that that committee would be very unanimous for that appropriation bill?

Mr. TILLMAN. They have been unanimous for it.

Mr. DIXON. We have never had a single dollar in appropriation bills for this purpose.

Mr. TILLMAN. I am speaking of the Senators here who have been in favor of the reclamation project. The entire Senate agreed as to that being a wise and patriotic thing to do; and it comes with bad grace from men on that side, who have been getting their share of chicks and eggs from the National Government, to get up and captiously criticise the rest of us, who are only doing the same thing. [Laughter.]

Mr. HALE. Mr. President, we have in the reclamation work done precisely what the Senator is opposing in the naval bill. We have been leaving the reclamation matter almost entirely to the western Senators and we have stood by them every time.

Mr. TILLMAN. And Indian matters and public-land matters are also left to those Senators.

Mr. HALE. Almost entirely.

Mr. GALLINGER. And we all vote for the bills.

Mr. HALE. And we all vote for them. Here in the East we say those Senators know more about such matters than we do. If the Senator will look up the RECORD he will find before he became a Member of the Senate, that the Reclamation Service—and I am glad he has named it—has been in control, as it should be, of the Senators who are most interested; but the Senate, with the entire assent of this side of the House and of all the eastern Senators has stood up and voted for everything that has been asked by the Reclamation Service.

Mr. DIXON. Not a single Senator in this Senate——

Mr. ALDRICH. I am sure the Senator from Maine does not desire to make a statement that might create a false impression. I do not understand that the Senator from Montana undertakes to speak for western Senators, or anybody but himself.

Mr. HALE. I do not know.

Mr. ALDRICH. I do not understand that he is claiming to speak for any section.

Mr. DIXON. No; I am only speaking for the Senator from Montana.

Mr. ALDRICH. This is not a sectional question. He is simply speaking for himself; and whatever criticism there is one way or the other should be confined to the distinguished Senator from Montana.

Mr. HALE. Undoubtedly; but the Senator referred—and I am glad he did—to the Reclamation Service. Now, Mr. President, I can only say that I am very desirous of proceeding with this bill. I should like, if we could, to escape a night session and still finish the bill; but the only way we can do it is, as we reach the amendments, to take a vote upon them. I am entirely willing to take a vote upon this proposition now.

Mr. DIXON. When I have completed my remarks, I am perfectly willing to have a vote taken. I do not intend to be taken off the floor until I have finished saying what is on my mind to say at this time.

I want the chairman of the Naval Committee to listen to what I am now trying to say, pursuing my argument, that the duplication of plants and power shops at various navy-yards leads to a first cost of articles produced many times in excess of what it should be. I am going to read from this article—not the whole article, for there are personalities in it that I would not think of putting into the RECORD—but some things that I want to know whether or not they be true. The first thing on the list that my eye falls on is an item in which the Senator from South Carolina is interested. The article says:

> Mr. TILLMAN is a forceful and aggressive man; he has been for years a fellow-member with Mr. HALE on both the Naval and Appropriation committees. He received his plant for a first-class navy-yard, in spite of the reluctant report of the board of naval experts considering the matter that neither Port Royal nor Charleston could be made a first-class naval station.

Is that charge true, or not?

Mr. TILLMAN. Here is the report. I suppose I can have it printed in the RECORD, or I will let the Senator examine it privately and see whether the report is "reluctant" or not. I will leave it to his judgment.

Mr. DIXON. Is it a matter of fact that the experts of the board reported adversely against the establishment of the Charleston yard?

Mr. TILLMAN. No, indeed, they did not. I think there were seven members of the board. I have their names here, and I think all of them but one reported in favor of the Charleston yard.

Mr. DIXON. That is what I want to know.

Mr. TILLMAN. The Senator ought to have found that out before he brought that magazine article in here.

Mr. DIXON. I have not had time to find out all I should like to know regarding these matters.

Mr. TILLMAN. The Senator has got more time than some of the rest of us who have been here longer.

Mr. DIXON. And the Senator from South Carolina can answer it himself. He does answer it, and says it is not true.

Mr. TILLMAN. Frederick Rodgers, rear-admiral, United States Navy, president of the board; George A. Converse, captain, United States Navy; Peter C. Asserson, civil engineer, United States Navy; J. H. Linnard, naval constructor; E. H. C. Leutze, commander; and Sidney A. Staunton, lieutenant-commander. Those are the men who reported in favor of the Charleston yard.

Mr. DIXON. I should like to have that go into the RECORD.

Mr. TILLMAN. I will put it into the RECORD.

Mr. DIXON. I think it is due the Senator from South Carolina and the Senate, if this article is untrue in that particular, that the American people should know that it is untrue.

Mr. TILLMAN. We are very glad to have the Senator bring it in here and file it or indorse it to the extent of reading it as authority.

Mr. DIXON. I have not indorsed a thing. I do not know.

Mr. TILLMAN. If the Senator is going to look about in the newspapers and magazines for muck rakers to bring trash in here, we will be certainly overwhelmed.

Mr. DIXON. Oh, if this were the only muck-raking proposition brought into the Senate it would interfere with the dispatch of public business but very little. The article continues:

> The plant of a first-class navy-yard (according to present American standards) is now nearly finished at Charleston. It has cost up to date some $3,000,000. The department, realizing the futility of trying to use it for the purpose for which it was designed, has now turned it into a station for torpedo boats.

Mr. TILLMAN. Let me say right here to the Senator for his benefit that I have the same opinion in regard to the feeling of the Navy Department that the Senator from Louisiana [Mr. MCENERY] has in regard to New Orleans—that is, that there is a clique of naval officers up there who are under the influences, in New York and elsewhere, who have decided that the Charleston yard was unnecessary and undesirable, and therefore they are going to flyblow and smother it. What constitutes a good navy-yard—plenty of water?

Mr. DIXON. I should think that would be the first requisite.

Mr. TILLMAN. Very well. We have at Charleston as much water as will float without any trouble any battle ship in the fleet now constructed. The other day, when President-elect Taft started to Cuba, the Navy Department made haste to telegraph him at Augusta that they were afraid to send the *North Carolina* into Charleston. The naval officers who had informed the President-elect of the depth of water there and about the conditions had arranged before he left Washington

that he should take ship at Charleston, but this influence which I have mentioned went to work to have him change his plans. Mr. Taft finally notified me by telegraph, "I will go out of Charleston if I have to go on a raft." With what result? The *North Carolina* went into Charleston without the slightest trouble and anchored alongside the custom-house. Any other battle ship we have can do the same thing when the Navy Department will permit it to go there.

Mr. DIXON. Then probably Charleston should be one of the great naval bases.

Mr. TILLMAN. Probably so. We have got anchorage room in Rebellion Roads, as they call them, inside the jetties, for a hundred battle ships, and there is deep water clear up to the yard—35 feet of water. What more do you want?

Mr. DIXON. That would seem to me to be the principal requisite.

Mr. TILLMAN. You want to get the prejudice against the South and southern yards out of your heart, sir.

Mr. DIXON. The Senator from South Carolina now says that which is not true. I am a southerner. I was born in the South.

Mr. TILLMAN. I beg your pardon if I have misjudged you. There are some people around Washington who think that anything south of the Potomac is unworthy of consideration. The next President himself, in his speech at Atlanta, recognized that by saying that he wanted the South hereafter to feel that we were not aliens governed by aliens.

Mr. DIXON. If I had any prejudice in this case, I would be wholly in favor, from a personal standpoint, of a yard on the South Atlantic coast and on the Gulf.

Mr. TILLMAN. Here we have from Norfolk to the Florida cape eight hundred or a thousand miles, and we have from Florida to the Rio Grande about 1,500 miles of coast, all fronting on the Panama Canal, in a way.

Mr. DIXON. There ought to be a great naval base in that territory.

Mr. TILLMAN. But the Senator from Montana objects to having one yard on the South Atlantic coast, and he does not want any on the Gulf.

Mr. DIXON. I refuse to be put in any such position.

Mr. TILLMAN. Well, then, what is the Senator's wish and purpose?

Mr. DIXON. I said that a great navy-yard should be on the South Atlantic coast.

Mr. TILLMAN. What is the Senator's purpose in bringing this muck-raking magazine article here and trying to back up the clique in the Navy Department that wants to destroy the Charleston yard? Why is he lending his great influence and the weight of his intellect to any such crusade as that?

Mr. DIXON. The Senator from Montana is not lending what intellect he has to the destruction of the Charleston Navy-Yard or any other navy-yard; but I say they ought to be consolidated.

Mr. TILLMAN. For instance, the Senator speaks of Boston and Portsmouth being 65 miles apart.

Mr. DIXON. Yes.

Mr. TILLMAN. And then Boston and New York a little over 300 miles apart, and then Philadelphia, only about 80 miles down from New York. Here are Norfolk, League Island, New York, Boston, and Portsmouth—five great yards on the North Atlantic. Do you want none on the South Atlantic, when we have got as good a port as any of them?

Mr. DIXON. I have expressly stated to the Senator from South Carolina that my judgment is that there should be a great naval base in the South Atlantic. Will the Senator from South Carolina now answer a question that I want to ask him?

Mr. TILLMAN. I will try to.

Mr. DIXON. Does the Senator believe it is a matter of economy and public policy to maintain two great navy-yards within 65 miles of each other?

Mr. TILLMAN. What did the Senator say? I could not hear.

Mr. DIXON. Does the Senator from South Carolina believe it is a matter of economy or public policy to maintain great navy-yards within 65 or 80 miles of each other?

Mr. TILLMAN. Mr. President, it is not for me to set up my judgment against the judgment of the great naval experts who have established these yards. I will recall the Senator's attention to the fact that some eighteen or twenty years ago it was proposed to abandon the navy-yards at Boston and Portsmouth and Sacketts Harbor, and for several years they were in a way abandoned, and nothing was done except to have a caretaker remain there. But since the Spanish war turned our people crazy on naval glory, and we have become a "world power," and the process of building up a great navy has set in, there has been a restitution of the old yards, except those at Sacketts Harbor and at New London, which are practically abandoned, and the navy-yards at Boston and Portsmouth and New York and League Island and Norfolk and Charleston were inaugurated as being first-class yards that should be established on the Atlantic coast. We go first backward and then forward. Now we have got a board in the Navy Department that wants to go back down hill again after we have nearly gotten on top. Portsmouth and Charleston are both attacked.

Mr. SMITH of Maryland. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Maryland?

Mr. DIXON. Certainly.

Mr. SMITH of Maryland. Mr. President, I am a member of the Naval Committee. From the remarks of the Senator from Montana [Mr. DIXON] it might appear that probably the members of the committee were influenced by their interest in their States in voting upon this bill. I want to say that I voted for this bill. It is true that I am but a young Member here and know very little about the navy, but I have no state interest here so far as navy-yards are concerned. We have no navy-yards in the State of Maryland. But I took great pains to ascertain, as a member of that committee, from those who were present the facts connected with this bill; and I want to say, as a member of the committee, that there was great interest manifested, and that there was a great deal of talk in regard to this bill. I want to say for the other members of the committee that I believe they have acted without any consideration for any state interest or personal interest, and that they are endeavoring to act in the interest of the whole country.

I was very much impressed, for I asked a great many questions in regard to this bill, with the manner in which this subject was treated. I do not think it is fair that the motives of the committee should be impugned simply because some members of the committee may have naval stations in their States. I have none in mine, and I voted upon this bill because I believed those who had charge of it were endeavoring to discharge a conscientious duty.

I have felt it my duty to make this statement to the Senate inasmuch as I am a member of the committee and a Democrat and have no state interest in it.

Mr. HALE. Now, Mr. President——

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

Mr. DIXON. I do.

Mr. HALE. I rise for the purpose of appealing to the Senator from South Carolina, and I will say any other Senator who is anxious for the progress of the public business, to allow the Senator from Montana to complete his criticisms or his speech, in order that we may have a vote. I am content to sit still under what the Senator says, and when he gets through let us see whether the Senate is disaffected to this bill. The Senator will do nothing by answering fully or answering portions of what the Senator from Montana may say, except to renew and repeat an extended discussion. It is much more in the interest of the public business that we get a vote. The Senator from South Carolina has demonstrated the value of the Charleston yard, and the committee stands by him, and I think he need not be sensitive at what the Senator from Montana says. I appeal to him, if he can, to join with me in holding fast to our seats while the Senator from Montana goes on and completes his remarks. [Laughter.]

Mr. TILLMAN. Mr. President——

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

Mr. TILLMAN. I take in good part the admonition of the Senator from Maine.

Mr. DIXON. I have the floor——

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

Mr. DIXON. If he is going to follow the advice of the Senator from Maine, I should not think he would want the floor.

Mr. TILLMAN. But I want one question answered by the Senator from Montana.

Mr. DIXON. I will gladly yield to the Senator.

Mr. TILLMAN. I want to know if it is the Senator's desire and purpose to abandon the South Atlantic and Gulf coasts, and go to Guantanamo and build up a great naval base there?

Mr. DIXON. Mr. President, I know nothing about Guantanamo.

Mr. TILLMAN. But the scheme which the Senator backs, and which he has exploited here and brought into the Senate, and of which that McClure Magazine article is one of the forerunners, which is now in full feather flying as far as it can go from the Navy Department, is to have all the South Atlantic and the Gulf coasts abandoned and go to a foreign country to

build up a naval base which can be shelled from the open sea, whereas the navy-yard at Charleston is 7 miles from the ocean and can not be shelled, because the forts are right at the jetties on Sullivans Island, and would sink any fleet that came within reach of the navy-yard. This can not be said of all the navy-yards we have.

Mr. DIXON. What the Senator from South Carolina says, I think, describes a typical naval base as it impresses itself on my mind.

Mr. TILLMAN. If the Senator will just simply move some amendment and let the Senator from Maine get his vote, I shall be content; or, if he wants to talk on, let him talk.

Mr. DIXON. The Senator from Montana is not going to be put in the attitude by the Senator of talking for no purpose or of attempting any filibuster. Let us have that understood. I have not impeached any man's integrity or motive. I simply say that the members of the great Naval Affairs Committee are doing what every other man in the Senate would do. They are influenced by public opinion in their own States. I have not impeached the purpose of the Senator from Maryland [Mr. SMITH]. He has no navy-yard in his State; nor have I impeached the motive of any other man in the Senate. Still I notice on page 33 of the bill a Senate committee amendment which reads as follows:

Toward the construction of two concrete piers at the Naval Academy, Annapolis, Md. (to cost $250,000), $100,000; in all, $100,000.

Perfectly legitimate, I apprehend.

Mr. SMITH of Maryland. I beg pardon.

Mr. DIXON. I say I notice a Senate amendment on page 33:

Toward the construction of two concrete piers at the Naval Academy, Annapolis, Md. (to cost $250,000), $100,000; in all, $100,000.

Perfectly legitimate. I am not questioning the item or questioning any man's motive, except I say we are all human. The chairman of the Naval Affairs Committee made the statement in the Senate yesterday that last year the appropriations were $122,000,000; this year $137,000,000; next year he estimated they would be $160,000,000, and in 1911, $200,000,000. I did not hear the Senator from Maine make that statement, but in the paper this morning it is said the Senator made that statement yesterday. It was news to me. I did not hear it. At this time, when we are facing a deficit of $150,000,000, as I understand, this year, something ought to be done, and instead of increasing the naval appropriations by $16,000,000 over last year, we at least ought to go slowly. Why put in these appropriations for these various navy-yards at a time like this, when the bill already provides for a commission to examine into the general affairs of the navy; and I hope it will contain a provision to report what are the navy-yards that should be continued and enlarged. I think it is a mistake to increase the deficit by many million dollars.

The Senator from Maine said yesterday that the bill had grown from $13,000,000, as I remember, twenty-five years ago to $137,000,000 at this time, and he conveyed the intimation that Congress could not be stopped from making these great appropriations. Personally I took no censure to myself. A year ago I voted for two battle ships and against the four battle ship programme.

I want to read a little more to find out whether these statements which have been scattered all over the country are true or false. If I stood indicted by an article like this I would answer it on the floor of the Senate. The great American public believe these magazine articles, whether true or false. They are largely inclined to. I believe, as a matter of self-respect for the Senate and for Congress and for the administration, we ought to answer charges made openly and scattered in hundreds of thousands of copies all over this country. I was glad to hear what the Senator from South Carolina said with respect to the insinuation against the Charleston Navy-Yard. I do not believe the Senator from South Carolina would make a statement on the floor of the Senate that is not true. I will take his word against any magazine article. I want to continue the reading, and let us find out whether or not these things are true.

Continuing, regarding the Charleston Navy-Yard, the article says:

The department, realizing the futility of trying to use it for the purpose for which it was designed, has now turned it into a station for torpedo boats. It contains a dry dock intended to take in the largest battle ships. A machine shop, costing nearly $300,000—perhaps the handsomest in the navy—has been turned into a storehouse, without ever being used for the purpose it was built for.

Mr. TILLMAN. Does the Senator want an answer?

Mr. DIXON. I should really like to be enlightened.

Mr. TILLMAN. I will have to be very brief, because the Senator from Maine I know is impatient, and I do not want to retard the progress of the bill.

I will say for the Senator's benefit, once for all, that the ground for the Charleston Navy-Yard was broken about eight years ago. The dry dock has been under consideration, and work on the shops and the caissons for the opening of the dock and the dredging into the dock, so that ships could enter through the channel, has been going on. It is in a condition like a manufacturing establishment; for instance, a steel plant. The steel trust is constructing a great steel plant somewhere out West, at a cost of $10,000,000, and it is not doing a dollar's worth of work there yet, and it will not until it gets through with its construction.

Mr. DIXON. How long has this machine shop been built?

Mr. TILLMAN. I do not know; two or three years. It is ready to do the work, though, if you can get some one to send a battle ship there. Will the Senator undertake to go to his friends in the navy who arm him with this stuff and get a battle ship sent there?

Mr. DIXON. I am not on the Naval Affairs Committee.

Mr. TILLMAN. It is not a question of being on the Naval Affairs Committee. I am on the Naval Affairs Committee, and I can not get one sent there.

Mr. DIXON. I am as innocent as an unborn child in a matter of this kind.

The VICE-PRESIDENT. The Chair will suggest that Senators must not take the floor except by first addressing the Chair. Securing the right to the floor once does not entitle the Senator to continue resumptions of the floor. The Chair will feel that, in the interest of the expedition of public business, it will be necessary to enforce this rule.

Mr. DIXON. Now, continuing, he says:

Some $3,000,000—

This is the navy-yard at New Orleans, and this article charges:

Some $3,000,000 has now been spent here, and $10,000 worth of work turned out. This is not because it has been unprepared to do work; it has been equipped sufficiently for some years. But as it is 75 miles up the swift current of the Mississippi from a part of the Gulf coast where our battle ships seldom go, there is small demand for its services. It, however, continues to grow. The Secretary of the Navy, in last winter's hearings before the House Committee on Naval Affairs, recommended that no more money be spent here. Congress then appropriated $76,000 for extending the plant, this sum including, in the minor items of sewers and conduits, more money than all of the work ever done in the plant.

Mr. McENERY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Louisiana?

Mr. DIXON. Gladly.

Mr. McENERY. In regard to the naval station at New Orleans, I will say to the Senator from Montana that it is a new station, having been established quite recently, since the commencement of what is called the "new navy." The Congress of the United States, supposed to be on the recommendation of the Navy Department, passed an act establishing a naval station on the Gulf. A commission of naval officers was sent on the Gulf coast to select a site for a naval station. The last chairman of the commission was Admiral Bunce, who was one of the ablest officers at that time in the navy, or probably one of the ablest ever in the navy. He examined this site and located the naval station at New Orleans.

That station is prepared to repair any battle ship in the navy. It has all of the machinery, all of the appliances, and that no ships are sent there is the fault of the Navy Department. It will take those little cruisers, gunboats, serving on the South American coast that need repairs and send them to its favorite navy-yards at Norfolk and at Brooklyn. The station at New Orleans is ready to receive these ships and repair them, but in the hostility of the Navy Department against this station, recently developed, they refuse to send any vessels there. Not only that, but they absolutely refuse and decline to use the appropriation passed by Congress for the yard.

Now, as to the harbor, a ship drawing 25 feet can go as easily into New Orleans as a skiff. There is no trouble whatever. They are improving the harbor by making jetties at the Southwest Pass, and in a few months ships drawing 35 feet will be able to go to New Orleans. From the Head of the Passes to New Orleans there is no lack of water from 100 to 200 feet deep. The largest ships that go to New Orleans, some of them carrying 20,000 bales of cotton, go right to the wharf and receive their cargoes.

I desire to say one word about the usurpation of authority by the executive department. They want to abolish these navy-yards. They do not desire an act of Congress to do it. They think they can do it in spite of any action of Congress simply by withholding appropriations made to those navy-yards and declining to make estimate for future appropriations, in direct antagonism to Congress. They have no more authority to

abolish those navy-yards than I would have by my simple ipse dixit to say they shall be abolished. If they want to abolish them, they ought to come to Congress and get an act and not withhold appropriations and render the yards useless and then say they are not fit for the purposes for which they were established and ask for their abolishment.

Mr. DIXON. That carries out exactly the line of my at least intended argument that we have twice as many naval stations at this time as the navy needs. The Senator from Louisiana, whose word is as good as that of any living man, says he has a navy-yard fully equipped, at a cost of several million dollars, with a 35-foot channel, and only $10,000 worth of work has ever been done in the $3,000,000 yard. I ask the Senator——

Mr. McENERY. That is the fault of the Navy Department in not sending ships there——

Mr. DIXON. That is what I say.

Mr. McENERY (continuing). In pursuance of their policy to finally get rid of it.

Mr. DIXON. I want to ask the chairman of the Naval Affairs Committee if he believes it is good policy to establish a $3,000,000 navy-yard and then do only $10,000 worth of work in the $3,000,000 plant, taking into consideration the force of mechanics naturally there, the great yard equipment maintained, the marine barracks? Is it good business policy to put a $3,000,000 plant in operation to produce $10,000 worth of repairs?

Mr. HALE. It may be.

Mr. DIXON. I did not understand.

Mr. HALE. It may be.

Mr. DIXON. It may be good policy?

Mr. MONEY. Will the Senator from Montana permit me to say a word?

Mr. DIXON. Gladly.

Mr. MONEY. Mr. President, a good many years ago, when I was a Member of the other House, I was on the Naval Committee. I was one of the gentlemen who inaugurated the plant at New Orleans. I took an active part in it, for many good reasons, as I thought.

In the first place, the current of the Mississippi does run about 4 miles an hour, but any steamship can get up there any afternoon by its own propulsion, without a tow. There is nothing in that. The tremendous advantage that a ship has in being docked there is the fresh water. The toredo is the enemy of vessels in tropical seas, and the toredo can not live in fresh water. Consequently there is a tremendous advantage in having a fresh-water dock and a navy-yard in which seagoing vessels can be placed for repairs, because it is the death of the worm and also of the barnacles which rapidly accumulate upon the bottom of the ship. There are two reasons.

Now, as to the cost. It is true that there is no work done there, because there is none there to be done; but I will ask the Senator to think for a moment of this situation: We might have a scene of active naval hostilities in either the Caribbean or the Gulf of Mexico. Suppose after a naval battle we wanted immediate repairs to prepare the ships for another battle. We might have needed it after Santiago, except that the happy results of that conflict made it totally unnecessary. Then, we would find it very convenient to have a port so secure from the enemy as the one 75 or 100 miles inland and defended by two forts below it on the river; a navy-yard that would clean the ship's bottom of barnacles and also kill the toredo and where ample work could be done.

A further great reason, as I recollect, for locating the navy-yard at that place was that New Orleans, being a large commercial port, had a great body of skilled artisans accustomed to ship work, accustomed every day to do work for ships that came there upon peaceful missions, and they could be immediately transferred across the river to the dockyard at Algiers and made available, without maintaining there a great army of laborers in time when no repairs were needed.

In my opinion, if there is a dockyard in the South which ought to be maintained it is this one, because, as I have said, it is the dockyard to which ships from the Mexican Gulf and the Caribbean can go if they need repairs.

I did not intend to interrupt the Senator, but that was information which I wanted to give.

Mr. DIXON. I am glad to hear the statement. As I understand, there is one dock at New Orleans. Suppose a battle fleet, having been in battle in the Gulf, with half a dozen or eight or ten ships injured, seeking a port where the ships could get into dock and be repaired. Suppose they sought the navy-yard at New Orleans. There is one dock there. It carries out exactly my argument that you have dissipated your means—one dock at New Orleans, one at Portsmouth, one at Charleston. There ought to be three or four great naval bases with half a dozen docks. I think New Orleans on the coast ought to present a good place for a naval base.

Mr. MONEY. Will the Senator permit me?

Mr. DIXON. Gladly.

Mr. MONEY. The gravamen of the Senator's complaint, as I understand, is that so much money has been expended and no work done. If you want, say, three docks instead of one, then there will be a very much greater amount of money expended in the plant and no work would be done, because there is none to do. So his charge grows graver instead of lighter; and if his plan is pursued, we will be expending an enormous sum of money with no more results in the way of repairs than we have to-day. Of course it is a very fortunate thing for this country if there are no naval conflicts with such damage to our ships as to require the expenditure of money for repairs, and it is very lucky that we have not expended a hundred thousand instead of $10,000 at New Orleans.

Mr. DIXON. It is lucky it has not been any larger at any of these places.

Mr. MONEY. Yes.

Mr. DIXON. I am glad to hear the statement as to this channel. I understand this dock has been there eight years, and that but one battle ship has been docked in that time. A naval officer has made the statement that a ship waited three weeks for high water to get into the dock. If those things are not true, the Senate ought to know it and the country ought to know it.

Mr. McENERY. I was there when that ship was docked. She never had to wait any length of time.

Mr. DIXON. I am glad to hear that statement.

Mr. McENERY. She was docked right off the bank where, I presume, within 2 feet of it was 40 feet of water.

Mr. DIXON. The article continues:

> New Orleans, for example, was so unfortunate as to secure but $1,040.01 worth of work in the naval year of 1907. The cost of maintaining this station during that year was $97,178.49, while $308,332.35 more was expended, with rare optimism, on improvements. There were $41,644.37 worth of naval officers and enlisted men stationed about this establishment during that uneventful year, while $20,000 worth of marines guarded it day and night.
>
> Key West in 1907 had an unusually busy year. It did $7,126.18 worth of work, against $3,109.94 the year before. Its maintenance charges amounted to $139,908.32, but it secured only $40,109.75 for improvements. It was, however, cared for by $48,882.36 worth of naval officers and sailors and guarded by $12,000 worth of marines.

I wish again to ask the chairman of the Naval Affairs Committee if he thinks that is an economical, businesslike expenditure of money? [A pause.] I say I want to ask the chairman of the Naval Affairs Committee if he thinks that is a businesslike, economical expenditure of money?

Mr. HALE. I am not going to be drawn into a discussion with the Senator. All this has been gone over; and if I have not made an answer covering the comprehensive policy of the navy-yards, I can not make it now. I am not going to be drawn into a discussion by the Senator.

Mr. DIXON. I understand the chairman of the Naval Affairs Committee declines to discuss the proposition——

Mr. HALE. I have already discussed it.

Mr. DIXON. Whether or not the expenditure of over $200,000 in one year at Key West, which did $7,000 worth of work, is a wise and economical expenditure of public money.

> Charleston, established in 1901, was not prepared to work in 1907. It cost $113,671.82 to maintain it in the latter year and $323,773.74 to improve it. There were $36,493.46 worth of officers and $25,000 worth of marines on the grounds.

I will ask the Senator from South Carolina if that is approximately the amount of money expended in the Charleston Navy-Yard during the last two years? [A pause.] The Senator from South Carolina evidently did not hear my question, and I will ask him whether or not that is approximately the correct situation at the Charleston Navy-Yard?

Mr. TILLMAN. You will have to repeat the statement.

Mr. DIXON (reading):

> Charleston, established in 1901, was not prepared to work in 1907. It cost $113,671.82 to maintain it in the latter year and $323,773.74 to improve it. There were $36,493.46 worth of officers and $25,000 worth of marines on the grounds.

Was there any work done at the Charleston Navy-Yard?

Mr. TILLMAN. I will take it for granted there was none, because, as I told the Senator a little while ago, the yard is only about ready to do work. But I call his attention to the fact—suppose those officers and marines had not been there? They would be on the pay roll. They had to be kept up. It would not have saved a dollar whether they were there or wherever they might be.

Take the Capitol building. We have $25,000,000 invested in the building. We have a force of employees to take care of it. We use it only three or four months during the short session

and five or six during the long session. In other words, half the time nobody is here; but it is here for our business, and that yard is there for public business. What is the Senator going to do with the army? We spend sixty or seventy million dollars to maintain the army. They are not fighting. What are they doing? They are no account, because the Senator has not got the army shooting somebody.

Mr. DIXON. But we do not spend $25,000,000 a year in building machine shops and arsenals for which——

Mr. TILLMAN. Yes; we have already. It is a dead plant six months in the year, and so the Senator wants to abandon it because we can not use it twelve months.

Mr. DIXON. All right; I will read again:

The fifth southern yard made a much handsomer showing. In 1907 it accomplished $214,126.32 worth of work; while it cost only $488,946.71 extra to maintain it, with $128,709.94 more for improvement. About $112,000 worth of officers, sailors, and marines looked after it. This yard, it will be seen, was the only one which produced more than a dollar's worth of work for every $25 spent upon it.

Mr. PILES. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Washington?

Mr. DIXON. Gladly.

Mr. PILES. I think the fallacy in that portion of the article which the Senator has just read consists in this, that the author of the article undertakes to show, as I understood from the Senator's reading of it, that it costs something like $100,000 for the officers and men to look after the yards. This on its face would appear to be a fair statement, but when analyzed it is, I think, altogether erroneous. It is not necessary for all of the officers and marines who are frequently at the yards to be there for the purpose of looking after or protecting the yards.

When the ships go into the yards to be docked and repaired, the marines and officers go on shore, to a very large extent, until their vessels are ready to go to sea. The expense of the officers and men to the Government is practically the same when on shore as it is when they are at sea; their pay and other expenses go on whether on shore or at sea. If the men are not at the yards, they are somewhere else at the expense of the Government.

Mr. DIXON. Oh, no; the Senator is certainly mistaken.

Mr. PILES. No; I am not mistaken. I beg the Senator's pardon.

Mr. DIXON. There would not be the same necessity for maintaining the same immense number of officers and marines.

Mr. PILES. Let me ask the Senator a question: We have so many officers and so many marines in the service, have we not?

Mr. DIXON. We have whatever the exigency of the service demands. If we did not have 13 naval stations and yards, we would not need this number.

Mr. PILES. We can not get enough enlistments in the Marine Corps. If the Senator lived on the coast, he would recognize that fact. On the coast they are advertising for marines all the time. We can not get men enough there. We are always short of men. The fact is we have a certain number of men in the navy. We have officers and marines. What are you going to do with those officers and marines?

Mr. DIXON. You would have no need for many of them, if all of these unnecessary navy-yards were not maintained.

Mr. PILES. That is not the fault of the navy-yards. Are you in favor of reducing the navy—the officers and the enlisted men and the marines in the navy? Are you in favor of that? Is that the Senator's idea?

Mr. DIXON. Not at all. I am in favor of retaining every officer and every man who is necessary to man the navy.

Mr. PILES. Let me make the point plain. There are so many officers and marines in the navy. We must have them. We try to get more all the time. We are trying to get a fleet on the Pacific coast. When the fleet was around there every commercial body on the Pacific coast petitioned the Secretary of the Navy to retain part of the fleet there, but it was said that could not be done, because the navy-yards on the Pacific coast were inadequate to take care of the fleet.

I hope to see navy-yards on the Pacific coast sufficiently equipped to take care of a fleet which will be adequate to protect the rights of the people who live on that coast.

Mr. DIXON. The Senator from Washington is no more anxious for the accomplishment of that purpose than I am, but we are never going to get it as long as we maintain all these little one-horse yards up and down the Atlantic coast from 50 to 65 miles apart.

Mr. PILES. On the Pacific coast they are 800 miles apart.

Mr. DIXON. I am surprised at the Senator from Washington apparently sympathizing with the present purpose and policy of the maintenance of these little yards, which are certainly not necessary.

Mr. PILES. I will say to the Senator from Montana that I do not know anything about the navy-yards on the Atlantic coast, from a practical standpoint, because I have not investigated them; but I do know that the argument the Senator is making in respect to the expense of keeping officers and marines at the navy-yards applies with as much force to the Pacific-coast yards as to the Atlantic-coast yards.

Mr. DIXON. Certainly, it does.

Mr. PILES. I want, if I can, to impress the Senator with the fact that that expense would be incurred any way.

Mr. DIXON. It is beyond my mathematical comprehension that it takes as many men and officers to have charge of 6 or 8 navy-yards as to have charge of 15, and I do not think anybody else can have a comprehension of that argument. There is a rear-admiral in charge of every one, with a staff of officers.

Mr. PERKINS. Mr. President——

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

Mr. DIXON. Gladly.

Mr. PERKINS. I wish to say to the Senator from Montana that we have on the pay roll 43,589 sailors and 9,305 marines. They have to remain somewhere. Where is there a better place for them than in the navy-yards?

Mr. DIXON. What per cent of naval officers are detailed to the navy-yards at this time?

Mr. PERKINS. I am unable to state the number.

Mr. DIXON. I ask the chairman of the Committee on Naval Affairs; he is acquainted with that matter.

Mr. HALE. I wish the Senator could see that the building up of the navy, the immense increase in officers and men and marines, has not the least thing to do with the navy-yards. It is the tremendous development of the ships and the fleets that has called for these expenditures. The navy-yards have not figured in it. When you have this establishment, enormous as it is, you have to take care of the officers and men, and they will be assigned to navy-yards and naval stations, and their pay will go on just the same.

It is entirely an unfair statement to arraign a navy-yard because of this immense force. We have certain marines and certain men and certain officers who are sent to the navy-yards. If you reduced the number of navy-yards and had only two or three, you would find the result just as I showed yesterday in Great Britain. Instead of being decreased the expense would be enlarged. The expense of England for her three navy-yards and everything upon them is more than twice what ours is for all our yards. The Senator has got on the wrong tack about this.

Mr. DIXON. Then, I want to be enlightened, if I can.

Mr. HALE. I am afraid——

Mr. DIXON. I am sure the chairman of the Committee on Naval Affairs can do it. I have no other purpose in view than to have some enlightenment on this proposition.

Mr. President, I have nearly concluded. I am not filibustering here to try to defeat the naval appropriation bill.

Mr. FLINT. I should like to ask the Senator from Montana for what purpose he is filibustering, if not with the purpose to beat the naval appropriation bill?

Mr. DIXON. The Senator from Montana is not filibustering at all.

Mr. HALE. He certainly is not ready to come to a vote.

Mr. DIXON. Here is a bill carrying $138,000,000, and we have had one day and a quarter to consider it. Is that filibustering?

Mr. HALE. We have not reached a vote.

Mr. DIXON. Has it reached such a point in the Senate that a Senator has not a right to ask a question upon a bill carrying $138,000,000?

Mr. HALE. Undoubtedly he has, and there is not any effort to suppress that. The only thing I have sought in charge of the bill is to take the sense of the Senate. The Senator is not the only Senator who has responsibility here and who is, to a degree, accountable for the passage of this enormous bill. There are a great many other Senators who are just as patriotic as he is and who are presumed to be as much interested in this great bill as he.

I am willing, as we reach the portions of the bill that are pertinent and practical, to submit the whole thing to the Senate for its action. I am bearing in mind the fact that the time is waning, and if we have undue delay upon this bill—the repetition of questions, quoting from magazines, and all that—we will be in great trouble with the other appropriation bills. I am hoping to get this bill through to-day, so that we shall not be compelled to have a night session. If we do not, I shall

submit to it—and all the rest of us; but I do not want the Senator to assume, as he seems to do, that he is the only person here. Here, sitting around him, are 80 or 90 Senators.

Mr. DIXON. I am willing to acknowledge the leadership of the Senator from Maine on this floor. I am willing to acknowledge his great control of naval affairs here; but when he makes that insinuation, I say that I am just as patriotic as the chairman of the Committee on Naval Affairs. I know there are 91 other Senators here; and I have the same right to ask these questions as the other 91.

Mr. HALE. Precisely.

Mr. DIXON. I do not demand anything more nor will I accept anything less.

Mr. HALE. All that I ask is that when a Senator has taken what he thinks a reasonable time we may be allowed to come to a vote. We will never pass bills if that is not done.

Mr. DIXON. There is no purpose on earth in my mind to try to prevent this bill from coming to a vote, nor has there been.

Mr. HALE. I am ready for a vote at any time.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. DIXON. Gladly.

Mr. HEYBURN. I have listened practically to all of the argument of the Senator from Montana, and I have been much interested in the development of his ideas; but it has occurred to me frequently, as I listened to him, to ask What money is he seeking to protect against this appropriation bill?

Mr. DIXON. What I am trying to do is to call the attention of the Senate, and I hope of the thinking men of the country, that these great appropriation bills ought not to be snapped in shotgun fire, as they are at this time, but ought to be concentrated on some definite line of future action with regard to great naval bases and navy-yards.

Mr. HEYBURN. It was in my mind to ask the Senator, as I suggested, What money of the people is he seeking to protect against expenditure?

Mr. DIXON. The only money of the people that I know anything about is that in the vaults of the United States Treasury.

Mr. HEYBURN. It is to be paid to the American people, is it not?

Mr. DIXON. I presume it is.

Mr. HEYBURN. Is there anything that enters into the construction of these battle ships and these navy-yards, or the things pertaining to them, that is not of American product?

Mr. DIXON. I hope not. I think not.

Mr. HEYBURN. Does not this expenditure simply stimulate productive industry in almost all its branches in the United States?

Mr. DIXON. Now, carrying that theory to its ultimate conclusion, you can ask the Treasury at any time to put men to work throwing dirt into one pile and throwing it back again. I think that is not fair.

Mr. HEYBURN. I do not think the Senator from Montana would like to read that answer in cold print, because it is merely an evasion. I was speaking of a practical proposition to expend about $140,000,000 of the people's money by paying it to the people and receiving something for it.

Mr. DIXON. That is the reason I want to say what I am going to say at this time, and I want the Senator from Idaho to listen to it.

On May 9, 1906, GEORGE A. LOUD, of the House Naval Committee, presented to Congress a report showing that at the Boston Navy-Yard out of its total product of $925,000 there was a loss of $325,000 over the cost of the same articles at ruling commercial prices.

Getting back to the manufacture of boats, which, they tell me, goes on upon an extensive scale at the Portsmouth Navy-Yard, they say:

> Almost all navy-yards now manufacture small boats of some kind. In one of the yards examined by Mr. Mudd a simple 14-foot punt cost $63.73; in another yard the same article cost $95.12. A 16-foot dingey cost $104.17 at one yard and $196.34 at another. And a 30-foot steam cutter varied from $1,890.63 to $2,684.62. Common boat rudders ran from $6 to $10; plain chopping blocks from $3 at one yard to $25 at another.

I am trying to convince the Members of the Senate as to the ultimate wastefulness of this kind of appropriations.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. DIXON. Certainly.

Mr. HEYBURN. Does not that amount only to an impeachment of the efficiency of the judgment of the executive officers of the Government? How does it enter into the question now under consideration?

Mr. DIXON. Simply in this way: We build great plants costing millions of dollars to produce a minimum of work, where if it was all done in four or five or six places it would be done for a half or a third of the cost.

Mr. President, I have said about all I intend to say about this bill. In conclusion, I want to say this to the Senate, and I think it is worth listening to, gentlemen.

The naval appropriation bill, which carries $137,000,000 this year, has grown from $13,000,000 in a little over twenty years, and the only way you can comprehend the figure is to use a yardstick of some kind. I started to try yesterday to get some kind of a yardstick that will impress upon our minds the enormous and overwhelming appropriations that we are putting into this naval bill every year.

Take the great State of Maine. I tried to get the total value of the assessed property, but could not get it. The total value of all her farm lands, with improvements, buildings, implements, machinery, and live stock, according to the last census, was $122,000,000—$15,000,000 less than we vote in this one year's naval appropriation bill.

Take the great State of Alabama. Her farm land, with improvements, buildings, implements, and machinery, and live stock together, amounted to $179,000,000—$12,000,000 less than the newspaper reports of what the chairman of the committee stated would be the amount of the naval appropriation bill within less than three years.

Take the great State of Florida. The total value of her farm lands and improvements and implements and machinery and live stock was $53,000,000—a little over a third of what we are pouring into the capacious hopper of the naval appropriations every year.

Take the great State of New Hampshire. The whole value of her farm lands and improvements and implements and machinery and live stock was $85,000,000—$50,000,000 less than this one naval appropriation bill.

Mr. GALLINGER. Mr. President, will the Senator state the value of her manufactured products and make the comparison in that way?

Mr. DIXON. I do not have it here. I sent to the Library to get the total assessed value of States, and they said this is the only thing they could find.

Take the great State of North Carolina—I am reading from the Statistical Abstract of 1905, the last report. It shows that her entire farm lands with improvements, buildings, machinery, and live stock amounted to only $233,000,000, less than two years' naval appropriations, and within three years one naval appropriation bill would practically swallow the entire assessed valuation of North Carolina's farms, live stock, and machinery.

One hundred and fifty-three million dollars is the total assessment of farms, live stock, and machinery in South Carolina.

Mr. President, I am perfectly aware that this bill is going to pass, probably letter for letter and item for item. Of course when the chairman of the Naval Committee says he will test the feeling of the Senate on this matter, I think the chairman in all fairness knows we do not test the feeling of the Senate on these naval appropriations when you say they are going to pass.

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

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. HALE. In the absence of the Senator from Montana [Mr. CARTER] I ask that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. Without objection, it is so ordered. The Senator from Montana will proceed.

Mr. DIXON. Mr. President, I have concluded all that I wanted to say about this matter. I repeat that it has not been done in any filibustering spirit. It has been done because I do not believe we stop to see where we are drifting, and God knows there ought to be some plan of some kind somewhere to put some possible check on this geometric progression, this ratio of increase in the appropriations for the naval establishment, and especially at a time, as I said, when we are confronted by $150,000,000 of deficit for the present year.

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

The amendment was agreed to.

The next amendment of the Committee on Naval Affairs was, on page 26, line 13, before the word "dollars," to strike out "fifty thousand" and insert "seventy-six thousand three hun-

dred and thirty;" and in line 15, before the word "dollars," to strike out "sixty-six thousand" and insert "ninety-two thousand three hundred and thirty," so as to make the clause read:

Navy-yard, New York, N. Y.: Central power plant, to complete, $116,000; granite and concrete dry dock, to continue, $200,000; toward improvement of water-front facilities, $76,330; in all, navy-yard, New York, N. Y., $392,330.

The amendment was agreed to.

The next amendment was, on page 26, line 21, after the word "dollars," to insert "paving around piers, $50,000;" and in line 23, before the word "thousand," to strike out "seventeen" and insert "sixty-seven," so as to make the clause read:

Navy-yard, Philadelphia, Pa.: Central power plant, to complete, $172,600; dredging, cost not to exceed $430,000, $215,000; crane track, extensions, $30,000; paving around piers, $50,000; in all, navy-yard, Philadelphia, $467,600.

The amendment was agreed to.

The next amendment was, on page 27, line 6, after the word "dollars," to insert:

Provided, That hereafter the Philadelphia, Baltimore and Washington Railroad Company be, and it is hereby, authorized and required to maintain its track connection with the United States Navy-Yard in the city of Washington, D. C., by means of a single track on K street and Canal street SE., either as at present located or as the same may hereafter be relocated, in whole or in part, with the approval of the Commissioners of the District of Columbia, and to continue the operation thereof, anything contained in any prior act or acts of Congress to the contrary notwithstanding.

So as to make the clause read:

Navy-yard, Washington, D. C.: Improvements to storehouse for guns and mounts, $7,000; concrete roof for foundry building, $15,000; improvements to building 118, $3,000; improvements to building 41, $20,000; fireproof storehouse for fuses, acids, and oils, $15,000; in all, $60,000: *Provided*, That hereafter the Philadelphia, Baltimore and Washington Railroad Company be, etc.

Mr. BURKETT. Mr. President, I want to make a point of order against this amendment. It is general legislation.

Mr. HALE. It is undoubtedly subject to the point of order.

The VICE-PRESIDENT. The Chair is of the opinion that it is clearly in contravention of the rule, and sustains the point of order that it is general legislation.

The next amendment was, on page 28, after line 2, to insert:

The Secretary of the Navy is authorized and directed to investigate the question of acquiring all or a part of the land of the Jamestown Exposition Company near the Norfolk Navy-Yard, with the view to establishing thereon a naval training station, said investigation to include the question of value, adaptability, desirability, or necessity for the efficiency of the naval service and the terms on which the property can be acquired, and report to Congress with such recommendations as to him may seem best.

Mr. BURKETT. I want to make a point of order against that amendment.

The VICE-PRESIDENT. What is the ground of the point of order?

Mr. BURKETT. That it is general legislation.

The VICE-PRESIDENT. The Chair is of the opinion that the point of order is well taken and sustains the point of order.

Mr. MARTIN. Mr. President, the bill is full of provisions of this sort. I do not want to make points of order against like provisions, but I hope the Senator will not insist on the point of order. If he had investigated this matter I am sure he would not pick out this item and discriminate against it. The bill is full of such provisions all through, and I have not made the point of order against them, and it is not customary in the consideration of the appropriation bills. It is the custom and, perhaps, absolutely necessary that these provisions shall be inserted.

This is an exceedingly important provision. It is simply for an investigation, and I hope very much that the Senator will not insist upon the point of order.

I do not wish to take time to go into an explanation of the amendment. The time is very precious, and yet I am sure if the Senator understood it he would not object to an investigation of a matter of vital importance to the naval service. I hope very much that the Senator will withdraw the point of order.

Mr. BURKETT. Mr. President, I will say to the Senator I regret always to make any point of order, and I have not taken it upon myself to make points of order against anything for any other purpose than when I thought it was really for the welfare of legislation.

I raised one point of order on the page before because it was legislation that the committee of which I am a member had spent considerable time in thrashing out at several hearings and had decided on a certain kind of legislation. I thought I understood something about that matter, and I raised a point of order on it, thinking that it was not proper in this bill.

This immediate item, I will say, I think we all know sufficiently about to warrant the raising of a point of order. I have my own opinion with reference to the taking over of this exposition land. If the Senate, at a proper time and on a proper bill, should come in and do it, I could certainly have nothing to say. I should vote against it if it did not present itself favorably to my mind. But here it is proposed to put it on an appropriation bill at a time when we do not want to discuss it. I am sure the committee does not want to have time taken in the discussion of the merits pro and con, and it seemed to me the best way out and the proper thing to do was to raise the point of order and keep out the discussion rather than to discuss it here.

I do not want to sit still as a Member and not have the matter discussed at some length. I should not want to see it go through without its being discussed at some length. I do not want to see it get started. I know it is just an investigation, but all these great propositions start with simply investigating a little something or other and then it goes along.

I do not want to take up time. I think this kind of legislation ought to come in on a bill at a time when we can discuss it, when there will be full opportunity to debate it.

Therefore, Mr. President, I do not feel like withdrawing the point of order.

Mr. MARTIN. Mr. President, this is a peculiar situation. This property is in the hands of receivers and the assets of the exposition company are being administered. The Government has erected at this property a permanent pier at a cost of half a million dollars. The Government loaned the company a million dollars. This is simply giving an opportunity for an investigation to see if anything can be saved to the Government as well as to see whether this will not be an important acquisition to the efficiency of the naval service.

It is simply an investigation. As I said, I dislike to take time to go at any length into it; but it is a peculiar case. If anything is done, it can be done in the immediate future, because this property will go on the market under a decree of the United States court for the eastern district of Virginia. The company is insolvent and its assets are in the course of administration. The amendment simply proposes an investigation to see what can be done to save the Government something in connection with the exposition there. As I said, among other things, it has expended half a million dollars on a permanent pier. That will be entirely lost to the Government unless it acquires this property.

It does seem to me the Senator from Nebraska might withdraw his point of order, as the amendment is simply for the purpose of an investigation. The merits of the question can be discussed when it comes before the Senate with the light thrown on it by a report from the Navy Department.

Mr. TILLMAN. Mr. President——

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

Mr. MARTIN. Certainly.

Mr. TILLMAN. I was going to ask the Senator a question. I thought I understood it, but I may not. There is no appropriation in this proposed investigation; no money is to be spent? The Navy Department does it with its own instrumentality?

Mr. MARTIN. There is not one single dollar of expenditure contemplated in it.

Mr. TILLMAN. It does not commit Congress to the purchase of this land; it is merely to get information?

Mr. MARTIN. That is all; nothing else whatever.

Mr. BURKETT. Mr. President, there is not anything required in this amendment that the Senator does not know all about now, that the Navy Department does not know all about, that the Treasury Department does not know all about. It simply starts out to commit the Senate to a certain proposition. For one I am not going to sit here and permit it.

Mr. MARTIN. The Senator is very much mistaken. There is a great deal that I do not know about it. I am not in a position to know as to its adaptability and as to its necessity for the efficiency of the service, nor am I informed as to its value. I do not know what price the Government can afford to pay for it. It needs investigation, careful business investigation, and that is all that is provided for here. Congress is absolutely free to do as it may see fit when the report comes in. If an adverse report comes in that of necessity would end the whole matter, but if the Navy Department makes a favorable report it would still remain for Congress after a discussion of the matter to determine whether it would adopt any recommendation made by the Navy Department.

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

Mr. MARTIN. Mr. President, for the present I will have to accept the situation, though I shall look over the bill. If this rule is to apply, I want it to be applied throughout the bill. I am not disposed to let the bill stand bristling full of new legislation and have this most meritorious and harmless provision go

out on a point of order. If such a rule is to be enforced here, I will not act hastily, but I will look over the bill. I will not say positively that I will call into requisition the same rule throughout the bill, though I am strongly inclined to think the bill is full of legislative enactments from one end of it to the other, and if this rule is to be applied let the bill be cleansed in every part of it.

Mr. HALE. Mr. President, I sympathize very much with the Senator from Virginia on this amendment, but I wish to say to him that I think he is wrong in saying that the bill is full of legislative propositions. There are a few, but not many. I hope the Senator will consider each one as it is reached on its own merits. Two or three matters have come up already where the point of order was clear and plain, and I have not asked to consume any time. I have said I agreed that the point of order was well taken, and I propose to do that hereafter. I am not going to take up the time of the Senate in debating or defending provisions that are clearly subject to the point of order. I hope the Senator will let all those stand until they are reached, and will let each one stand on its own merits.

Mr. MARTIN. As I understand, Mr. President, this point of order can be made when the bill is in the Senate as well as when it is in Committee of the Whole?

The VICE-PRESIDENT. That is correct.

Mr. MARTIN. I will examine the bill. I have no desire—therefore I spoke with as much caution as I did—to antagonize a useful provision because of what I consider a very great injustice to my State in this matter; yet I feel very reluctant to see a rule applied in one case which is not applied generally. I said the bill was bristling with such instances. I have seen a number of cases. There was one just passed over in relation to the Philadelphia, Baltimore and Washington Railway Company, which required them to keep a track to the navy-yard.

Mr. CLAY. That went out.

Mr. TILLMAN. It ought not to have gone out.

Mr. MARTIN. It ought not to have gone out. It is a meritorious provision, and it ought to be in the bill. I knew it was subject to the same point of order as this, but I did not know that this point of order had been made.

Mr. HALE. Yes; a point of order was made, and it went out.

Mr. MARTIN. There are a great number of others, but, as I just now said, for the present I will waive the point of order. I will simply throw out the suggestion, for I am going to examine the bill in that connection.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 28, line 13, before the word "paving," to strike out "Sewer system, extension, $5,000;" in line 14, before the word "thousand," to strike out "ten" and insert "twenty;" in line 15, before the word "thousand," to strike out "ten" and insert "five;" in line 17, before the word "dollars," to strike out "ten thousand" and insert "thirty thousand five hundred;" in the same line, before the word "thousand," to strike out "ten" and insert "five;" in line 18, after the word "dollars," to insert "increasing and improving torpedo-boat slips, $50,000;" in line 20, after the word "dollars," to strike out "crane track, extension, $25,000;" and in line 23, before the word "dollars," to strike out "ninety-five thousand" and insert "one hundred and thirty-five thousand five hundred," so as to make the clause read:

Navy-yard, Charleston, S. C.: Paving and grading (to continue), $20,000; underground conduit system, extension, $5,000; intercepting drain, $30,500; pneumatic system, extension, $5,000; dredging, to continue, $25,000; increasing and improving torpedo-boat slips, $50,000; in all, navy-yard, Charleston, S. C., $135,500.

The amendment was agreed to.

The next amendment was, on page 28, line 25, after the word "dollars," to insert "to repair rifle range and wharf, $5,000;" and on page 29, line 2, before the word "thousand," to strike out "fifteen" and insert "twenty," so as to make the clause read:

Navy-yard, Pensacola, Fla.: Remodeling building No. 29, $15,000; to repair rifle range and wharf, $5,000; in all, navy-yard, Pensacola, $20,000.

The amendment was agreed to.

The next amendment was, on page 29, line 5, after the word "dollars," to insert "to complete marine railway, $15,000;" and in line 6, before the word "thousand," to strike out "thirty" and insert "forty-five," so as to make the clause read:

Naval station, Key West, Fla.: Latrines, $5,000; concrete cistern, $25,000; to complete marine railway, $15,000; in all, $45,000.

The amendment was agreed to.

The next amendment was, on page 29, line 15, after the word "dollars," to insert "to continue improvement of channel, $100,000; ordnance stores, $100,000; improvements to building No. 69, $4,000; railroad system, extension, $20,000;" and in line 21, before the word "five," to strike out "three hundred and forty-eight thousand" and insert "five hundred and seventy-two thousand," so as to make the clause read:

Navy-yard, Mare Island, Cal.: Central power plant at Mare Island Navy-Yard, Cal., to complete, $255,000; new elevators in buildings Nos. 69 and 71, $5,000; sewer system, extension, $10,000; repairs to building No. 116, $3,500; crane track, extension, $75,000; to continue improvement of channel, $100,000; ordnance stores, $100,000; improvements to building No. 69, $4,000; railroad system, extension, $20,000; in all, navy-yard, Mare Island, $572,500.

Mr. PERKINS. Mr. President, in view of the article that has been read by the Senator from Montana [Mr. DIXON] relating to Mare Island and various other navy-yards, I desire to have printed in the RECORD statements compiled from reports of the Secretary of the Navy, the Chief of the Bureau of Construction and Repair, the Chief of the Bureau of Yards and Docks, the Chief of the Bureau of Ordnance, and the chiefs of other bureaus. To save the time of the Senate, and as bearing on the question, I ask to have the papers which I send to the desk inserted in the RECORD without reading.

The VICE-PRESIDENT. Without objection, it is so ordered.

The papers referred to are as follows:

August 31, 1852, Congress appropriated $100,000 for the purpose of a navy-yard in the Bay of San Francisco or neighboring waters, and the Secretary of the Navy was directed to select a site. Secretary of the Navy Graham, January 15, 1852, ordered the appointment of a board to select the site for this yard, and Commodore Sloat, Commander Ringgold, and Lieutenant Blunt were designated. The orders were to keep in view, in making the selection, security from attack and facilities for defense; security from violent winds and sea and safe anchorage in adjacent waters; adaptation for the construction of permanent stone docks; facilities for procuring, housing, and boarding workmen of various classes; for procuring materials and stores; and for the erection of the necessary buildings. The board was also directed to ascertain to what extent the *Toredo limnoria* injures piling or other wood structures beneath low water. Unfortunately, the report of the Sloat board can not be found in the archives of the Navy Department, but Secretary Thompson refers to it in a communication to Congress, stating that the board made a very careful examination of the points supposed to possess the requisite advantages for a naval station, and after mature deliberation came to the conclusion that Mare Island has the most eligible and advantageous position that could be found in the waters of the Bay of San Francisco and its adjacent waters for naval purposes, and thus reported accordingly: "Commodore Sloat, in a letter written from Mare Island Straits in 1852, states that the board had, after careful consideration, come to the conclusion that Mare Island is by far the most eligible location for that purpose in these waters."

The Commission on Navy-Yards reported, on December 1, 1883, regarding the advantages of the Mare Island Navy-Yard, that "its approaches may be successfully defended against the attacks of a powerful enemy. It is far enough removed from the sea to be beyond the reach of guns of the longest range or any possibility of being captured by a coup de main, and yet not so far as to make it difficult of access. The adjacent harbor is good and perfectly secure in all weathers. Its channel is deep and never obstructed by ice. The climate is even and salubrious the year round and suitable for outdoor work. The yard is convenient to the railroad communications which center on the opposite shore of Napa Straits and on the shores of the Strait of Karquines, about a mile distant. The depth of water abreast the yard front averages 28 feet at mean low tide and abreast commission rock, an obstruction that can be easily removed at small expense.

Thus was the Mare Island Navy-Yard established after an impartial investigation and study of all the conditions to be taken into account in the location of a navy-yard on the Pacific coast, and in the years since then a great repair and construction plant has been installed and dry docks built—one of the largest in the entire country now about completed. As the work of the yard increased and the draft of vessels became greater more attention was paid to the depth of water from San Francisco to the yard.

The depth of the water at the entrance of San Francisco Bay is 33 feet over the bar by main channel at low tide, while by the Bonita channel it is very much deeper. The area of the waters of the bay, including San Pablo Bay, is 399 square miles. Its length from Dumbarton Point, near the southern extremity, to Napa Slough, the northern extremity, is 47⅞ miles, and to Karquines Strait 52¼ miles. Its greatest width is 12⅜ miles, and its narrowest place, from Point San Pablo, 1⅞ miles.

The extreme length of Mare Island, including a large tract of tule land on the northern side and extending toward Napa and Sonoma, is about 10 miles, and its average width, including tule land, about three-quarters of a mile.

The area of upland is 741 acres, and of the tule lands on the east side, which will be available for yard purposes, is 135 acres.

No accurate measurement has been made of the area of the tule on the northern side, but an approximate area is 3,973 acres. Its shore at the southern end is precipitous and the land high, the highest point being about 300 feet above high tide.

Between San Francisco and Mare Island is Pinole Shoal. It begins about 2½ miles south of Mare Island Strait, and between this northern extremity of the shoal and Mare Island there is naturally 30 feet of water or over. This depth is carried to Carquinez Strait, which has from 48 to 60 feet of water. Along both sides of Carquinez Strait are grain warehouses, where is stored and whence is shipped all the grain from the great Sacramento and San Joaquin valleys, which require a large fleet of the largest deep-water ships each year to transport it to foreign countries. There are also smelting works, sugar refineries, lumber yards, oil-distribution tanks that have many hundred miles of pipe line, depots for produce of all kinds, and many manufactories, all of which selected this point because of the facilities offered for shipment by sea to all ports of the world by the largest steam and sail vessels which ply in foreign trade. The vessels employed in the carrying trade, provided by these great industries, are of draft equal to that of our greatest battle ships, and the channel across the shoals must be kept open for them without reference to the needs of the Mare Island yard. There is an immense carrying trade by water with points on the Sacramento and San Joaquin rivers, averaging 425,000 tons of freight

for the former and 736,000 for the latter for 1907, valued at $25,000,000. All this must be carried to San Francisco or to sea by way of Pinole Shoal, and its channel must therefore be kept at a proper depth for the water-borne commerce of the great valleys of the State. Pinole Shoal extends about 27,000 feet south from the northern extremity referred to above. It is formed undoubtedly from the débris brought down from the mines in the days of hydraulic mining, and is kept up at present from the wash of cultivated fields in the Sacramento and San Joaquin valleys. But this present wash from cultivated lands is by far less than that which came from the mines, and the shoaling caused by it is by no means that which gave rise to the shoal in the first place.

The Government will keep open the channel across this shoal for the use of the seagoing ships of the merchant service, and need not be considered in connection with the cost of improving the navigation of Mare Island and maintain the depth of water there and in the yard basin. The board recently appointed to study the hydraulics of Mare Island Navy-Yard states that the natural channel from the entrance of San Francisco Bay to the shoal has not practically changed since 1863, but that it is evident that the dredged channel across the shoal must be redredged and a protecting dike built, or periodical redredging resorted to. The estimated cost of a dike is about $1,000,000. But the board does not favor the construction of a dike at once, believing that there is a chance that the redredging of the channel will so remove the soft material in the vicinity that the depth may be maintained with a comparatively small amount of dredging, which would be inexpensive if the Government should build and operate a first-class dredging machine. Moreover, the dike which it suggested be built southerly from the southern extremity of Mare Island will, it is hoped, so influence the current as to contribute to the scouring and thus to the maintenance of the required depth in the channel across the shoal.

Even with the present depth of water, which the board which examined the question last year states is about 23 feet over Pinole Shoal at low water with 6 or 8 feet tide, the navy-yard at Mare Island could undoubtedly be now used by every vessel of the navy now afloat. During the past year two armored cruisers, each drawing 25 feet of water, went up through San Pablo Bay to Mare Island. Of the 31 battle ships constructed or authorized, only four have as great a draft as the *Tennessee* and *Washington*, referred to. Only two draw 24 feet 8 inches; eight, 24 feet 6 inches; four, 24 feet; one, 23 feet 11 inches; one, 23 feet 10 inches; five, 23 feet 9 inches; one, 23 feet 7 inches; five, 23 feet 6 inches. The four big-gun battle ships of 20,000 and 22,000 tons will draw when in commission 26 feet 11 inches and 28 feet 6 inches, respectively. It appears, therefore, that of the battle ships built or building only these last four have a greater draft than the two armored cruisers which went up to Mare Island last summer. Three battle ships visited the yard last year, namely, the *Alabama*, drawing 23 feet 6 inches; the *Maine*, 23 feet 10 inches; and the *Missouri*, 23 feet 11 inches.

There also went to the yard the armored cruisers *Maryland, Colorado, California, South Dakota, West Virginia*, and *Pennsylvania*, drawing 24 feet 1 inch, each of these drawing more water than seventeen of our first-class battle ships. Besides this, there were four protected cruisers that went to the yard, the *Charleston, Chicago, Milwaukee*, and *St. Louis*; four third-class cruisers, besides three supply ships, hospital ships, and smaller craft, such as coast-defense vessels, gunboats, etc. It is worthy of note, too, that the supply ship *Glacier* draws 25 feet 4 inches. There is no doubt whatever that if there had been a large enough force at the Mare Island yard most, if not all of the battle ships of the Atlantic Fleet which needed repairs could have had these repairs made at that yard, and that they would have found no difficulty in getting there, for the largest vessels of this fleet draw 6 inches less water than the *Tennessee* and *Washington*, which found no difficulty in passing Pinole Shoal.

That the Mare Island yard is efficient and is doing good work is evidenced from the reports of the different bureaus. In the Department of Construction and Repair there were employed in the fiscal year ending June 30, 1908, a maximum of 1,623 men, the minimum being 831. Vessels receiving minor repairs number 48; important repairs, 16; craft built or building, 37, including a collier of 12,585 tons, drawing 26 feet, and another of a higher class of capacity and speed is authorized; there were 50 vessels dry-docked during the year, and the expenditure for labor on this account was $625,152.

In the Steam Engineering Department 63 vessels had their machinery repaired at a cost of $358,059, and new machinery installed at a cost of $136,504. The cost of making stores for issue to ships was $112,468. The total cost of labor for this department of the yard was $537,022, and of material, $388,642. Over $100,000 was expended in improvement to the plant.

The Equipment Department expended $196,136 for labor and $143,464 for material.

The Department of Yards and Docks spent $563,381 for public works of a permanent character, $41,914 for repairs and preservation, $126,601 for maintenance, $16,820 for contingent expenses, and $15,177 for the civil establishment, a total of $763,894. The present value of permanent structures is $4,358,350.

The Ordnance Department prosecuted work on 47 vessels, completing the outfits of the *California* and *South Dakota*, and doing much work on the *New Orleans* and *Wyoming*. Fire-control instruments were installed on 4 vessels, and a complete target plant was made for the Pacific and Atlantic fleets. Ammunition was prepared for 47 war vessels.

There is at Mare Island a granite dock 27 feet 5 inches over the sills, capable of docking any vessel we now have afloat, and another granite dock is nearing completion having a depth of 31 feet 5 inches on the sills.

It is thus demonstrated that we have at Mare Island a navy-yard very efficient in character, capable of not only repairing and equipping battle ships and all other naval vessels, but able to do construction work of the highest character, and that even as the channels exists today, it is undoubtedly capable of taking care of any of our naval vessels now afloat.

As to its situation, Read-Admiral Hollyday said before the House Committee on Naval Affairs:

"It could not be better located. The enemy could take San Francisco, and still they would not get Mare Island Navy-Yard; and the climate is superb, a great deal better than San Francisco. It is out of the trade winds, and you can work there every day in the year. It is never very hot and never very cold, and there is a fine labor market—a navy-yard town of almost 6,000 inhabitants. Almost every man is interested in the navy-yard one way or another, and they are fine mechanics. They draw from San Francisco in addition, and they have a boat train service almost every hour."

The matter of climate is an important one, for it is a complete offset, as has been acknowledged by naval observers, against the longer hours and fewer holidays of workmen in private yards in the East, making the Mare Island workmen as cheap as any to be found in the United States. And construction in the yard should be continued, to carry out the idea of the head of the Bureau of Construction and Repair, who in his report in 1906 said:

"As stated in previous communications, it is believed that at least one yard on the Atlantic coast and one yard on the Pacific coast should, when practicable, be given a reasonable proportion of new construction work, in order that such yards, one of which on each coast is now suitably equipped, may always be available for any work the Government may desire undertaken therein.

"One of the specially advantageous features of such new construction is the availability at any time of men employed in such work for service in connection with emergency or periodical repairs to the fleet."

One of the peculiar advantages of the yard is that the water there has such an admixture of fresh water that it kills the barnacles on the vessels' bottoms, which are cleaned by simply anchoring them in the basin. The toredo and limoria also can not exist in these waters, and pile construction is therefore protected against their attack. There are piles standing at the yard that are still sound, though they were driven thirty or forty years ago.

Such being the character of the Mare Island Navy-Yard and its approaches, it is evident that the Government should spare no pains to make it the principal naval base of the Pacific. It is also evident that comparatively little work would deepen the channels so that the large battle ships that we are now constructing can enter there. The Navy Department has therefore given this latter subject its attention.

In March, 1908, the Secretary of the Navy recommended that a board be appointed to consider the question of hydraulics at the Mare Island Navy-Yard, with the view to recommend a system of works which would secure and maintain a depth of water in the approaches to the yard and in the yard itself sufficient for the passage and handling of the largest battle ships built or contemplated. The board appointed consisted of Lieut. Col. John Biddle, Engineer Corps, U. S. Army; F. T. Chambers, civil engineer, U. S. Navy; Capt. Thomas H. Jackson, Engineer Corps, U. S. Army; J. V. Rockwell, civil engineer, U. S. Navy.

In considering the problem the board assumed 30 feet at mean low water from the entrance of San Francisco Bay to the end of the present sea wall at the upper end of Mare Island as the least depth which would provide a proper channel for the largest naval vessels. This would give at high tide from 36 to 38 feet, providing for any probable case of damaged ships. The new dock at the navy-yard will have a depth over sill of 31½ feet at mean high water. Thus the conditions would be perfect for the handling of the largest vessels we are ever likely to build.

The board found that this minimum depth of 30 feet at low water now exists naturally from San Francisco to the navy-yard, with the exception of a short stretch over Pinole Shoals in San Pablo Bay and in Mare Island Strait. In 1851, when the first survey was made, the least depth of water in Mare Island Strait was 27 feet at mean low water, and there was no sign of a bar at the entrance. In 1876 a bar had appeared at the entrance, due, probably, to the débris coming down from the hydraulic mines and to the wash from cultivated lands, and in 1896–1898 the depth of water had diminished to 21 feet over the bar and 15 feet for the inner channel. Dredging was then begun, and the inner channel was given a depth of 28 feet, and in 1899 the bar was dredged to 30 feet at mean low water. From that time there was some filling in from sediment deposited, in some sections very slight and in others as much as 2 feet per year. A system of dikes was then proposed and works constructed, which began to take effect in 1905, since which time they have contributed to regulate the channel, whose depth has been maintained since that date. Additions to the dike system are, however, necessary in order to secure the full effect designed. The typical sections have not only maintained themselves, but there has been a scouring of the channel, especially at its shallowest parts. The shallowest water is over the bar, but even here the depth has increased several inches; and when one of the dikes is extended, as contemplated in the original plans, the conditions will be still further improved. It is believed that the present tendency to shoal is due to the wash from cultivated lands, carried down the Sacramento and San Joaquin rivers, but that the principal cause is the silt stirred up by the waves in San Pablo Bay and carried north by the tides, to be deposited in the strait and channel at slack water; also from the silt coming down the Napa River, which flows by the yard. The mud from San Pablo Bay, however, is believed to be the source of shoaling that will have to be particularly guarded against.

The board discusses seven methods of dealing with the conditions at the yard.

The first is constant dredging to maintain the depths.

The second is the extension of the dike system, with the expectation that the dikes will render still further service to scour the channel, though it is not thought that this means would alone secure the desired depth.

The third is dredging the channel to 30 feet and extending the dikes within the strait and from the southern part of Mare Island 8,000 feet to prevent silt being carried into the strait from San Pablo Bay. It is expected that the scour will maintain the depths in this 400 and 600 foot channel with very little dredging; but in the 1,000-foot basin periodic dredging will be necessary, which would cost comparatively little with a dredge owned by the Government. The estimated expense of this improvement is $1,007,000, with an annual expenditure of $70,000 for maintenance of dikes and dredging. If Commission Rock is not removed, the cost will be $112,000 less, or $895,000.

The fourth plan is the diversion of Napa River to the west of Mare Island and the construction of a dam across the strait at the upper end, making an open tidal basin at the yard. The advantage of this plan would be to have a basin with no current, which would facilitate handling vessels. The disadvantages are the probable greater silting of the basin and approaches and greater cost, which is placed at $1,553,000, with $134,000 annual cost of maintenance.

The fifth plan is to construct a dam, with lock and sluice gates, across the upper limit of the yard, to confine the waters of the Napa River until low tide, when the sluice could be opened and the outgoing water scour the channel. This would expose shipping to great danger and is not considered advisable.

The sixth plan is to construct a dam and sluice gates across the mouth of Mare Island strait. This, also, is not viewed favorably.

The seventh plan is to construct a dam at the upper limit of the yard and another at the entrance to the strait, with sluices and locks for the passage of vessels. This involves the inconvenience to Vallejo business

involved in the former plan, but keeps out the silt coming from Napa River. A large gate could be substituted for locks in the dam at the entrance of the strait, to be operated at slack water, but the board prefers two locks. The estimates for this plan are $5,247,000, with $25,000 per year for maintenance.

Should the third or fourth plan prove unsatisfactory after trial, this last plan would still be open for adoption.

In San Pablo Bay there has been practically no shoaling in the deeper parts since 1863. In 1905 a channel 300 feet wide and 30 feet deep was dredged across Pinole Shoal, but this gradually filled in so that the board's soundings showed available depth at low water of about 23 feet. Observation showed that the currents in San Pablo Bay were not parallel to the channel, and, moreover, vary with tide and wind. The material of the bottom is soft mud, easily dredged. This channel must be redredged, and there must be a protecting dike or periodical redredging. A dike along the dredged portion would be about 30,000 feet long and would cost about $1,500,000. The objection would be, besides its cost, uncertainty as to what locations a channel would assume with reference to the dike and the interference with the tidal basin. Its advantage would be protection from cross currents, production of additional scour, and further protection of Mare Island Strait from silt.

The board believes that at some future time a dike on one or both sides of the channel will be necessary, but at present does not deem construction advisable, for the reasons that the possibility of keeping the channel open by dredging is worth a trial.

The board, therefore, recommends as follows:

"That Mare Island Strait be dredged to a 30-foot depth with a width of 600 feet over the bar and up to the turn, a width of 400 feet from the turn to the receiving wharf, and 1,000 feet from that point to the north end of the quay wall; that the dikes within the strait and at the lower end of Mare Island be extended as shown in plan, and that the channel in San Pablo Bay be dredged to a width of 500 feet and depth of 30 feet, all depths being at mean low water.

"The board strongly recommends the immediate construction by the United States of a self-contained and self-propelling dredge. This would be used for maintenance and would soon pay for itself. The main objects are to have one immediately available for dredging shoal places and to decrease the cost of maintenance. The board's estimate, including the cost of this dredge, is $1,767,000, and of maintenance, $125,000 per annum. This estimate for maintenance is based on the assumption of a dredge constructed and operated by the Government and is therefore less (by $50,000) than the estimates for maintenance in the main body of the report. The expenditure for maintenance is, in the opinion of the board, absolutely necessary to preserve the approaches so as to permit naval vessels of deepest draft to reach Mare Island."

COMMANDANT'S OFFICE, MARE ISLAND NAVY-YARD,
November 25, 1908.

Hon. GEORGE C. PERKINS,
24 Market street, San Francisco.

MY DEAR SENATOR: Replying to your letter of the 23d instant, requesting the draft of the largest naval vessel that has been to the yard since I have been commandant, the following vessels have come and left here without trouble:

U. S. S. *Hancock* left December 14, 1902; draft, 23 feet 3 inches forward; 26 feet 9 inches aft. U. S. S. *Milwaukee* left February 2, 1908; draft, 25 feet 6 inches forward; 26 feet 6 inches aft. U. S. S. *South Dakota* arrived July 2, 1908; draft 26 feet 2 inches forward; 26 feet 6 inches aft. U. S. S. *California* arrived July 13, 1908; draft, 25 feet forward; 26 feet 4 inches aft. The battle ship *Missouri* arrived July 13, 1908, draft being only 23 feet 11 inches forward; 24 feet 3 inches aft.

Very truly, yours, T. S. PHELPS, Jr.,
Captain, United States Navy, Commandant.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 29, after line 21, to insert:

The Secretary of the Navy is directed, by suitable board, to investigate and report to Congress the advisability and necessity of establishing a naval base, including a navy-yard and repair station, on the coast of the State of California, south of San Francisco; and if the establishment of such naval base is deemed necessary and advisable, at what place on said coast said naval base should be located, and an estimate of the cost of same.

The amendment was agreed to.

The next amendment was, on page 30, line 9, after the word "dollars," to insert "general storehouse (to cost $260,000), $100,000; pier No. 8, $75,000; pattern shop, $40,000; two officers' quarters, $18,000; warrant officers' quarters, $4,000;" and in line 15, before the word "thousand," to strike out "four hundred and eighteen" and insert "six hundred and fifty-five," so as to make the clause read:

Navy-yard, Puget Sound, Washington: Stone and concrete dry dock, to continue (to cost $2,000,000), $400,000; sewer system, extensions, $8,000; railroad and equipment, extensions, $10,000; general storehouse (to cost $260,000), $100,000; pier No. 8, $75,000; pattern shop, $40,000; two officers' quarters, $18,000; warrant officers' quarters, $4,000; in all, navy-yard, Puget Sound, Washington, $655,000.

The amendment was agreed to.

The next amendment was, on page 31, after line 10, to insert:

Naval station, New Orleans, La.: Levee improvements and grading, $45,000; in all, $45,000.

The amendment was agreed to.

The next amendment was, on page 32, after line 2, to insert:

The Secretary or the Navy, in order to increase efficiency and economy in the work at navy-yards, is hereby authorized and directed to consolidate into one department at each yard and station all manufacture and repair work, except the work involved in the handling of stores, the manufacture of clothing, and the preparation and handling of provisions; and he is hereby authorized to incorporate such portions of the appropriations herein or previously made which are chargeable with labor and material into a single account, to be called "The Manufacture and Repair Account," and he may pay from the sum so segregated for all labor at the yards and stations and for all material used in manufactures and repairs: *Provided*, That nothing in this act shall be construed as altering or suspending the specific objects for which the appropriations in question are made: *Provided further*, That all expenditures under "The Manufacture and Repair Account" shall be reported in detail to Congress on or before January 1, 1911.

Mr. TILLMAN. Mr. President, there are a good many reasons why this provision ought not to go into the bill; but rather than take time to explain my objections to it, I simply make the point of order that it is new legislation.

The VICE-PRESIDENT. What is the point of order?

Mr. ALDRICH. General legislation.

Mr. TILLMAN. General legislation.

The VICE-PRESIDENT. The Chair is of opinion that the provision proposes general legislation, and he therefore sustains the point of order.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, under the subhead "Public Works under the Secretary of the Navy," on page 33, after line 2, to insert:

Toward the construction of two concrete piers at the Naval Academy, Annapolis, Md. (to cost $250,000), $100,000; in all, $100,000.

Mr. HALE. I offer as a substitute for that amendment what I send to the desk. It perfects the amendment.

The VICE-PRESIDENT. The amendment proposed by the Senator from Maine to the committee amendment will be stated.

The SECRETARY. In lieu of the amendment just read it is proposed to insert:

Toward the preparation of plans and the construction of two concrete piers at the Naval Academy, Annapolis, Md., and including the pay of the necessary draftsmen and inspectors (to cost not more than $250,000), $100,000; in all, $100,000.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 33, line 12, before the word "eighty-nine," to insert "one hundred and," so as to make the clause read:

Total, public works under Secretary's office, $189,000.

The amendment was agreed to.

The next amendment was, on page 33, line 23, after the word "buildings," to strike out:

Improving and grading grounds and roads, $2,000; dredging channel and basin, $3,000; increase of heating and lighting plant, to complete, $16,000; walks at detention barracks, $2,000; water-closets, $1,500; for bakery and cold-storage plant, to complete, $25,000; repairs to Barracks "C," $3,500; improvements in rifle galleries and ranges, $1,800; paving and grading peninsula, $5,000; enlarging boathouse, $8,000; improvements to assembly, lecture, and reading room, $13,600; fire-alarm system, $3,500—

And insert:

Improving and grading grounds and roads, $1,900; dredging channel and basin, $2,816.72; increase of heating and lighting plant, to complete, $14,500; walks at detention barracks, $2,000; water-closets, $1,500; for bakery and cold-storage plant, to complete, $23,500; repairs to Barracks "C," $3,400; improvements in rifle galleries and ranges, $1,550; paving and grading peninsula, $4,500; enlarging boathouse, $7,450; improvements to assembly, lecture, and reading room, $13,100; fire-alarm system, $3,500.

The amendment was agreed to.

The next amendment was, under the subhead "Public Works, Marine Corps," on page 40, after line 2, insert:

For the purchase of land adjoining the navy-yard, Charleston, S. C., as a reservation for the Marine Corps, $6,500; in all, $6,500.

The amendment was agreed to.

The next amendment was, on page 40, line 8, before the word "dollars," to strike out "sixty-six thousand," and insert "sixty-six thousand five hundred," so as to make the clause read:

In all public works, Marine Corps, $366,500.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Medicine and Surgery," on page 42, after line 5, insert:

The Surgeon-General of the Navy, with the approval of the Secretary of the Navy, is hereby authorized to employ dental surgeons to serve the officers and enlisted men of the Navy and Marine Corps, not to exceed 15 in all; they shall be employed as contract dental surgeons, and shall be graduates of standard dental colleges, trained in the several branches of dentistry, within the age limits of 24 and 35 years; they shall be of good moral and professional character, and shall pass a satisfactory physical and professional examination, and shall receive the same compensation as acting assistant surgeons in the navy; *Provided*, That two of the number of dental surgeons to be appointed shall be first appointed by the Surgeon-General, with the approval of the Secretary of the Navy, with reference to their fitness for assignment, under the direction of the Surgeon-General, to the special service of conducting the examinations and supervising the operations of the others, and for such special service an extra compensation of $60 a month will be allowed: *Provided further*, That the dentist now employed at the Naval Academy shall not be displaced by the operation of this act.

Mr. LODGE. Mr. President, bills are pending in regard to a dental corps both for the army and the navy. There is a House

bill in reference to the navy, and there is a bill before the Committee on Military Affairs in regard to dentists for the army. It is an important question, and there is considerable difference of opinion as to the proper method to take in dealing with this corps. It seems to me that it is rather too large a subject to handle in an amendment to an appropriation bill. I do not want to delay the bill a moment by debating the subject, so I make the point of order that the amendment proposes general legislation.

The VICE-PRESIDENT. The Chair is clearly of the opinion that the point is well taken, and sustains the point of order.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, under the subhead "Bureau of Supplies and Accounts," on page 44, line 17, after the word "all," to strike out "six million eight hundred and one thousand five hundred and twenty-three dollars and fifty-one" and insert "seven million one hundred and ten thousand two hundred and eighty-four dollars and thirty-one," so as to make the clause read:

In all, $7,110,284.31.

The amendment was agreed to.

The Secretary resumed the reading of the bill, and read to the end of line 6, on page 45.

Mr. LA FOLLETTE. Mr. President, I find it impossible to follow the Secretary's reading, because of his omissions. I do not make this suggestion to delay the consideration of the bill, but I want an opportunity to follow it.

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

The Secretary resumed the reading of the bill, and read as follows:

BUREAU OF CONSTRUCTION AND REPAIR.

Construction and repair of vessels: For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; steam steerers, pneumatic steerers, steam capstans, steam windlasses, and all other auxiliaries; labor in navy-yards and on foreign stations; purchase of machinery and tools for use in shops; carrying on work of experimental model tank; designing naval vessels; construction and repair of yard craft, lighters, and barges; wear, tear, and repair of vessels afloat; general care, increase, and protection of the navy in the line of construction and repair; incidental expenses for vessels and navy-yards, inspectors' offices, such as photographing, books, professional magazines, plans, stationery, and instruments for drafting room, and for pay of classified force under the bureau, $8,979,144: *Provided*, That no part of this sum shall be applied to the repair of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 10 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided further*, That no part of this sum shall be applied to the repair of any other ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 20 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of ships damaged in foreign waters or on the high seas, so far as may be necessary to bring them home. And the Secretary of the Navy is hereby authorized to make expenditures from appropriate funds under the various bureaus for repairs and changes on the vessels herein named in an amount not to exceed the sum specified for each vessel, respectively, as follows: Maine (in addition to the $200,000 authorized by the naval appropriation act approved May 13, 1908), $520,000; Missouri, $540,000; Ohio, $540,000; Wisconsin, $380,000; Chattanooga, $210,000; Cleveland, $210,000; Denver, $210,000; Des Moines, $210,000; Galveston, $210,000; Tacoma, $210,000; Concord, $152,000; Yorktown, $152,000; Elcano, $35,000; Paragua, $20,000; Quiros, $30,500; Rodgers, $42,000; Rainbow, $140,000; Supply, $130,000; Yankee, $195,000; Apache, $21,500; Lincoln, $6,000; in all, $4,164,000, as per the letters of the Secretary of the Navy, House Documents Nos. 1152 and 1306, Sixtieth Congress, concerning repairs of certain naval vessels.

Mr. CLAY. Mr. President, I notice this bill carries a little over $4,000,000 for repairs of our vessels. If I remember correctly, during the last session of Congress we appropriated $5,000,000 or a little over $5,000,000 for this purpose, naming the vessels that were to be repaired. I see that for the *Brooklyn* we appropriated $453,500. The report of the Secretary of the Navy shows that only $740.37 of that sum has been spent thus far in repairing that ship. For the *San Francisco* we appropriated $600,250, and the report of the Secretary shows that $3,565.17 has been spent for repairing that ship, which is only a small amount of the large appropriation we made. For the *Baltimore* we appropriated $653,300, and of that sum but $71,832.42 has been used. For the *Alabama* we appropriated $660,500, and only $1,165.68 of that sum has been used. We appropriated for the repair of the *Iowa* $559,500, and only $18,277.31 of that amount has been used. I will not go over all of these various amounts, because it would take time, and I know time is precious.

It appears that of the $5,000,000 we appropriated to repair these vessels last year only about one-twentieth of the amount has been utilized for that purpose. I see that the Secretary of the Navy reports as follows in answer to a resolution which I introduced:

The amount required to keep a first-class battle ship in repair and good condition for one year is $109,856.09.

If we had 30 battle ships, at that rate it would not require over $3,000,000 per year to keep them in repair, if the Secretary of the Navy is correct. I had an idea from the appropriations we made at the last session that it took from four to six hundred thousand dollars per year to keep a battle ship in repair. I should like to know what will be done with the $4,000,000 appropriated last year for the repair of these battle ships that has not been utilized. The Senator from Maine of course knows. It may be possible that this sum will be used between now and the 30th day of June. That appropriation bill passed last May, but the appropriations were not available until the 30th day of June. If the Secretary of the Navy is correct, and $109,856.09 will keep in repair and in good condition a battle ship for a year, I can not see why we appropriate five and six hundred thousand dollars per year to keep up a battle ship.

Mr. HALE. Of course, the money that we appropriate for repairs in such large sums can only be spent for repairs on those ships. It can not be diverted to any other purpose. It is for a specific purpose and does not lapse and return to the Treasury. The Senator will bear in mind, and we may as well realize, that the repairs upon all these ships appropriated for last year and this year and for next year will never be fully known until the fleet returns and is sent to the different navy-yards, and boards of examination and survey are called. Then the amounts of repairs and overhauling, in some cases amounting almost to rebuilding, will be known in the aggregate.

Some of these ships, repairs on which we appropriated for, were taken and sent off around the world. The money could not be expended upon them and will not be until they get back. In some cases there have been small repairs, but that does not in any way indicate that a big ship can be kept in commission for the small sums mentioned by the Senator as set forth in the letter of the Secretary of the Navy. The increase we will never know until the ships to be repaired under last year's and this year's appropriations get in and go to the navy-yards. We shall know better then what the entire bill is to be; but the department is not obliged to expend the appropriation in the year in which it is made.

Mr. CLAY. The Senator expects, then, that this balance of nearly $4,000,000, which has not been utilized, will be probably applied to repairing the battle ships when they return from the cruise around the world?

Mr. HALE. Undoubtedly; and a great deal more.

Mr. CLAY. Does the Senator think that in the next four months we could spend that much money in repairing these ships?

Mr. HALE. I do not know. They can expend a great deal in four or five months. They go right to work as soon as the ships come in. How much they will spend the rest of the year, I do not know. It will go over into next year.

Mr. CLAY. Does the Senator understand that a first-class battle ship can be kept in good condition and repair for $109,000, on an average, a year? I see the Secretary says so in his statement.

The amount required to keep a first-class battle ship in repair and good condition for one year is $109,856.09.

He goes on to say that he has made a calculation of the amount used heretofore, and considering the number of battle ships we have in use, I had an idea that in ten years it would take as much to repair and keep in good condition a battle ship as it would to construct it, and I was surprised when I found that it takes only $109,000 to keep it in good repair.

Mr. HALE. That is not in any way complete. That is all they have expended, but the rest of it will all go.

Mr. TILLMAN. The Senator from Maine can enlighten me and perhaps others on that point. I understand that the report of the Secretary simply means that if a ship is tied up in a yard, not used, no expenditure for fuel or anything except to maintain it in its condition, and possibly clean it if it needs cleaning during the year, by putting it in the dock, the ship can be maintained for that sum. A ship in commission can not be maintained for that sum; in other words, a ship that is running, that is being used, that is being worn out. It is simply a ship that is lying—

As a painted ship
Upon a painted ocean—

as was illustrated twice yesterday and which we read long ago in Coleridge—a toy ship, not a usable ship.

Mr. HALE. I do not know that I quite get the inquiry. All this money is going to be spent in the navy-yards.

Mr. TILLMAN. I know, but I was speaking of the report of the Secretary of the Navy, made in reply to the resolution of the Senator from Georgia, which was that a first-class battle ship could be maintained without deterioration at $109,000, was it not?

Mr. CLAY. One hundred and nine thousand dollars.

Mr. TILLMAN. I say that must be for a ship that is not being used.

Mr. HALE. Undoubtedly. I have here from the department a memorandum of what it costs to keep a ship afloat, one of these biggest ships, and it is $1,090,000.

Mr. TILLMAN. That is the full complement of officers and men——

Mr. HALE. Everything.

Mr. TILLMAN. And fuel and food and supplies and powder and everything.

Mr. CLAY. That is not for the repairs of the ship. It includes much more than that.

Mr. HALE. That is the whole thing.

Mr. CLAY. The Secretary says he reaches this conclusion by taking the total amount that it cost to repair battle ships last year and dividing it by the number of battle ships we had on hand, and that the average was $109,856.09. Surely he did not mean ships at sea.

Mr. HALE. Undoubtedly not.

The PRESIDING OFFICER (Mr. DICK in the chair). The reading of the bill will be proceeded with.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 47, line 17, after the word "vessels," to strike out the following proviso:

And provided further, That hereafter it shall be the duty of the Secretary of the Navy to report to Congress at the beginning of each regular session thereof a detailed statement showing the amount expended from each of the appropriations for the repair of every ship where such repairs exceed for any one ship the sum of $200,000 in any one fiscal year.

The amendment was agreed to.

The next amendment was, on page 51, line 24, before the word "dollars," to strike out "eleven thousand nine hundred and sixty-eight" and insert "seventeen thousand four hundred and eighty-eight," so as to make the clause read:

Engineering experiment station, United States Naval Academy, Annapolis, Md.—Experimental and research work: For original investigation and extended experimentation of naval appliances, and for the purchase of such machines and auxiliaries considered applicable for test and use in the naval service, $17,488.

The amendment was agreed to.

The next amendment was, on page 52, after line 7, to insert:

The title of warrant machinist is hereby changed to machinist; and all machinists shall, after six years from date of warrant, be commissioned chief machinists, to rank with, but after, ensign, and shall, on promotion, have the same pay and allowances as are allowed chief boatswains, chief gunners, chief carpenters, and chief sailmakers, and no machinist shall be promoted until he shall have passed such examination before a board as the Secretary of the Navy may prescribe, and no warrant officer, heretofore or hereafter promoted six years from date of warrant, shall suffer a reduction in pay which, but for such promotion, would have been received by him: *Provided*, That chief boatswains, chief gunners, and chief machinists shall be eligible for appointment to the grade of ensign under the restrictions imposed by law upon the appointment of boatswains, gunners, and warrant machinists to that grade.

The amendment was agreed to.

The next amendment was, on page 58, after line 15, to insert:

The crypt and window spaces of the United States Naval Academy chapel are to be used only for memorials to United States naval officers who have successfully commanded a fleet or squadron in battle, or who have received or may receive the thanks of the Congress of the United States for conspicuously distinguished services in time of war, and no memorial shall be accepted for or installed in said crypt or window spaces until at least five years after the death of the officer in question: *Provided*, That nothing in this provision shall be considered as invalidating any agreement made by the present or any former superintendent of the Naval Academy, authorizing a memorial window in the old Naval Academy shapel to be transferred to the new Naval Academy chapel.

The amendment was agreed to.

The next amendment was, on page 60, line 6, after the word "dollars," to insert the following proviso:

Provided, That no part of the appropriations herein made for the Marine Corps shall be expended for the purposes for which said appropriations are made unless officers and enlisted men shall serve as heretofore on board all battle ships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than 8 per cent of the strength of the enlisted men of the navy on said vessels.

Mr. LODGE. Mr. President, in my opinion this amendment is general legislation and is clearly subject to the point of order. But it is a very important matter, and I believe the Senator from Maine would like it discussed on its merits. So I shall not make any point of order, and will try to discuss it solely on its merits.

It is a very important change. It reverses the policy of the Government, as expressed in the statutes, from the beginning of the Government. The Revised Statutes, section 1611, provide:

The Marine Corps may be formed into as many companies or detachments as the President may direct, with a proper distribution of commissioned and noncommissioned officers and musicians to each company or detachment.

SEC. 1616. Marines may be detached for service on board the armed vessels of the United States, and the President may detach and appoint for service on said vessels such of the officers of the corps as he may deem necessary.

SEC. 1619. The Marine Corps shall be liable to do duty in the forts and garrisons of the United States.

It has been the uniform policy, therefore, of the Government to compel the employment of marines on shore in such detachments and at such places as the President may direct, but it has been left always within the discretion of the President whether they should be sent to sea at all, or in what number. Now, it is proposed by this amendment to take that power from the President, and to compel him to keep at least as many marines on the ships as are now serving in that capacity.

This proposed law will apply, of course, to the incoming President and not to the outgoing President. It will take from him the power which I think properly belongs to him as the Commander in Chief to send the marines to sea or to keep them on shore duty, and for the first time the President will be fettered in that direction. I think that is enough to indicate what a serious change is here involved.

Mr. President, we borrowed the Marine Corps from the English navy. The English navy is the only navy that employs marines afloat, and the number of marines in the English navy is proportionately about the same as in our own. But the English marines on their ships are, many of them, the servants of the officers and perform duties of that kind which are not demanded of our marines and would be resented if they were demanded. In the German navy there are three battalions of marines, but they are not employed afloat, the statement of the German officers being that their presence would injure the morale and the military efficiency of the blue jackets. The French also have a force of marine infantry, which is employed at naval stations and for expeditionary purposes under the control of the navy. There are no marines afloat in the French navy. There are no marines at all in the Russian or Japanese navy, and I think that in the other navies the same is true.

In our navy there are at sea only 22 per cent of the enlisted marines; only one-sixth of the officers were at sea—54 out of 333. There are 41 marine officers of and above the grade of major, and only 2 were at sea—5 per cent—1 major in each fleet. The great body of the Marine Corps, all the higher officers, are employed on shore duty. Of the 10,000 men, roughly speaking, 8,000 are employed on shore duty and are used for expeditionary purposes, and 2,000 are now on the ships.

The character of the seamen on the United States ships of war has greatly changed and improved in the last comparatively few years. Some years ago the seamen on board our men of war were largely foreigners. They were recruited in the great ports, and the navy took what it could get. It often got very poor material—men who were ready to take service on such a ship because they could not get good service in the merchant marine. They were picked up everywhere. I think—I am recalling the old debates—we had nearly 75 per cent foreigners. That has completely changed. The seamen of the navy to-day are Americans. A very large proportion of them are native born, but they are practically all American citizens. The recruiting has been extended from the sea ports to all parts of the country, with the result that they are now drawing many of their seamen from the interior of the United States, from the region of the Lakes, and from other States, and are getting a fine class of men.

The seamen resent the use of a police force. They believe, and I think with some reason, that they are just as able to maintain discipline as soldiers are able to maintain discipline in the army. I think it would be the testimony of every officer of the army that no greater mistake could be made than to have a privileged and differently uniformed corps that should act as the policemen of each regiment. The marine corps of England, which we have borrowed, is a relic of the days of the press gang, when the unwilling men were seized in the streets, delivered by the crimps, and thrust unwillingly and almost in a condition of mutiny into the ships. Conditions have completely changed from the days when a corps of marines on board ship to act as police was necessary.

I shall call attention in a moment to the testimony of the officers of the navy in that respect. I believe it makes against good discipline to keep them longer on the ships, in view of

the great improvements that have occurred in the character of the American blue jackets.

Mr. President, this order was made by the President, who of course had to make the order, on the recommendation of the Navy Department. It did not originate with him. It was recommended two years ago by Admiral Converse, at that time head of the Bureau of Navigation, the bureau charged with the care of the personnel of the navy. It was repeated by the present head of the Bureau of Navigation, Admiral Pillsbury. I have here his letter recommending it. It was approved by the Secretary of the Navy, Mr. Metcalf. It was submitted to the President, and he made the order advised by the department.

I will read the letter of Admiral Pillsbury to the President. He says:

DEPARTMENT OF THE NAVY, BUREAU OF NAVIGATION,
Washington, D. C., October 16, 1908.

SIR: The bureau is of the opinion *that the time has arrived when all marine detachments should be removed from United States naval vessels*, substituting blue jackets in their stead.

The marines thus removed should be organized into regiments, battalions, and companies, and should be embarked or ready to embark in a suitable vessel, and should be attached to the fleets, thus forming part of the fighting force of the fleets directly under the control of the Commander in Chief.

Attention is invited to the fact that both blue jackets and marines are recruited with the same degree of care and from the same class of people. If anything, it may be said that the degree of intelligence, superiority of intellect, etc., is in favor of the blue jacket, for a large number of ratings in the navy are filled by skilled laborers. Under these circumstances it is apparent that one possesses no virtue or military qualification that is not possessed by the other.

The *blue jackets of to-day are self-respecting, reliable, and trustworthy*, and it is believed that no reason at the present time exists for having men from two separate, distinct corps wearing different uniforms in the organization of a ship.

Under the navy regulations the marine detachment is a distinct part of the complement of a ship and forms a division in the detail of the whole force for battle. They are drilled at and man a certain number of guns, but if called upon at any time to land as an expeditionary force they abandon the guns aboard ship and break up the organization, leaving a certain number of guns without crews.

While under the regulations the Bureau of Navigation fixes the complements of vessels in commission, the removal of marine guards involves a change of policy, and the bureau therefore recommends that authority be granted to change the complements of all ships on board of which marines are now stationed, substituting for them an equal number of blue jackets as soon as the latter may be enlisted in sufficient numbers to make this substitution.

On July 1 last there were 2,022 on board ships of the fleet. This does not include receiving ships and prison ships. Should the bureau's recommendation meet the department's approval, it is proposed that the marines shall be withdrawn from the ships of the fleet gradually. The bureau is prepared at the present time to relieve the detachments of eight ships, and by the 1st of next July it is probable that they could be relieved from all cruising ships.

Very respectfully, J. E. PILLSBURY,
Chief of Bureau.

The SECRETARY OF THE NAVY.

I have here letters from some other naval officers. I have shown it has met with the approval of the Chief of the Bureau of Navigation, the Secretary of the Navy, and the President of the United States. I have extracts from the testimony of officers. Admiral Dewey says, January 11, 1909:

NAVY DEPARTMENT,
OFFICE OF THE ADMIRAL OF THE NAVY, MILLS BUILDING,
Washington, January 11, 1909.

MY DEAR FULLAM:—

Commander Fullam—

I have received your letter of 7th instant setting forth reasons why the President's recent order withdrawing marines from ships should not be nullified; and having read with much interest, find your arguments unanswerable.

I was recently requested to appear before the House Naval Committee in connection with this subject, but was unable to attend owing to my having been laid up for some time with sciatica.

I may, however, be given a chance to appear at some future date, when I hope to be able to make use of your excellent arguments.

Thanking you for your letter and with regards for Mrs. Fullam and yourself, I remain,

Sincerely, yours, GEORGE DEWEY.

Commander W. F. FULLAM, U. S. Navy,
Naval Training Station, Newport, R. I.

Rear-Admiral Converse I have already quoted. It appears in his official report for 1906. Rear-Admiral Evans takes the same view. So does Rear-Admiral Sperry, the present commander in chief of the Atlantic Fleet; Rear-Admiral Swinburne, commander in chief of the Pacific Fleet; Rear-Admiral Frederick Rogers, commander in chief of the Pacific Fleet; and Rear-Admiral Ingersoll, representing the General Board of the Navy. Then come the captains of the ships which have been on the trip around the world. I have here somewhere extracts from their testimony, but I can not put my hands upon it. They all speak in the highest terms of the conduct of our sailors upon the cruise which has just been concluded.

Mr. FRYE. Do the captains agree?

Mr. LODGE. They all agree.

Secretary Metcalf, in his report for 1908, says:

Too much can not be said of the magnificent conduct of the enlisted personnel throughout the history of this voyage and in the presence of an unprecedented succession of entertainments and shore hospitalities.

The occasion has brought to the front that element of greatest strength in our navy—the personal characteristics of the enlisted force.

Telegram from the commander in chief United States Atlantic Fleet:

NAPLES, *January 13, 1909.*

Efficiency of ships having no marines has been increased. Commander in chief and captains of *Vermont* and *Connecticut* consider that marines should be removed from all ships.

REAR-ADMIRAL SPERRY,
Commander in Chief Atlantic Fleet.

Telegram from the commander in chief United States Pacific Fleet:

TALACAHUANO, *January 12, 1909.*

Rear-Admiral Sebree and commanding officers, excepting Captain Smith, who joined at Panama, report efficiency of ships improved by removal of marines. They request continuance present arrangements, recommending removal marines from all ships. I concur with recommendation, but earnestly recommend marines remain under naval authority.

REAR-ADMIRAL SWINBURNE,
Commander in Chief Pacific Fleet.

Then extracts follow showing the good conduct of our men otherwise, which it is not necessary, probably, for me to read. The excellent conduct of the men has been very remarkable.

It is in the interest, in my judgment, of the good discipline of the ships and in the best interests of the seamen—it is the belief of all the younger officers, certainly, who are brought into close contact with the men—that discipline will be improved by the gradual removal of the marines and their practical confinement to shore duty and expeditionary duty.

As for the matter of expense, that we must replace the marines with a corresponding number of seamen, it is quite true that that will have to be done; but the Marine Corps is bound to be increased for the increased shore duty for the increased fleet in any event, and it is only a question whether we shall make the increase in the blue jackets or whether we shall make the increase in the Marine Corps.

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. LODGE. Certainly.

Mr. DIXON. The Senator from Massachusetts is one of the members of the Committee on Naval Affairs, is he not?

Mr. LODGE. I am not.

Mr. DIXON. Was there any hearing before the Committee on Naval Affairs on this question of the marines?

Mr. LODGE. That I do not know.

Mr. HALE. There was a very full and exhaustive hearing on this whole question before the House committee, taken down in full and made a part of their report. The Committee on Naval Affairs in the House upon that hearing unanimously reported the provision the Senate committee has now put upon the bill, and when it reached the Senate the Committee on Naval Affairs of the Senate had before it all the testimony taken in the House, which was followed by their report of this amendment. Instead of going over the same testimony, the committee of the Senate adopted the conclusions which the House committee had adopted.

Mr. LODGE. I have looked over that hearing, Mr. President, and I am bound to say it did not convince me. The principal witnesses seemed to be marine officers who never go to sea. They seemed to be the principal opponents of leaving with the President the discretion of withdrawing the marines.

Mr. HALE. If the Senator will examine the hearings of the committee fully, the committee heard not only marine officers, but distinguished line officers, the Secretary of the Navy, and Admiral Pillsbury, and had the whole case before them.

Mr. LODGE. Certainly they did, but I mean that most of the witnesses who argued for the retention of the marines, as I gathered, were marine officers of higher grades who never go to sea.

Mr. CUMMINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. LODGE. Certainly.

Mr. CUMMINS. It is only fair to say at this point, while I have no disposition to limit this discussion, I supposed the Senator from Massachusetts rose to make a point of order against the amendment. Not having done so, I think it just to say that I intend at the proper time to make the point of order which the Senator from Massachusetts declared would be well taken. I do not believe that we should enact any such important legislation curtailing or interfering with what I believe to be the constitutional power of the Commander in Chief in

an appropriation bill. We have enough of those in this appropriation bill without importing any unnecessary ones.

Mr. LODGE. In this connection I am reminded to say that if we leave it where it is we do not compel the President to withdraw the marines; it is left discretionary with him, as it has been from the beginning of the navy. If it is a mistake to withdraw the marines, it is perfectly possible for the next President to put them back. There is nothing final about the order. He can put them back or keep them off the ships, as he pleases. But this amendment proposes to compel him to keep a certain number of marines on the ships whether it proves wise or unwise. He is to have no choice at all. He is to have no discretion. The Navy Department is to have no discretion. It is to be decided here that so many marines, one-fifth, shall go to sea, not that all ships shall have them, but that some of the ships shall have them, leaving him discretion to send more if he chooses, but no other discretion is left with him at all.

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

Mr. LODGE. Certainly.

Mr. RAYNER. Does the Senator from Massachusetts agree with the Senator from Iowa that the President has a constitutional power that is not subject to the laws of Congress? The Senator from Iowa has just said that what the President did was the exercise of a constitutional power. I ask the Senator from Massachusetts the question whether the President has any constitutional power in regard to this subject, except the power that can be regulated by an act of Congress?

Mr. LODGE. I think that unquestionably it can be regulated by an act of Congress. I think this is a normal and proper duty of the Commander in Chief, and that it should be left with him, but if Congress chooses to provide that we shall have a corps of 10,000 marines and they shall all go to sea, Congress has, in my opinion, undoubtedly the right so to provide by law. Congress has power under the Constitution, as I understand, to make rules and regulations for the government of the force—not to govern the force, but to make rules and regulations for its government.

Mr. RAYNER. The Senator from Iowa has asserted a proposition that the President has frequently asserted, that as Commander in Chief of the Army and Navy he is not subject to the laws of Congress. I am glad to see that the Senator from Massachusetts does not agree with the Senator from Iowa on that proposition.

Mr. LODGE. I have no desire to discuss the constitutional question.

Mr. CUMMINS. Did the Senator from Maryland understand me to say that the President of the United States is not subject to the laws of Congress in any respect?

Mr. RAYNER. I did not understand you to say that. I understood you to say that the President, as Commander in Chief of the Army and Navy, has a constitutional right to do whatever he wants with reference to the marines. If I was mistaken about that, I will be glad to be corrected.

Mr. CUMMINS. I asserted, and I reassert, that, in my opinion, the President of the United States has the right to determine whether the Marine Corps shall be employed upon ships or employed upon the shore and that Congress has no authority to interfere with that discretion. Congress has the authority to say that there shall be no Marine Corps or no seamen, if you please, but Congress has, in my opinion, no greater authority to declare what is the declaration in this amendment that it would have to say during the progress of a war that no infantry regiments should approach within a mile of any battery.

Mr. RAYNER. Mr. President, I understood the Senator from Iowa to say that, and I say the Senator from Iowa is wrong. Is the President, in reference to the marines or in reference to the land and naval forces, subject to any laws that Congress may pass? This is a very important matter, which has been discussed before in the Senate, and the President has always asserted that, as the constitutional Commander in Chief of the Army and Navy, he is not subject to the laws of Congress.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Idaho?

Mr. LODGE. I do.

Mr. RAYNER. I have not quite finished yet, but still I will yield.

Mr. BORAH. I will wait until the Senator from Maryland concludes.

Mr. RAYNER. I should like to hear the question.

Mr. BORAH. I was going to ask if the Senator from Maryland contends that the President, as the Commander in Chief, has no constitutional powers which are not subject to the control of Congress?

Mr. RAYNER. I contend that Congress has the right to make all rules and regulations for the government of the army and navy, and that the President is absolutely subject to any rules and regulations that Congress may make. I am without the authorities now, but I discussed this question once before in the Senate. I am perfectly satisfied that this is an absolutely constitutional measure, and when Congress passes a law making regulations for the government of the land and naval forces the President himself must obey those regulations, and he has no power as the constitutional commander of the army and navy paramount to the power that is resident here in Congress to regulate the land and naval forces.

Mr. LODGE. Mr. President, the discussion of the Constitution is always most interesting, but I am not making even indirectly an assault upon the Constitution.

Mr. BACON rose.

Mr. RAYNER. The Senator understands that. He entirely understands that, but the Senator from Iowa was making a most serious——

Mr. LODGE. I saw the Senator from Georgia get up, and I knew the Constitution was in peril.

Mr. BACON. I do not wish to take up the time of the Senate, but I will say that in the keeping of the Senator from Massachusetts it would always be in peril.

Mr. RAYNER. The Senator from Iowa has made a most serious assault upon the Constitution; an assault that ought to be answered. We ought once and for all time to understand that if we pass an act of Congress providing for the regulation of the land and naval forces, the President of the United States is bound to obey that act.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Idaho.

Mr. LODGE. I do.

Mr. BORAH. I only want to say, not for the purpose of discussing it at this time, that under the Constitution the President of the United States is made Commander in Chief of the Army and Navy of the United States. As such Commander in Chief he has certain constitutional powers which he may exercise and which Congress can not control, and that question has been settled, in my opinion, by our Supreme Court in numerous cases.

Mr. RAYNER. I would be very much obliged——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Maryland?

Mr. LODGE. I yield to the Senator from Maryland.

Mr. RAYNER. I should like to have authorities upon that point. I should like to have one single authority of the Supreme Court that the President of the United States can exercise constitutional powers in reference to the land and naval forces that are not subject to an act of Congress. I should like to see a case on that point.

Mr. BORAH. I have not the authorities at hand, but I have them collated. I have them so that I can, if necessary, furnish them to the Senator, which I will be glad to do without charge.

Mr. RAYNER. I do not think they will be worth anything. Therefore I would not pay anything for them. [Laughter.]

Mr. BORAH. Mr. President, furthermore, I will say that I have collated a statement of a number of leading lawyers of this body upon this same subject, and I do not stand alone in this matter. If I did, I would have some temerity in contradicting the Senator from Maryland.

Mr. RAYNER. Some time ago, at the kind suggestion of the Senator from Maine, the chairman of the Naval Committee, I undertook to furnish him with authorities the other way, and I venture to say that the authorities are all one way, that while the President of the United States is the Commander in Chief of the Army and Navy, when the Constitution provides that Congress can "raise and support armies," that it can "provide and maintain a navy," that it can "make rules for the government and regulation of the land and naval forces," if Congress passes a bill providing and maintaining a navy, raising and supporting armies, the making of rules for the government and regulation of the land and naval forces, the President is subject to the act of Congress. All the writers upon military law are in accord upon that subject, and I know of no case at all that conflicts with that position.

Mr. CUMMINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. LODGE. I yield to the Senator from Iowa.

Mr. CUMMINS. Mr. President, I did not intend by my suggestion to provoke a discussion upon any constitutional ques-

tion. The very fact, however, that my suggestion has created this difference of opinion is a conclusive reason in support of the point of order which I intend to make. We can not afford to settle these grave constitutional powers in an amendment to an appropriation bill. When that question shall come properly before the Senate I will be very glad to submit my views with regard to the constitutional power of the President in such an instance. I make the point of order that this is general legislation.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. The point of order is not debatable.

Mr. LODGE. The point of order is debatable if it is to be submitted.

Mr. HALE. I suggest that as Senators are discussing the merits of the measure the Senator from Iowa withhold his point of order.

Mr. CUMMINS. I did not intend to insist upon it at the present moment. I simply intended to give notice that I would insist upon the point of order at the proper time.

Mr. LODGE. I yield to the Senator from Idaho.

Mr. BORAH. I do not desire to prolong the debate by a discussion of the constitutional question at this time. I only want it understood that, so far as my view of the matter goes, the position which I took is a correct one. The Senator from Maryland says that the writers upon military law have decided otherwise. The Supreme Court of the United States has decided otherwise than that. I have not any doubt about the matter and, if it becomes necessary, I will try to get the authority for it.

Mr. LODGE. Mr. President, I did not intend to say anything that would arouse the most sensitive friend of the Constitution. I started out by reading the statute under which it was plain that the President had the power to direct whether the marines should be employed on board ship or not. The statute was permissive and gave him authority to send them there in his discretion. So his action was both legal and constitutional when this order was issued, and I do not suppose that is contested by anybody.

My objection was that it was a sudden change of a well-settled policy of this Government, which, from the beginning of the navy, had left it within the discretion of the Commander in Chief, and the proper place, I think, to leave it, whether there should be marines sent on board ship, and how many should be sent, if any. That has been the universal practice.

Now, Congress comes in for the purpose of revoking an executive order properly, legally, and constitutionally issued; not with a view of curbing the present President. This bill will not become a law until he shall have been for months out of office, but it will put fetters upon the hands of the next President without giving him the slighest chance to consider whether it is wise to have marines on board ship or whether it is not. Under the old law he can replace them if he does not think it best to keep them there, but all discretion is taken from him by this bill, and we have an ironclad system which takes over certainly what I believe is a normal and reasonable function of a Commander in Chief and prevents him from exercising it.

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. LODGE. I do.

Mr. DIXON. I merely want to ask one question for enlightenment. The amendment provides that not less than 8 per cent of the enlisted men on the battle ships shall be from the Marine Corps, and that the appropriation shall lapse if 8 per cent are not serving. I want to ask the Senator what would be the effect of this provision provided the battle ships were sent out from port with 8 per cent of Marine Corps men on board and of that 8 per cent one-third should desert or die of cholera.

Mr. LODGE. The Senator means assuming that this amendment becomes a law?

Mr. DIXON. Yes, sir; if the appropriation stands.

Mr. LODGE. I suppose it would lapse unless the full 8 per cent is kept up.

Mr. RAYNER. Will the Senator from Massachusetts allow me to finish the sentence, which I desire to do?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Maryland?

Mr. LODGE. Certainly.

Mr. RAYNER. I have just sent for one among a number of volumes upon military law, and it is the best statement from any writer upon the subject that I know of and is the best book, in my judgment, which has been written upon military law. I only want to read a few lines, to show the Senator from Idaho how greatly he is mistaken upon the proposition which he has announced to the Senate.

I read from O'Brien's Courts-Martial, on page 1:

> According to the Constitution, Congress has absolute power over the army. It can create, organize, increase, or disband it at its mere will and pleasure. It has the exclusive power of making rules and articles of war and of legislating for the public force. The military laws which it may be pleased to enact in pursuance of the Constitution are as binding on the President as on the private soldier, and there is no power in the Commonwealth which dare disregard or deviate from the slightest of its ordinances.

I say that is the law and the Supreme Court has never decided otherwise.

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. LODGE. I do.

Mr. DIXON. I do not disagree at all with the proposition of law which has just been stated by the Senator from Maryland [Mr. RAYNER]. The difficulty is, he does not distinguish between creating, regulating, controlling, and bringing into existence an army and commanding it. I say that the President as Commander in Chief of the Army has the powers which belong to a commander in chief—that is, to command the army—and when he issues an order which has been made under the authority intrusted to him by Congress, that order is conclusive, and Congress has no power to annul it or set it aside. He may dispose of the army; he may send the fleet here and there, because that is a part of the powers of the Commander in Chief. To raise the army, to regulate it, to feed it, and provide rules and regulations for its government belongs to Congress.

Mr. LODGE. On the question of expense, it is stated by the Bureau of Navigation, from which I get my information, that to replace 2,000 marines and marine officers with blue jackets on board ship will result in an actual saving to the Government of $122,000 annually. The reason for this saving is that the expense of providing marine officers is considerable, whereas the total number of midshipmen and line officers need not be and will not be increased and no expense will be entailed if more line officers are assigned to ships to replace the marine officers.

That is the figuring of the department as to the actual expense. I do not know whether it is correct or not, but it is perfectly clear that no additional expense will be incurred by replacing with blue jackets the 2,000 marines now on board ship.

Mr. HALE. Mr. President——

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

Mr. LODGE. I do.

Mr. HALE. I would say that the Committee on Naval Affairs looked into that matter, and, I think, unanimously came to the conclusion, which, it seems to me, must be apparent to everybody, that if you take 2,000 marines from the ships where they are doing duty, thereby reducing the force upon the ships, and send the marines somewhere else, you have got to replace them by additional men. The committee believed that we should be called upon at once to fill those places by additional men in the navy and that the expenses would be anywhere from four or five to six hundred thousand dollars.

The proposition seems to be as plain as possible. You are putting your marines somewhere else and taking them away from the ships. We have not too many men now, and you have got to increase the naval force.

Moreover, the committee realize that it is not intended that this shall stop. The purpose—I will not say of everybody, but the underlying purpose—is to take these people away from the navy and in the end turn them over to the army. To that the committee is decidedly opposed, and I think the naval officers are opposed to it, but that is what we shall be confronted with if we take them away from the ships.

Mr. LODGE. Mr. President, I am as much opposed to taking the marines away from the naval authorities as is the Senator from Maine, but I see no more reason why withdrawing them from the ships shall force them into the army than it forces them into the army of Germany or of France, where they are not used on ships.

Moreover, as to expense, I do not think it is quite so plain as the Senator from Maine makes it. Of course it is perfectly obvious that if you take 2,000 marines off the ships and replace them with 2,000 blue jackets you will have the additional expense of the blue jackets; but if you keep the 2,000 marines on the ships, you will have to increase your Marine Corps in order to meet the demands made upon that corps by the increased

labor for which they are required at home. The department asked for an increased Marine Corps last year, and got it. They are asking for another increase this year. They have not got it, but they are demanding an increase.

I have seen that corps rise from 3,000 men to 10,000 men in the short time I have been here. If you leave the marines on board ship, you are going to increase the Marine Corps. If you take them off the ships, you will not need to increase your Marine Corps probably for a good many years to come, but you will have to increase your blue jackets. It is six of one and half a dozen of the other so far as the change of men goes.

Mr. TILLMAN. Mr. President——

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

Mr. LODGE. Certainly.

Mr. TILLMAN. Supposing the marines are kept off the ships, what are we going to do with them? What is the purpose?

Mr. LODGE. I suppose we shall use them. We use 8,000 of them now. We have got them at the navy-yards; we have got them at the naval stations; and we use them as they have been used at all the distant points where we have had to send them on expeditions, to keep them as an expeditionary force. We must have a guard for our navy-yards. We must have a guard for our naval stations. We must have marines at Guantanamo. We must have marines in the Philippines. We must have marines in Guam. Tutuila is in the hands of the navy, and you must have marines there.

Mr. TILLMAN. As I understand, the marines are the military branch of the service, and in a way take the place of soldiers.

Mr. LODGE. That is true, and I am not trying to interfere with that.

Mr. TILLMAN. At the same time they are on shipboard and are trained as sailors to manipulate the great guns and to do a part of the fighting when any fighting is to be done.

Mr. LODGE. I want to retain them as soldiers and not have them do the duties of seamen. They are now used as gun crews. They man some of the guns, but their gunnery record is inferior to that of the blue jackets. They are not good gunners.

Mr. TILLMAN. Then it is a question of practice. If you give them as long a time and enough powder, they certainly will hit as many targets as the blue jackets, when they are all recruited from the same source.

Mr. du PONT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Delaware?

Mr. LODGE. Certainly.

Mr. du PONT. I should like to ask the Senator from Massachusetts, so far as this question of additional expense is concerned, whether, in the last analysis, it does not come down to whether the cost of 2,000 marines is or is not less than the cost of 2,000 sailors?

Mr. LODGE. I can not answer that without a comparison of the tables. I am not sure, but I think their pay is the same.

Mr. du PONT. That is the whole question, if there is any question of economy.

Mr. LODGE. It is admitted by everybody, I think, that there is economy in the matter of officers; that is, if you have sailors instead of marines on the ships, and the sailors perform the same duties as the marines, they come under the command of the existing naval officers, whose number will not have to be increased at all.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Idaho?

Mr. LODGE. I do.

Mr. HEYBURN. I should like to ask a question there. Would it not be necessary, then, to increase our naval officers? Have we a surplus of them?

Mr. LODGE. No. I am told there will not be slightest need of it. You carry so many officers on board a battle ship. If you substitute blue jackets for marines, the same officers will take charge of the additional men. They will all be one body.

Mr. HEYBURN. If you increase the number of blue jackets, then you will not be compelled to increase the number of officers over the blue jackets?

Mr. LODGE. Not at all.

Mr. HEYBURN. But you would substitute naval officers for marine corps officers?

Mr. LODGE. The marines bring their officers with them.

Mr. HALE. Mr. President——

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

Mr. LODGE. I do.

Mr. HALE. I do not want that conclusion of the Senator from Massachusetts to be taken as admitted. I have no doubt, if you expel the marines from this service—which nobody has disturbed for a hundred years until now—and supply their places by enlisted seamen, that on every ship you will increase the number of officers of the navy correspondent with the increase on the part of the seamen. I have no doubt that that will result, and I therefore do not agree with the conclusions of the Senator from Massachusetts.

Mr. LODGE. I differ with great hesitation from the Senator from Maine, but I do not think that the officers on board a ship are detailed in proportion to the number of men. I think very largely the governing thing on board ship is the duty to which the officers are assigned, and I am assured by the Bureau of Navigation that that would involve no increase whatever in the number of officers. I have no other authority than that.

Mr. HALE. I do not think that is true—that is, I do not think in operation that it will so work out. I think the number of officers largely is correspondent to the number of men. If a battle ship has 600 seamen and 200 marines, making 800, the number of officers that will be put upon the ship for 800 men will be increased over what it was when there were only 600 men, just as a battle ship which calls for 800 men has more officers, as the Register will show, than the 600-man battle ship.

Mr. LODGE. Unquestionably.

Mr. HALE. And the 600-men ship will have more officers than the 400-men ship. The measure of the number of officers, I think, is as much the number of men as any other one thing. It is not absolutely controlling, but it controls as much as anything.

Mr. LODGE. Mr. President, on every ship there are a certain number of watch officers. On the smaller ships there may not be more than four. If you add to the number of men under command it will not change the number of watch officers. I do not mean to say that the size of the ship and the number of the crew has no effect; but I do say it is not the only element. In the mere matter of standing watch they must have a certain number of officers on every ship in order to have enough to stand the watches and give the proper relief.

Mr. PERKINS. Mr. President——

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

Mr. LODGE. I do.

Mr. PERKINS. I want to correct the statement of the Senator as to the pay of the blue jackets and marines. The Senator stated it was the same.

Mr. LODGE. I stated that I thought it was; but I was not sure.

Mr. PERKINS. The pay per annum of the sailor is $483.33 and of the marine $263.07. At least that is the testimony of Colonel Richards in the hearings before the House committee.

Mr. LODGE. That leaves out of consideration the fact that the uniforms of the marines are more expensive; that the marines are obliged to have barracks built for them; that they must have extensive quarters on shore, while the seaman lives on his ship or on a receiving ship at the navy-yard. I was speaking from memory of the pay bill last year when we equalized the pay. I understood the pay of the soldier, marine, and sailor was equalized so far as possible.

The marine, except in gunnery, performs none of the duties of the seaman. His duties are those simply of a police force of the ship. The marines do have guns, but the results attained by marine gun crews are not as good as those attained by gun crews of blue jackets.

Mr. President, I have taken more time than I intended. It seems to me that this is a question that may be very wisely left where it is has always been left by the statute—with the Commander in Chief of the military forces. I think that is the natural place to leave it. I think it is a very risky thing to attempt here to lay down a hard and fast rule as to how many marines shall go to sea and provide it in such a way that with the growth of the navy you must have a continual growth of the Marine Corps.

I do not believe that it is a good thing for the discipline of the ship to have marines aboard. I believe that the present class of seamen in our navy will be infinitely better off, just as our soldiers are better off, maintaining their own discipline. I myself hope that if this great change is to be made, it will not be made by an amendment to an appropriation bill which we have got to consider in a few minutes in the closing hours of a dying Congress.

Mr. RAYNER. Mr. President, I shall only take a few moments. I do not intend to discuss at all the policy of this pro-

vision. I am satisfied that under the statutes as they exist now the President has an arbitrary and almost unlimited discretion; but, in my judgment, as is usual with him, he has exercised a most tyrannical and despotic power. However, I do not propose to discuss that branch of the subject. I only want to supplement what I said by adding that so far as his constitutional power goes, he is subject to any law that we may pass. In addition to the reference that I gave, I want to give one or two more references from the same author. I quote from page 31:

The command of the President is, indeed, absolute within its sphere, but its sphere is bounded on all sides by law. The moment the Executive oversteps the boundaries prescribed, he becomes powerless, and his commands are of no force.

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So contracted is the actual authority of the President that, but for the protective power of his qualified veto, his command might be so restricted by legislation as to destroy its utility.

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As the Executive has no legislative power, it is plain that the regulations issued by him to the army are not law; and as he is as much bound by law as any other citizen, it follows that if any of them conflict with law they are so far null and void; otherwise they are constitutionally binding as military commands.

* * * * * * *

In all that relates to the raising of an army, to its strength, to its organization, to its criminal code, Congress is omnipotent, the President powerless.

If there is any authority that contradicts that, I shall be glad to hear it.

Mr. HALE. Mr. President, the Senator from Massachusetts has said that all that is wanted or needful is to leave things as they are. The amendment reported by the Committee on Naval Affairs, being like the one reported in the House of Representatives, is on the basis of not disturbing a condition that has existed for a hundred years. During that time the Marine Corps has been an important and accepted and useful part of the naval establishment, and no Executive, in that time, has ever thought of interposing a presidential order and disrupting this old, harmonious condition that has existed for a century. All that the committee seeks to accomplish now by this provision, as a limitation on the expenditure, put upon an appropriation bill as practically the only place where it could be put, is to retain the old status of the Marine Corps.

I have known something of the services the Marine Corps has rendered to the Navy, to the Government, and to the people in years past. They have been an essential and invaluable part of the naval establishment; they have gone with the ships into every place where there was an emergency or peril or danger, and they have not only never been found wanting, but have never failed to perform the most important part of the duties of a naval expeditionary force. The part that they performed in China is well known to everybody.

I know something about—and this is very important, Senators—the services that were rendered by the Marine Corps at the most critical period on the Isthmus of Panama, when there was imminent danger of an outbreak, a conflict, and a war. The army demanded the privilege of sending two regiments to Panama to meet the forces of the Republic of Colombia. Under the dispensation, which the President has disturbed and destroyed, there were at that time, as there have always been at important emergencies and junctures in our affairs, four or five hundred marine-corps men, a disciplined, active, efficient military force, that would not have been there had they not been carried there upon the ship.

I remember very well that the then Secretary of the Navy opposed the sending of the troops of the army down there. He insisted that the Marine Corps was ample for every emergency, and gave his instructions to the marine-corps contingent that was upon the Isthmus not to provoke war, not to advance war, but to avoid war, and, if necessary, for the moment to retreat to save war. Those men, a part of the expeditionary force of the United States, carried there upon ships of the navy, followed the instructions of the Secretary of the Navy; and I say, Mr. President, to the Senate, from my knowledge of that situation—and the Secretary of the Navy agreed with me in that—that if the army had sent down two regiments of men to be put into the service we should have had a war with Colombia in twenty-four hours; and, while we would have overwhelmed Colombia, it would have cost us fifty or a hundred million dollars. That instance alone of itself demonstrates the essential need of this valuable, brave, and accomplished corps of men, whose services in order to be of any use should be upon the ships.

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

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

Mr. HALE. Certainly.

Mr. MONEY. I wish to ask the Senator from Maine—he has been very instructive in his remarks—of which one of the expeditions he is speaking? Was it the one of which Admiral Jouett had command—the last one?

Mr. HALE. It was at the most critical time, when the government was being established down there. I do not remember who was in command of the fleet. The Senator can easily identify it historically.

Mr. MONEY. There were two expeditions, the Senator will recollect, and I supposed he was alluding to the last one from the fact that he mentioned that the army insisted upon sending two regiments down there.

Mr. HALE. I mean the one which established the Isthmian government.

Mr. MONEY. That was Admiral Jouett's.

Mr. FULTON. Mr. President——

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

Mr. HALE. Certainly.

Mr. FULTON. I should like to ask the Senator how many enlisted men there are now in the Marine Corps?

Mr. HALE. Ten thousand—I will not say "ten thousand," because the corps is not recruited up to the maximum, but there are perhaps actually between eight and nine thousand.

Mr. FULTON. What especial service can they perform for the navy on shore?

Mr. HALE. That naturally opens the entire question. It is not intended that they all shall be upon the ships. Part of their duty is guarding and caring for the navy-yards and naval stations.

Mr. FULTON. To promote their highest and best efficiency, ought they not to have training at sea?

Mr. HALE. Undoubtedly.

Mr. LODGE. May I ask the Senator from Maine a question?

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

Mr. HALE. Certainly.

Mr. LODGE. I have here a statement from the Navy Department. There are only 1,300 marines now afloat.

Mr. HALE. I did not know there were so many as that, because they have been taken off the ships.

Mr. LODGE. I mean there are 1,300 now afloat. At the time of the order there were 2,000.

Mr. HALE. Just about 2,000, or about a quarter of the enlisted force of the Marine Corps.

Mr. LODGE. Then 8,000 were employed on shore, were they not?

Mr. HALE. No; the 8,000 included the 2,000.

Mr. LODGE. But the remainder, 6,000, were all employed on shore?

Mr. HALE. They were all employed on shore.

Mr. LODGE. If the Senator will permit me just one word, I agree with all he says about the Marine Corps and its use; but I never understood that the President's order affected their employment as an expeditionary force at all. On the contrary, they would be used for that.

Mr. HALE. I want to come to that. The pride that these men naturally have in the service that they have performed, their discipline and value upon the ships, is the one thing that lies nearest to their hearts and their ambitions. It is another thing, Mr. President, to dump these men onto transports and to herd them together upon outlying and auxiliary ships of the navy and trail them along by themselves, herded in that way, only to be called upon when an emergency arises. Upon every expeditionary fleet that this country shall ever send forth—and I hope they will be few—there should be this valuable corps as a part of the ship's equipment, so that, instead of depending upon a corps that is exiled from the ship and put into auxiliary ships, the colliers, or whatever they may be, you will have them at the moment when needed ready for service. One of the best things the Marine Corps has accomplished in its history has been in instances like that which I have cited. It has prevented war, when the army would have stimulated war, that being the business of the army.

Mr. President, this subject has been thoroughly thrashed out——

Mr. MONEY. I should like to make a few remarks.

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

Mr. MONEY. If the Senator is about to yield the floor, I should like to occupy it for a few moments only. I do not want to delay the bill.

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

Mr. HALE. Does the Senator from Mississippi desire to ask me a question, or will he wait until I shall have concluded?

Mr. MONEY. No; I thought the Senator was about to conclude.

Mr. HALE. I was, because I do not want to take up time. It is not necessary. The provision in the appropriation bill is precisely the provision that comes within the constitutional point so well made by the Senator from Maryland. It takes upon Congress the responsibility under the provision which gives the conduct and regulation of the military establishment to Congress. It gives that force here in the appropriation bill.

Mr. HEYBURN. I should like to ask the Senator if he has the order of the President at hand, in order that we may compare it——

Mr. HALE. It is in the papers. It is very distinct.

Mr. HEYBURN. I do not recall it so distinctly as I should like to.

Mr. HALE. Mr. President, it is easy to see that the proposition submitted by the Senator from Maryland must be the true, fundamental, profound proposition on which shall be rested the conduct and regulation of the military forces of the Government. The President undoubtedly had the right to issue the order, which no President had ever attempted to do in a hundred years, and Congress has upon itself the responsibility of restoring that condition.

What would Senators think if, at a time of emergency, the President, a President who was more for peace than for war and ignominiously for peace instead of honorable war, should order, upon the proposition that there was no danger of war, every ship of the navy into a navy-yard, to be laid up? If the President has the power, and Congress can not overrule him, upon the personnel of the navy, he has the same power over the ships themselves. Does anybody believe that in a condition like that Congress for a moment would hesitate to take upon itself the conduct and regulation, under the Constitution, of the navy of the United States and order those ships out against the presidential mandate? I am only giving that as an illustration. And that is all that is attempted to be done here, under the undoubted authority that Congress has, not to abandon everything in the conduct and regulation of the army and the navy to the President, but to establish a rule that shall for the time override it may be a presidential order.

I am not going to discuss the question of the point of order. The Senator from Massachusetts [Mr. LODGE] did not make it, but the Senator from Iowa has indicated that he would. I am not going to argue it, although I have plenty of citations here. The discussion that has already arisen has shown that it is a very debatable question—it is a very serious question, where the line is drawn—whether the Senator from Maryland is right, as I think he is, or the Senator from Idaho is right, as I think he is wrong; and being of that mind, for one I am entirely willing that it shall be submitted to the action of the Senate.

Mr. FULTON. Mr. President, I do not possess enough knowledge on the subject of the Marine Corps to determine for myself what disposition should be made of the proposed amendment, but I can not escape the feeling that the Marine Corps should have sea training, and a very considerable amount of it. I am disposed, so far as I am concerned, to accept the judgment of the committee as to the policy of this amendment.

I simply wish to say a word on the question suggested by the junior Senator from Iowa [Mr. CUMMINS], in which he contends that it is not competent for Congress to make this regulation. It seems to me, with all deference to the distinguished Senator from Iowa, that that is a most astounding statement and discloses a very deplorable situation, if true. I quite agree with the Senator from Idaho [Mr. BORAH] that the power of the President as Commander in Chief of the Army and Navy is distinct and separate from the power of Congress to raise and support armies and navies and to make rules for the regulation of the army and navy within a certain sphere.

I concede that Congress can not absolutely control and fetter the President, but that is simply when and while he acts as commander in the field and has charge of the movements of military forces and matters of that character that pertain distinctly and peculiarly to the duties of a commander in chief. In those matters he is supreme, but after all he is subordinate in all cases to such rules and regulations as Congress shall make. Congress can not deprive him of the position of commander in chief. It can not substitute some other official or person in his stead. He is by the Constitution Commander in Chief of the Army and Navy, but he must exercise his authority subject to the rules and regulations made and to be made by Congress.

Mr. Hamilton, in his Federalist, very clearly stated what his duties were supposed to be by the framers of the Constitution. He said:

> The President is to be the Commander in Chief of the Army and Navy of the United States. In this respect his authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy—

That is, he is nothing more than any other commander in point of power, except that he is the supreme commander—

> while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies.

All of which, namely, the raising and regulating of fleets and armies, pertains to Congress.

Is this proposed amendment anything more than a regulation? It is a regulation of the navy and provision as to in what manner the Marine Corps shall serve the Nation, where it shall be placed, how long it shall remain at sea, or whether it shall go at all or not. Is not that a regulation of the naval forces? It seems to me that the contrary can not be reasonably contended for. To say that Congress can not make such a regulation as that is to strip Congress absolutely of all power in the matter of making rules and regulations for the army and navy.

Mr. HEYBURN. Mr. President——

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

Mr. FULTON. Certainly.

Mr. HEYBURN. Does the Senator from Oregon think that the Constitution does more than to designate the rank?

Mr. FULTON. That is all; nothing more. He is Commander in Chief of the Army and Navy by the Constitution, and therefore no other person can be appointed to that office.

Mr. BORAH. Mr. President——

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

Mr. FULTON. Certainly.

Mr. BORAH. Does the Senator from Oregon contend that he has no power as Commander in Chief except nominal, titular power?

Mr. FULTON. Oh, no; he has the powers of Commander in Chief. There must be a commander in chief. Were the President not named by the Constitution it would be incumbent, of course, upon Congress to provide for one. But the commander in chief would be subject to the regulations and rules laid down by Congress, as is the President. Of course he would have something to do. It is not to be supposed that a commander in chief will not have anything to do; that he will not command. He executes the rules and regulations laid down by Congress for the government of the army.

Mr. BORAH. Exactly.

Mr. FULTON. That is what he does, so far as the army in the field is concerned. Of course we understand the scope and extent of the authority of a commander in chief in the field when he is maneuvering forces.

I agree with the statement the Senator from Idaho made a while ago that the functions of Congress and those of the Commander in Chief are distinct and separate. In some respects Congress could not interfere with him. It could not substitute somebody else. Congress could not say how he should maneuver a certain army in the field.

Mr. CUMMINS. Mr. President——

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

Mr. FULTON. Certainly.

Mr. CUMMINS. I put the same question to the Senator from Oregon that I did a few moments ago. Suppose Congress were to enact a regulation declaring that in the event of war the Commander in Chief should not allow any company of infantry to approach within one-half mile of any battery. Would that be a valid regulation put upon the Commander in Chief.

Mr. FULTON. Of course such a thing is impossible to assume. In the first place, Congress would never undertake to make any such regulation.

Mr. CUMMINS. I assume that is so, but I ask for the purpose of testing your rule.

Mr. FULTON. In the second place, that would be purely a matter of military tactics, which would have to be determined by the Commander in Chief in the field. It is possible Congress would not have power to do that. I would not undertake to say. It might be trenching upon the matter of commanding the army in the field, and I am not prepared to say.

Mr. BACON. Will the Senator from Oregon permit me to ask a question of the Senator from Iowa?

Mr. FULTON. I yield.

Mr. BACON. I should like to ask the Senator from Iowa whether or not, if Congress deemed it important that Congress should legislate without the overawing influence of an army, it would be within its power to direct the President of the United States not to permit any armed forces within the District of Columbia?

Mr. CUMMINS. I think it has that power.

Mr. BACON. Of course; and it has the power in any other way to direct that an army shall be at a certain place or shall not.

Mr. CUMMINS. I have no doubt of that.

Mr. BORAH. Mr. President——

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

Mr. FULTON. I yield to the Senator from Idaho.

Mr. BORAH. That, in my judgment, is the dividing line upon this question. Congress has not the power to say that an army shall be at a particular place at a particular time or shall maneuver in a particular instance. That belongs exclusively to the Commander in Chief of the Army. The dividing line is between the question of raising, supporting, and regulating an army, and commanding it. It is difficult to define, for the reason that it is difficult to tell where the dividing line is. But when it is ascertained, there is no question about the constitutional provision covering it.

Mr. BACON. Will the Senator permit me to ask him the same question that I asked the Senator from Iowa? Does the Senator doubt the power of Congress, whenever it deems it important so to legislate, to say that the President shall not keep in the city of Washington any part of the army?

Mr. BORAH. Oh, yes; I think Congress would have that power; but that is a different proposition.

Mr. BACON. I do not think it is.

Mr. BORAH. That is a difference of opinion, upon which we are not likely to agree this afternoon.

Mr. FULTON. After all——

Mr. BRIGGS. Mr. President——

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

Mr. FULTON. Certainly.

Mr. BRIGGS. I wish to ask the Senator from Idaho if he thinks it would be a proper provision in an appropriation bill to provide that no part of the item for pay should be used to pay the navy if they were stationed at certain points? Would that be an interference with the executive power or the power of the Commander in Chief?

Mr. BORAH. My opinion is, it would be.

Mr. FULTON. I think it would be perfectly competent for Congress to make such a regulation. If the Senator means whether it is proper in an appropriation bill, of course that simply raises the parliamentary question. Speaking of the power of Congress, I have no doubt that Congress has power to say that the money shall not be expended in the payment of a particular corps of the army if it shall be stationed at a particular place.

Mr. BRIGGS. Mr. President——

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

Mr. FULTON. Certainly.

Mr. BRIGGS. I should like to ask the Senator from Oregon if that was not done in the appropriation bills of 1876 and 1877?

Mr. FULTON. I do not know.

Mr. BRIGGS. Was it not provided that no part of the appropriation for the army should be used to pay troops stationed in the South?

Mr. FULTON. I have no doubt of the power of Congress to make all rules and regulations for the army; and, of course, it could make rules that would operate, if carried out, to destroy the Nation. But it is not going to make such rules. But the power to make all rules for the regulation of the army is vested absolutely in Congress, and in that field it is supreme.

Mr. BORAH. Mr. President——

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

Mr. FULTON. I do.

Mr. BORAH. I ask the Senator from Oregon if the Commander in Chief should make an order to the effect that the navy should maneuver at New Orleans, could Congress by legislation cancel or set aside or annul that order?

Mr. FULTON. I have no doubt of it.

Mr. BORAH. It could?

Mr. FULTON. I have no doubt Congress can require the army to be kept in a certain section. It can require the army to be removed from one section, if it deems it incompatible with the public welfare that it should be stationed there. I have no doubt of that. It seems to me there can be no question about it.

Mr. BORAH. That was not the question which I presented to the Senator. Congress could undoubtedly previously establish a rule and regulation by which the President would be controlled in these matters.

Mr. FULTON. Yes. And the simple fact that the President in advance had sent the army there would not preclude Congress from still exercising its constitutional function of ordering it removed from there.

Mr. BORAH. That is where we differ.

Mr. FULTON. That is where the Senator differs not with me so much as he does with the Constitution.

Mr. BORAH. I do not differ with the Constitution so much as I do with the Senator's interpretation of it. Mr. Pomeroy calls attention to that specific fact as an instance——

Mr. FULTON. I am aware of that.

Mr. BORAH. In which Congress can not interfere with the President's power; and Pomeroy is reasonably acceptable as a commentator of the Constitution.

Mr. BACON. Will the Senator from Oregon permit me to ask the Senator from Idaho a question?

Mr. FULTON. Certainly.

Mr. BACON. Extreme examples sometimes prove the law. Suppose that upon the occasion of a doubtful presidential election, in which the incumbent was a candidate, he saw fit to order 50,000 men to the capital; does the Senator doubt the power of Congress by law to say that they should be ordered elsewhere? If so, we have very little barrier between ourselves and despotism whenever a bad man happens to be President.

Mr. BORAH. The fathers who framed the Constitution did not seem to know whether the bad men would be in Congress or in the presidential chair. So they lodged certain powers with both of them, and lodged elsewhere the power to remedy either one of the evils when they should exercise their powers not in accordance with the Constitution. If the President should make such an order, and it should be deemed in violation of his prerogative as President or Commander in Chief, there is a way to reach it, and a provision made by which it can be reached. But I call the Senator's attention to the fact——

Mr. BACON. I hope the Senator, before he goes further, will answer the question. He says there is a way to reach it. If, in an emergency such as I have mentioned, the President should order 50,000 troops to the capital (Congress being in session, and believing it to be dangerous to the liberties of the country that they should come here), in what way, if it were not to be done by act of Congress, would the evil be averted?

Mr. BORAH. I undertake to say that if the President should make an order directing the army to a particular place, that particular order could not be canceled by the act of Congress, and I have not any doubt about the rule.

Mr. TELLER. Mr. President——

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

Mr. FULTON. I do.

Mr. TELLER. I should like to say to the Senator from Idaho that that has been done on more than one occasion by statutes since I have been in the Senate. In the early stages after the war, when there was complaint of the army in the South, Congress exercised that power over and over—at least three or four times.

Mr. BORAH. Of course, I do not know what particular statutes have been passed and referred to by the Senator. I know some which have been passed upon by the courts. Undoubtedly, however, the Senator is correct.

But I want to call attention to the fact that Senator Spooner in discussing the question of the order of the President discharging the members of the Brownsville companies, stated upon the floor of the Senate that it was not within the power of Congress to cancel that order. He stated that it was an order made by the President in the discharge of his duty as Commander in Chief, and that it was beyond the power of Congress to remedy it by passing an act nullifying it or setting it aside. That is the point I am undertaking to bring to the attention of those who are discussing this question.

Mr. FULTON. Mr. President, I do not care to take up the time of the Senate further. My recollection of the contention of Senator Spooner differs somewhat from that of the Senator from Idaho. I heard Senator Spooner make his argument. I do not think that he absolutely contended that Congress was without power to vacate the order made by the President in the Brownsville matter.

That is what he was discussing. But he suggested, as I recall, that Congress was confined to making rules, and that it

could not make a special mandate in a special or particular case.

I have the most profound regard for Senator Spooner. I think he is one of the greatest lawyers this country has ever produced. But I do not think he had given that question the careful consideration its importance required. I have investigated it a great deal since then, and I have reached the conclusion that wherever Congress can act at all, it can act by either a general or a special rule, because there is no inhibition against Congress making special laws or special rules. It is purely a question whether it is within its province to act at all. If it is, Congress can make a special rule as well as it can make a general rule. The power to make a rule does not necessarily imply that it must be one of general application. We have special rules as well as general rules—rules for a special and particular purpose. I have no doubt about Congress having power, within the scope of its constitutional authority, to make a special as well as a general rule. But that does not apply to this case. What is sought to be accomplished here is to make a general regulation. The power to do that, it seems to me, can not be denied Congress.

Mr. LODGE. Mr. President, I desire to put into the RECORD the executive order which I think I have heard called "violent" and "tyrannical" this afternoon. I will read it:

EXECUTIVE ORDER DEFINING THE DUTIES OF THE UNITED STATES MARINE CORPS.

In accordance with the power vested in me by section 1619, Revised Statutes of the United States, the following duties are assigned to the United States Marine Corps:

(1) To garrison the different navy-yards and naval stations, both within and beyond the continental limits of the United States.

(2) To furnish the first line of the mobile defense of naval bases and naval stations beyond the continental limits of the United States.

(3) To man such naval defenses, and to aid in manning, if necessary, such other defenses as may be erected for the defense of naval bases and naval stations beyond the continental limits of the United States.

(4) To garrison the Isthmian Canal Zone, Panama.

(5) To furnish such garrisons and expeditionary forces for duties beyond the seas as may be necessary in time of peace.

That is the whole of the "violent" and "tyrannical" order.

Mr. RAYNER. "Despotic;" not "violent."

Mr. LODGE. The "despotic order," then.

Mr. RAYNER. That is what I said.

Mr. LODGE. Does the Senator deny that the President had the right, under the Constitution, to make the order?

Mr. RAYNER. I repeat that that is a despotic and tyrannical order, although he has the right to do it. A man can exercise a right and still exercise it as a despot and a tyrant.

Mr. LODGE. If it is despotic for the President, in the exercise of his statutory authority, to order marines to garrison the Isthmus of Panama, I hardly know what despotism is.

Mr. RAYNER. He intends to make policemen and patrolmen and janitors out of these men. That is his idea.

Mr. HALE. The order excludes them from the ships, too.

Mr. LODGE. I understand that, of course. I was merely commenting on its "violence;" that is all.

Mr. President, I have as high an opinion of the Marine Corps as has the Senator from Maine, and appreciation of the admirable work they have done; and I should resist in any way their absorption into the army. But this is a proposition to make them, not what they have been before on the ships—not at all. Hitherto they have been on the ships, under the common direction of the Commander in Chief, just like everybody else. This is an attempt to make them, by law, a privileged class on the ships—a very different thing. It is an attempt to raise them above the seamen, and to say to the men whom you want to recruit on your ships: "We can not trust you on the ships. We must have, by law, a privileged class of policemen in a different uniform, to watch over you." It is not an encouragement to your seamen. It is your seamen who principally fight your ships. It is your seamen on whom you must principally depend; and this is an attempt to do, by law, what never was done before—to make a privileged class in the navy of the United States.

Mr. HALE. Mr. President——

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

Mr. LODGE. I yield.

Mr. HALE. Does the Senator realize that we have raised the enlisted force of the navy, by voluntary enlistment, from 8,000 to 43,000 at least?

Mr. LODGE. I am aware of that.

Mr. HALE. We have had no trouble in getting enlistments, and nobody has thought that the marines were a special class, nor has any sailor or landsman proposing to enlist in the navy ever been dissuaded because the marines were a police force or interfered in any way with the seamen.

Mr. LODGE. Precisely.

Mr. HALE. By this amendment we only put the marines back where they have been for a hundred years.

Mr. LODGE. No, Mr. President——

Mr. HALE. We do not give them any additional duties. We only keep them where they have been, under conservative government, heretofore.

Mr. LODGE. But you give them, by law, what they never have had by law before. That is the precise point; it is doing by law what never was done before. It is making them a class by law. Hitherto they have been under a common order and a common control. Now they are made a privileged class.

Mr. HALE. It was never needed to be done until now. We did not disturb this condition. The Marine Corps did not disturb this condition. It gave rise to no friction.

It worked admirably. The only thing that is asked now is to put the Marine Corps back where it has been for a hundred years.

Mr. LODGE. It was recommended, as I have said—and I again call attention to the fact—by Admiral Converse two years ago, and no action was then taken. It was recommended then by the present Chief of the Bureau of Navigation and by the Secretary of the Navy, and an order was drawn by the Commandant of the Marine Corps.

Mr. HALE. When it went to the other legislative body it was instantaneously taken out.

Mr. BRIGGS. Mr. President——

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

Mr. LODGE. I do.

Mr. BRIGGS. I understood the Senator from Massachusetts to say that the seamen were the fighting men on the ships.

Mr. LODGE. I said they were the principal fighting force.

Mr. BRIGGS. I did not catch the word "principal." I was going to ask the Senator whether a soldier or a sailor who manned a 5-inch gun was any less a fighter than one who manned a 10-inch gun?

Mr. LODGE. Not at all; and I did not mean anything of that sort. I meant that they are the great body of the fighting force. The marines are very few in number compared with the total number of men on a battle ship.

Mr. BRIGGS. I understand the marines man the 5-inch guns and the guns of less caliber.

Mr. LODGE. They man the small guns.

Mr. BRIGGS. Yes.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Idaho?

Mr. LODGE. I do.

Mr. HEYBURN. It may throw some light upon this matter to refer to the statutes under which these powers are exercised. Section 1616 of the Revised Statutes was enacted in 1797, and it provides as follows:

Marines may be detached for service on board the armed vessels of the United States, and the President may detach and appoint, for service on said vessels, such of the officers of said corps as he may deem necessary.

That is the oldest law on the subject. The law under which the President has recently acted was not enacted until 1849, fifty years later. So the primary service of this class of troops was on vessels.

Mr. du PONT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Delaware?

Mr. HEYBURN. I do.

Mr. du PONT. I will ask the Senator from Idaho if the statute does not use the word "may," not "shall?"

Mr. HEYBURN. I so read it.

Mr. du PONT. Therefore it was simply permissory, within the discretion of the President, in the original act to which the Senator referred.

Mr. HEYBURN. I so read it.

Mr. du PONT. Whereas their duty on shore was mandatory, and the word "shall" is used.

Mr. HEYBURN. That is section 1619, referred to in the order of the Chief Executive as Commander in Chief, which reads:

The Marine Corps shall be liable to do duty in the forts and garrisons of the United States, on the seacoast, or any other duty on shore, as the President, at his discretion, may direct.

That power came from Congress and not from the President. Congress gave the President the power to change the nature of

the service of the marines from the condition that had existed for more than fifty years.

Mr. LODGE. He cites the section in his order.

Mr. HEYBURN. Yes. It may aid us somewhat to know the original intent of the creation of this peculiar branch of the service. I read from the executive order under consideration, as follows:

In accordance with the power vested in me by section 1619, Revised Statutes of the United States, the following duties are assigned to the United States Marine Corps.

Of course he does not claim to be exercising this right by virtue of being Commander in Chief of the Army and Navy of the United States. He professes, on the face of the order, to be acting with the consent of Congress, as provided in section 1619. So, it seems to me, that for the consideration of this question we are not called upon to go into the question of the power of the President as Commander in Chief under the constitutional provision.

Mr. RAYNER. May I ask the Senator a question?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Maryland?

Mr. HEYBURN. I do.

Mr. RAYNER. The very power the President has exercised is under an act of Congress.

Mr. HEYBURN. He recites so.

Mr. RAYNER. Yes.

Mr. HEYBURN. And that is a comparatively recent act of Congress. Prior to that time, for the first fifty years of the Government's existence, he did not have that power.

Mr. HALE. It has never been exercised since that time until now.

Mr. HEYBURN. No. This order does not refer at all, either in language or in spirit, to section 1616, which is the original law and the controlling law, nor has Congress repealed it.

Mr. du PONT. Will the Senator from Idaho be good enough to read the original law again?

Mr. HEYBURN. Yes; I will read it again. This is section 1616—the act of July, 1797:

Marines may be detached for service on board the armed vessels of the United States, and the President may detach and appoint for service on said vessels such of the officers of said corps as he may deem necessary.

Mr. du PONT. It is permissory. It says "may." Is not the language of that statute identical with the later statute of 1849 as far as concerns the permissory features, the features that are discretionary with the President? I think it is.

Mr. HEYBURN. I am not raising that question against it. Congress gave the power, and it may control the exercise of the power.

Mr. du PONT. I understood the Senator from Idaho otherwise. I understood him to say that during the first fifty years he had not that permissory power.

Mr. HEYBURN. I said they did not so serve. I did not refer to the power of the President. I stated the service.

Mr. HALE. Mr. President, while I have something more to say, I shall not take any further time on this subject. I hope we may get at this matter and get it out of the way.

Mr. CUMMINS. Mr. President—

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

Mr. HALE. Certainly.

Mr. CUMMINS. Mr. President, the question relating to the power of Congress to enact this legislation is a very interesting one; and if the paragraph remains in the bill, I shall desire at a little later time to submit at some length my views upon this subject. But I now make the point of order which I suggested originally, that the amendment is general legislation, and therefore not appropriate in an appropriation bill.

The VICE-PRESIDENT. The Chair submits to the Senate the question, Is the amendment in order? [Putting the question.] By the sound the "ayes" seem to have it. The "ayes" have it, and the amendment is in order. The question is on agreeing to the amendment.

The amendment was agreed to.

RECESS.

Mr. HALE. Mr. President, as it is now nearly 5 o'clock, I will move that the Senate take a recess until 8 o'clock. I would give a good deal to avoid coming here this evening, but I hope we may thereby finish the bill. I ask the Senators to make some sacrifice of personal comfort in order that we may have a clear quorum for the transaction of business. I move that the Senate take a recess until 8 o'clock.

The motion was agreed to; and (at 4 o'clock and 50 minutes p. m.) the Senate took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m.

NAVAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 26394) making appropriations for the naval service for the fiscal year ending June 30, 1910, and for other purposes.

The reading of the bill was resumed, beginning in line 14, on page 60, and continued to the end of line 24, on page 68, under the subhead "Increase of the navy."

Mr. CLAY. I hope the Senator in charge of the bill will allow this to be the last item in the bill to be considered.

Mr. HALE. I want to adapt the progress of the bill to the convenience of Senators. The Senator from Nevada [Mr. NEWLANDS] has the first amendment, striking out these ships and substituting an auxiliary force of colliers, supply ships, and so forth. He told me he would be here in order to present his amendment and urge its adoption. Of course all the rest of the bill largely depends upon this clause for the new ships. I am entirely willing that this part of the bill shall remain open.

Mr. CLAPP. I should like at the proper time to say something, and I should prefer that it remain open until the Senator from Nevada offers his amendment.

Mr. HALE. I think that is fair.

Mr. CLAY. If I understand the situation correctly, the amendment is not now in order anyway, inasmuch as we are simply considering the committee amendments.

The VICE-PRESIDENT. The whole matter will be left open to amendment until the reading is concluded.

Mr. McCREARY. I could not hear the Senator from Maine distinctly. Did he state that this clause about the increase of the navy would be left open until we finished the reading of the bill?

Mr. HALE. Yes; undoubtedly.

The reading of the bill was resumed. The next amendment of the Committee on Naval Affairs was, under the subhead "Increase of the navy," on page 70, after line 15, to insert:

The Secretary of the Navy is hereby authorized, in his discretion, to contract for or purchase one destroyer whose vitals are located below the normal load water line, such vessel to cost not to exceed $400,000 and to have a speed not less than 22 knots; also two small vessels of similar construction having a speed of not less than 16 knots and to cost not to exceed $22,500 each: *Provided*, That before any vessed provided for in this paragraph shall be purchased or contracted for a vessel of similar construction shall have been constructed complete and of full size for naval warfare and submitted to the Navy Department for such trial and tests as the Secretary of the Navy may, in his discretion, prescribe, and as the result of such tests be demonstrated to have fulfilled all the reasonable requirements of naval warfare for such a vessel.

The amendment was agreed to.

The next amendment was, on page 71, line 10, after the word "dollars," to strike out "*Provided*, That no part of the above appropriation shall be used for the payment of the construction of any collier the total cost of which shall exceed $900,000," so as to make the clause read:

Construction and machinery: On account of hulls and outfits of vessels and steam machinery of vessels heretofore authorized, $22,766,823.

The amendment was agreed to.

The next amendment was, on page 72, after line 23, to insert as a new section the following:

SEC. 2. That a commission is hereby created, to be called "The Commission for Examination into the Business Methods of the Navy Department," to be composed of three Members of the Senate, to be appointed by the presiding officer thereof; three Members of the House of Representatives, to be appointed by the Speaker thereof, three rear-admirals in the United States Navy, not more than two of whom shall be either on the active or retired list of the navy, to be designated by the President; and three civilians, eminent in civil life, to be appointed by the President. Vacancies on the commission shall be filled in the same manner as the original appointment. It shall be the duty of this commission to inquire into and report to Congress, during its next regular session, what changes, if any, are necessary or desirable in the methods of conducting the business of the department, with a view to ascertain what, if any, improvements can be made in the organization and system of said department to secure the best and most economical conditions, and to insure the best preparation, on the part of the Navy of the United States, for any service or emergency that may arise requiring its use and employment. For these purposes they are authorized to sit during the sessions or recess of Congress at such times as they may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses, and to employ such clerical, experts, stenographers, messengers, and other assistants as shall be necessary to carry out the purposes for which said commission is created. The commission may, through subcommittees or otherwise, conduct their work, or any part of it. A sum sufficient to carry out the purposes of this section and to pay the necessary expenses of the commission and its members is hereby appropriated out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available, and shall be paid out on the audit and order of the chairman of said commission by any clerk appointed for that purpose by the commission. And hereafter no part of the public moneys, or of any appropriation heretofore or hereafter made by Congress, shall be used for the payment of compensation or expenses of any commission, or any members thereof, unless the creation of such commisison shall have been authorized by Congress.

Mr. CLAY. Mr. President, my observation teaches me that very little is accomplished by commissions, and they are generally very expensive. I believe that the work set forth here ought to be done by Congress and by the Navy Department. It is the duty of the Navy Department to examine such questions and make such reports to Congress as may be necessary for the purpose of making these improvements. I make the point of order against the amendment that it is general legislation.

The VICE-PRESIDENT. The Chair is clearly of the opinion that the proposed amendment is subject to the point of order.

Mr. HALE. I am very sorry, Mr. President, that the point has been raised, but the amendment is undoubtedly subject to the point of order.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. HALE. Mr. President, that is the end of the bill. There are one or two minor amendments from the committee.

Mr. FLINT. Mr. President, I wish to inquire whether or not the entire section which provides for the commission was stricken from the bill on the point of order?

Mr. HALE. The whole section has gone out on the point of order. I offer the amendment I send to the desk.

The SECRETARY. On page 17, in line 22, strike out "an emergency" and insert the word "war."

The amendment was agreed to.

Mr. HALE. After line 13, on page 20, I move to insert what I send to the desk.

The SECRETARY. On page 20, after line 13, it is proposed to insert:

Provided, That no part of this amount shall be expended for the purchase of torpedoes or appliances or rights pertaining thereto where the rights to such torpedoes or appliances are the subject of pending legal controversy.

The amendment was agreed to.

Mr. HALE. I think those are the only committee amendments.

Mr. MARTIN. Mr. President, I desire to call to the attention of the chairman of the committee the fact that on page 6, in dealing with the clerical, drafting, inspection, and messenger force at navy-yards, it is provided that those employees shall have a leave of absence of fifteen days. The clause giving them the peremptory right to leave of absence of fifteen days reads as follows:

And that such per diem employees—

Meaning the clerical, drafting, inspection, and messenger force at navy-yards—

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

The point to which I desire to direct the attention of the chairman of the committee is that I see no reason why the additional leave of fifteen days, in the discretion of the Secretary, because of sickness, to the employees in the clerical, drafting, inspection, and messenger force should be limited to the employees in those special departments. I think if there is to be an additional leave of fifteen days because of sickness, it ought to embrace all, and should not be limited to those in these particular departments.

Mr. HALE. Has the Senator an amendment?

Mr. MARTIN. I have an amendment.

Mr. HALE. Will not the Senator offer it?

Mr. MARTIN. I was explaining what I had in mind. Now I will present the amendment. On page 6, line 21, after the word "year," I move to insert:

And that all other employees of navy-yards, gun factories, and naval stations, in addition to the fifteen days' leave of absence now provided for by existing law, may hereafter, in exceptional and meritorious cases, where such employees are ill, be granted sick leaves of absence with pay, in the discretion of the Secretary of the Navy, not to exceed fifteen days in any one year.

Mr. HALE. I think, if the Senator will allow me, that perhaps he could get at it by less words.

Mr. MARTIN. I suggest in this connection, if it is agreeable to the chairman, that I realize the amendment was hastily prepared and perhaps is not well expressed, but it can easily be straightened out in conference.

Mr. HALE. Yes; that is true. An amendment saying that the like privilege and leave shall be extended to all employees besides those already provided for would cover it.

Mr. MARTIN. I will say to the chairman that I was afraid I might include some who ought not to be included—some temporary employees—so I only gave it to those who already have the fifteen days' leave. I simply add to those having that the fifteen days' sick leave.

Mr. HALE. There is no objection. The Senator is right in his proposition, and the whole matter can be adjusted in conference.

Mr. MARTIN. If the phraseology is not apt it can be corrected in conference.

Mr. HALE. It can be fixed in conference.

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

The SECRETARY. On page 6, line 21, after the word "year," it is proposed to insert:

And that all other employees of navy-yards, gun factories, and naval stations, in addition to the fifteen days' leave of absence now provided for by existing law, may hereafter in exceptional and meritorious cases, where such employees are ill, be granted sick leaves of absence with pay, in the discretion of the Secretary of the Navy, not to exceed fifteen days in any one year.

The amendment was agreed to.

Mr. FLINT. I submit the amendment I send to the desk.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. 2. That there shall be kept, as far as practicable, one-half of the Navy of the United States on the Pacific coast at all times.

Mr. FLINT. Mr. President, I desire to say a word in reference to the amendment.

When the fleet reached the Pacific coast there was a general demand from the people on the coast that at least a part of the navy should remain there at that time. But it was decided best that the fleet should make the tour of the world, and it will shortly arrive at Hampton Roads. There is now a general demand, not only on the Pacific coast but throughout the Nation, I believe, that a part of the fleet, at least, should be kept on the Pacific coast—a much larger part than has been kept there in past years.

Mr. HALE. Mr. President——

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

Mr. FLINT. Certainly.

Mr. HALE. The Senator from California means to say that the people on the Pacific coast who want these ships are in favor of this amendment, and the people elsewhere who want to get rid of them are in favor of it?

Mr. FLINT. I think so. I think from what I can understand from talking with people and with Members of both Houses that there is no great desire that the fleet should remain on the Atlantic coast. There is a great desire that the fleet should be on the Pacific coast. I hope the amendment will be adopted.

Mr. HALE. Why not make it two-thirds?

Mr. FLINT. I would be very glad if the Senator would make it two-thirds. The people on the coast would be delighted with it. I am sure the people on the Atlantic coast would not suffer. They have had the entire fleet for so many years and we have had so few of the vessels that I think it would be only fair that we should have two-thirds of the fleet there.

Mr. NELSON. Will the Senator from California allow me to ask him a question?

Mr. FLINT. Certainly.

Mr. NELSON. Would half of the fleet on the Pacific coast keep the Japanese out of California?

Mr. FLINT. I think so.

Mr. HALE. I suppose I shall have to make the point of order against the amendment.

Mr. FULTON. Mr. President——

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

Mr. HALE. Certainly.

Mr. FULTON. I hope the Senator from Maine will not insist upon the point of order. I submit that the Senator from Maine made a very broad, able, statesmanlike speech this afternoon, in which he conceded that every part of this country should be considered in legislation. He always does that. But I thought he did himself especial credit this afternoon, and I was very much encouraged by what he said. I had hoped that when this amendment should be presented by the Senator from California, as I knew it would be, that the Senator from Maine would accept it.

Mr. President, since the organization of this Government the navy of this country has been once in Pacific waters, and yet we have a great coast line there, greater than the coast line on the Atlantic. We have interests there that are to be conserved and protected which are equally as great as those on the Atlantic coast. Why should not one-half of the fleet, as near as may be, be stationed in Pacific waters? I take it that none of us care to discuss questions that may possibly arise in the future, but I assume equally that everyone knows that if any complica-

tion shall possibly arise in the future between this Nation and another it is more likely to grow out of the situation and our relations on the Pacific coast than elsewhere.

It seems to me that this is a very wise suggestion made by the Senator from California, and I hope the Senator from Maine will not insist on his point of order, but will submit it to the Senate. I should like to have the judgment of the Senate on this question. I hope it will be submitted to it, for I should like to know what the judgment of the Senate is as to whether or not the Pacific coast is entitled to the protection of the navy equally with the Atlantic coast. I do not say that, I hope, in any narrow sense; I say it simply from my knowledge of the situation there, and what I believe the necessities require.

Mr. HALE. Mr. President, I am very much in favor of a very large portion of our great navy being stationed and maintained on the Pacific coast. I should advise as a matter of administration at any time, now and hereafter, that, as I have said, a large portion—I am not quite ready to say that half of the fleet; I should want to leave some of that in the discretion of the Secretary of the Navy—but building up, as we have, so great a navy of so many ships, I have always been in favor of keeping a very considerable portion of the navy on the Pacific coast; but it is not a question that we can deal with as easily as we did this afternoon with another question.

Mr. FULTON. I admit that.

Mr. HALE. The Senator sees that. To say that with the present accommodations, the present navy-yards, to conduct repairs and all of the incidents that arise in a great naval establishment, we should fix a limit of half of the navy is, I think, going too far. I doubt whether the Senator himself, on reflection, would believe that we ought now to say that in terms. I think that ought to be left largely in the discretion of the Secretary of the Navy.

Mr. FLINT. Mr. President——

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

Mr. HALE. Certainly.

Mr. FLINT. The Senator from Maine will notice that the amendment provides "as far as practicable."

I desire to further say at this time that a great deal of the discussion to-day in reference to navy-yards has made very clear, by the offering of this amendment, the necessity for them on the Pacific coast. The very statement of the Senator from Maine, the chairman of the Committee on Naval Affairs, that one of the reasons why one-half of the navy could not be maintained upon the Pacific coast is because we lack navy-yards on the Pacific coast, and that a fleet can be maintained on the Atlantic coast, because they have sufficient navy-yards.

Mr. HALE. I will say to the Senator, why not put it in the discretion of the Secretary of the Navy, so that he may see that it is the expression of Congress, in which I will join the Senator?

Mr. FLINT. That is satisfactory. I shall be very glad to accept that modification of the amendment.

Mr. HALE. Now let the amendment be read as proposed to be modified.

The VICE-PRESIDENT. The Secretary will read the amendment as modified.

Mr. BACON. I would inquire of the Senator from Maine whether it ought not to be in the discretion of the President rather than in the discretion of the Secretary of the Navy? It seems to me it would be a suggestion of a purpose to pass by the discretion, which properly vests, if there is discretion at all, in the Commander in Chief of the Navy.

Mr. HALE. I have no objection to that. It did not occur to me. We generally leave these things to the heads of the departments.

Mr. BACON. I suggest it as a matter which I think is of some importance.

Mr. FULTON. I will say——

Mr. BACON. If the Senator from Oregon will pardon me for just a moment, I think it is a matter of some importance, while we fully recognize the principle, as was stated by me this afternoon, of our right to direct, whenever we see proper, the disposition of the navy, or any part of it, certainly in time of peace, at the same time I think that where we give a direction and place it within the discretion of an officer, it ought to be the discretion of the Commander in Chief.

Mr. HALE. I see no objection to that. I did not think of that. Let the amendment be read with the insertion of the words "in the discretion of the President."

The VICE-PRESIDENT. The Secretary will state the amendment as proposed to be modified.

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

SEC. 2. That there shall be kept, as far as practicable, in the discretion of the President, one-half of the Navy of the United States on the Pacific coast at all times.

Mr. BACON. I think the words "in the discretion of the President" ought to be transposed. They ought to precede the words "as far as practicable" and not follow them. Otherwise it might be considered that the discretion was simply as to that limitation, and not a broad discretion, which places all within his power.

Mr. HALE. I do not think that is very essential; but let the words be transposed.

Mr. BACON. I think they should be transposed.

The VICE-PRESIDENT. The Secretary will read the amendment as modified.

The Secretary read as follows:

SEC. 2. That there shall be kept, in the discretion of the President, as far as practicable, one-half of the Navy of the United States on the Pacific coast at all times.

Mr. CLAY. Is not that simply enacting what is the present law? Are we not simply putting into the statute now what is the present law? The President at this time, if I understand it, can keep one-half of the navy on the Pacific coast. He has had practically all of the navy on the Pacific coast during the last six or eight months; and, as I understand the general law, the President of the United States can locate the navy anywhere he wants to.

Mr. HALE. Unless Congress——

Mr. CLAY. Unless Congress has directed otherwise.

Mr. HALE. I take it the object of the Senator from California is that there shall be this—I will not say "mandate"——

Mr. FULTON. Expression.

Mr. HALE. But this expression from Congress that the President in his discretion shall maintain half of the fleet on the Pacific.

Mr. CLAY. You leave it to him if you pass this amendment, but it is left to him now, and it ought to be left to him.

Mr. HALE. This leaves it to him.

Mr. BORAH. Mr. President——

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

Mr. HALE. Certainly.

Mr. FULTON. I supposed I had the floor, Mr. President.

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

Mr. FULTON. Certainly.

Mr. BORAH. Mr. President, I was simply going to ask, if we do not legislate upon this subject at all, can there be any doubt as to its being in the discretion of the President to send a part of the fleet to the Pacific coast?

Mr. HALE. I should say, if the Senator from Oregon will allow me, that the President could do so; but I should rather say that it would strengthen his hands very much if Congress should pass this provision, indicating its approval, and yet leaving it in the discretion of the President. I think it is a good and prudent provision.

Mr. FULTON. I understand the Senator from Maine is willing to accept the amendment as it now stands.

Mr. HALE. Yes; I will not object to it.

The VICE-PRESIDENT. Without objection, the amendment proposed by the Senator from California [Mr. FLINT], as modified, is agreed to.

Mr. CLAPP. Mr. President, I desire to make an explanation——

Mr. BACON. Mr. President, I have an amendment which I wish to offer.

The VICE-PRESIDENT. The Chair will recognize the Senator from Georgia later.

Mr. BACON. I understood the Senator from Minnesota [Mr. CLAPP] to say that he did not have an amendment to offer.

Mr. CLAPP. I desire to make a statement with reference to an amendment. I have an amendment providing for two ships of the same type as those in the last bill instead of the two provided for in this bill, but the Senator from Nevada [Mr. NEWLANDS], I understand, has an amendment to strike out entirely the ships in this bill and substitute "colliers," as they are called. The proper disposition of the matter would be, of course, to take up his amendment first, but he not being here, I shall hold my amendment a little while in the hope that he may come in later.

Mr. BACON. I offer an amendment, and I desire to state briefly the reason for it.

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

Mr. BACON. Mr. President, I offer the amendment, to come in at the end of page 42, as an amendment to the committee amendment at that point.

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

The SECRETARY. On page 42, line 26, after the word "act," the last word in the committee amendment, it is proposed to insert:

Provided further, That the rank of acting assistant surgeon shall carry the like pay and allowances of the rank——

Mr. HALE. Mr. President, the amendment which appears on page 42 went out on a point of order. The whole amendment has gone out.

Mr. BACON. Then, Mr. President, I should like to offer it as a substitute amendment.

Mr. HALE. Of course, as the amendment itself to which the amendment of the Senator from Georgia is intended as an amendment has gone out, to carry out the action of the Senate I should be obliged to make the point of order upon it.

Mr. BACON. I should like for enough of the amendment, or something kindred, to be put in in order that it may go into conference. It is a matter of very considerable importance. I will state the amendment which I have sent to the desk comes from the Navy Department. It comes from the Surgeon-General, at my request that he give the view of the department and the frame of an amendment, if he approved of it. It was not a voluntary communication from him, but in response to a letter which I wrote to him.

Now, if the Senator will permit me to explain it and give the history of it and the reasons for it, then, of course, if the point of order is insisted upon and it is recognized as being under the same liability to exclusion under the point of order as the original amendment, of course I shall not press it.

Mr. GALLINGER. Let the amendment be read.

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

The SECRETARY. It is proposed to add at the bottom of page 42 the following:

Provided further, That the rank of acting assistant surgeon shall carry the like pay and allowances of the rank of assistant surgeon; and all dental surgeons shall, after three years' service from the date of their first appointment, if morally, mentally, professionally, and physically qualified, be eligible for permanent appointments as dental surgeons in the United States Navy with the rank of assistant surgeon.

Mr. BACON. I did not know that the amendment to which this is intended as an amendment had been excluded on the point of order, or I should have recast it.

Mr. HALE. I do not think the Senator could recast it.

Mr. BACON. I could not recast it so as to save it from the point of order, but I could have recast it so that it could have stood by itself in case it was permitted to become a part of the bill.

Mr. HALE. I do not object to the Senator explaining the amendment, but I think he sees that, after the action of the Senate in striking out the original provision of the bill, I should be constrained to make the point of order, which, of course, would be fatal. I do not object to the Senator stating, if he chooses, any reasons for the amendment.

Mr. BACON. Of course I do not want to go into an absolutely useless discussion, but my suggestion was that if, without final action by the Senate, there could be enough of an amendment engrafted on the bill for the conference committee to consider it, it might suggest itself to their approval. That is the only suggestion which I now make. Of course, if the Senator does not recognize that, it is useless for me to consume time simply for the purpose of stating that which can produce no result.

Mr. HALE. I think, Mr. President, that as the original provision has gone out, I should have to object to any provision on the same subject coming in now.

Mr. BACON. I should like to inquire of the Senator from Maine—because I am not familiar with the subject—whether or not there is now under the existing law a provision for dental surgeons in the navy?

Mr. HALE. No.

Mr. BACON. None whatever? I very much regret that.

Mr. GALLINGER. Mr. President——

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

Mr. BACON. Certainly.

Mr. GALLINGER. If the Senator will permit me, I was absent from the Chamber this afternoon, attending to public duty, when the amendment providing for a corps of dental surgeons went out. I did not know it had gone out of the bill, and I want to express my profound regret that the point of order was made against the amendment.

When our fleet reached Sydney, Australia, the dentists of that great city gave a banquet to the dentists of the fleet. One lone dentist appeared. That man is a sailor who has taken care of the teeth of the men who have manned that great fleet that has gone around the world. So far as I know, that man—an enlisted man—is the only dentist in the navy, with the exception of one man who is employed at Annapolis.

It is a reproach that we are in that situation, and it is greatly to the credit of the chairman of the Committee on Naval Affairs that he has attempted in this bill to provide a dental corps. It was not as much of a corps as I would have made it, but it would have consisted of 15 dentists.

As I said before, it is a matter of profound regret to me, knowing something about the profession, that the point of order was made against the amendment, and I hope now, if it is offered when the bill gets into the Senate, that the point of order will not be insisted upon.

Mr. BACON. Mr. President, I entirely agree with the honorable Senator from New Hampshire, and I wish to echo the wish expressed by him. I think, in the interest of humanity and common comfort to the thousands and tens of thousands of men who as officers and men are now in the American Navy, that there should be a provision under which dental surgeons could be a part of the necessary provision for such purposes in the navy. It can not be anything else but a reproach, and a most serious reproach, that the navy is without such service.

Why, Mr. President, suppose that we who are not in the navy, or suppose that any community was in this day debarred of the services of dentists, what would become of them? Where would be the possible excuse for any such condition of affairs?

Mr. HALE. Mr. President——

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

Mr. BACON. I do.

Mr. HALE. Let me say to the Senator that the underlying purpose of this whole agitation about dentists is to have another corps in the navy, with rank and pay and retired pay. The navy has gone on very well in the years past. Every naval ship has a surgeon who knows generally about the health, the digestion, the teeth, and everything else that is likely to come up with reference to the care of the men. The navy has never suffered because there has not been a dental corps. It is the agitation for another corps. It is urged by the Surgeon-General of the Navy, who is perhaps the most persistent man in drumming at Congress early and late for things in his bureau of any man in the Navy Department. I am not content to let it pass that here is a reproach to the navy, and that we are not caring for the men of the navy, when for years and years we have built up the navy, and it has gone on well without a dental corps.

By and by some other branch of practice will want a corps in the navy. I state very plainly and clearly that I am opposed to anything of that kind. We have got now too many corps in the navy, and they only add to the expense of the naval establishment.

Mr. BACON. It seems to me, Mr. President, that the suggestion of the Senator from New Hampshire complimentary to the Senator from Maine was based upon a misconception of his attitude.

Mr. GALLINGER. No; I think not, Mr. President. If the Senator from Georgia will permit me, the Senator from Maine, who, I think, drafted this amendment, avoided creating a corps, but he did provide that 15 contract dentists should be employed in the navy. I complimented him upon that.

Mr. BACON. Yes. I think, so far as this amendment is concerned, Mr. President, that it is of infinitely less importance than the original amendment, and my remark was directed, not to the importance of the amendment which I was proposing to offer, so much as it was to the amendment which the committee had offered. Of course, if any provision is made for proper attention to the officers and men of the fleet or of the navy in taking care of the teeth, even though we might not all agree as to whether it was the best provision or not, still it would be a provision which would relieve it from the criticism which I made when I used the expression that we ought to do it in the interest of humanity. But I think that if there is no such provision whatever, it is a reproach to the navy.

The argument of the Senator from Maine, Mr. President, would apply to any reform that has been introduced into the navy, because the time has never been that the American Navy did not, prior to that time, get along very well and acquit itself well in all cases and under all exigencies. I do not think that is any argument, and it does look as a matter lying on the very surface that the reform, if we may so call it, which proposes to care for that essential part of the anatomy of the officers and men of the navy is not to be decried as something

which is simply to be regarded as an innovation in the interest of the creation of some particular corps.

I am very much more interested in the accomplishment of the end than I am in the means which may be adopted for such accomplishment. If the Senator from New Hampshire is correct in his understanding of the attitude of the Senator from Maine, that the Senator from Maine is in favor of the amendment offered by the committee, but not in favor of the amendment which I propose, then I would appeal to the Senator to reoffer his amendment or the amendment of the committee and let the navy have at least that much, even if it can not get the amendment which I propose.

Mr. HALE. I can not do that. The amendment has been stricken out on the point of order. I can not reoffer it.

Mr. BACON. Of course the Senator can not do that unless the Senator who made the point of order would forbear to press it. There will be an opportunity when we get into the Senate to again offer that amendment, and while, of course, I think very strong reasons can be urged in favor of the amendment which I propose, I would, in view of the attitude of the Senator from Maine, be willing to withhold that if the committee amendment could again be offered and be adopted.

The suggestion of the Senator from Maine that there are physicians upon ships who care for the health and comfort of the officers and men does not seem to me to meet the requirements. I presume the Senator from New Hampshire, who is himself a physician, will bear testimony to the fact that physicians in the regular practice, those who do not take on the extra profession of dental surgeons, are not themselves in a position to care for the dental requirements of a fleet, and it looks to me as if it amounts almost to a cruelty.

I have forgotten, though it has been stated in the course of this debate, how many officers and men we have now in the navy, but several tens of thousands. It seems to me to be a cruelty to deny in this age to those officers and men the opportunity to have themselves ministered to in this essential particular. Of course, it is not necessary for me to offer the amendment if even the original amendment is not permitted to be considered as part of the bill or accepted as such.

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

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 69, after the word "parties," in line 25, it is proposed to insert:

And on the two first-class battle ships provided for in this act not more than one shall be built by one contracting party.

Mr. HALE. Is not that in the bill?

Mr. PENROSE. Mr. President, that is not in the bill, although it has always been, as I understand, in previous naval appropriation bills.

Mr. HALE. I certainly have no objection to it. Such a provision has always been in the bill.

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

The amendment was agreed to.

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

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 40, after line 6, it is proposed to insert:

To complete the marine garrison, navy-yard, Bremerton, Wash., one marine barracks, $150,000, and for officers' quarters, $60,000; in all $210,000.

Mr. HALE. Mr. President, is that estimated for by the department?

Mr. PILES. It is the matter about which I spoke to the Senator. It has all been estimated for, and the $150,000 for the barracks was in the bill as reported to the House, but was there stricken out on a technicality.

The VICE-PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Washington.

The amendment was agreed to.

Mr. HALE. I should like here to have an order entered for the totals in the bill to be corrected by the Secretary before it is sent to the House.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. GUGGENHEIM. I offer the amendment which I send to the desk, to come in on page 40.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 40, after the amendment last agreed to, it is proposed to insert the following:

To construct a road from the city of Las Animas, Colo., to the United States Naval Hospital, near said city of Las Animas, $15,000, or so much thereof as may be necessary.

Mr. HALE. I shall have to raise the point of order on that amendment.

The VICE-PRESIDENT. On what ground?

Mr. HALE. It is clearly a piece of new legislation not reported by any committee and an addition to the bill.

The VICE-PRESIDENT. The Chair sustains the point of order.

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

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 59, line 3, in the committee amendment already agreed to, after the word "chapel," insert:

Provided further, That a memorial window may be erected in the Naval Academy chapel by the class of 1895 to the memory of their late classmates, Ensigns Bagley, Breckenridge, Merritt, and Monaghan.

Mr. OVERMAN. Mr. President, I hope the Senator from Maine will agree to let the amendment go in. Out of this class of 35, 3 lost their lives in the Spanish war. Merritt went down with the *Maine;* Bagley lost his life on board the *Winslow;* Breckenridge lost his life on the torpedo boat *Cushing;* and Monaghan lost his life in Samoa, all fighting for their country.

These boys have raised the sum of $900, and have it in hand. No appropriation by the Government has been asked for. They simply ask that in memory of these four gallant members of their class they may be allowed to erect a memorial window in the chapel; and I hope the Senator will not raise the point of order.

Mr. HALE. I think perhaps the Senator does not understand that the chapel is intended to have very few and important and significant windows, paintings, or whatever may be there; and it ought not to be subject to smaller memorials which will destroy the whole dignity of the crypt. I sympathize with the feeling of these youths who have raised a few hundred dollars; but I think I must make the point of order that it is an addition to an appropriation, not recommended by any committee. I do not think this great crypt ought to be opened to anything of the kind, however meritorious in itself.

The VICE-PRESIDENT. The proposed amendment is in contravention of the rule. The Chair sustains the point of order.

Mr. CLAPP. Mr. President, I offer the amendment I send to the desk.

The SECRETARY. On page 68, after the words "battle ships," in line 16, strike out the remainder of line 16 and all of lines 17, 18, 19, 20, and 21, and insert:

Of the size, maximum displacement, and generally of the type of the two battle ships authorized by the act making appropriations for the naval service for the fiscal year ending June 30, 1909, and for other purposes, and in all respects, so far as practicable, like the battle ships Utah and Florida.

The amendment was agreed to.

Mr. HALE. To make the appropriations correspond, I move to add:

At a cost not exceeding, exclusive of armor and armament, $4,500,000.

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

The SECRETARY. Add at the end of the amendment just referred to the words:

At a cost not exceeding, exclusive of armor and armament, $4,500,000.

Mr. MARTIN. The word "each" ought to come after that; else it would be in the aggregate for the two ships. If you omit the word "each," it would be for the two of them.

Mr. HALE. Insert the word "each," then.

The SECRETARY. It is proposed to insert the word "each" at the end of the amendment, so as to read: "Four million five hundred thousand dollars each."

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

The amendment was agreed to.

Mr. HALE. On page 71——

Mr. McCREARY. Mr. President, I should like to have——

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

Mr. HALE. I am simply adapting the appropriations to the amendments just adopted by the Senate.

Mr. McCREARY. I desire to ask to have the paragraph in regard to the increase of the navy read as perfected after the two amendments were agreed to.

Mr. HALE. I have no objection to that.

Mr. CLAPP. It ought to be read.

Mr. McCREARY. I should like to have it read.

The VICE-PRESIDENT. The Secretary will read the paragraph as amended.

The Secretary read as follows:

INCREASE OF THE NAVY.

That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed two first-class battle ships of the size, maximum displacement, and generally of the type of the two battle ships authorized by the

act making appropriations for the naval service for the fiscal year ending June 30, 1909, and for other purposes, and in all respects, so far as practicable, like the battle ships Utah and Florida, at a cost not exceeding, exclusive of armor and armament, $4,500,000 each.

Mr. McCREARY. Will the Senator from Maine yield to me?

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

Mr. HALE. I should like to perfect this amendment in the other clause. Then I will yield to the Senator.

Mr. McCREARY. Very well.

Mr. HALE. On page 71, line 9, strike out the word "seven" and insert the word "two." That is half a million dollars saved.

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

The SECRETARY. On page 71, line 9, after the words "twenty-two million," strike out "seven" and insert "two."

The amendment was agreed to.

Mr. HALE. In the next clause, "armor and armament," in lieu of the amount "$12,452,772," insert "$11,952,772." That takes off $500,000.

The SECRETARY. On page 71, lines 15, 16, and 17, strike out "$12,452,772" and insert "$11,952,772."

The amendment was agreed to.

Mr. HALE. Now I yield to the Senator from Kentucky.

Mr. McCREARY. Mr. President, I am in favor of an adequate navy to meet conditions as they now exist, and I am in favor of authorizing the construction of two battle ships superior in every respect to the fleetest and most powerful on the seas, as provided in the naval appropriation bill now under consideration. Additional battle ships were recommended by the President and by the Secretary of the Navy and by the naval board, of which Admiral Dewey is chairman, and by the Committee on Naval Affairs of the Senate, and the bill providing for two battle ships has already passed the House of Representatives. These recommendations are certainly ample and satisfactory.

We have as a Nation great interests, and while other nations have great navies we must be prepared to protect our interests.

We have the defense of our coast line—3,000 miles on the Pacific and a larger number of miles on the Atlantic and on the Gulf. We have the defense of the great canal we are building to connect the waters of the Atlantic and the Pacific oceans, and we have the maintenance of the Monroe doctrine. We hold the Philippine Islands, which are thousands of miles away, and the distinguished Admiral of the Navy has said that we could not hold these islands six weeks if it were not for the American Navy, and we have other great interests to defend.

Mr. President, the best way to preserve peace under existing conditions is to make the force at the disposal of our Nation so formidable and powerful that the hopelessness of attacking it or its citizens will be apparent and undoubted.

UNITED STATES SECOND NAVAL POWER OF THE WORLD.

Our country now ranks as the second naval power of the world, and we should retain that position.

It is in respect of battle ships and armored cruisers that the best judgment of the comparative strength of the world's navies can be formed.

I obtained from the Navy Year Book of 1908 the following, which is the same as the report made by the Committee on Naval Affairs:

Relative strength of the principal naval powers in battle ships and armored cruisers—built, building, and provided for.

	Number.	Tonnage.
Great Britain:		
Battle ships	61	910,330
Armored cruisers	39	485,600
Total tonnage		1,395,930
United States:		
Battle ships	31	449,796
Armored cruisers	12	157,445
Total tonnage		607,241
Germany:		
Battle ships	31	414,486
Armored cruisers	11	133,768
Total tonnage		548,254
France:		
Battle ships	26	357,132
Armored cruisers	22	216,232
Total tonnage		573,364

Relative strength of the principal naval powers in battle ships and armored cruisers—built, building, and provided for—Continued.

	Number.	Tonnage.
Japan:		
Battle ships	15	233,444
Armored cruisers	15	175,001
Total tonnage		408,445
Russia:		
Battle ships	15	200,969
Armored cruisers	6	63,166
Total tonnage		264,135
Italy:		
Battle ships	15	212,846
Armored cruisers	10	78,513
Total tonnage		291,359
Austria:		
Battle ships	6	74,300
Armored cruisers	3	19,020
Total tonnage		93,320

Only battle ships of 10,000 tons and over are referred to in these comparisons.

The American vessels being built are the *Michigan* and *South Carolina*, of 16,000 tons each; the *Delaware* and *North Dakota*, of 20,000 tons each; and the *Florida* and *Utah*, of 21,825 tons each. These vessels will have from eight to ten 12-inch guns. Their speed will be high—about 21 knots in the case of the four largest vessels.

I do not advocate an appropriation to construct two battle ships in order to put the United States in line with Great Britain, or simply to exceed in battle ships Germany, France, and other nations, or for the purpose of being aggressive, but I advocate two battle ships because I believe we should be prepared for the assertion of our authority and the protection of our interests.

NO WAR CLOUD ABOVE OUR HORIZON.

I do not see any war cloud above our horizon at present, and I hope it will never be necessary again for our Congress to declare war. A great statesman said, "In time of peace prepare for war," and the way to prevent war is to be prepared for war, and the best means of preserving peace is to have such a navy as will show to all would-be assailants that not only peril but defeat will follow declaration of war against the United States.

We had four wars in the last century—in 1812, 1846, 1861, and 1898—and we did not know one year before each of these wars commenced that we would have war. It requires from two to three years to build a battle ship. In this connection I with pleasure say I believe that every American citizen should be proud of the record that has recently been made by our battle ships in the voyage around the world. That trip benefited the officers and the men, improved their discipline, and added to the fame of our navy. It was an announcement to the world that we were a leading naval power. It was a declaration to the world that we were ready and prepared to preserve our rights and protect our interests.

Nations have not yet reached a period where they find it safe to disband their armies and dispense with their navies. In addition to needing our navy for defensive purposes, the great struggle now going on among the nations of the world for supremacy of trade and commerce, in which our nation is participating, may bring contention and friction.

Problems involving racial repulsion and the struggle of two distinct races for equality or supremacy have to be solved. I do not, however, believe that there will be war with Japan. I have abiding confidence in the diplomatic wisdom of our Government and of the Government of Japan, and I believe there will be an amicable settlement of all questions which may arise between Japan and our country.

Japan has a navy about half as large as ours, and has just emerged from a war that caused exhaustion, physically and financially.

Japan has a population about one-half as great as ours. The people are compelled to live close together and cultivate farms that average in area only 3 or 4 acres, and the revenue must necessarily be small. To-day the credit of Japan, the victor, is hardly so good as that of Russia, the defeated.

On our side of the Pacific Ocean Japan has no coal or coaling station. If Japan were to send war ships to our coast on a hostile mission they would be helpless without coal. England alone could be of assistance in that crisis, and our relations with England are such that she would not take sides against us.

I do not believe Japan wants war. Her rulers are wise men. They know what war with our country would mean, and what the result would be. The relations between the United States and Japan are at present cordial and friendly. Both are great powers among the nations of the world. Acting together they can dictate the policies of the Orient and greatly promote commerce and trade. The statesmen of Japan have shown ability of the highest order, and I am not anticipating war with Japan.

THE PEOPLE ARE FOR PEACE.

Mr. President, the sentiment of the people everywhere is for peace, and the feeling in favor of the settlement of international disagreements without war and by arbitration is growing stronger every day. The greatest general movement now among civilized nations is the movement in favor of the settlement of international disagreements by a permanent international arbitration tribunal.

INTERNATIONAL ARBITRATION.

Arbitration for the settlement of international disputes has been steadily progressing throughout the civilized world. In the last two decades the progress has been wonderful, and in the last decade this progress has been most notable and encouraging. We had the Pan-American Conference held at Washington, authorized by an act of the United States Congress approved May 24, 1888, for the purpose of preserving peace and promoting arbitration for the settlement of international disputes and encouraging reciprocal commercial relations between the Republics of North, South, and Central America. Twenty nations were represented at this conference and pursuant to its authority two other conferences have been held, in the City of Mexico and in Rio de Janeiro, Brazil, and another will be held next year at Buenos Aires, in the Argentine Republic.

The Interparliamentary Union, composed of members of various national parliaments, was organized in 1889 to promote arbitration for the settlement of international disputes. This union has held 15 meetings, the last at Berlin, Germany, in September, last year. Under a resolution of this union President Roosevelt called the second Hague conference.

The International Hague Peace Conference was held in 1899 and 1907, and this conference provided for a permanent court of arbitration.

The Central American Conference was held in 1908, composed of delegates from each of the five republics of Central America; and it provided for a judicial tribunal composed of one judge from each of the Central American republics, to which tribunal all international disputes of the Central American republics are submitted.

Last, but not least, the Senate of the United States has ratified 24 arbitration treaties with the great nations of the world.

It certainly is a source of pleasure to us all that our country took the lead in the first legislation to promote arbitration, and in the first reference of an international disagreement to The Hague tribunal, being the case between the United States and Mexico. Then the United States showed the world its confidence in the great movement by ratifying at the first session of this Congress 12 arbitration treaties, and 12 this session, and both of the great political parties of our country last year in their national platforms indorsed international arbitration.

While arbitration treaties, international conferences, and arbitration courts are being perfected as rapidly as public opinion will permit, the United States should have adequate national armament.

ADEQUATE ARMAMENT AND EFFECTIVE ARBITRATION.

We should have both adequate armament and effective arbitration. In other words, adequate national armament for conditions as they exist, and effective international arbitration wherein all nations may respect each other's vital rights—independence and honor—as set forth in all the arbitration treaties that have been ratified by the Senate, and arbitrate all other differences which can not be settled by diplomacy.

We can not, however, jump immediately to the blessings of perpetual peace brought about by the settlement of international disputes by arbitration. All great achievements are the result of efforts and perseverance, and it takes time to solve important problems, but I hope for the day when Isaiah's prophecy will be fulfilled, and "nation shall not lift the sword against nation, neither shall they learn war any more." What the civilized world needs to promote arbitration is the maintenance of a court composed of able judges, who will have no other occupation, no other interest, and no other aspirations but to consider and decide international questions submitted to them.

THE HAGUE PEACE CONFERENCE.

Perhaps the greatest event of all time in respect to international arbitration was The Hague Peace Conference of 1899, at which 26 nations were represented, and the greatest achievement of that conference was the establishment of a permanent tribunal for the exercise of international functions. Special tribunals had been created before for the decision of particular questions, but a great step was taken when there was substituted a permanent organization always open for the exercise of judicial functions to settle differences between nations. At the second Hague Peace Conference, held in 1907, 44 nations were represented, thus showing the progress and popularity of international arbitration.

RESULTS OF ARBITRATION.

I know there are persons who say internationa arbitration is a captivating theory, but what about results? The results have been great, considering the brief time that international arbitration has been considered and tried.

I shall not take the time of the Senate in the closing hours of the session to enumerate at length. I have already referred to the reference of the disagreement between the United States and Mexico, which was arbitrated satisfactorily to both nations by The Hague arbitration court.

The dispute between the United States and Venezuela has recently, by arrangement made by a special commissioner authorized to represent the United States, been referred to The Hague Arbitration Court for settlement, and the United States Senate has recently ratified an agreement between the United States and Great Britain for the submission to the permanent court of arbitration at The Hague of questions relating to the fisheries on the north Atlantic coast, and according to published statements Holland and Venezuela have recently agreed to submit their disagreement, which at one time was about to result in war, to The Hague Arbitration Court.

Other nations have submitted their disagreements to The Hague Arbitration Court, but I must not take time to refer to but one other arbitration.

Peace and arbitration were appreciated in the Republics of Argentina and Chile. They warred with each other for years, but they felt the spirit of the present age and proved that peace hath victories more renowned than war, and they laid aside their arms, referring their disagreement to arbitration, and then erected a statue of Christ, the Prince of Peace, cast from part of the cannon with which they had fought, and placed the statue on the heights of the Andes on the boundary line between the two countries, as fixed by arbitral judgment, and on the statue is this inscription:

Sooner shall these mountains crumble to dust than Argentinians and Chileans break the peace, which at the feet of Christ the Redeemed they have sworn to maintain.

CIVILIZATION, PROGRESS, AND CHRISTIANITY DEMAND ARBITRATION.

Mr. President, civilization, progress, and Christianity demand the settlement of international disagreements by arbitration, without resorting to war with its more deadly and destructive guns and other arms than were ever known before. It is clear that wars are being avoided at the present time by international arbitration, and as the years roll by more and more war will be averted by arbitration and the people will bow in obedience to God's word: "On earth peace, good will toward men."

The relation between armaments and arbitration is significant. Armaments increase with disputes and danger, arbitration increases with peace and security. As the area of international arbitration is extended there will be increased peace and security which will be sure to warrant the decrease of armaments. National weakness invites war; military and naval strength advance peace and arbitration. If our country had no army and no navy and was not known to be formidable in war, we would not be an important factor in the great problem of arbitration for the settlement of international disputes.

The advocates of disarmament have only to look to China to see an object lesson which should convince them of their error. This most populous nation on the globe was about to become the prey of certain nations, and only the disinterested friendship of the United States and one other nation prepared for fighting have preserved China from dismemberment.

Mr. President, I have already consumed more time than I intended. I will close by saying I am heartily in favor of the provision in the bill for two battle ships, because I believe we should provide for adequate armament to protect us against aggressions, and at the same time strive for effective arbitration wherein all nations will respect each other's territory and sovereignty and arbitrate all other questions.

Mr. BRIGGS. I offer the amendment I send to the desk for the Senator from Delaware [Mr. du PONT].

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

The SECRETARY. On page 3, after line 23, it is proposed to insert:

The pay and allowances of the secretary to the Admiral of the Navy shall be the same as those of a lieutenant on the active list having an equal length of service.

Mr. HALE. I think that is the only officer who was left out last year.

The amendment was agreed to.

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

The SECRETARY. On page 17 of the bill it is proposed to strike out, after the word "navy" in line 18 to the end of the paragraph, in the following words:

Provided, That no part of this appropriation for powder shall be paid to any trust or combination in restraint of trade nor to any corporation having a monopoly of the manufacture and supply of gunpowder in the United States, except in the event of war.

Mr. HALE. I hope that will not be done, but I do not care to debate it.

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

Mr. BRIGGS. Mr. President, I am not here as the defender of trusts or unlawful combinations. I offer this amendment on behalf of several thousand of my constituents, upon whom I fear Congress is unwittingly likely to perpetrate a great wrong.

This provision seems to me to be punitive in its nature, but the punishment is destined to fall upon innocent people. Proceedings are now pending in the United States court to determine whether or not the corporation commonly known as the "powder trust" is an unlawful combination and conspiracy. If the Government is successful, the corporation will be dissolved. If the defendant wins, there will be no trust.

In either case it seems to me that Congress can with great propriety await the result of the suit.

The facts, as I gather them from reading the debates in the House upon the subject, are practically:

I. The total requirements of the Government are about 3,000,000 pounds.

II. Of this amount the government factory at Indianhead can supply about 1,000,000 pounds.

III. Through the operation of the factory at Indianhead the Government is enabled to familiarize itself with all the details of manufacture, and in that way is able to prepare specifications to be used by outside manufacturers and to determine with accuracy the actual cost of manufacture in both government and private plants.

IV. Based upon this knowledge and the report of the Joint Army and Navy Board, the price to be paid by the Government has been fixed at 64 cents per pound.

It would appear from the above facts that the interests of the Government are amply protected. My interest in it, however, arises from the fact that there are in the State of New Jersey five factories for the manufacture of powder which will be affected by it.

The number of employees in the various works is approximately 2,000. Upon the basis ordinarily used, this would represent a population of 10,000, who are dependent upon these works for their livelihood. A powder factory is usually considered an undesirable neighbor, and for this reason is isolated from other factories. The villages which grow up around them are at a distance from other sources of employment, and these employees are peculiarly dependent upon this industry.

A cessation of work would be a serious blow to these communities and cause great annoyance, distress, and possibly suffering to the inhabitants. In view of the fact that it is not judicially determined that a trust or combination in restraint of trade exists, that the powder is made under government specifications and inspection, and that the price is fixed by the bill, I appeal to the Senate on behalf of these innocent people of the State of New Jersey that this injustice shall not be committed and that this amendment shall prevail.

Mr. CLAPP. I merely wish to make one observation. If the court dissolves this organization, there will be no trust; and, as the Senator says, if the court says there is no trust, then there is nothing for this prohibition to apply to. So I can not for the life of me see how we are injuring anybody by this proviso.

Mr. BRIGGS. If the court should take a year or a year and a half to determine the question, there may be in the meantime a great deal of distress.

Mr. BURKETT. Mr. President, I wish to say a word before the motion to strike out is put. I intended to offer an amendment, as I suggested yesterday, if the chairman of the committee did not. From the discussion yesterday it was obvious to me that this proviso prohibiting the purchase of powder from a trust applied to a very small part of the powder that we bought. If this is a good thing, it is a joke to have it include only 10 per cent, as I recall some one stated, of the powder that we buy. If it is a good thing, let us make it mean something and amend it in accordance with the suggestion which I made yesterday, so as to make the proviso read:

That no part of any appropriation made in this act for the purchase of powder shall be paid to any trust or combination in restraint of trade nor to any corporation, etc.

As it is, it reads, "That no part of this appropriation;" it was admitted yesterday that it would apply only to this particular $5,528,000, of which only a very small portion was spent for powder, and it does not include the appropriation made in the next paragraph and also in the paragraph on page 19.

It seems to me before we enter on a discussion on the question of striking out the whole matter, we ought at least to consider an amendment like that making it include all the powder. I suggested it yesterday in the running debate, and I thought very possibly the chairman of the committee would perfect it.

Mr. HALE. No; I expected the Senator would offer the amendment. I shall not raise any objection to it. But we might as well vote first on the amendment of the Senator from New Jersey, and then the Senator from Nebraska can move his amendment.

Mr. BURKETT. Very well. If that is the wish, I will withhold the amendment until the vote on the proviso is taken.

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

Mr. DANIEL. I ask that the amendment may again be stated.

The Secretary again stated the amendment.

Mr. HALE. I do not think the Senate is prepared to strike out the proviso.

Mr. DANIEL. "In the event of an emergency" is the language here employed.

The VICE-PRESIDENT. That has been changed, upon motion of the Senator from Maine.

Mr. DANIEL. I wish to ask a question of the Senator from Maine.

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

Mr. HALE. I do.

Mr. DANIEL. It has been stated in the debate that the House added a large appropriation in this bill—I do not remember the amount——

Mr. LA FOLLETTE. Two hundred and fifty thousand dollars.

Mr. DANIEL. Two hundred and fifty thousand dollars, if I am correctly informed. I wish to ask the Senator from Maine where the amendment is in the bill, as I have been unable to identify it; and what is the amount?

Mr. HALE. If the Senator will look at the debates in the House, he will find that part of the transaction there was increasing the appropriation $250,000 and inserting the words "enlargement of;" so that $250,000 additional was appropriated for the enlargement of the government factory.

Mr. DANIEL. If we were acting on the action of the House, we would have it in this bill in that fashion.

Mr. HALE. It is in the bill.

Mr. DANIEL. All I ask is to know where it is in the bill. I do not see it.

Mr. HALE. If the Senator will look at the provision at the beginning, he will find the words to be for the "enlargement of."

Mr. DANIEL. I see that.

Mr. HALE. And the general appropriation for all of these purposes is increased $250,000. It does not show in terms the $250,000, because it was moved in addition to the general sum. But that was enlarged, as the word "enlargement" was inserted by the House.

Mr. DANIEL. I have no doubt that is the understanding of the Senator from Maine.

Mr. HALE. That is undoubtedly it.

Mr. DANIEL. It would naturally be imagined by anyone who knew the history of this provision, but the history of this provision is no part of the provision itself. I call attention to the fact that all of these items about the Bureau of Ordnance are very obscure as to their effect. I will read a little, in order that I may indicate that to the Senate.

Under the head of "Ordnance and ordnance stores," the appropriation is:

First, for procuring, producing, preserving, and handling ordnance material.

Second, for the armament of ships.

Third, for fuel, material, and labor to be used in the general work of the Ordnance Department.

Fourth, for furniture at naval magazines, torpedo stations, and proving ground.

Fifth, for the maintenance of the proving ground.

Sixth, and maintenance and enlargement of powder factory.

Seventh, and for target practice.

Eighth, and for pay of chemists, clerical, drafting, inspection, and messenger service in navy-yards, naval stations, and naval magazines:

"*Provided*, That the sum to be paid out of this appropriation under the direction of the Secretary of the Navy for chemists, clerical, draft-

ing, inspection, watchmen, and messenger service in navy-yards, naval stations, and naval magazines," etc., "shall not exceed $398,890.28."

There is a stop where I suppose there should be a semicolon. Then come the words:

"In all, $5,528,171.99."

I now call the attention of the Senator from Maine, and of the Senate, too, to the fact that this appropriation has but one specific limitation. That is that the appropriation for chemists, clerical, drafting, inspection, watchmen, and messenger service shall not exceed $398,890.28. All the balance, which means all above the sum of $398,890.28 up to $5,528,171.99, is to be distributed, under the direction of the Secretary of the Navy, for these eight different items of appropriation; so, when the Senate shall pass the bill, they will not know, nor can any man tell, what they have done with respect to an appropriation in aid of the powder factory which they propose to promote and to build and complete.

I shall not speak on this subject, Mr. President, except for two or three minutes. But I wish to impress, if I may, in some degree upon the Senate the importance of vigorous, clear, distinct, and aggressive action against the enormous trust in this country which, according to the testimony laid before both the House and the Senate, is drawing money out of the Treasury of the United States in large amounts for powder. It is an absolutely indispensable necessity to this country, if it intends to be ready to defend itself, to provide ample powder magazines, and not to permit an open, notorious, and well-advertised monopoly, which is not only continental, but cosmopolitan and almost world-wide in its operations, to keep its hand in the Treasury of the United States and to mulct the people of this country for the munitions of defense.

In order to avoid loss of time I shall ask permission to insert a letter addressed to the Ways and Means Committee of the House, which has been printed and circulated, from Mr. R. S. Waddell, who has been largely engaged in the manufacture of powder in Peoria, Ill. I heard the testimony of this gentleman before the Appropriations Committee of the Senate nearly three years ago. It was clear; he was fully examined; and he made good his assertions. It was as the result of his testimony that an amendment relative to powder for the army was put on an appropriation bill in this body, which was increased to $165,000 by the House, and which started this reform which is now moving on, to consummate something in preparing this country to equip itself for defense.

There is under this bill a limit of 64 cents that we may pay for powder. According to testimony which I think has been put before both bodies, powder can be produced for a much less amount than that. It is said that the department here can fix the price of powder. It is shown in this paper that by an agreement between the American end of the trust and the European end of the trust the American trust has the power reposed in it to fix the price of powder; and in so far it has been, if not quite, at all events getting nearly exactly the price that it fixes upon the powder.

I do not think this provision is aggressive enough, is full enough, or is clear enough in its operation.

I do not know that we can do better. We never will do better until this matter is thoroughly understood, and until every element of the public service in this country, both administrative and legislative, is roused up to make as liberal appropriations as possible to build and complete powder factories for both army and navy which will rest our defense upon a firm and secure foundation.

I will not read the different items of testimony which are brought forth in this paper; but I ask that it may be printed with my remarks.

The VICE-PRESIDENT. Without objection, permission is granted.

The paper referred to is as follows:

The honorable the WAYS AND MEANS COMMITTEE,
House of Representatives,
Washington, D. C.

GENTLEMEN: In the matter of the tariff schedules on explosives, I desire to submit a few reasons why explosives should be placed upon the free list.

First. Because a protective tariff is wholly unnecessary.

Second. For the reason that it is harmful to the people and the Government and is of no benefit to the American manufacturers.

Third. The American Powder and Dynamite Trust by its unlawful acts against the Government has forfeited all right to federal protection.

Waiving all discussion of the willful violation by the Powder Trust, of state and national laws prohibiting monopolies in restraint of trade within the United States. I invite your attention to a few extracts copied from the "World Agreement" fixing prices, restraining trade and dividing the markets of the world between the American and European explosives trusts, with our comments thereon. The extracts from the international contract are in black-face type and our comments follow each quotation.

This agreement was made in October, 1897, for a long term of years and to continue indefinitely thereafter from year to year until six months' notice of intended termination is given.

The "common (or slush) fund" is now on hand, undivided, and available for use.

Agreement made this 26th day of October, 1897, between:
Messrs. E. I. Du Pont de Nemours & Co., of Wilmington, Del.;
Laflin & Rand Powder Company, of New York City;
Eastern Dynamite Company, of Wilmington, Del.;
The Miami Powder Company, of Xenia, Ohio;
The American Powder Mills, of Boston, Mass.;
The Aetna Powder Company, Chicago, Ill.;
The California Powder Works, of San Francisco, Cal.;
The Giant Powder Company (Consolidated), of San Francisco, Cal.;
The Judson Dynamite and Powder Company, of San Francisco, Cal.
(Hereinafter collectively referred to as the "American factories" of the one part), and
The Vereinigte Koln-Rottweiler Pulverfabriken, of Cologne;
The Nobel-Dynamite Trust Company (Limited), of London.
(Hereinafter collectively referred to as "the European factories") of the other part.

Whereas the parties hereto own or control a large number of companies and works engaged in the manufacture and trade of explosives, and

Whereas it has been deemed advisable to make arrangement so as to avoid anything being done which would affect injuriously the common interest.

It has therefore been agreed as follows:

The word "explosives" in this agreement is to be understood as including detonators, black powder, smokeless sporting powder, smokeless military powder, and high explosives of all kinds.

A list of all the companies and factories controlled by the American factories, directly or indirectly, is to be prepared and handled by Messrs E. I. du Pont de Nemours & Co., in duplicate to the European factories at the time of the execution of this agreement, and the European factories are to hand to Messrs. E. I. du Pont de Nemours & Co. a complete list of the companies controlled by them, directly or indirectly, when executing this agreement.

The lists exchanged show dozens of manufacturing corporations, both American and European, not mentioned in the agreement, but all parties in the world trust.

It embraces a complete monopoly in the United States of black sporting and rifle powders; black military, ordnance, and saluting powders; smokeless ordnance and military powders; more than 99 per cent of smokeless sporting powders; all fuse powders; more than 95 per cent of dynamite and other high explosives; all detonators for firing high explosives; and more than 95 per cent of the blasting and mining powders manufactured and consumed in the United States. The chief exception is the trivial amount of smokeless ordnance powder made by the navy at Indianhead plant and by the army at its miniature plant, Dover, N. J., scarcely enough for current target practice.

Of nearly a million pounds black military and sporting powders made per year in the United States, this Du Pont trust produces all and fixes the price, with a net profit of 150 per cent.

Foreign competition is prohibited. Domestic competition impossible.

The American factories bind themselves not to erect factories in Europe, and the European factories undertake not to erect any factory in the United States of America.

Whenever the American factories receive an inquiry from any Government other than their own, either directly or indirectly, they are to communicate with the European factories, through the chairman appointed, as hereinafter set forth, and by that means to ascertain the price at which the European factories are quoting or have fixed, and they shall be bound not to quote or sell at any lower figure than the price at which the European factories are quoting or have fixed. Should the European factories receive an inquiry from the Government of the United States of North America, or decide to quote for delivery for that Government, either directly or indirectly, they shall first in the like manner ascertain the price quoted or fixed by the American factories and shall be bound not to quote or sell below that figure.

The American powder and dynamite trust is hereby authorized and empowered to fix the price to be charged the Federal Government for smokeless ordnance and military powders and for dynamite and other high explosives for the Panama Canal. Competition is eliminated and the power of the Du Pont trust is supreme.

Should independent competition develop in this country, two-thirds of an enormous common fund, contributed by the wealthiest monopoly in the world, is available for its destruction.

The Du Pont trust has claimed that the joint army and navy board fixed the price of ordnance smokeless powder. By this agreement the Du Pont trust fixes the price. This caused the Government to pay 75 cents, and it now pays 69 cents per pound for powder that costs 32 cents to manufacture.

From this execution of this world agreement in 1897 up to date the president of the Du Pont trust has continuously served as the "American chairman." His duties and powers are later defined.

Here follows the division of the markets of the world, including all this side of Mars and other celestial bodies:

"It is agreed that the United States of North America, with their present or future Territories, possessions, colonies, or dependencies, the Republics of Mexico, Guatemala, Honduras, Nicaragua, and Costa Rica, as well as the Republics of the United States of Colombia and Venezuela, are to be deemed the exclusive territories of the American factories and are hereafter referred to as 'American territory.' All the countries in South America not above mentioned, as well as British Honduras and the islands in the Caribbean Sea, which are not Spanish possessions, are to be deemed common territory, hereinafter referred to as 'syndicated territory;' the rest of the world is to be the exclusive territory of the European factories, hereinafter referred to as 'European territory.'

"The American factories are to abstain from manufacturing, selling, or quoting, directly or indirectly, in or for consumption in any of the countries of the European territory, and the Europeans are to abstain in like manner from manufacturing, selling, or quoting, directly or indirectly, in or for consumption in any of the countries of the American territory. With regard to the syndicated territory neither party are to erect works there, except by a mutual understanding, and the trade there is to be carried on for joint account in the manner hereinafter defined.

"The American factories shall forthwith designate in writing a chairman and vice-chairman, who shall hold office as such until their respective successors shall be appointed by the party of the first part, and such chairman, or in his absence such vice-chairman, shall be the authorized representative of the American factories, to whom and through whom all communications, acts, and transactions in respect to

this agreement, unless otherwise stipulated, shall be had; and the European factories shall likewise forthwith designate in writing a chairman and vice-chairman, to whom shall be referred all matters which by terms of this contract are made referable to the chairman representing the European factories. The said chairmen or vice-chairmen shall jointly establish rules for the carrying out of the syndicate arrangements hereinafter referred to.

"The chairmen shall, from time to time, mutually agree upon a basis price for each market in the syndicated territory, such basis price to include cost of manufacture, freight, insurance, landing charges, magazine charges, and all other charges until delivery, including agency commission and the contribution toward the common fund hereinafter stipulated.

"The chairmen shall likewise fix a selling price for each market, which is to be deemed a convention price, below which no sales are to be effected, and the difference between the basis price and the selling price is to be deemed the syndicate profit and to be divided in equal shares between the American factories and the European factories."

After deducting the American territory and the syndicated, or pooled, territory, the "rest of the world" is the exclusive territory of the European factories.

Please note the American factories are to abstain from manufacturing, selling, or quoting in the "European territory," and the Europeans are to abstain in like manner from manufacturing, selling, or quoting, directly or indirectly, in or for consumption in any of the countries of the "American territory." This portion of the agreement is strictly enforced at the present time.

It is wholly unnecessary to protect the American manufacturers with a tariff when they have so completely protected themselves by contract. The Du Pont trust is superior to the tariff, as well as all other laws.

Should independent factories develop in Europe and desire business in this country, why should Congress deny the American consumers the privilege of protecting themselves against the greed of the Du Pont trust by purchasing abroad and without the payment of tariff charges?

The American powder trust has ample protection in the enormous "common fund" contributed by the foreign and domestic trusts, two-thirds of which is available for the destruction of American commerce that comes in competition with this world monopoly.

Please note the "syndicated territory" and the method of fixing prices, restricting trade, and the division of profits between the American and foreign powder trusts. This method is in effective operation to-day, regardless of the expiration date of written contracts. The world trade was divided and the contract results remain in statu quo.

THE COMMON SYNDICATE OR SLUSH FUND.

"A common syndicate fund is to be constituted by a payment of $1 per case of 75 per cent dynamite, or per case gelignite, gelatin dynamite, or blasting gelatin, and a payment of such portion of $1 as the percentage of nitroglycerin in lower grade dynamites bears to 75 per cent until such fund reaches the amount of $50,000, when the contribution is to be reduced to one-half the above-mentioned rates.

"The syndicate accounts, according to clause 10, made up to 31st December in each calendar year, are to be handed in by both parties, so as to reach the chairman of the other party by the 15th April next ensuing, and the payments for the balance are to be made by the 30th June following, when the amount contributed to the common fund shall likewise be paid.

"The common fund shall, as the chairmen may decide, be invested in government securities, and it is from this fund that any fine or fines hereinafter stipulated, not recovered from the parties, shall be taken. It shall likewise be admissible for the chairmen to dispose of two-thirds of the common fund for the purpose of protecting the common interest against outside competition.

"Any breach of this agreement shall be adjudicated upon by the chairmen, and if they can not agree they shall appoint an umpire. For the guidance of the chairmen and umpire it is agreed that, should either of the parties erect factories in a country reserved to the other, the liquidated damages shall not be fixed lower than £10,000.

"Should either party trade in the territory of the other, it shall be admissible for the chairmen to absolve them of any accidental breach, but if an intentional breach shall be proved, the fine shall be the invoice value of the goods supplied. No restriction is placed on the decision of the chairmen as to the penalty to be imposed for intentional underselling in one of the markets of the syndicate territory."

There has not been a single independent competitor of this American powder trust within the United States during the past ten years that has not felt the blighting force, directly or indirectly, of this common fund. All have been its victims. The destructive methods of the American trust have been sufficient to blight competition in this country, but when to this is added the contributions of the wealthy European factories, through the common fund, for the elimination of competition, it is a marvel how any competitor has survived.

The enormous proportions of this common fund may be judged by two items:

The United States Government places orders frequently for lots of eight and ten million pounds of 75 per cent nitroglycerin dynamite for the Panama Canal. Ten million pounds means 200,000 cases. At $1 per case this would net $200,000. At 50 cents, the minimum per case, the contribution on this sigle order would net a payment of $100,000 into the common fund. A single shipment, oft repeated, from European factories to South Africa would contribute a larger sum to the common fund; yet these are only two points of activity in the great markets of the world.

An independent manufacturer of explosives in the United States with this great organized combination of foreign and American monetary interests against him has about as much chance to survive as a snowball in—the Tropics.

Why should the patriotic representatives of the American people protect this gigantic powder monopoly with a tariff at the expense of their constituents?

The present tariff on blasting powder is 4 cents per pound, or $1 per keg. In Pennsylvania, West Virginia, and throughout the Middle West the powder trust now fixes the delivered price of this article at $1.10 per keg and supplies most of the trade at $1.

The freight rate from the seaboard will average 20 cents per keg. The manufacturing cost varies from 80 to 90 cents per keg at mills.

Think of a protective tariff of a dollar per keg on an article that sells inland for a dollar; which costs at the seaboard 90 cents to import and 20 cents freight cost to deliver. This powder for the past five years has all been sold at from 90 to 95 cents, until the larger independent companies were ruined and absorbed (my own company among others), when the present list was established.

Please note that if the European trust should sell in this country at any price the offending company is fined the full "invoice value of the goods supplied" and if it fails to pay the fine, it is paid out of the "common fund." Free trade would be futile in securing competition. A protective tariff is ridiculous.

"With regard to the markets in the European territory in which the American factories have already done business, and from which, in accordance with the stipulations of this agreement, they are to retire, as well as the markets of the American territory in which the European factories have already done business, and from which they are, according to the stipulations of this agreement, to retire, the following is agreed:

"Agents are as far as possible to be retained by the party who is henceforward to do the business in the market in question.

"Magazines are in a like manner to be taken over at their present value, to be determined by mutual agreement or arbitration.

"Stocks, if in good merchantable condition, are to be taken over at full cost, i. e., the amount which the goods at present cost with accumulated charges.

This agreement is to be in force for ten years, beginning from the 15th of July, 1897, subject to written notice being given six months prior to the 15th of July, 1907. In the absence of notice this agreement is to continue thereafter from year to year until such six months' notice of intended termination is given.

Settlements have been made annually for many years between the American and European chairmen under this world agreement. It is still in full force and effect and will remain so for years, with some variations made by the chairmen, to avoid technical complaints and proofs; the trade of the districted territories is restrained, and the common fund is undistributed.

Was not this world agreement a willful violation of both the civil and criminal laws of our country, prohibiting monopolies, the fixing of prices, and the restraint of trade?

Courts may dissolve and enjoin the present form of this world monopoly; it will only change its chameleon hue and continue in efficient operation.

"You may break, you may shatter the vase if you will,
But the scent of the roses will hang round it still."

No independent powder manufacturer, possessing a full knowledge of the situation, would desire a protective tariff on explosives.

Their production is limited to blasting powder and dynamite, and the powder trust fixes a ruinously low price on these, depending for its rich revenues on the support of the United States Government, through its excessive price and liberal and exclusive purchases of ordnance and military smokeless powders, and dynamite for the Panama Canal.

A protective tariff is not necessary either on blasting powder or dynamite. There is no competition in the United States with the Du Pont trust on black rifle, sporting, and military powders, nor on smokeless sporting, ordnance, and military powders. On these the American trust enjoys a complete monopoly and is amply protected from foreign competition by its world agreement.

We therefore respectfully protest against any protective tariff on explosives and request, in behalf of the consumers of this country, that explosives be placed upon the free list.

The Congress and the President will need no interpreter to point with pride to the glowing patriotism and scrupulous fidelity of the du Pont trust, as exemplified in its compact with foreign trusts to corner the markets of the world against the United States Government.

Its successful efforts in fixing an extortionate price and the elimination of all competition, foreign and domestic, in the supply of ordnance smokeless powder for national defense, are earnestly commended for the thoughtful consideration of those in Washington who have been the stalwart friends of the powder trust.

A careful perusal of this "world agreement" will disclose why our navy powder was tested in the guns of foreign nations, disclosing its quality and ballistic properties, and why the du Pont trust built the factory in Brazil to manufacture American navy powder for use in foreign guns.

It is a matter of regret that the War and Navy departments and the Congress have not taken concerted action to break this unholy alliance with the du Pont powder trust and establish government plants of adequate capacity to conserve the public welfare.

Our patriotism should be broad enough and of a quality to freely grant protection to all American industries that need it. It should be vital enough to resent every successful combination with foreigners to "hold up" the United States Government for private mercenary purposes.

For the edification of the Congress I will be pleased to furnish a certified copy of this "world powder trust agreement," if it is desired.

Respectfully submitted.

ROBERT S. WADDELL,
President Buckeye Powder Company.

PEORIA, ILL., *January 13, 1909.*

Mr. DANIEL. Of course I do not mean to prejudge any case that is now pending in court, but people who are in suit have the right to be judged according to the charges and the testimony produced in that suit. Nearly every assertion that I have made here rests on testimony independent of that suit, and has proceeded from the mouths of witnesses before the Ways and Means Committee of the House and from the testimony of witnesses (Mr. Waddell being the chief one on the side I am now advocating) before the Appropriations Committee, before which General Crozier also appeared. But if anyone wishes to look at a more minute statement of the constituent elements of this trust he will find it in the CONGRESSIONAL RECORD of this year, page 1252, in the proceedings of the House, to which I refer.

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

The amendment was rejected.

Mr. BURKETT. I move to amend the bill on page 17, line 19, by striking out the word "this" and inserting "any;" by striking out the word "for" after the word "appropriation" and inserting the words "made in this act for the purchase of."

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

The SECRETARY. On page 17, in line 19, strike out the word "this" and insert the word "any," and after the word "appro-

priation" strike out the word "for" and insert "made in this act for the purchase of."

The amendment was agreed to.

The VICE-PRESIDENT. The bill is in Committee of the Whole and open to amendment. If no amendment is proposed, the bill will be reported to the Senate as amended.

Mr. BACON. I propose, when the bill gets in the Senate, to offer an amendment. I do not understand that I have to make any special reservation for that purpose.

Mr. HALE. It has not yet gone to the Senate.

Mr. BACON. I did not misunderstand that. I do not understand that I have to make any special reservation in order to do that.

Mr. DANIEL. I should like to offer an amendment. After the words "ninety-nine cents" on page 17, line 8, I move to insert "of which not less than $250,000 shall be expended for the enlargement of the Government powder factory."

Mr. HALE. There is no objection to that, but it is not needed at all. However, it is all right. It does not change the situation. Let us have a vote, Mr. President.

The amendment was agreed to.

Mr. NEWLANDS. Mr. President, I understand that under the head "Increase of the navy" an amendment offered by the Senator from Minnesota [Mr. CLAPP] was adopted, restricting the appropriation to two first-class battle ships, at a cost not exceeding, exclusive of armor and armament, $4,500,000 each. I now offer the amendment I send to the desk, to strike out the entire paragraph regarding the battle ships, including the amendment of the Senator from Minnesota, and to insert.

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

The SECRETARY. On page 68, under the heading "Increase of the navy," strike out all of the paragraph as amended and insert:

That for the purpose of increasing the efficiency of the naval establishment of the United States, the President is authorized to have constructed such auxiliary ships, including transports, colliers, dispatch-boats, cruisers, and scouts as will be necessary in case of war to support the fighting ships, at a total cost not exceeding $9,000,000; and that the President make such recommendation to Congress as to him seems advisable regarding the manning of vessels belonging to such auxiliary navy, in whole or part, by the naval reserve and the leasing of them so manned in times of peace to shipping companies for the purpose of promoting foreign trade and commerce.

Mr. NEWLANDS. Mr. President, under the amendment offered by the Senator from Minnesota [Mr. CLAPP] I understand the appropriation in this bill is reduced about $3,000,000.

Mr. CLAPP. I will say to the Senator from Nevada it is reduced about $5,000,000.

Mr. NEWLANDS. About $5,000,000?

Mr. CLAPP. I think it will amount to about $5,000,000.

Mr. NEWLANDS. The total amount under the bill is reduced only $3,000,000. The appropriation called for by the bill was $12,000,000, and the Senator's amendment reduces it to $9,000,000.

Mr. CLAPP. Yes; but in the additional appropriation necessary to equip the ships I think the Senator will find there is a difference of about $5,000,000.

Mr. NEWLANDS. I understand, then, that the Senator refers to the future armor and armament of these ships, which, of course, would be very much less expensive than the ships provided for by the bill as it came from the committee.

As to that, I understand that the preliminary appropriation made for these battle ships is about 50 or 60 per cent of the total cost after the armor and armament are added, and that if this appropriation as reported by the committee should stand at $12,000,000, it would mean that subsequently we should be compelled to appropriate $10,000,000 or $12,000,000 more for the armament necessary to make them complete. And so, with reference to the appropriation of $9,000,000, I assume that if these battle ships stand in the bill we will be called upon to appropriate in the future nearly $9,000,000 more for their armor and armament.

Mr. President, my amendment provides, as a substitute for these battle ships, for the construction of ships of the auxiliary navy—scouts, transports, colliers, and dispatch boats, which, according to the report of the Navy Department, are absolutely essential to maintain the fighting ships and support them in case of war. Some years ago the War Board of the Navy Department was called upon to state what auxiliary ships would be necessary in case our colonial possessions were threatened; and the War Board made an elaborate report, showing that about 232 ships, of an average capacity of 6,500 tons, would be required for this purpose. These ships, I imagine, would cost about $1,000,000 each. It is admitted that our merchant marine will not furnish these ships; that our merchant marine is entirely inadequate; that whilst the main purpose of a navy is really to protect a merchant marine, we have practically none, and the main purpose of our navy seems to be to protect the phantom ships of a nonexistent navy.

We have, therefore, no merchant marine to protect; but we have a coast to defend, and we have insular possessions to protect. The War Board tells us that it will be necessary for us to have 232 auxiliary ships of various forms for this purpose. It seems to be admitted that in case war broke out the laws of neutrality would prevent foreign countries from supplying us with such ships. It therefore seems absolutely essential that we should provide such ships as a part of the auxiliary navy.

For some years I have been calling attention to this matter. I first called attention to it upon this floor in 1906, again in 1907, and again in 1908. Then I was fortunate enough to arrest the attention of the Senator from Maine. I do not propose to repeat at length the arguments which I indulged myself in upon those various occasions. I propose to quote mainly from the Senator from Maine [Mr. HALE], whose knowledge of the navy and its requirements no man can question.

In the debate of 1908 upon the ship-subsidy bill, whilst I was addressing the Senate on that subject and insisting that, instead of entering upon this vast scheme of ship subsidy, which would fill our corridors with importunate companies demanding subsidy and continually demanding increases, it would be wise for us to build a portion of this auxiliary navy and utilize it during the period of peace as training ships for our naval reserve, manned by the naval reserves, to use these ships under lease to private companies in advancing the trade of this country and the transporting of American products and American mails to ports in Africa, South America, Australasia, and Asia, to which we had at that time no access.

Whilst I was indulging in that course of argument, that such ships would be useful as a part of the navy itself, and the expenditure would be justified in making them a part of the navy, and would also aid us in the promotion of trade and commerce with foreign countries, the Senator from Maine interrupted me, and I will quote what he said:

Mr. HALE. I do not want to interfere with the line of the Senator's argument, but I am very largely in sympathy with him, for he has struck what is the weak point in our entire naval establishment, so far as ships are concerned. We are deplorably lacking in the essentials that make a great fleet not only formidable, but seaworthy.

The Senator said the other day, and the metaphor was not too strong, that without certain auxiliary ships the great battle ships of the United States fleet upon any waters outside of our own waters, in case of any emergency, with war threatened, would be derelicts, and it is too true.

In another place the Senator said:

Mr. President, it is a melancholy spectacle that this great fleet of ours in this regard presents to-day. It is the greatest fleet of great and formidable ships that the whole world has ever seen. It is completely manned. It is in every respect except one the most magnificent and formidable fleet of ships that any nation has ever put upon the waters of the globe.

Admiral Converse, who knows it, root and branch, has so told us, and he is right. But this great fleet, which has been sent upon its voyage around the globe, is to-day absolutely dependent upon its motion, upon its existence as a moving fleet, on the indulgence of foreign powers.

The Senator then went on to show the number of foreign colliers which we had been compelled to employ on that famous cruise in order to furnish the ships with transports that were required; which numbered some 27, with tonnage varying from 4,500 to 6,000 tons. The Senator then added:

Mr. HALE. Mr. President, if when that fleet was ordered on this tour about the globe there had been the least menace of war from any power, no government owning one of these foreign colliers would have allowed a single ship to be employed by us, and our fleet, magnificent as it is, with any menace of war upon the sky, without these foreign colliers would be as useless and—

"As idle as a painted ship
Upon a painted ocean."

We do not realize this, Mr. President. I go further. If any complication should arise in the voyage of the ships, any danger, any menace of war in a foreign power, I do not know but that every foreign power represented in the ships which we have hired would feel compelled to withdraw them from the association of the fleet, and we would be hung up.

It is not, Mr. President, an agreeable thing to contemplate. We go on year after year building up and accumulating these immense ships at an enormous expenditure, and find ourselves, as we would in any emergency for which the ships are built, without a thing being done that makes the ships formidable as a fleet at sea. The Senator is right in his theories. There ought not to be another ship added to the American Navy until we add something that every other power has done to make the ships formidable in case of an emergency.

My colleague is right; the Senator from New Hampshire is right; we can not do it here. I do not think the Senator from Nevada wants to embarrass this bill—

That was the ship subsidy bill—

but when we come to the consideration of the naval appropriation bill I hope the Senator from Nevada and the Senator from New Hampshire and the Senator from Maine, my colleague, and every thoughtful, patriotic Senator will join me to try and see that something is done in this entirely neglected field that we have rashly and in the most foolhardy way neglected and abandoned in the past. Otherwise, Mr. President, if there is any call for the big ships, and they are to protect us in case of possible war, they are absolutely worthless unless we

have something with which to build up an auxiliary fleet and to supply the ships that will enable them to move in the waters of the globe. Without these foreign ships, these colliers, Mr. President, we not only could not have gotten around Cape Horn, but we could not have gotten beyond the Caribbean Sea. Nobody has seemed to realize that. But when we come to the naval appropriation bill this matter will be laid before the Senate, and we will be made to consider what are the actual needs of the American Navy.

Mr. President, later on the naval appropriation bill was reported to the Senate. The bill as received from the House contained, if I recollect aright, an appropriation for two colliers. To this the Senate amendment added three colliers, making five in all. When that bill came before the Senate, I referred in my remarks upon the subject to this result as a very lame and impotent conclusion; and I read, as I have read to-night, certain extracts from the speech of the Senator from Maine, in which he most clearly and most forcibly pointed out the needs of our country for this auxiliary navy. To my criticism the Senator from Maine replied:

So far as concerns the equipment of our fleet with colliers, the most important subject—

As I understand it, the Senator regarded it as the most important subject then under consideration—

the bill as reported by the committee will not satisfy the Senator. It is not a large programme, but it is something in the right direction. The bill provides five good serviceable colliers at a very considerable expense, and I should hope that it would be a permanent feature of naval bills for the future, and that in considering the continued appropriations for the navy—and I expect so long as I am a member of this body to see appropriations for maintaining a strong, serviceable navy—we should go on each year and make as a part of that programme provision for colliers that may accompany the fleet in any emergency and which will always be a desirable and necessary part of the establishment.

* * * * * * *

The Senator is right in his general view of what we ought to do. But we have gone on devoting ourselves mainly, as the Senator and all Senators know, to the increase of the navy proper, the ships of the navy, and have not given great attention to these other very essential accessories to that part of the establishment. I do not believe that this year we are justified in doing more than what the bill provides in that respect.

So I would be glad if I could join with the Senator, and I am indebted to him for the early and valuable suggestions that he made, which certainly attracted my attention and which have led, I think, and the Senator is entitled to credit for that, to some development in this direction.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Rhode Island?

Mr. NEWLANDS. I do.

Mr. ALDRICH. Would the Senator from Nevada be willing to have that speech of the Senator from Maine printed in the RECORD without reading?

Mr. NEWLANDS. No; I prefer to read it for the information of the Senator from Rhode Island. [Laughter.] I regard it as very instructive.

Now, I wish to quote a few words, and a few words only, from my own remarks, for the Senator from Maine has made the argument so much stronger than I could possibly make it that I am very glad to substitute his language for my own at all times.

Mr. NEWLANDS. Mr. President, I am very glad to learn that this is but the commencement of a continuous policy.

That was the assurance of the Senator from Maine, representing this great committee.

The Senator from Maine will not think me too critical in saying that the action of the committee was hardly a realization of the hope which he indulged in his former speech in the Senate, for at that time his utterance was emphatic that there should not be another ship in the navy built until this needed want was filled. I agree with the Senator from Maine that there should be a limit to naval expenditures. I would gladly see all military expenditures reduced. I would not willingly favor any large increase in the present measure of expenditures. What I hoped for was that the commitee would refuse to report in favor of more fighting ships until the auxiliary navy was brought up to a certain standard.

Such a policy would not mean larger annual expenditures on the part of the Government, but it would mean a usable navy, a proportioned navy—a navy in which each part was adjusted in operation to every other part—not a great mechine of war, with essential parts absolutely lacking to such a degree that the machine would break down in case of war.

Mr. President, what conclusion have we reached at this session? The Senator from Maine, speaking, I suppose, for the committee as well as for himself, stated that the policy of adding this auxiliary navy would be a continuous policy. I looked, therefore, in this bill for an appropriation for auxiliary ships to at least an equal number with that in the appropriation of last year, and I found to my surprise that, whilst the total appropriation in this bill was raised about $12,000,000 above what it had been a year ago, there was an appropriation for only one dollar, as against five a year ago costing less than a million dollars.

Mr. President, I can only assume that the Senator from Maine has been overruled in his committee, that he has given the force of his great ability and influence to the building up of an auxiliary navy, and has doubtless been defeated in his own committee, overruled by a majority there, and I appeal to the Senate to stand by the Senator from Maine in the valiant fight that he is making for a well-proportioned, symmetrical navy, one that will not make simply a great parade of fighting ships to the world without the ability to sustain their operations in case of war.

Hence, I ask the Senate to strike out this appropriation for two battle ships, aggregating $9,000,000, and to substitute for that an appropriation of a similar amount for an auxiliary navy or the construction of such transports, colliers, dispatch boats, and scouts as the Executive of the Nation shall deem essential to a well-proportioned and symmetrical navy, for we must recollect that the War Board has called our attention not only to the need of colliers, but to the need of transports, dispatch boats, and scouts, and thus far the meager appropriations provided by the Naval Committee cover only the one item of colliers, probably the most essential item, it is true, for without coal in case of war our ships would, of course, be derelicts on the ocean.

Mr. President, the question may arise as to what use these ships can be put to during times of peace. My answer is that, so far as the limited number of auxiliary ships heretofore constructed is concerned, and adding to that number those called for by the amendment which I have proposed, there certainly will be absolute use for them in the navy itself, and continuous use, particularly if we indulge in such cruises as we have engaged in during the past year. I am inclined to think that that cruise has vastly improved the efficiency of the navy; and while such extensive cruises may not hereafter be indulged in, that programme will be partially, at least, carried out in the future. It seems that as in that cruise it was necessary to employ 27 foreign ships to aid the navy as auxiliary ships, certainly the 8 or 9 ships covered in this amendment will be needed.

But I do not urge that this auxiliary navy should be supplied simply for use in case of war. I contend that in building up our navy the Government should act in a businesslike way, and see to it that these auxiliary ships do not remain idle during times of peace, when there is no occasion for their use in connection with the navy. What use can they be put to? Well, in the first place, they can be used as training ships for the naval reserve. The Navy Department has called our attention again and again to the necessity of establishing a naval reserve of at least 10,000 men. I do not know whether the creation of that reserve has even as yet been commenced. It certainly has not reached much proportion. In case of war we can not recruit our fighting ships from our merchant marine, for the merchant marine is nonexistent. It is therefore necessary for us to train men for this purpose. We have, I believe, training schools at one or two places in this country. It strikes me that no better training school could be devised than a ship itself; that if you were to construct a building for a training school, the very best building you could construct is a ship; and a ship will cost no more than buildings upon the land.

The next question comes as to how you can use these ships when they are not needed by the navy for an actual cruise, and what useful purpose they can be put to; to what profitable use can they be put? Well, Mr. President, as these ships are to be manned in whole or in part by a naval reserve, consisting of young men who are being trained for the navy, if they are officered by naval officers they are certainly in a condition for foreign trade.

There is no reason why these great lines of development, for which a ship subsidy bill was sought to be passed at the last session, opening up about twelve or thirteen lines of travel not heretofore occupied by United States ships—lines of travel to South America, to Africa, to Australasia, and to Asia—could not be taken up by these ships. They could be leased, manned as they are, to some mercantile company, and be used in carrying our mail, and carrying our products to foreign ports. The moneys received from private companies for this kind of carriage would go a great way toward paying the interest upon the investment and reimbursing the large expenditures necessary in the establishment of this naval reserve.

These are the uses to which these ships can be put in case there may not be such an emergency as will require their use by the navy. I submit, therefore, that not only the necessities of war, but the necessities of peace, may be invoked for support of this amendment, and that it should pass as a substitute for the item providing for the fighting ships, which, under this appropriation, will cost $9,000,000 simply for the hulls and an additional $9,000,000, or nearly that, for the armor and equipment.

Mr. HALE. Mr. President, I have in a large degree recovered from the anxiety and almost panic which I felt a year ago with reference to the necessity for colliers and auxiliary ships. Since then the fleet has safely returned, will soon be moored in our own waters on the coast, and will be soon on its way to retirement, dismantled for overhauling and repairs in the navy-yards. The country and Congress, when they see the great extent of the bills that will have to be paid for this voyage in order to recuperate the navy, will be rid, I hope, of any danger in the future of any experiment like such a trip around the world and will realize that we shall pass into a condition of security and tranquillity and that there will be no need of the proposed colliers in time of peace. They are very expensive.

It is one of the consolations that come to us with the march of time that we learn to become accustomed and reconciled to present conditions. I look for a condition much better, with regard to the navy in the future, and to an opportunity of restricting naval appropriations. As I have said, I have recovered from my feeling of the necessity and the pinch for building these colliers. In order to expedite public business, as there seems to be no disposition to further debate this matter——

Mr. NEWLANDS. Will the Senator permit me to ask him one question?

Mr. HALE. Yes.

Mr. NEWLANDS. The Senator has just remarked that there will be no need of these colliers in times of peace. I will ask him whether there is any need of fighting ships in times of peace?

Mr. HALE. No; not much.

Mr. NEWLANDS. But there is need of fighting ships in time of war, and I presume they are built for that emergency. As I understand the Senator, according to his statements of last year, in case of war the fighting ships would, without adequate colliers, be—

As idle as a painted ship
Upon a painted ocean.

Mr. HALE. I do not suppose, Mr. President, they will ever be fighting ships. In order to expedite business, I move to lay the amendment on the table.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

The bill was reported to the Senate as amended.

Mr. LODGE. Mr. President, I desire to reserve two amendments—the amendment relating to the Marine Corps and the amendment relating to the battle ships.

The VICE-PRESIDENT. Does any other Senator desire to reserve amendments?

Mr. BACON. I have an amendment to offer, but not to reserve.

The VICE-PRESIDENT. The question is, Shall the amendments, excepting the two mentioned, which have been reserved by the Senator from Massachusetts [Mr. LODGE], be concurred in? Without objection, they will be considered as concurred in. The question is on the first amendment reserved by the Senator from Massachusetts.

Mr. MARTIN. I will ask the chairman of the committee if he expects to finish the bill to-night?

Mr. HALE. If we can get a speedy vote on the two propositions that have been reserved, we can easily dispose of the bill. I do not know whether any Senator desires to debate any of the provisions of the bill.

Mr. LODGE. I do not care, Mr. President, to debate further the question of the Marine Corps. I only reserved the amendment in order to have a vote upon it.

Mr. CUMMINS. Mr. President, I desire to debate for a few moments the amendment relating to the Marine Corps.

Mr. LA FOLLETTE. Mr. President——

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

Mr. CUMMINS. Certainly.

Mr. LA FOLLETTE. I have an amendment which I desire to offer, on which I desire to submit some observations.

Mr. HALE. Has the amendment of the Senator been offered?

Mr. LA FOLLETTE. It has not. I expect to offer it in the Senate.

Mr. HALE. If the Senator has it prepared——

Mr. LA FOLLETTE. I have it prepared.

Mr. HALE. And is willing to offer it now and let it be printed——

Mr. LA FOLLETTE. I shall be very glad to do so.

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

Mr. HALE. If it goes over, we will all see it in print.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. At the end of the bill it is proposed to add as a new section the following:

SEC. 3. That the President of the United States is hereby authorized to appoint a commission to be called the Commission on Naval Bases, to be composed of officers of the Engineer Corps of the Army and officers of the Navy. It shall be the duty of this commission to inquire into and report to Congress during its next regular session the number, location, and capacity for rapid repairs of the naval bases which are required by strategic considerations for the successful conduct of the fleet in time of war and for maintaining the fleet continuously in a state of readiness for war in time of peace, the report to include recommendations as to what existing navy-yards and naval stations can be expanded to the capacity required for an efficient military base for a large fleet, and the location and capacity of such new bases as should be constructed, and a further recommendation as to what existing navy-yards and naval stations should be wholly or partially abandoned. For these purposes the commission is authorized to sit during the session or recess of Congress, at such times as it may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses, and to employ such clerical experts, stenographers, and messengers necessary, and other assistants as shall be necessary to carry out the purposes for which said commission is created. The commission may, through subcommittees or otherwise, conduct their work or any part of it. A sum sufficient to carry out the purposes of this section and to pay the necessary expenses of the commission and its members is hereby appropriated out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available and shall be paid out on the audit and order of the chairman of said commission by any clerk appointed for that purpose by the commission; and hereafter no part of the public moneys or of any appropriation heretofore or hereafter made by Congress shall be used for the payment of compensation or expenses of any commission, or any members thereof, unless the creation of such commission shall have been authorized by Congress.

Mr. HALE. Mr. President, Senators have indicated a desire to debate these propositions, and it is so late that I do not feel constrained, although I hoped to dispose of the bill to-day, to ask the Senate further to continue in session to-night. But I want to utilize to-morrow to the very best extent, because another appropriation bill is ready, and there are other matters pending, so that I will move that when the Senate adjourns to-night it be to meet at 11 o'clock to-morrow morning.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Maine, that when the Senate adjourns to-night it be to meet at 11 o'clock to-morrow.

The motion was agreed to.

Mr. HALE. Now, Mr. President, I will also give notice that, in order to gain time to-morrow morning, I shall ask that the bill be taken up directly after the Journal has been read, so that we may have the entire day. I do not suppose it will take that long, but we shall try to get the bill out of the way by 12 or 1 o'clock. I give that notice, and I will now——

Mr. LODGE. Before the Senator moves that the Senate adjourn——

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

Mr. HALE. Certainly.

Mr. LODGE. If the Senator will yield to me for a moment, I merely want to make an inquiry. The Secretary in reading stated that the amendment of the Senator from Wisconsin would come in as section 3. I understood that section 2 went out on a point of order.

Mr. GALLINGER. Another section was substituted for it.

The VICE-PRESIDENT. Another section was substituted for section 2.

Mr. LODGE. I understand now. It is all right.

Mr. HALE. Mr. President, I ask that I may have permission to have inserted in the RECORD reports, statements, and figures compiled by the department. I will furnish them later.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter was subsequently submitted as follows:

UNITED STATES NAVY.

Letter from Mr. Truman H. Newberry, Secretary of the Navy, to Mr. William S. Woods, editor Literary Digest.

JANUARY 28, 1909.

SIR: In reply to your letter of January 25, in which you say that you are desirous of taking up for treatment an article in the current number of McClure's Magazine by Mr. G. K. Turner, it should be made entirely clear, in any impartial discussion of this article, that Mr. Turner has premised his statement concerning the saving in expenditure which might be made in the Navy Department on an imaginary and impossible set of conditions. It is this which constitutes the essential fallacy of his deductions and makes his figures more startling than accurate. It is as though he asserted that the United States Steel Corporation might effect a great saving (as doubtless it could) if its present plant could be immediately discarded without loss and instantly rebuilt in accord with the latest developments of the art.

Mr. Turner has imagined a navy consisting of what he considers the proper number of ships, built and equipped overnight, so that the very latest ideas are expressed in their construction, together with a supporting establishment consisting of what he considers the necessary number of repair plants to take care of this ideal fleet. It is impossible to discuss statements put upon this basis or to make any detailed comment on them. It may be well, however, to point out the possibilities of inaccuracy in his figures in several instances. He states that the navy cost $122,000,000 for the past year. In reality it cost about $117,000,000—an error on his part of $5,000,000. He calculates that for 20 *Dreadnoughts* it would cost $15,000,000 yearly for maintenance

and repairs. By all figures known to the department they would cost at least $20,000,000—another error of $5,000,000.

Mr. Turner states that all but three stations on the Atlantic and one on the Pacific coast could be dispensed with, and that the yard force could be cut to less than 10 per cent of the present strength, or about 3,000 men. He forgets, apparently, that Cavite, in the Philippines, as well as a west-coast repair plant, must be maintained on the Pacific, and that the Washington Gun Factory, employing about 4,000 men, and which must be kept up, would more than absorb the number of men he allows for the whole establishment. In his reference to certain small southern yards, he speaks of the large cost for the marine force stationed at such places to guard government propery, overlooking entirely the fact that the marine force is maintained for its service in the event of war, and that it is employed at these yards, not merely in the capacity of watchmen, but as affording a means of keeping the officers and men in a proper state of training and discipline. He might as well speak of the entire appropriation for the army as a waste, in view of the fact that the whole purpose of the army in time of peace is to maintain a nucleus of a proper military force to be used in the event of war.

As a matter of fact, the Navy Department has a real and not an imaginary set of conditions to work with. It has a certain number of vessels which have been determined on from time to time as then seemed wisest to the department and to Congress. It also has a certain number of stations similarly bequeathed to it, chosen with an eye to their military and strategic value as well as to their economical possibilities as industrial plants. Both ships and stations at the time of their authorization were the subject of careful investigation by the department and full discussion by Congress. To this method of determining on a proper establishment, arrived at through years of discussion and development, Mr. Turner opposes his individual view, based on such brief study of naval conditions as afforded by his occupation as a special investigator for his magazine.

The question for the country, therefore, and for its representative, the head of the department, is not what might be done if a magician's wand could summon a complete organization, but what may best be done with that which has developed coincidently with the art of making war. It must not be forgotten that naval warfare and the implements for waging it have absolutely changed during the period of less than two decades. It is common knowledge that ships have developed in size beyond the wildest forecasts of even a few years ago. The *Indiana*, 348 feet long and 10,000 tons displacement, was a big ship in 1890, when she was authorized. Battle ships now being talked of are 535 feet long and of 26,000 tons displacement. Docks that were thought ample for the needs of all time and harbors with a corresponding depth of approach have become inadequate. There are still docks and approaches able to take our heaviest vessels when needed, though Mr. Turner does not emphasize this fact, and larger docks are building. If our naturally shallow harbors must be dredged for men-of-war of the future, the work will be demanded by our merchantmen sooner than by the battle ships, for the former are outstripping even their protectors in increased size and draft.

With the size of ships has increased their complexity. Therefore repair shops have become cramped and have had to be extended.

As with ships and with our plants, methods suitable to past years have proved unsuitable for modern conditions. In former times the work of the various departments at the navy-yard was differentiated to a greater extent than at present. For that reason and because the yard was primarily a military and not a manufacturing plant, and partly as a concession to conflicting opinions and interests, separate establishments grew up at each yard. Many of these manufacturing plants, like the gun factory at Washington and the powder factory, was instituted as necessary to escape the exactions of trusts in the specialized classes of material called for by the navy, as well as to secure the performance of such work under the immediate supervision of trained ordnance experts. Modern conditions and improved shop methods have made consolidation of work imperative, both from the view point of military efficiency and of economy. There has been for many years past a gradual consolidation of work to meet changing conditions. A very radical consolidation at the navy-yards was determined on some months ago and has already been effected. It merges all the manufacturing functions of the yard into one organization along similar lines to that common among commercial industrial plants. The consolidation of various bureaus in the department will follow as a natural corrollary to these changes.

The same money-absorbing cycle of change has been going on in foreign countries. Millions could undoubtedly have been saved by each in the past if the developments in battle-ship building of the last few years could have been foretold; but each has constantly had to keep pace with the times and pay the penalty exacted by the new inventions and more daring achievements which have rendered obsolescent the work of the year before.

The United States has always been abreast of the best current practice in naval development with the material provided it, as its record afloat in peace and war abundantly testifies, as well as a comparison of the efficiency of its fleet at the present time with those of other powers. Ship for ship, it stands second to none. If this result has been achieved by the naval establishment as a whole (for the fighting ship is the final expression of its concerted effort), is it not logical to assume, as I have proved to my own critical satisfaction, that, aside from the relatively small defects in administration which crop up and have to be eradicated with changing times in all great concerns alike, the navy is provided for by Congress and administered by its subordinate officials with conscientious regard for the public interest.

I inclose herewith, for your information, a statement taken from the annual report of the Paymaster-General for the fiscal year ending June 30, 1908, giving an analysis of the cost of the naval establishment during that period.

Respectfully,

TRUMAN H. NEWBERRY,
Secretary.

Mr. WILLIAM S. WOODS,
Editor Literary Digest,
44 East Twenty-third Street, New York City.

BRIEF ANALYSIS OF TOTAL APPROPRIATIONS MADE FOR THE NAVAL SERVICE DURING THE TEN-YEAR PERIOD 1899–1908.

There has been appropriated for the naval service, for all purposes, during the past ten years, $921,562,373. Of this amount there has been turned back into the Treasury, from unexpended balances of current appropriations, $13,014,015.

In order to indicate the purposes for which the above appropriations were made, this total may be classified as follows:

—	Amount.	Percentage of total appropriation.
1. For increase of the navy, including construction and machinery and armor and armament	$285,558,186.67	31.0
2. For pay and allowances of officers, and pay, allowances, clothing, and subsistence of enlisted men of the Navy and Marine Corps	272,343,075.27	29.6
3. For indirect charges relating to personnel, such as hospitals and other expenditures under the Bureau of Medicine and Surgery, training stations and barracks for officers of the Navy and Marine Corps; all expenditures at the Naval Academy and in connection with the Naval Militia; miscellaneous expenditures under the Bureau of Navigation and the Marine Corps in connection with personnel; incidental charges under the Bureau of Navigation connected with personnel and maintenance of colliers and the payment of their merchant crews	48,721,773.87	5.3
4. Coal and coaling stations	34,888,494.45	3.8
5. Maintenance and repair of matériel of the fleet, including all ammunition, stores, oil, and other consumable supplies, except coal (This item includes maintenance charges under ordnance, equipment, construction and repair, steam engineering, and supplies and accounts which are directly chargeable to cost of operation of industrial plants, but which are not readily separated therefrom).	201,588,805.92	21.9
6. Cost of improvements at dockyards, including lands, buildings, dry docks, wharves, dredging, major part of machinery plants; repairs, preservation and maintenance of all public works, including operation of central power plants; cost of buildings, machinery, etc., at all ordnance establishments, including proving ground, powder factory, gun factory, magazines, etc	73,489,271.27	7.9
7. Appropriations not classified, including Naval Observatory, relief appropriations, damage claims, bounties, prize money, etc	4,972,765.74	.5
Total	921,562,373.19	

From the above it will appear that the appropriations on account of the increase of the navy, including "Increase of the navy—Construction and machinery" and "Increase of the navy—Armor and armament," amounted to 31 per cent of the total appropriations. That the expenditures by the Navy Department for new construction have been well and economically made is obvious by reference to the tabular statements of cost of battle ships and armored cruisers built for our own and the British navy. The tables which are attached to memoranda herewith submitted show conclusively that the present cost of our battle ships and armored cruisers, per ton of displacement, is considerably less than that of British battle ships and armored cruisers of similar type and date of contract.

It is also apparent that the appropriations for personnel (items 2 and 3) amount to 34.9 per cent of the total appropriation. The expenditures under these appropriations are practically beyond the economic control of the Navy Department, since they are payments on account of services specifically authorized by Congress, at definite or specified rates of pay, and do not admit of more than nominal control by the Navy Department, except in so far as the personnel may be below its maximum number or where various services directly connected with the personnel may be temporarily on a basis involving reduced cost of maintenance.

It is also obvious that appropriations for coal and coaling stations, amounting to 3.8 per cent of the naval appropriations, can not well be reduced without limiting the efficiency of the fleet.

It also appears from item 5 that the amounts appropriated for the maintenance of the matériel of the fleet, ashore and afloat, including all ammunition, stores, supplies, and so forth, representing 21.9 per cent of the total appropriation. It may be stated in this connection that practically half of the expenditures under these appropriations which are devoted to the maintenance of the matériel of the fleet are made on account of the purchase of ammunition, stores, supplies of all kinds, material, shop machinery, and work done under contract or subject to direct purchase, leaving only about 50 per cent of the appropriations of this character, or less than 11 per cent of the total appropriations for the navy, to be expended on account of direct labor charges. Inasmuch as it is largely in a reduction of the labor charges that economies can be expected by good administration, it should be obvious that, with an average expenditure for labor of $10,000,000 during the past ten years, it would

be exceedingly difficult to effect the reduction of "many millions" so noted by sensational writers as having been wastefully spent.

It also appears from item 6 that the development of dockyards and other naval stations, including ordnance establishment and including lands, buildings, improvements, dry docks, wharves, dredging, machinery plants, and the care and preservation of public works, accounts for 7.9 per cent of the total appropriation for the ten-year period under consideration.

The above-noted percentages, taken in connection with other memoranda herewith submitted, show most conclusively that there can not possibly be such great waste in connection with the administration of dockyards, maintenance of the fleet, etc., as has been recently alleged by sensational writers. On the contrary, considering the results obtained and the necessity of maintaining a large number of stations for military and strategic reasons in time of war, also taking into consideration the comparative expenditures of the United States Navy and the British navy for the maintenance of the fleet and for other purposes connected with the naval establishment, it is obvious that the administration of the United States Navy Department has been very creditable indeed. The recent changes in the method of carrying on work at navy-yards, some of which changes were inaugurated nearly a year ago, will greatly increase the efficiency and economy of navy-yard work, as will undoubtedly appear from reports which will be submitted during the next fiscal year.

COMPARISON OF APPROPRIATIONS FOR NAVAL PUBLIC WORKS IN GREAT BRITAIN AND THE UNITED STATES DURING THE FISCAL YEARS 1896–1909, INCLUSIVE.

The accompanying tabular statement gives a comparison of appropriations for naval public works in Great Britain and the United States during the fiscal years 1896 to 1909, inclusive.

In 1895 the British naval authorities began to take serious measures to put the British dockyards in such condition as to permit them to fully meet the requirements of the fleet. In order to provide for the large expenditures which would be involved, a "naval works act" was passed by Parliament in that year (1895), and supplementary acts in subsequent years, these naval works acts authorizing certain large expenditures which were to be spread over a term of years. These expenditures under the naval works acts were covered by a special loan, repayable in installments from funds appropriated in the naval votes; but the final payments have not yet been made, and will not be made for several years to come, so that the British navy estimates only include a portion of the total amounts actually expended on dockyard extensions under the naval works acts.

In addition to expenditures under the naval works acts there were other dockyard improvements provided for in the naval estimates themselves.

The accompanying table shows, as far as possible from comparison of British and American official documents, the amounts appropriated in each country for naval public works. Excluding from consideration hospitals, naval homes, barracks, training stations, coaling stations, and ordnance establishments, the tabular statement indicates clearly that the appropriations for dockyards, supply stations, harbors of refuge, and naval bases, including buildings, dry docks, improvements, extensions, and so forth, were two and one-half times greater in Great Britain than in the United States—the figures for Great Britain being $128,987,560 and for the United States $51,015,864—for the fourteen years under consideration.

Comparison of appropriations for naval public works in Great Britain and the United States during fiscal years 1896–1909, inclusive.

Nation.	Hospitals, naval homes, barracks, and training stations for officers and men.	Coaling stations.	Ordnance establishments, magazines, and target ranges.	Dockyards, supply stations, harbors of refuge, and naval bases, including buildings, dredging, dry docks, improvements, and extensions.
Great Britain	$19,475,071	$4,403,968	$8,415,998	$128,987,560
United States	[a] 17,710,374	6,542,500	5,924,810	51,015,864

[a] Includes $9,950,000 for the Naval Academy.

COMPARATIVE NUMBER OF WORKMEN EMPLOYED IN BRITISH DOCKYARDS AND UNITED STATES NAVY-YARDS AT HOME.

The average number of workmen employed in the dockyards in Great Britain during the fiscal year 1908 was 27,315.

The corresponding number employed in the general building and repair navy-yards and stations in the United States during the same period was 14,000.

The stations included for the United States are Portsmouth, N. H.; Boston, Mass.; New York, N. Y.; Philadelphia, Pa.; Norfolk, Va.; Mare Island, Cal.; Puget Sound, Wash.; Charleston, S. C.; Key West, Fla.; Pensacola, Fla.; and New Orleans, La.

The navy-yard, Washington, D. C., is omitted, as it is purely an ordnance establishment, corresponding to the British establishment at Woolwich. The number of employees at Woolwich is not known and is not included in the total given above for the British dockyards.

Comparison of naval appropriations in the United States and Great Britain for new construction, repairs, alterations, and maintenance of ships, public works, and pay of officers and men.

[Taken from the United States Digest of Appropriations, British Naval Estimates, and other official sources.]

Subdivisions.	Amount appropriated during 10 years, 1900 to 1909, inclusive.				Amount appropriated for fiscal year 1909.			
	Great Britain.		United States.		Great Britain.		United States.	
	Amount.	Percentage of total appropriations.	Amount.	Percentage of total appropriations.	Amount.	Percentage of appropriations.	Amount.	Percentage of appropriations.
		Per cent.		*Per cent.*		*Per cent.*		*Per cent.*
New construction, increase of the navy, including armor and armament	$518,214,703	32.5	$287,051,535	30.9	$42,193,236	23.8	$32,457,962	24.8
Reconstruction, alterations, repairs, and maintenance of ships, including sea stores and coal. For both direct and indirect expenditures	345,273,319	21.7	230,623,799	24.8	34,872,604	22.2	35,779,319	27.4
Public works	[a] 116,292,706	7.3	73,444,617	7.9	9,976,602	6.3	6,564,534	5.0
Pay, allowances, provisions, and clothing for officers and men	452,502,426	28.4	272,343,075	29.6	50,800,542	32.3	47,453,064	36.3
Miscellaneous, unclassed	161,755,849	10.1	[b] 64,522,854	6.8	19,439,833	12.4	8,525,522	6.5
Total	1,594,039,003		[b] 927,985,880		157,282,847		130,780,401	

[a] Includes 66 per cent of appropriations in naval works acts, 1895 to 1907.
[b] Includes $6,423,507 carried in the legislative, executive, and judicial bills for certain civil employees in the Navy Department.

Public Works, Bureau of Yards and Docks.

Stations, etc.	As reported to and as passed House.	Increases made by Senate committee.	Total.	Estimates for 1910, under these stations only.
Portsmouth	$96,500		$96,500	$346,500
Boston	210,000		210,000	267,500
New York	366,000	$26,330	392,330	693,830
Philadelphia	417,600	50,000	467,600	721,500
Washington, D. C.	60,000		60,000	341,000
Norfolk	300,000		300,000	811,000
Charleston	95,000	40,500	135,500	442,500
Pensacola	15,000	5,000	20,000	35,000
Key West	30,000	15,000	45,000	30,000
Mare Island	348,500	224,000	572,500	1,776,500
Puget Sound	418,000	237,000	655,000	1,391,000
Guam	44,000		44,000	44,000
Pearl Harbor	900,000		900,000	1,300,000
Cavite	15,900		15,900	15,900
Tutuila	5,500		5,500	5,500
Plans and specifications	30,000		30,000	40,000
Repairs and preservations	700,000		700,000	750,000
Floating derricks	150,000		150,000	150,000
New Orleans		45,000	45,000	
Total	4,202,000	642,830	4,844,830	9,161,730

The naval bill, as reported to the Senate, provides the following amounts for the pay of clerks, draftsmen, inspectors, messengers, and other classified employees at navy-yards:

Number of classified employees in the naval establishment and in the department at Washington.

	Amount.	Number of classified employees now paid from lump appropriations.	Number of classified employees now paid from "Civil establishment."
Pay, miscellaneous	$249,054.25	144	28
Naval Training Station, Newport, R. I.	5,701.60	4	
Naval Training Station, Great Lakes	48,139.36	18	
Naval War College	6,375.76	6	
Ordnance and ordnance stores	398,890.28	322	28
Equipment of vessels	226,193.60	162	24
Maintenance	425,000.00	253	72
Provisions, navy	447,544.88	315	88
Construction and repair	808,039.00	426	36
Steam machinery	350,063.02	271	17
Total	2,965,001.75	1,921	293
Grand total			2,214

Under the provisions of an executive order issued May 6, 1896, all employees of this character paid from lump appropriations, as well as those paid from "Civil establishment," were placed in the classified civil service, subject to appointment after competitive examination.

In the Navy Department proper at Washington there are 566 classified employees provided for in the legislative, executive, and judicial act.

Total number of employees in both classes, 2,780.

Mr. HALE. Now, I wish further to say, as a personal matter, that I think yesterday I did an injustice to the powder-manufacturing concerns in stating what I heard and believed to be true that they had heretofore in emergencies put up the price of their product and had made the Government pay undue prices. I have reason to believe that the statement which I made was incorrect. I regret that I made it, and I make this statement now in order to show that I do not now believe the statement which I made was justified by the facts.

Mr. GALLINGER. Mr. President——

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

Mr. HALE. Certainly.

NAVY-YARDS AND NAVAL STATIONS.

Mr. GALLINGER. A few days ago I was given permission to print hydrographic data relating to United States navy-yards and naval stations. There were some mistakes in it, and I now ask unanimous consent to have a reprint, with corrections, of the document, and that 1,000 additional copies be printed for the use of the document room.

The VICE-PRESIDENT. Without objection, it is so ordered.

PAROLE OF UNITED STATES PRISONERS.

Mr. BACON. Mr. President, I desire to ask for a reprint of the bill (S. 4027) to parole United States prisoners, and for other purposes. This bill was partially considered by the Senate and certain amendments were agreed to. Pending that it passed from the consideration of the Senate. I now ask that the bill may be reprinted as it has been amended in the Senate.

The VICE-PRESIDENT. Does the Senator want the amendments to be printed in the same lettering as the body of the bill?

Mr. BACON. I presume so. Certain sections have been stricken out and others have been amended. I wish the bill to be reprinted, so that we may see it as it is.

The VICE-PRESIDENT. In the absence of objection, it is so ordered.

Mr. HALE. I move that the Senate adjourn.

The motion was agreed to; and (at 10 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 17, 1909, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February 16, 1909.*

[*Continuation of legislative day of Monday, February 15, 1909.*]

The recess having expired, the House was called to order by the Speaker at 11 o'clock a. m.

ADDITIONAL JUDGE FOR WESTERN DISTRICT OF PENNSYLVANIA.

Mr. DALZELL. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill H. R. 26068, and consider the same at this time.

The bill was read, as follows:

A bill (H. R. 26068) providing for an additional judge for the western district of Pennsylvania, and for other purposes.

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint an additional judge for the western district of Pennsylvania, whose length of term, compensation, duties, and powers shall be the same as now provided by law for the judges of said district.

Mr. CLARK of Missouri. I reserve the right to object, and would like to interrogate the gentleman from Pennsylvania.

Mr. DALZELL. I will explain the bill. This bill is unanimously reported by the Committee on the Judiciary. I was told by three or four members of the committee, gentlemen of long service, that the case made out for this bill was the best case that had been made in years before the committee. The western district of Pennsylvania includes something over 20 counties in Pennsylvania, reaching to both sides of the Allegheny Mountains. As the gentleman from Missouri knows, it is full of industries of varied and very important character—manufactories of iron and steel, glass, coal, petroleum, lumber, and all the industries that pertain both to rail and river transportation. We only have one district judge in that district, and the figures presented to the committee show that during the last nine years the increase in civil cases in the district has amounted to 906 per cent, the increase in equity cases amounted to 29 per cent, and the increase in the cases on the trial list amounted to 350 per cent; in other words, there was an average increase in all branches of the business of the circuit court from the year 1899 to 1908 of 428 per cent. The circuit court was in session and transacted business during three hundred and four days of last year. Our circuit judge, who constitutes one-third of the court of appeals, Judge Buffington, was delayed in Philadelphia by the business of that court over four months of the year. We had four judges from outside districts to aid the local judges: Judge Dayton, of West Virginia; Judge Archbald, of the middle district; Judge Lanning, from New Jersey; and Judge Bradford, who came in and held court. The district court was open every day in the year, except Sundays and holidays, and transacted business.

Mr. CLARK of Missouri. How many district judges are there in Pennsylvania?

Mr. DALZELL. There are four district judges—two judges in Philadelphia, a district judge of the middle district, and one district judge in western Pennsylvania. I want to call attention to this fact: In Philadelphia, where they have two district judges and a circuit judge, their record of cases last year was 806 cases, as against 1,044 cases in the western district. I want to say to the gentleman from Missouri that a refusal to create an additional judge in this district means, in my judgment, a substantial denial of justice, and I trust there will be no objection.

Mr. CLARK of Missouri. Why not detail one of the Philadelphia judges to go down there and hold court?

Mr. DALZELL. We have detailed at times four different judges from outside. The Philadelphia people have enough to do to take care of themselves. We have had Judge Dayton, of West Virginia, Judge Archbald, of the middle district, Judge Bradford and Judge Lanning, from New Jersey.

Mr. CLARK of Missouri. While we are at this thing, I

would like to ask the gentleman's opinion about this proposition: What is the reason we could not remodel the whole judicial system and abolish the district judges, and have them all circuit judges?

Mr. DALZELL. I think you are dead right about that.

Mr. CLARK of Missouri. They are eternally acting as circuit judges.

Mr. DALZELL. I think you are right about it.

Mr. CLARK of Missouri. I do not like the number now to be increased, but I will not object.

Mr. MACON. Reserving the right to object, I desire to say that I do not think there is any greater demand in the western district of Pennsylvania for a judge than there is a demand for additional revenue in the Treasury at this time; and being in part a representative of the whole people, and interested in the revenues of the people, I must exercise for the people the power I have as their representative to protect them against an increase of expenditures, and inasmuch as the passage of this bill will take at least $6,000 out of the revenues of the country, out of the Treasury annually, I object.

The SPEAKER. The gentleman from Arkansas objects.

Mr. DALZELL. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, to suspend the rules, and pass the bill.

The SPEAKER. The gentleman from Pennsylvania moves to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, suspend the rules, and pass the bill. Is a second demanded? If not, the second will be considered as ordered.

A second was not demanded.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

ADDITIONAL DISTRICT JUDGE FOR WESTERN DISTRICT OF WASHINGTON.

Mr. CUSHMAN. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill H. R. 27061, suspend the rules, and pass the bill.

The SPEAKER. The gentleman from Washington moves to discharge the Committee of the Whole House on the state of the Union, suspend the rules, and pass the following bill with committee amendments.

The bill was read, as follows:

A bill (H. R. 27061) to provide for the appointment of an additional district judge in and for the western district of Washington.

Be it enacted, etc., That the President of the United States, by and with the advice and consent of the Senate, shall appoint a resident of the western division of the western district of Washington as an additional judge of the district court of the United States for the western district of Washington, who shall reside in said division, whose length of term, compensation, duties, and powers shall be the same as now provided by law for the judge of said district.

SEC. 2. That the present district judge in said district and the one appointed under this act shall agree between themselves upon the division of business and assignment of cases for trial in said district: *Provided, however*, That in case the said two district judges do not agree the senior circuit judge of the ninth circuit shall make all necessary orders for the division of business and the assignment of cases for trial in said district.

The amendments recommended by the committee were read, as follows:

Strike out, in lines 4, 5, and 6, the following: "a resident of the western division of the western district of Washington as."

Strike out, in lines 7 and 8, the following: "who shall reside in said division."

The SPEAKER. Is a second demanded?

Mr. GAINES of Tennessee. I demand a second.

Mr. CUSHMAN. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Washington asks unanimous consent that a second may be considered as ordered. [After a pause.] The Chair hears no objection, and it is so ordered. The gentleman from Washington [Mr. CUSHMAN] is entitled to twenty minutes, and the gentleman from Tennessee [Mr. GAINES] is entitled to twenty minutes.

Mr. CUSHMAN. Mr. Speaker, this measure is the same bill I had up for consideration a few days ago in this House. I hope for favorable action on this bill by the House to-day. This bill does not provide for the creation of a new or additional judicial district in the State of Washington, but it does provide for one additional judge to serve in the existing western Washington district—making two judges in that district instead of one, as now.

This bill has been heartily recommended by the Attorney-General of the United States, as disclosed by his letter in the printed report upon this bill, and the bill has been unanimously recommended by the House Judiciary Committee. There is no judicial district in the United States that needs relief more than this district does.

With the permission of the House, I should like to call attention to and incorporate into my remarks upon this subject a statement showing in detail the necessity for the passage of this bill. This statement was prepared by my brother, Edward E. Cushman, of Tacoma, Wash., a leading member of the bar of the judicial district of western Washington:

REASONS WHY THE WESTERN DISTRICT OF WASHINGTON SHOULD EITHER BE DIVIDED INTO TWO DISTRICTS OR AN ADDITIONAL DISTRICT JUDGE CREATED THEREFOR.

The western district of Washington extends entirely across the State from north to south on the Pacific side, and is bounded on the south by the Columbia River, a great navigable highway throughout such boundary, and across which, in the State of Oregon, is the city of Portland, the metropolis of that State and the center of trade extending throughout the southern part of said district. The district is bounded on the west by the Pacific Ocean, with a shore line of more than a thousand miles with its indentations, and a great number of harbors put to important commercial uses, including those of Willapa, Grays Harbor, Port Angeles, Port Townsend, Bellingham, Everett, Seattle, Tacoma, and Olympia. A great part of the northern boundary of the district is also an ocean boundary, with harbors and ports. Immediately across the northern boundary are the largest cities of western Canada—Victoria and Vancouver. In the eastern part of the district are government reserves, large timber interests, and mines, the two latter largely controlled by foreign corporations.

It will be at once seen that all of these conditions especially tend to create business in the federal courts, both by reason of the exclusive jurisdiction of those courts over the subject-matter in admiralty cases, customs cases, and immigrant cases, and on account of the diverse citizenship of the litigants.

This district is divided into two divisions, legally the northern and western divisions, sometimes called the northern and southern divisions. The present court is held at Seattle in the northern division, and at Tacoma in the western division, there being nine counties in each of these divisions, and the railroads and other means of transportation centering at these two cities.

Another thing that adds to the burden of this litigation is the fact that almost all of the large industrial corporations engaged in business in Alaska either are located with their principal offices in these cities or have branch establishments there.

Another reason that such litigation has increased immensely recently is on account of the railroad construction and development in the limits of the district and State within the last three years, during that time being greater than any other State in the Union, and with the lines constructed during that time and those now in process of construction almost doubling its railroad mileage. While this of itself has greatly increased the business, it is only a small part of what that increase will be when these roads are operated, as they are integral parts of the Pacific railroads, sometimes called "transcontinental lines," including the Canadian Pacific, the Northern Pacific, the Great Northern, the Union Pacific, and other lines.

As showing the needs of this district as based on population alone, as compared with the eastern district of Washington, without any harbors or water frontier, or the litigation growing out of the same, probably the latest figures obtainable would be at the last national election. The First and Second Congressional districts in Washington lie within the western district, excepting one small, sparsely settled county. The Third Congressional District lies entirely within the eastern district. For Congressmen in the First and Second Congressional districts there were cast 104,336 votes at the last election, while in the third district there were cast but 62,488, showing a preponderance of population in the western district of almost two to one.

It is possible in other circuits often to relieve an overworked district judge by sending in a judge from another district to assist in the disposal of cases. This is practicable, because of the smaller sizes of the districts, consequently the lesser distances, and the fact of the other circuits having extra district judges in certain of their districts, as well as a number of resident circuit judges. The ninth circuit is differently situated. Its court of appeals has a great and varied jurisdiction, not only including the ordinary appellate jurisdiction over the districts of California, Nevada, Oregon, Idaho, Washington, and Montana in the strictly federal appellate jurisdictional sense, but also over the three courts of Alaska and that of the Hawaiian Islands, and also a general appellate jurisdiction in all controversies in Alaska, the Hawaiian Islands, and the ministerial courts of Asia. The inevitable result of this, not only occasioned by the great bulk of cases, but by their intricate diversity, is that the circuit judges of the ninth circuit can not and do not try or consider any cases in either the circuit or district courts in that circuit. They are constantly at work with the appealed cases brought before them in the court of appeals. In the entire circuit there is no district other than the northern district of California which has more than a single district judge. This fact and the great size and distance apart of the various districts render it so impracticable as to substantially prevent the judges of other districts rendering relief. They are not only retarded by the loss of time, effort, and embarrassment, but with no judge left during their absence in their own districts they are constantly haunted with the dread of the interests in their home district being neglected and prejudiced in some of those many emergency matters that are constantly arising.

A visiting judge is not fair, either to the attorneys of the district or the litigants, for in many cases there must be motions for new trials, some of which are bound to be granted, although part of the law of the case may have been settled by the first trial. This renders necessary the return of the identical visiting judge who tried such cases, and experience shows that it may be years before this can be accomplished.

There is an especial hardship being worked on the attorneys of litigants in the southern division of this district. The present judge is a resident of Seattle, and has been doing all in his power to dispose of the work in that division, which has been occupying almost his entire time, and leaving the work in the southern division largely to visiting judges, there being long intervals between their visits. During the year just past half of the court in the southern division was held by visiting judges. There have been in that division begun in the last half of the year just past 117 cases, but only terminated during the entire year 55; that is, during the entire year less than half of the number of cases begun in six months were tried—that is, less than 1 in 4 for the year—and of these the resident judge tried only about half—that is, 1 in 8.

Although it has been said that comparisons are odious, tables are herewith appended showing the volume of business done in such district and that in other districts, the bar committee intrusted with this matter feeling justified in so doing, as the same show, not the absence of necessity in other districts, but the greatness of the need in the west-

ern district. In these tables, which are compiled from the report of the Attorney-General of the United States covering all the districts of the United States for the years 1908 and 1907, the statistics regarding criminal cases and bankruptcy cases are omitted. There is a natural reluctance on the part of this committee to contest with other districts for supremacy either in criminal or bankruptcy records; but that is not the only reason they are omitted. It is felt that the volume of general civil business is a safer and surer guide to determine the amount of the work done and the needs. As is well known, the greater part of the work in bankruptcy cases is done by referees in bankruptcy, and furnishes no safe criterion as to the actual work done by a judge. In the criminal cases the different parts of the United States appear to have their favorite forms of crime, which throw the tables all out of balance in this particular. For instance, the internal-revenue cases in many of the Southern States are little more than police cases, many of which may be disposed of in a day. For example, as shown by the Attorney-General's report for 1908, page 117, in the western district of Virginia there were terminated 225 criminal cases of this class during the year, but of these it appears that 109 were terminated by pleas of guilty, 43 nolle prossed or discontinued, and only 29 tried. It has therefore been thought the surer guide would be a table showing the number of civil cases in which the United States was a party, the total amounts of the judgments therein, the number of all other cases, excluding criminal and bankruptcy cases, and the amounts of the judgments rendered therein.

In the following table where in any district the amounts are equal to or exceed those in the western district of Washington, the same are underscored.

In the following table the item in the Attorney-General's report headed "Pending cases" has been discarded as in no way tending to show the amount of work the court is doing or the rate at which the work is accumulating.

Name of district.	United States civil cases.		Amounts judgments in United States civil cases.	Suits in which United States was not a party.		Judgments in cases United States not a party.
	Commenced.	Terminated.		Commenced.	Terminated.	
Washington, western	60	51	$77,556.75	272	249	$694,752.96
Alabama, middle	11	3	737.35	12	7	(a)
Alabama, northern [b]						
Alabama, southern	18	11	2,154.64	52	50	105,731.00
Arkansas, eastern	18	18	5,722.46	119	204	689,482.31
Arkansas, western	11	21	6,125.75	41	30	160,433.19
California, northern	83	48	108,861.07	1,143	576	1,081,787.04
California, southern	20	17	746.66	105	76	572,701.22
Colorado	40	58	4,282.12	121	140	93,923.92
Connecticut	6	7	10.00	89	62	11,152.27
Delaware	5			113	111	181,564.75
Florida, southern	43	21		123	106	42,317.29
Florida, northern	5	3	541.60	42	23	2,202.89
Georgia, southern	7	5	1,400.00	63	53	525,586.29
Georgia, northern	129	58	1,972.60	70	74	36,672.89
Idaho	20	9	2,511.75	42	29	7,671.23
Illinois, northern	400	312	36,525.37	421	427	259,817.92
Illinois, eastern	41	38	24,278.42	420	362	84,754.19
Illinois, southern	16	10	1,321.14	74	97	28,916.63
Indiana	12	10	1,887.80	128	106	2,600,519.94
Iowa, northern	8	2	1,100.00	58	36	75,584.36
Iowa, southern	8	4	1,410.00	105	95	12,694.00
Kansas	53	18	567.50	194	216	584,369.66
Kentucky, eastern	36	25	40,483.39	130	128	215,755.60
Kentucky, western	32	53	3,000.00	84	101	56,572.10
Louisiana, eastern	13	25	7,170.62	148	162	713,661.29
Louisiana, western	25	10	8,547.60	34	21	(b)
Maine	5	5	642.50	62	51	19,209.65
Maryland	13	7	151,672.44	146	100	161,343.73
Massachusetts	38	38	8,884.43	325	238	186,009.87
Michigan, eastern	25	7		142	68	58,465.90
Michigan, western	15	3	4,248.00	22	46	26,302.25
Minnesota	43	34	6,714.48	217	194	114,675.43
Mississippi, northern	18	18	3,174.06	16	25	28,381.00
Mississippi, southern	31	10	6,998.68	118	75	104,022.04
Missouri, eastern	80	26	2,550.00	175	154	126,166.91
Missouri, western	70	90	7,000.00	278	259	3,565,936.23
Montana	17	11	5,113.56	55	72	32,282.20
Nebraska	26	32	800.00	160	119	114,073.32
Nevada				47	26	189,963.94
New Hampshire				26	27	87,563.33
New Jersey	32	25	2,795.73	351	298	152,415.71
New York, northern	6	3	237.25			
New York, southern	469	551	37,425.82	1,402	986	1,011,161.81
New York, eastern	86	62	1,104.81	447	297	88,345.11
New York, western	35	42	9,824.07	79	53	55,338.35
North Carolina, western	101	94	7,857.48	41	45	36,491.00
North Carolina, eastern	19	11	3,448.36	32	41	19,981.23
North Dakota	9	7	3,896.98	30	23	27,062.27
Ohio, northern	19	21	3,500.00	332	309	3,129,681.07
Ohio, southern	54	30	3,649.68	129	99	77,746.00
Oregon	55	16	14,912.80	139	60	163,956.17
Pennsylvania, eastern	163	125	73,563.20	359	378	1,806,255.75
Pennsylvania, middle	10	1	100.00			
Pennsylvania, western	27	31	2,045.38	325	218	732,518.02
Rhode Island	2	8	5,000.00	111	99	68,768.00
South Carolina	16	13	2,700.00	88	86	242,063.60
South Dakota	22	14	1,308.16	50	35	68,940.07
Tennessee, eastern	23	8	1,372.78	86	53	16,113.24
Tennessee, middle	10	9	122.60	41	36	21,971.90
Tennessee, western	9	12	1,522.63	62	76	38,559.47
Texas, northern	15	7	1,100.00	131	86	311,649.50
Texas, southern	13	15	1,621.62	21	25	12,461.98
Texas, eastern	18	10	2,015.54	102	111	62,878.57
Texas, western	51	18	4,950.98	72	84	38,926.63
Utah	15	14	2,999.60	64	79	48,891.00
Vermont	4	8	$2,229.98	11	14	$19,001.82
Virginia, eastern	19	7	3,073.67	121	92	57,173.53
Virginia, western	55	40	1,730.33	42	63	7,881.74
Washington, eastern	22	29	25,461.45	69	62	80,361.76
West Virginia, northern	4	4	500.00	80	67	149,135.06
West Virginia, southern	5	1	200.00	52	11	
Wisconsin, eastern	4	17				
Wisconsin, western	3	3	436.85	36	22	7,207.45
Wyoming	24	37	7,207.50	14	23	21,711.41

[a] No data. [b] Not complete.

It would appear that if the number of cases in the above classes commenced and terminated were added together it would give a composite number, tending both to show the amount of work being done and that accumulating. If this is done in the first class of cases—that is, in which the United States is a party—a comparison of the western district of Washington with the other districts will show that the number is only equaled or exceeded by that in the northern district of California, the southern district of New York, the eastern district of Pennsylvania, the northern district of Illinois, the eastern district of New York, the northern district of Georgia, and the western district of North Carolina. In each of the first five districts named there are already two or more district judges. In the remaining an examination of the Attorney-General's report will show an abnormal condition, throwing those districts out of balance in this particular, as for example, in the northern district of California, out of a total number of 131 cases of the above class, as against 111 in the western district of Washington, it will be found that the chief items of that total were cases under the 28-hour law, 33 begun and 21 terminated, while in the western district of Washington the chief item making up the total consists of miscellaneous cases. It would appear from the report that the United States in the northern district of California and the northern district of Illinois were bringing a number of test cases under this statute. It will also be observed that in the great majority of districts there was not a single case of this character. In the eastern, southern, and northern districts of New York there was not a single case. Again, in the eastern district of New York, with a total of 148 cases of this class commenced and terminated, as against 111 in the western district of Washington an examination of the report will show that 94 of the cases in that district were to cancel naturalization certificates, and a very few general cases. There was not an equal number of cases to cancel naturalization certificates, excepting in one district—the northern district of Illinois—in all the other districts of the United States put together, and in the southern district of New York there was not a single case of this character. So that it will be seen on this point that the excess in number is occasioned in these districts by temporarily abnormal conditions. In the northern district of Illinois, with a total of 712 civil cases in which the United States was a party, 580 of these were of the two foregoing kinds—that is, under the 28-hour law and for the cancellation of naturalization certificates. Something of the same kind is true in the two remaining districts, in which the total number of cases equals or exceeds that in the western district of Washington—that is, in the northern district of Georgia and the western district of North Carolina—for in the former of these two districts in these cases there were only judgments recovered amounting to $1,972.60, and in the latter district to the amount of $7,857.48, as against $77,556.75 recovered in the same cases in the western district of Washington. It is submitted that under this classification the needs of the western district of Washington are shown to be more pressing than of any other district with one district judge, and greater than some with two.

Passing now to the second column in the above table—that is, the amounts of the judgments recovered—as has been stated, the total amount of judgments in the western district of Washington aggregates for that year $77,556.75. This is greater than the totals of either the southern district of New York, the eastern district of Pennsylvania, or the northern district of Illinois, and is only exceeded in two districts, the northern district of California (where there are two district judges and one resident circuit judge) and the district of Maryland. An examination of the table will show that in these two districts there were exceptional conditions to destroy the value of the figures therefrom, for in Maryland, with only three customs cases in the entire year, there were judgments therein rendered of $150,000, and in the northern district of California in six cases under the land laws there were judgments rendered to the amount of $73,025.05. In miscellaneous cases of this class the judgments recovered in the western district of Washington were more than twice as much as those in both the latter States. It is submitted that the figures under this heading show the needs of the western district to be greater than those of any other district.

Passing to the third column or heading in the above table, covering the number of cases in which the United States is not a party, excepting bankruptcy, commenced and terminated during such year, the Attorney-General's report and the above table show the total number for the western district of Washington to be 521. The only districts in which this number is exceeded are in the eastern district of Pennsylvania, the southern district of New York, the district of New Jersey, the northern district of Illinois, the northern district of California, the district of Massachusetts, the western district of Pennsylvania, the eastern district of Illinois, the northern district of Ohio, the eastern district of New York, and the western district of Missouri. The first five mentioned of the above districts have two or more district judges. Two of the remaining have not only a district judge, but a resident circuit judge, leaving only four other districts, all of which are exceeded by the western district of Washington under the other heads of such table.

Passing to the fourth column or heading of the table, covering the total amount of judgments recovered during the year in this general class of cases where the United States was not a party, excluding bankruptcy cases, it will be seen that in the western district of Washington such judgments amounted to $694,752.96. This amount was only exceeded in the following districts: The northern district of California,

the eastern district of Pennsylvania, the southern district of New York, the western district of Pennsylvania, the district of Indiana, the northern district of Ohio, and the eastern district of Louisiana. The first three named, as above stated, have two or more district judges. The two following each have a resident circuit judge in addition to a district judge, and the others are exceeded by the western district of Washington under the first two headings in the table.

It will be seen by the Attorney-General's report and the foregoing extracts therefrom that there is but one district in the entire United States which exceeds the western district of Washington on all of the foregoing heads and that is the northern district of California, where exceptional conditions have already been pointed out as concerning the first two heads. The same is true concerning that district as to the last two. The earthquake and fire in San Francisco, situated in the northern district of California, caused many suits to be recently brought against foreign insurance companies. This, under the last two heads in the above table, throws the report out of balance, as these conditions are transitory and not permanent.

At pages 185 and 186 of the Attorney-General's report will be found a summary of all the business of all the districts of the United States. In this table, under the above headings, it will be seen that the average number of cases terminated in each district during the year was 107.4, while there were terminated in the western district of Washington 249, more than twice as many as in the average of all the districts. And yet this showing is not fair to the western district of Washington, for the reason that many of the districts had more than one district judge, and many of them had resident circuit judges. The same table will show that the average number of cases begun in each district in such time was 161.21, while there was for the same time begun in the western district of Washington 272. As above pointed out, this is a showing unfair to the western district of Washington, for although there are 85 districts, including the three divisions of Alaska, yet there are about 100 judges, which would show a still greater discrepancy.

Statement showing number of cases (not including bankruptcy cases) commenced and terminated in United States circuit and district courts for the western division of the western district of Washington, holding courts at Tacoma in the half year from July 1 to December 31, 1908, and number of cases pending on the last date.

	Number commenced.	Terminated.	Number pending December 31.
United States civil	2	6	27
Criminal	11	11	
Admiralty	8	5	25
Other civil	105	36	141
Total	126	58	193
Number of cases pending July 1, 1908			126
Increase in six months			67

It will be seen from the above that in the western division of the western district of Washington in the last six months of the year just past there were considerably more than twice as many cases begun as there were terminated.

Statement showing number of cases (not including bankruptcy cases) commenced and terminated in United States circuit and district courts for the western district of Washington in the half year from July 1 to December 31, 1908, and number of cases pending on the last date.

	Number commenced.	Terminated.	Number pending December 31.
United States civil	22	32	70
Criminal	37	37	55
Admiralty	26	19	120
Other civil	142	70	363
Total	227	158	608
Number of cases pending July 1			529
Increase in six months			79

For comparison to show volume of business in other districts per Attorney-General's report for year ending June 30, 1907 (bankruptcy cases not included).

MASSACHUSETTS.

Has one resident circuit judge and one district judge.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	61	32	98
Criminal	168	98	138
Admiralty	28	31	36
Other civil	276	189	612
Total	533	350	884

SOUTHERN DISTRICT OF OHIO.

Has one resident circuit judge and two district judges.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	36	5	35
Criminal	42	40	44
Admiralty	1	2	15
Other civil	151	139	379
Total	230	186	473

EASTERN DISTRICT OF PENNSYLVANIA.

Has one resident circuit judge and two district judges.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	122	104	128
Criminal	153	136	98
Admiralty	76	78	113
Other civil	340	286	1,050
Total	691	604	1,389

INDIANA.

Has one resident circuit judge and one district judge.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	8	7	14
Criminal	49	56	28
Admiralty			3
Other civil	112	120	206
Total	169	183	251

MINNESOTA.

Has one resident circuit judge and two district judges.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	22	15	50
Criminal	88	84	42
Admiralty	7	30	24
Other civil	255	218	497
Total	372	347	613

There is one other reason that renders our needs in the foregoing particulars greater than in most other districts. With all the mass of business that is to be dispatched, the present judge is compelled to hold his court on wheels, having terms in both Tacoma and Seattle, which occupies much time going and coming, and necessarily separates the court from its records to a certain extent, greatly embarrassing the dispatch of work.

It is submitted that it is clearly shown by the foregoing that the needs of the district are imperative and urgent, and that the amount of business pending, let alone the great increase to be anticipated in the immediate future, is amply sufficient to warrant the division of the district and the creation of separate courts, and that to give the district an additional judge at this time is simply a makeshift, affording only temporary relief, to be ultimately followed by the creation of a new district.

Mr. Speaker, This House has just passed a bill providing for an additional district judge for the western district of Pennsylvania. I was impressed by the remarks of the gentleman from Pennsylvania [Mr. DALZELL], who preceded me, detailing to some extent the conditions that exist in that judicial district. I have no doubt but that relief is needed in the shape of an additional judge for that district in Pennsylvania. I know we need relief in our western district of Washington. The House having just passed a bill providing for an additional judge in the western district of Pennsylvania, I certainly trust the House will grant us similar relief in the State of Washington by passing this bill.

I am not here to impugn the figures of the gentleman from Pennsylvania [Mr. DALZELL], but his figures, as I understood them, showed the increase of business in his judicial district between the year 1889 and the present year of 1908——

Mr. DALZELL. No; the year 1899, not the year 1889.

Mr. CUSHMAN. I stand corrected, then; I did not understand the date correctly when the gentleman was speaking. I have prepared a brief table making a comparison between the amount of litigation for the fiscal year ending July 1, 1908, in the western district of Pennsylvania, and the amount of litigation in the western district of the State of Washington, as follows:

Name of district.	United States civil cases.		Amount of judgments United States civil cases.	Suits, United States not party.		Judgments in cases United States not party.
	Commenced.	Terminated.		Commenced.	Terminated.	
Western district Pennsylvania	27	31	$2,045.38	325	218	$732,518.02
Western district Washington	60	51	77,550.75	272	249	694,752.96

I submit that these figures show at least equal need for relief in the western district of Washington as in the western district of Pennsylvania.

Mr. Speaker, I reserve the balance of my time.

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

Mr. GAINES of Tennessee. Mr. Speaker, I now yield to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, I do not know anything about the merits of this bill, nor the one relating to the Pennsylvania judge, but I do feel that it is not improper to call attention to the fact that we sit here with one-third of a quorum and pass bills by unanimous consent, to create new judges for district courts of the United States, at a salary of $6,000 each during service, and then retired on a salary of $6,000 for life, putting a charge upon the Treasury of the United States in creating these new offices without the slightest protest from Republican or Democrat.

I am not on the committee that examines the bills and can not and will not speak with reference to their merits, but I see here every day when we have up private claims that nothing except bills by unanimous consent can be considered. Claims that have been due for many years, decided favorably by the Court of Claims, unpaid for years, get absolutely no consideration, or if passed must be passed over every technical objection that can be made. I do not question the motives of the gentlemen who make the objections, because they have a right to make them. But I want to call attention to the fact that we are loading down the Treasury of the United States with salaries for district judges of $6,000 for life. We have a bill now pending proposing to increase those salaries 50 per cent; still we sit here and pass bills creating new judges without any objection whatever. I do not question the merits of the bills, because I do not know anything about them, but I am satisfied that 90 per cent of the House knows no more about them than I do. It only shows the tendency and the direction in which we are going.

Mr. MACON. Will the gentleman yield?

Mr. SIMS. Yes.

Mr. MACON. I desire to state that I objected to unanimous consent a few moments ago to the consideration of the bill offered by the gentleman from Pennsylvania, but I was not given an opportunity to object to this bill by unanimous consent, for it was presented under a motion to suspend the rules. I am not one-third of the House, and for that reason I can not prevent the passage of bills when two-thirds only are necessary to pass them.

Mr. SIMS. But the gentleman did not demand a second, and nobody else would demand it after the gentleman from Arkansas had objected to unanimous consideration, supposing he would make the demand. I know the gentleman could not have prevented the passage of the bill, but I am calling attention to the fact that when a heavy load is to be laid upon the Treasury nobody objects. If a clerk's salary is to be raised a few dollars, or a small claim put through the House, then objection is made. I have no reference to the gentleman from Arkansas——

Mr. MACON. Will the gentleman yield?

Mr. SIMS. I will.

Mr. MACON. The gentleman must make a distinction between unanimous consent and demanding a second upon a motion to suspend the rules. The gentleman knows that it was a foregone conclusion that a second was going to be ordered by a majority, if demanded, and that the bill was going to be passed by a two-thirds vote on motion of the gentleman from Pennsylvania [Mr. DALZELL]. Therefore, does not the gentleman think it would have been an act of folly for me to ask for a second and thereby waste forty minutes' time of the House when he knows that the result was going to be the same in the end?

Mr. SIMS. I can not complain about the gentleman failing to act when he knew in advance that the action would amount to nothing. I think also that he knew when he objected to unanimous consent that it would amount to nothing because it is suspension day.

Mr. MACON. I did not know that the gentleman from Pennsylvania was going to ask for a suspension of the rules when I objected. He had asked for unanimous consent; I had a voice in that matter and I used it.

Mr. SIMS. I do not want the gentleman from Arkansas to understand that I am criticising him. I think he is a full-fledged and very useful Member of the House. I am only calling attention to the action of everybody in the House, the entire body.

Mr. GAINES of Tennessee. Mr. Speaker, I yield three minutes to the gentleman from Indiana [Mr. HOLLIDAY].

Mr. HOLLIDAY. Mr. Speaker, I know nothing about the conditions in the State of Washington. I desire to call the attention of this body to the fact that only a few weeks ago this House, by a very decided vote, refused to create an additional judicial district in a State that has four times the population and three times the wealth of the State of Washington. This circumstance simply emphasizes the fact that when an entire delegation of a State can get together it can have almost anything and that no State can expect to get much recognition at the hands of this House where there is a division of opinion among its Members. The people of the State of Indiana came to this House for relief, the people of a great State represented by 13 Congressmen on the floor of this House, and we were denied it on the theory that it might possibly cost thirty or forty dollars a month to pay the salary of an assistant clerk or an assistant marshal. Now we are asked, without any opportunity of investigation, to vote not merely for an assistant clerk or an assistant marshal, but to give a United States judge to a State represented by three Congressmen on the floor of this House, a State that can not possibly do the same business, either in a judicial way or in any other way, that the great Commonwealth which I have the honor in part to represent does. I am going to oppose and vote against every proposition to create a new judge of a district until this House gets ready to do justice to the State of Indiana.

Mr. GAINES of Tennessee. Mr. Speaker, I do not personally know whether this judgeship is needed or not. The gentleman who is proposing the bill says it is needed, and I have heard no one say it is not needed, nor have I heard anyone say that Judge Hanford, for whose relief it is given, is not constantly at work; but here is what I have in mind, and what I have had in mind, about creating all of these judgeships, and that is the record of the district judges as to the enforcement of the Sherman antitrust law—the records of the southern district of New York, the State of Pennsylvania, and the State of Washington, and you might say there are other States in the same fix. Section 4 of the Sherman antitrust law provides that—

> The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain the violation of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

Mr. Speaker, I have read that section for the purpose of calling the attention of this House to the fact that that is the equity proposition that this Sherman antitrust law contains. It is the equity practice; it is not the practice in the enforcement of the criminal sections of the statute. It applies to the "circuit courts." There is not a word in the Sherman antitrust law that puts the district attorney or puts the district courts at the mercy or dictation of the Attorney-General of the United States—not a word. The district court enforces the criminal sections. Yet, Mr. Speaker, the Attorney-General's report for last year shows that there was not pending in the State of Washington a single solitary suit under the Sherman antitrust law on July 1, 1907, nor was there pending in the United States court July 1, 1908, a single solitary suit in the State of Washington under that law.

Turn over now to the State of Pennsylvania, who has just been given her additional judge, and you will find that on July 1, 1907, there was one suit pending under the Sherman antitrust law, and on July 1, 1908, there was one suit pending, possibly the same suit that had not been disposed of. Mr.

Speaker, I submit, and I resubmit for the purpose of accentuating, that the federal judges of these United States are not doing their duty in charging the grand juries to investigate the violations of the Sherman antitrust law. You need not lay it all on Attorney-General Bonaparte; you need not lay it on anybody except the district judges that are required by law to obey the law and see that it is faithfully executed. You need not lay it upon the President of the United States, who has great and additional machinery given him, together with more than $750,000 extra that we have given him, and who has great assistance in the officers we have given him, for he has caused more trust suits to be begun than any President. But I say of the judiciary of the United States, in my own State as well as yours, in every State and Territory of the United States, they have not done their duty in aiding Congress and in aiding the President of the United States to enforce the criminal sections of the Sherman antitrust law. In New York—I referred to the other day—I have the record by the Attorney-General for the last year of that court, and I find practically the same delinquency in all the districts of that State as I find in Pennsylvania and Washington and, I may say, in my own State.

Mr. Speaker, I desire to place in the RECORD the tables from the Attorney-General's report, dated December 18, 1908, to which I have alluded, covering the litigation for last year pending under the Sherman antitrust law in Pennsylvania, Washington, New York, and Tennessee.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. GAINES of Tennessee. Mr. Speaker, I do hope, I will say to my friend from the State of Washington [Mr. CUSHMAN], and I say it candidly and without the slightest idea of partisanship, that if he gets this new judge, and I take his word for it that a new judge is needed, the first thing that judge will do in the great State that bears such a distinguished name—Washington—is to see to it that the Sherman antitrust law is faithfully executed in that great State.

The tables referred to are as follows:

Eastern district of Washington.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907			10		14	4	3				5	36
Commenced during fiscal year				6	3	2	4				7	22
Terminated during same period			4	6	4	3	6				6	29
Judgments for United States			4	6		3	6				5	24
Judgments against United States					2						1	3
Dismissed or discontinued					2							2
Appealed to circuit court of appeals					2						1	3
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908			6		13	3	1				6	29
Judgments obtained favor United States			$12,742.11	$6,175.61			$5,793.24				$750.49	$25,461.45
Realized from such judgments				$4,528.39			$5,519.88				$449.60	$10,497.87
Realized from old judgments, etc.					$847.86	$1,228.02						$2,075.88

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907			4	2	2								2	10
Commenced during fiscal year			2	1	4	1							20	28
Terminated during same period			5	2	4								20	31
Convictions			3	1	3								16	23
Acquittals													5	5
Nol-pros, discontinued, or quashed			1	1	1									3
Pleas of guilty			1		3								12	16
Trials by jury			3										6	9
Pending July 1, 1908			1	1	2	1							2	7
Fines, etc., imposed during year			$1,408.70		$488.02								$6,272.80	$8,169.52
Realized on fines, etc.				$5,000.00	$488.02								$100.00	$5,588.02

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		77	77
Commenced during fiscal year		69	69
Terminated during same period		62	62
Judgments for plaintiffs		19	19
Judgments for defendants		20	20
Dismissed or discontinued		23	23
Pending July 1, 1908		84	84
Judgments for plaintiffs		$23,783.58	$23,783.58
Judgments for defendants		$36,577.18	$36,577.18

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	40	5
Filed during fiscal year	53	7
Closed during fiscal year	15	
Pending June 30, 1908	78	12
Total liabilities of cases closed	$2,745.00	
Total assets realized from cases closed	$1,528.98	

Western district of Washington.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	7		1		32	3	1				26	70
Commenced during fiscal year	7		1	5	1		1	13			32	60
Terminated during same period	4		1	5	2	3	2	6			28	51
Judgments for United States	4		1	3		2	2				17	29
Judgments against United States					1	1					5	7
Dismissed or discontinued				2	1			6			3	12
Appealed to circuit court of appeals											3	3
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	10		1		31			7			30	79
Judgments obtained in favor United States	$4,491.40		$369.94	$372.59			$174.34				$72,148.48	$77,556.75
Realized from such judgments	$2,562.40		$369.94	$372.59							$25,894.57	$29,199.50
Realized from old judgments, etc	$719.90											$719.90

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907	6	2	16										25	49
Commenced during fiscal year	9	2	15	1									39	66
Terminated during same period	5	2	16	1									39	63
Convictions	5		5	1									13	24
Acquittals			2										2	4
Nol-pros, discontinued, or quashed		2	9										24	35
Pleas of guilty	3		3										15	21
Trials by jury	3		4										4	11
Pending July 1, 1908	10	2	15										25	52
Fines, etc., imposed during year			$400.00										$3,875.59	$4,275.59
Realized on fines, etc			$142.07										$7,487.00	$7,629.07

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907	110	271	381
Commenced during fiscal year	66	206	272
Terminated during same period	63	186	249
Judgments for plaintiffs	14	29	43
Judgments for defendants	1	30	31
Dismissed or discontinued	48	127	175
Pending July 1, 1908	113	291	404
Judgments for plaintiffs	$25,060.57	$89,211.00	$114,271.57
Judgments for defendants	$112.70	$580,368.69	$580,481.39

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	86	27
Filed during fiscal year	142	68
Closed during fiscal year	71	12
Pending June 30, 1908	157	83
Total liabilities of cases closed	$770,717.09	$397,290.03
Total assets realized from cases closed	$63,244.27	$147,497.03

Eastern district of Pennsylvania.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	65	7								1	55	128
Commenced during fiscal year	75	6	3	6				3	2		68	163
Terminated during same period	87	5		4				2			27	125
Judgments for United States	69	3		4				2			20	98
Judgments against United States	2	1									4	7
Dismissed or discontinued	16	1									3	20
Appealed to circuit court of appeals	24	3		2							12	41
Appealed to Supreme Court	5											5
Pending in the United States courts July 1, 1908	53	8	3	2				1	2	1	96	166
Judgments obtained in favor United States	$47,256.00	$7,847.20		$600.00							$17,860.00	$73,563.20
Realized from such judgments	$32,601.00	$956.30		$400.00							$12,201.00	$46,158.30
Realized from old judgments, etc	$187.00										$16,027.00	$16,234.00

Eastern district of Pennsylvania—Continued.

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		12	28				6	12					40	98
Commenced during fiscal year	16	8	58	1			8	9					68	168
Terminated during same period	15	14	64				11	19					67	190
Convictions	12	12	48				10	14					56	152
Acquittals	2	2	9				1	2					6	22
Nol-pros, discontinued, or quashed	1		7					3					5	16
Pleas of guilty		3	16				3	6					12	40
Trials by jury	14	11	41				8	10					50	134
Pending July 1, 1908	1	6	22	1			3	2					41	76
Fines, etc., imposed during year	$1,525.00	$2,150.40	$12,872.00				$980.00	$470.00					$2,370.00	$20,367.40
Realized on fines, etc	$800.00	$967.18	$179.28				$675.00	$285.00					$19,468.00	$22,374.46

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907	113	1,050	1,163
Commenced during fiscal year	63	296	359
Terminated during same period	84	294	378
Judgments for plaintiffs	19	91	110
Judgments for defendants	11	72	83
Dismissed or discontinued	54	131	185
Pending July 1, 1908	92	1,052	1,144
Judgments for plaintiffs	$21,519.56	$1,784,736.19	$1,806,255.75
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	249	281
Filed during fiscal year	138	146
Closed during fiscal year	125	110
Pending June 30, 1908	262	317
Total liabilities of cases closed	$2,615,688.90	$4,343,771.09
Total assets realized from cases closed	$420,663.56	$1,354,094.37

Western district of Pennsylvania.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	2	5	1	3				3			60	74
Commenced during fiscal year	1	2	2	11			3	6	1		1	27
Terminated during same period			1	4			1				25	31
Judgments for United States				1							9	10
Judgments against States												
Dismissed or discontinued			1	3			1				16	21
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	3	7	2	10			2	9	1		36	70
Judgments obtained in favor United States												
Realized from such judgments												
Realized from old judgments, etc		$62.33	$1,983.05									$2,045.38

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		21	29	15				4					79	89
Commenced during fiscal year		6	52	7				5		20			22	112
Terminated during same period		7	63	15				4		12			27	128
Convictions		5	51	10									21	87
Acquittals		2	1	2				1		5			1	12
Nol-pros, discontinued, or quashed			11	3				3		7			5	29
Pleas of guilty		2	39	5									13	59
Trials by jury		5	13	7				1					9	35
Pending July 1, 1908		20	18	7				5		8			15	73
Fines, etc., imposed during year		$1,148.44	$5,396.61	$383.52						$263.59			$2,086.00	$9,278.16
Realized on fines, etc		$123.44	$4,678.61	$382.52						$263.59			$1.00	$5,449.16

Western district of Pennsylvania—Continued.

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	136	767	903	Pending July 1, 1907	304	158
Commenced during fiscal year	28	297	325	Filed during fiscal year	304	276
Terminated during same period	24	194	218	Closed during fiscal year	186	98
Judgments for plaintiffs	11	72	83	Pending June 30, 1908	422	336
Judgments for defendants	1	43	44	Total liabilities of cases closed	$2,101,616.66	$1,699,002.95
Dismissed or discontinued	12	79	91	Total assets realized from cases closed	$201,058.82	$299,434.24
Pending July 1, 1908	140	870	1,010			
Judgments for plaintiffs	$2,299.16	$730,218.86	$732,518.02			
Judgments for defendants						

Middle district of Pennsylvania.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907												
Commenced during fiscal year				10								10
Terminated during same period				1								1
Judgments for United States				1								1
Judgments against United States												
Dismissed or discontinued												
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908				9								9
Judgments obtained in favor United States				$100.00								$100.00
Realized from such judgments				$100.00								$100.00
Realized from old judgments, etc												

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907			18	2									5	25
Commenced during fiscal year			28	1			5		3				5	42
Terminated during same period			36	3			5		3				8	55
Convictions			30	3			2		3				5	43
Acquittals			1				3						1	5
Nol - pros, discontinued, or quashed			5										2	7
Pleas of guilty			30	3			2		3				5	43
Trials by jury			1				3						1	5
Pending July 1, 1908			10										2	12
Fines, etc., imposed during year			$382.00	$2,500.00			$35.00		$30.00				$77.00	$3,024.00
Realized on fines, etc.			$239.00	$1,500.00			$35.00		$30.00				$75.00	$1,879.00

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907				Pending July 1, 1907	32	45
Commenced during fiscal year				Filed during fiscal year	162	90
Terminated during same period				Closed during fiscal year	105	46
Judgments for plaintiffs				Pending June 30, 1908	89	89
Judgments for defendants				Total liabilities of cases closed	$720,979.54	$310,380.04
Dismissed or discontinued				Total assets realized from cases closed	$138,570.57	$80,255.91
Pending July 1, 1908						
Judgments for plaintiffs						
Judgments for defendants						

Southern district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	946	57	6								103	1,112
Commenced during fiscal year	424	18	4						5		18	469
Terminated during same period	515	11	3								22	551
Judgments for United States	150	1	1								10	162
Judgments against United States	329	3									4	336
Dismissed or discontinued	36	7	2								8	53
Appealed to circuit court of appeals	53	3										56
Appealed to Supreme Court											4	4
Pending in United States courts July 1, 1908	855	64	7						5		99	1,030
Judgments obtained in favor United States	$1,297.98	$219.86									$35,907.98	$37,425.82
Realized from such judgments	$1,010.98	$2,561.56									$557.22	$4,129.76
Realized from old judgments, etc	$75,942.53			$600.00							$10,809.88	$87,352.41

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907	7	6	21				1	69			8		54	166
Commenced during fiscal year	11	5	70	6			3	33			1	2	60	191
Terminated during same period	11	6	55	1			3	49			4		48	177
Convictions	3	3	47				3	24			2		28	110
Acquittals			1	1				1					1	4
Nol-pros, discontinued, or quashed	8	3	7					24			2		19	63
Pleas of guilty	6	4	48				3	22					50	133
Trials by jury	2	1	10					6					24	43
Pending July 1, 1908	7	5	36	5			1	53			5	2	66	180
Fines, etc., imposed during year	$1,500.00	$500.00	$3,180.29				$400.00	$1,075.00			$56,000.00		$2,310.00	$64,965.29
Realized on fines, etc.	$1,500.00		$1,910.00				$150.00	$725.00			$49,000.00		$300.00	$53,585.00

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907	1,172	12,238	13,410
Commenced during fiscal year	734	668	1,402
Terminated during same period	431	555	986
Judgments for plaintiffs	142	130	272
Judgments for defendants	73	174	247
Dismissed or discontinued	216	83	299
Pending July 1, 1908	1,475	12,351	13,826
Judgments for plaintiffs	$386,992.00	$606,667.11	$993,659.11
Judgments for defendants	$6,398.73	$11,103.97	$17,502.70

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	452	590
Filed during the fiscal year	466	461
Closed during fiscal year	345	205
Pending June 30, 1908	573	846
Total liabilities of cases closed	$10,333,709.63	$10,144,794.36
Total assets realized from cases closed	$334,679.13	$1,165,691.06

Northern district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	Twenty-eight-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	3	10	1								7	21
Commenced during fiscal year	1	1		4								6
Terminated during same period	1	1		1								3
Judgments for United States	1	1		1								3
Judgments against United States												
Dismissed or discontinued												
Appealed to circuit court of appeals												1
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	3	10	1	3							7	24
Judgments obtained favor United States		$32.70		$204.55								$237.25
Realized from such judgments		$32.70		$204.55								$237.25
Realized from old judgments, etc												

Northern district of New York—Continued.

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts).	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907	5	2	21	3			8						9	48
Commenced during fiscal year	6	2	12				1				2	4	7	34
Terminated during same period	3	4	21	2			8						5	43
Convictions	3	3	9				2						4	21
Acquittals													1	1
Nol-pros, discontinued, or quashed		1	12	2			6							21
Pleas of guilty	3	1	6				2						4	16
Trials by jury		2	3										1	6
Pending July 1, 1908	8		12	1			1				2	4	11	39
Fines, etc., imposed during year	$125.00	$1,088.66	$631.27				$250.00						$1,700.00	$3,794.93
Realized on fines, etc.	$125.00	$838.66	$130.27				$250.00						$500.00	$1,843.93

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		1	1
Commenced during fiscal year			
Terminated during same period		1	1
Judgments for plaintiffs			
Judgments for defendants		1	1
Dismissed or discontinued			
Pending July 1, 1908			
Judgments for plaintiffs			
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	191	61
Filed during fiscal year	250	39
Closed during fiscal year	194	25
Pending June 30, 1908	247	75
Total liabilities of cases closed	$1,234,654.34	$620,406.36
Total assets realized from cases closed	$179,739.84	$242,887.92

Western district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	1	1	2	1			32				16	53
Commenced during fiscal year	2		2	5			16	1	1		8	35
Terminated during same period	2		3	3			30	1			3	42
Judgments for United States	1		2	3			30	1			3	40
Judgments against United States	1		1									2
Dismissed or discontinued												
Appealed to circuit court of appeals			1				9				1	11
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	1	1	1	3			18		1		21	46
Judgments obtained in favor United States	$425.00		$2,924.08	$1,257.43			$4,109.89				$1,107.67	$9,824.07
Realized from such judgments	$425.00		$3,038.65	$1,257.43			$2,379.41				$1,033.66	$8,134.15
Realized from old judgments, etc	$2,333.13	$100.63									$1,505.33	$3,939.09

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907	1	5	10	1		1	1			7	7		12	45
Commenced during fiscal year	6	2	18	2					3		14		16	61
Terminated during same period	3	6	11				1		3	7	2		14	47
Convictions	2	3	9				1		3		2		13	33
Acquittals	1													1
Nol-pros, discontinued, or quashed		3	2							7			1	13
Pleas of guilty	2	3	6				1		3				10	25
Trials by jury	1		3								2		3	9
Pending July 1, 1908	4	1	17	3		1					19		14	59
Fines, etc., imposed during year	$200.00	$1,250.00	$1,100.00						$100.00		$5,000.00		$650.00	$8,300.00
Realized on fines, etc.	$200.00	$1,100.00	$350.00						$100.00				$1,250.00	$3,000.00

Western district of New York—Continued.

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	176	308	484	Pending July 1, 1907	178	5
Commenced during fiscal year	20	59	79	Filed during fiscal year	205	71
Terminated during same period	28	25	53	Closed during fiscal year	131	31
Judgments for plaintiffs	12	6	18	Pending June 30, 1908	252	45
Judgments for defendants	6	2	8	Total liabilities of cases closed	$1,608,229.21	$1,363,621.69
Dismissed or discontinued	10	17	27	Total assets realized from cases closed	$204,555.53	$340,432.66
Pending July 1, 1908	168	342	510			
Judgments for plaintiffs	$38,339.89	$16,970.86	$55,310.75			
Judgments for defendants		$27.60	$27.60			

Eastern district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	22	4	2								15	43
Commenced during fiscal year	23	8	1					47	1		6	86
Terminated during same period	4	5	2					47			4	62
Judgments for United States	1	3	1					47				52
Judgments against United States		2									2	4
Dismissed or discontinued	3		1								2	6
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	41	7	1						1		17	67
Judgments obtained in favor United States		$61.10	$1,043.71									$1,104.81
Realized from such judgments			$1,043.71									$1,043.71
Realized from old judgments, etc	$2,867.04		$15.57									$2,832.61

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		7	22				2						31	62
Commenced during fiscal year	19	7	31	1			1	16				1	58	134
Terminated during same period	4	6	23	1			3	5				1	33	76
Convictions	3	4	20	1			1	5				1	25	60
Acquittals	1	2	3										2	8
Nol-pros, discontinued, or quashed							2						6	8
Pleas of guilty	3	4	19	1			1	5				1	23	57
Trials by jury	1	2	4										6	13
Pending July 1, 1908	15	8	30					11					56	120
Fines, etc., imposed during year	$200.00	$1,150.00						$75.00				$100.00	$1,848.00	$3,373.00
Realized on fines, etc.	$200.00	$150.00	$500.00					$75.00				$100.00	$1,495.00	$2,520.00

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	1,622	1,533	3,155	Pending July 1, 1907	219	74
Commenced during the fiscal year	304	143	447	Filed during fiscal year	184	171
Terminated during the same period	210	87	297	Closed during fiscal year	132	32
Judgments for plaintiffs	142	15	157	Pending June 30, 1908	271	213
Judgments for defendants	7	12	19	Total liabilities of cases closed	$1,082,631.84	$2,515,124.64
Dismissed or discontinued	61	60	121	Total assets realized from cases closed	$126,941.81	$213,307.51
Pending July 1, 1908	1,716	1,589	3,305			
Judgments for plaintiffs	$57,305.98	$27,986.72	$85,292.70			
Judgments for defendants	$762.28	$2,290.13	$3,052.41			

Western district of Tennessee.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907		1		3							1	5
Commenced during fiscal year			1	5				1	1		1	9
Terminated during same period		1	1	8				1	1			12
Judgments for United States		1		6				1	1			9
Judgments against United States			1									1
Dismissed or discontinued				2								2
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908											2	2
Judgments obtained in favor United States		$81.83		$1,410.80					$30.00			$1,522.63
Realized from such judgments		$81.83		$1,410.80					$30.00			$1,522.63
Realized from old judgments, etc				$1,202.35								$1,202.35

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		35	12										5	52
Commenced during fiscal year		22	9										7	38
Terminated during same period		28	9										2	39
Convictions		9	5										2	16
Acquittals		9	2											11
Nol-pros, discontinued, or quashed		10	2											12
Pleas of guilty		2	3										2	7
Trials by jury		16	4											20
Pending July 1, 1908		29	12										10	51
Fines, etc., imposed during year		$5,894.97	$1,465.49										$213.91	$7,574.37
Realized on fines, etc		$947.17	$561.50											$1,508.67

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		47	47
Commenced during fiscal year	5	57	62
Terminated during same period	3	73	76
Judgments for plaintiffs	3	24	27
Judgments for defendants		25	25
Dismissed or discontinued		24	24
Pending July 1, 1908	2	31	33
Judgments for plaintiffs	$976.35	$37,583.12	$38,559.47
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	55	15
Filed during fiscal year	138	28
Closed during fiscal year	158	9
Pending June 30, 1908	35	34
Total liabilities of cases closed	$285,076.36	$231,729.13
Total assets realized from cases closed	$56,420.14	$80,147.67

Eastern district of Tennessee.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907			3								10	13
Commenced during fiscal year		3									20	23
Terminated during same period											8	8
Judgments for United States											8	8
Judgments against United States												
Dismissed or discontinued												
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908		3	3								22	28
Judgments obtained in favor United States											$1,372.78	$1,372.78
Realized from such judgments											$422.78	$422.78
Realized from old judgments, etc												

Eastern district of Tennessee—Continued.

Criminal prosecutions to which United States was a party. (Incudes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		23					4						4	31
Commenced during fiscal year		131	19				1			1			5	157
Terminated during same period		108	15				2						5	130
Convictions		97	13				2						3	115
Acquittals		9	2										2	13
Nol. pros., discontinued, or quashed		2												2
Pleas of guilty		87	11				2							100
Trials by jury		18	4										5	27
Pending July 1, 1908		46	4				3			1			4	58
Fines, etc., imposed during year		$20,911.85	$2,250.00				$100.00						$300.00	$23,561.85
Realized on fines, etc.														

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		156	156
Commenced during fiscal year		86	86
Terminated during same period		53	53
Judgments for plaintiffs		7	7
Judgments for defendants		10	10
Dismissed or discontinued		36	36
Pending July 1, 1908		189	189
Judgments for plaintiffs		$16,113.24	$16,113.24
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	59	22
Filed during fiscal year	153	26
Closed during fiscal year	155	21
Pending June 30, 1908	57	27
Total liabilities of cases closed	$493,013.55	$453,375.20
Total assets realized from cases closed	$41,659.65	$95,542.74

Middle district of Tennessee.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907		1									1	2
Commenced during fiscal year		1	1						2		6	10
Terminated during same period		2	1						2		4	9
Judgments for United States									1		2	3
Judgments against United States			1								1	2
Dismissed or discontinued		2							1		1	4
Appealed to circuit court of appeals											1	1
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908											3	3
Judgments obtained in favor United States											$122.60	$122.60
Realized from such judgments											$122.60	$122.60
Realized from old judgments, etc.											$1,045.60	$1,045.60

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		10	1										4	15
Commenced during fiscal year		60	14	1									4	79
Terminated during same period		35	14	1									6	56
Convictions		23	13	1									1	38
Acquittals		7	1											8
Nol pros, discontinued, or quashed		5											5	10
Pleas of guilty		20	13	1										34
Trials by jury		10												10
Pending July 1, 1908		35	1										2	38
Fines, etc., imposed during year		$2,809.00	$2,410.00										$150.00	$5,360.00
Realized on fines, etc.		$190.00	$639.80										$150.00	$979.80

Middle district of Tennessee—Continued.

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907		97	97	Pending July 1, 1907	181	8
Commenced during fiscal year		41	41	Filed during fiscal year	225	44
Terminated during same period		36	36	Closed during fiscal year	77	4
Judgments for plaintiffs		22	22	Pending June 30, 1908	329	48
Judgments for defendants		10	10	Total liabilities of cases closed	$82,100.00	$104,000.00
Dismissed or discontinued		4	4	Total assets realized from cases closed	$25,988.29	$61,499.93
Pending July 1, 1908		102	102			
Judgments for plaintiffs		$21,921.90	$21,921.90			
Judgments for defendants		$50.00	$50.00			

Mr. CUSHMAN. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. ALEXANDER] if I have that much time remaining.

Mr. ALEXANDER of New York. Mr. Speaker, it has been my fortune, or perhaps misfortune, to have been chairman of the subcommittee of the Judiciary Committee to which this bill and others of similar character have been referred for the past five or six years, and I think it due to gentlemen in the House, especially after some of the remarks that have been made, to explain why this bill is reported to the House at this time. At the last session of the last Congress the Senate passed a bill creating two additional circuit judges for the ninth circuit. It came to the House, was referred to the Committee on Judiciary and to the subcommittee of which I had the honor to be chairman.

We then declined to report it, because of insufficient evidence in the Department of Justice to warrant it, although at the time one of the circuit judges was reported ill. In order to assist the committee in its work, however, the Attorney-General agreed to make a thorough investigation of the conditions in the ninth circuit, so that the Judiciary Committee and the House itself might act intelligently if the bill again came before them. That investigation, made by one of the intelligent experts of the department, resulted in a voluminous report, many pages long, showing the absolute necessity that relief be given at least to the western district of Washington.

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

Mr. ALEXANDER of New York. Certainly.

Mr. MANN. Does the gentleman remember that last year the gentleman's committee, I think, or some other committee, reported a bill into the House to transfer Alaska cases so that they might be heard in Washington——

Mr. ALEXANDER of New York. Yes.

Mr. MANN (continuing). And not require them to go to San Francisco, and it was then stated that the judges were amply able to take care of this additional business?

Mr. HUMPHREY of Washington. May I state to the gentleman that he is talking about the wrong court?

Mr. MANN. I am talking about the same judges.

Mr. HUMPHREY of Washington. But the gentleman is not talking about the same judges. I know, because that was my bill.

Mr. MANN. The circuit court of appeals consists in part of the circuit judge of Washington——

Mr. HUMPHREY of Washington. Yes; but not the district courts.

Mr. MANN. This district judge does circuit business.

Mr. ALEXANDER of New York. The bill to which the gentleman from Illinois refers had to do with the circuit court; this deals with the district court. That bill affected the whole ninth circuit, including California and territory west of the Rocky Mountains. The pending bill has simply to do with the congested condition in the western district of Washington.

Now, then, Mr. Speaker, after the investigation and report were made, of which I was speaking, the Attorney-General addressed a letter to the chairman of the Judiciary Committee, recommending the creation of an additional district judge because of the conditions existing in that district. It ought to make no difference whether he is paid $6,000 or $9,000, or whether there are 37 circuit judges and 85 United States district judges in the country. Here is a great and growing community the business of whose courts is congested, and the question for this House to settle is, whether, after an investigation has established that fact, proper relief shall be given.

I do not recall, Mr. Speaker, that two more worthy measures have ever been presented to this House by the Judiciary Committee than the one just passed for the western district of Pennsylvania and the one now before the House, presented by the gentleman from Washington. If a new district judge was ever needed anywhere, it is in the western district of Washington.

Mr. MACON. Will the gentleman allow me to ask a question?

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

Mr. CUSHMAN. Does the gentleman desire to use any more time?

Mr. MACON. I desire to use a minute to ask the gentleman one question.

The SPEAKER. The gentleman from New York is recognized for one minute.

Mr. MACON. I desire to ask the gentleman from New York if he will not qualify his remarks concerning this bill by saying, "and the bill which is to be presented to the House in a few moments by the gentleman from New York [Mr. PARSONS]."

Mr. ALEXANDER of New York. Yes; I will include that because of congested conditions in the southern district of New York.

Mr. FERRIS. If the gentleman will yield, I would like to make inquiry about the necessity for the judge in the western district. Is the court occupied by the litigation affecting those timber grants, and to what extent?

Mr. CUSHMAN. In the western district of Washington we have litigation of all kinds. There has not been an exceptional number of cases regarding the timber grants. Does the gentleman refer to the railroad grants?

Mr. FERRIS. I refer more particularly to the resolution that was passed last year touching the cancellation and the forfeiture of those grants by reason of noncompliance with the terms.

Mr. CUSHMAN. There have been very few of those cases started in our State. There has been a considerable number started in Oregon and a considerable number started in California.

Mr. Speaker, I ask for a vote.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

ADDITIONAL JUDGE, SOUTHERN DISTRICT OF NEW YORK.

Mr. PARSONS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 19655) providing for an additional judge for the southern district of New York, and for other purposes.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint an additional judge for the southern district of New York, whose length of term, compensation, duties, and powers shall be the same as now provided by law for the judges of said district.

SEC. 2. That that part of section 613 of the Revised Statutes which reads as follows: "and at every such term held by said judge of said eastern district he shall receive the sum of $300, the same to be paid in the manner now prescribed by law for the payment of the expenses of another district judge while holding court in said district," is hereby repealed.

The SPEAKER. Is a second demanded?

Mr. GAINES of Tennessee. Mr. Speaker, I demand a second.

Mr. PARSONS. Mr. Speaker, I ask unanimous consent that the second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from New York [Mr. PARSONS] is entitled to twenty minutes, and the gentleman from Tennessee [Mr. GAINES] to twenty minutes.

Mr. PARSONS. Mr. Speaker, I have here a comparative statement of the work done by, or rather the apportionment of it to, the district judge in the western district of Pennsylvania, for which district you have just passed a bill for an additional judge; the district judge of the western district of Washington, for which you have just passed a bill for an additional judge; and each of the three district judges of the southern district of New York. Of civil cases to which the United States was a

party there were terminated last year in the western district of Pennsylvania, 31; in the western district of Washington, 51; in the southern district of New York, 551—an average of 187 per judge; that is, for each district judge of the southern district of New York, three times as many as either of the others. There were left pending in the Pennsylvania district, 70; in the Washington district, 79; in the southern district of New York, 1,030; or an average per district judge for the southern district of New York of 343, more than three times as many per judge as in either of the other districts.

In the criminal cases in the western district of Pennsylvania there were 35 jury trials; in the western district of Washington, 11 jury trials; and in the southern district of New York, 43 jury trials—an average in the southern district of 14 per judge, less than in the western district of Pennsylvania, but more than in the western district of Washington per judge. And there were left pending in the western district of Pennsylvania 73 criminal cases; in the Washington district, 52; and in the southern district of New York, 180—an average of 60 per judge in New York.

Of suits to which the United States was not a party there were disposed of in the western district of Pennsylvania, 218; in the western district of Washington, 249; in the southern district of New York, per judge, 332.

Therefore, in both civil cases to which the United States was a party and in civil cases to which the United States was not a party more cases were disposed of per district judge in the southern district of New York than in either the western district of Pennsylvania or the western district of Washington. And of criminal cases, the southern district of New York disposed of more per district judge than the western district of Washington, although not as many as the western district of Pennsylvania. And I think these statistics prove what I think my friend from Arkansas [Mr. MACON] will agree with, that the need in the southern district of New York is greater than it is in either of the other districts. Those judges were needed——

Mr. MACON. I will agree with the gentleman. I believe his bill is the best bill of the three that have been presented here on this subject this morning.

Mr. PARSONS. It could have no higher encomium.

Mr. Speaker, I reserve the balance of my time.

Mr. GAINES of Tennessee. Mr. Speaker, somewhere this report—I have not been able to find it this morning, and I believe the gentleman from New York [Mr. PARSONS] wrote it—alludes to the burden the Sherman antitrust law imposes upon the courts up there in New York. I want to call your attention to this language. Here it is, and I believe the gentleman wrote:

> So, too, the average time for trial grows longer as the issues become more complicated, as, for instance, cases arising under the Sherman law.

Now, gentlemen, I again call your attention to the fact that the Attorney-General in his last report, dated December, 1908, showed that not a single, solitary suit under the Sherman antitrust law had been brought in the southern district of the State of New York for the past year covered by that report. Now, I want to know, is it harder to do nothing than something in the State of New York in the execution of the Sherman antitrust law?

Mr. GOLDFOGLE. Will the gentleman permit me to interrupt him?

Mr. GAINES of Tennessee. Certainly.

Mr. GOLDFOGLE. Does the gentleman from Tennessee urge that as a reason to oppose this bill?

Mr. GAINES of Tennessee. Not particularly; but I just want to remind these district judges that there is such a law on the statute books as the Sherman antitrust law.

Mr. GOLDFOGLE. But I will remind the gentleman that the judges do not bring cases before themselves.

Mr. GAINES of Tennessee. That is not what I am talking about. I want them to bring them before the grand jury. They are there to hold court, and I am trying to compel your judge to charge the grand jury about crying evils that have appealed to me and have appealed to Congress. We have given money to the Department of Justice and given additional officers; we have given everything they need and all the courts need [applause], and yet, Mr. Speaker, the district judges of this country are so far removed from the people that they can not be and are not reached by the people. [Renewed applause.]

Mr. GOLDFOGLE. Notwithstanding all the gentleman has said, we need an additional judge down there in the southern district of New York, the litigation and bankruptcy business are increasing, and I am heartily in favor of the bill.

Mr. GAINES of Tennessee. If that judge would enforce the Sherman antitrust law, you would need more than one judge where this great menagerie of trusts feeds and fattens.

The gentleman, Mr. Parsons, in this report which he told me he made, alludes to the tobacco-trust case. That was tried by "circuit" judges, and you had to bring some of them from foreign sections. They took that case after argument along in April or May last year, and they did not decide it until November last. I asked some lawyers about this delay the question, What in the world was the matter, with four circuit judges, they could not dispose of that case, with every authority of law put before their eyes and splendidly argued, where the law and the facts were plain, and yet they did not act until November?

Why, they said that the regular vacation, it is stated in the gentleman's report, was two months and two weeks. I say I asked one of the counsel in that case, as I was greatly interested for the people, what was the matter with four circuit judges that they did not decide the case from April until November, and he said one would take his vacation and another would take a vacation, then all would take a vacation, and that was what was the matter. And even when they brought in the report the last judge that they put on the bench up there decided that the tobacco trust, that everybody in the United States but that judge had decided was a monopoly under that old battered-to-death Knight case, was not a monopoly.

Mr. Speaker, what I am doing is exceedingly disagreeable. I dislike to criticise my brother lawyers or the courts. I want to say that I appeal in the interest of the people of your State and my State, who are scourged by monopoly. I appeal for the upbuild of the morale of the district courts of this country. I appeal for the mighty ocean of law and order and of justice and a righteous condemnation of monopoly that Christ himself would have denounced, and I ask it in the people's interest that monopoly shall not rest upon the people's shoulders and filch from the mouths of wife and child the bread that is their due.

Mr. GILLESPIE. Will the gentleman permit me to interrupt him?

Mr. GAINES of Tennessee. Certainly.

Mr. GILLESPIE. I want to call your attention to the report of the Commissioner of Corporations on the question of monopoly in this country:

> There is an irresistible movement toward concentration in business. We must definitely recognize this as an inevitable economic law. We must also recognize the fact that industrial concentration is already largely accomplished in spite of general statutory prohibition.

Mr. GAINES of Tennessee. Exactly. Surrender, never. Monopoly exists in New York and elsewhere and is digging under the corner stone of society and the States and the Republic. These courts do not enforce the law, but let them run over the people, and this officer says we can not help it. I say, Charge the grand juries all over the country each session of court, and we will see if we must surrender.

Ah, Mr. Speaker, the statement of the corporation commissioner reminds me of a piece of poetry I learned to parse when at school:

> Wherever God's people erect a house of prayer,
> The devil always erects one there,
> And 'twill be found on examination
> That the latter has the largest congregation.

[Applause.]

Because the devil has the biggest crowd, because he has the largest audience, because he brings about desecration of the law of your country, is it any reason why we should stop printing the Bible or reading the Lord's Prayer or teaching the Ten Commandments, or for the court to omit to enforce this law? Shall we surrender? Never. I stand, Mr. Speaker, for the laws of my country, for even and exact justice. I stand for the Sherman law, and I condemn any judge, whether in Tennessee or elsewhere, or any Member of this House who does not stand the same way and see that the laws are enforced and the people protected from these creatures that flop around in the loins of the law, and who gather that in which is not theirs, but to have which makes the people poor indeed. [Applause.]

Mr. PARSONS. I now yield three minutes to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Speaker, just a few words in favor of this bill. And, by the way, I desire to say in reply to my friend from Tennessee [Mr. GAINES] that no one is more in favor of the strict enforcement of the antitrust laws, and for that matter of all laws, than myself; and in order that these laws may be enforced in the federal district having the largest population and doing the most business in the United States, the southern district of New York, it is absolutely necessary, in my opinion, that this bill should pass and that an additional district-court judge be appointed for the southern district of New York. Let me also say that I am in favor of what my friend from Tennessee [Mr. GAINES] has so eloquently stated, of trying to live up to the precepts of the Bible—the grandest book, as Lincoln said, ever given to man. I heartily concur in that, and I want to say to my friend from Tennessee that

there is no place in the world where there are so many Bibles printed and read as in the good city of New York; and in my judgment there is no city where the people, take them all in all, endeavor more earnestly to live up to the teachings of the Great Book than the city of New York. [Applause.]

But, Mr. Speaker, no more about that now. Suffice it for me to say in conclusion that this is an important bill, and I hope it will pass this House unanimously. The southern district of New York urgently needs an additional judge, and in the interest of the due and speedy administration of justice it ought to have it. [Applause.]

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

Mr. PARSONS. Mr. Speaker, I now yield three minutes to the gentleman from New York [Mr. GOLDFOGLE].

Mr. GOLDFOGLE. Mr. Speaker, the southern district of New York needs an additional judge. As one who has had a large experience in legal matters in that State, I want to say to this House that the judges of the southern district of New York have worked faithfully and well and the calendars are crowded. The people are entitled to have the litigation disposed of speedily and as rapidly as can be done consistent with fairness and justice. The bar of the State of New York are heartily in favor of this measure. The merchants and business men of New York who are interested in general litigation, as well as in bankrupt matters, of which there are a great many, demand that there should be an adequate and sufficient force of judges in the southern district of New York.

I would not stand upon this floor and urge the passage of the bill if I did not, through experience and observation, realize the absolute necessity for the measure, and because of such necessity I advocate the passage of the bill.

The gentleman from Tennessee [Mr. GAINES] has undertaken to treat us to a dissertation upon the Sherman antitrust law. I will say to him that if there be crime committed in the southern district of New York and such crime is brought to the attention of the grand jury in a proper way, the judges there, who are able and painstaking and willing to work, will discharge their duties to the satisfaction of the people and the country. [Applause.]

Mr. GAINES of Tennessee. Mr. Speaker, I now yield five minutes to the gentleman from New York [Mr. COCKRAN].

Mr. COCKRAN. Mr. Speaker, I take it from what he has said that the gentleman from Tennessee [Mr. GAINES] is in no way opposed to the passage of this bill. I am in hearty sympathy with much that he has stated concerning the failure of our courts to deal effectively with a certain class of crime. I do not agree with the gentleman from New York, my colleague [Mr. GOLDFOGLE], that it is the duty of a judge to wait for an accusation by or against anyone before putting the criminal law in motion. It is his business to initiate proceedings when necessary to the vindication of justice and full enforcement of law by charging the grand jury to investigate any conditions likely to show the commission of crime in the territory over which he has jurisdiction. Even though a district attorney be derelict, there is power left in the courts to force action by directing the grand jury to proceed and make investigation on its own motion where there is reason to suspect that the law of the land has been violated.

Mr. GOLDFOGLE. Will the gentleman yield?

Mr. COCKRAN. Certainly.

Mr. GOLDFOGLE. I want to say to my colleague that I do not wish to be understood as meaning that the judge should not charge the grand jury on the subject of crime. Of course it is the duty of the judge to charge the grand juries as to their duty to find indictments against violators of the law, and to point out laws said to have been violated, and to insist upon a rigid investigation into alleged commission of crime.

Mr. COCKRAN. I hope, Mr. Speaker, this is not to be taken out of my time.

Mr. GAINES of Tennessee. Why, then, do not the judges do it?

Mr. COCKRAN. Mr. Speaker, I do not differ at all from the statement of the gentleman from New York as to his own position as he defines it now, but he criticised the gentleman from Tennessee [Mr. GAINES], as I understood him, for finding grave fault with the failure of our judicial establishment to deal with a certain class of crime. In everything the gentleman from Tennessee said on that head I concur unreservedly.

Now, Mr. Speaker, it is largely because I believe there have been many failures by the courts to enforce certain provisions of law that I am perfectly ready to concede the necessity of an additional judge in the southern district of New York. Indeed, I think we want many more than one additional judge. In any political society where adjudication of controversies between its members must be delayed for years, or even for months, I do not think the condition of such a community can be considered fully civilized.

Mr. GAINES of Tennessee. Will the gentleman yield? Does the gentleman think that the district judges in the city of New York should charge the grand juries to investigate the Tennessee Coal and Iron merger?

Mr. COCKRAN. Mr. Speaker, I think they should charge the grand jury to investigate violations of every law on the statute books, including that particular law the gentleman mentions. [Applause.] I think that the first business of a court when it impanels a grand jury is to charge that grand body to investigate every violation of any criminal statute. If there be reason to suspect the existence of a crime, such as was established in the case mentioned by the gentleman from Tennessee, according to the conclusions of the circuit court itself, the grand jury should be charged to investigate those facts. If the district attorney fail to take the initiative, the grand jury should be directed to act under guidance of the court. That is a familiar principle in the administration of criminal law.

Mr. GAINES of Tennessee. Will the gentleman tell the House and the country why the judges have not charged the grand juries as to the Tennessee Coal and Iron merger?

Mr. COCKRAN. Mr. Speaker, I can not explain why the judges have failed——

Mr. GAINES of Tennessee. Did they not know it up there?

Mr. COCKRAN. I can not explain why the judges have failed to take certain action; but this much I do know, that the pressure of business might be assigned as an excuse for it, and I am anxious that this ground of excuse be reduced, even if it can not be entirely removed. Given the most industrious judges in the world they could not dispose of the business on that calendar now without a delay of many months—indeed, of many years—and that delay is, in my judgment, not merely an injury to litigants—it is a blot on our political system, a stain on our civilization. I repeat, Mr. Speaker, no country can be counted entirely civilized where the adjudication of controversies must be delayed over several years. I say there is only a very slight degree of difference between justice sold and justice long delayed. Here we have justice delayed over months and years, and the only prospect of relief in any form lies in adopting this proposal now before the House. It is not a complete remedy, it is not an adequate remedy, but I welcome it for what it is worth, and therefore I echo the hope expressed by my colleague from New York [Mr. SULZER], that this bill will pass without a single dissenting voice. At the same time I venture to express an earnest hope that this House or the next House will take effective measures to establish some form of judicial procedure which will enable every controversy begun in a court of the United States to be heard and finally determined within a specified and reasonable limit of time. [Applause.]

Mr. GAINES of Tennessee. Mr. Speaker, I want just to make a little statement, and then I am through. It is the duty of the district judge when he knows that there is "probable cause to believe" that a violation of law has been committed to charge his grand jury to investigate it. Is there a man in this House that challenges me in that statement? It is laid down by the Supreme Court of the United States in the Licorice Trust case (201 U. S. R., p. 43, Hull *v.* Hinkle), and that has always been the law in this country. Yet they have not charged the grand jury in New York as to the tobacco trust matter, though already enjoined by the federal circuit court—three judges out of four deciding it was a violation of this law, of dangerous capacity and action. They have not charged the jury on the Tennessee Coal and Iron merger, and that occurred in November, 1907. The New York district courts have been silent in these cases—have failed to do their duty—though there is more than "probable cause to believe." The gentleman asks me if I am criticising the judge for not charging the grand jury, and I say that I am; and I now ask him, the gentleman from New York [Mr. GOLDFOGLE], why his great judges have not charged the grand jury as to the tobacco trust case and as to the Tennessee Coal and Iron merger, and I yield the gentleman one minute to tell the House why they have not done so.

Mr. SULZER. Get up and tell him they are too busy.

Mr. GAINES of Tennessee. Now, Mr. Speaker, if they had charged the jury under this law as they should have done and the federal judges all over this country, I would have been glad to have remained silent and not have brought to the attention of this country these delinquencies about which this Congress is complaining, and about which the people of this country are wondering. So far as I am concerned, Mr. Speaker, I take it that when this New York judge is

appointed he will be one of four to charge the grand jury to make these investigations, and if the district attorney and these judges do not do their duty they ought to be impeached. Why has not the grand jury itself acted? The grand jury can do so, whether the court charges it or not, and the Federal Supreme Court so held in the Henkle case I already cited. The grand juries have been silent and seem to be dominated by the district attorneys. The district attorney has been silent, and the district judges have been silent. My God, why such silence in New York City, the great hatchery of monopoly? Why silent anywhere, for unlawful trusts are in the saddle all over the land. [Applause.]

The SPEAKER. The question is on the motion of the gentleman from New York to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

REGULATION OF COMMERCE.

Mr. TOWNSEND. Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I move to suspend the rules and pass the bill (H. R. 27894) amending an act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, approved June 29, 1906, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That paragraph 7 of section 20 of an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906, be amended so that said paragraph as so amended will read as follows:

"PAR. 7. Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the commission, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, or documents of carriers which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved."

The SPEAKER. Is a second demanded?

Mr. RYAN. Mr. Speaker, I demand a second.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Michigan asks unanimous consent that a second may be considered as ordered. Is there objection? [After a pause.] The Chair hears none. The gentleman from Michigan is entitled to twenty minutes and the gentleman from New York to twenty minutes.

Mr. TOWNSEND. Mr. Speaker, under the interstate-commerce law the railroads are forbidden to destroy any record, paper, or memoranda of any kind whatever. It was not thought at the time of the passage of the law that there might come a time when these immaterial papers, those no longer useful to the Government, would accumulate in such large quantities as to be an actual burden to the railroads and without any possible advantage to the people. Therefore the commission have asked that they be given authority to permit the destruction of certain papers or memoranda and other records which, in their judgment, are no longer needed and prescribe a time during which the railroad companies must keep all records. I can not better illustrate the need of this measure than to ask the Clerk to read Commissioner Harlan's letter to Congressman MANN, which sets forth the case in full.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, February 6, 1909.

DEAR MR. MANN: I address this letter to you in the hope that you may find the matter of interest and that it may enlist your aid. It is certainly one that demands prompt attention.

The twentieth section of the act to regulate commerce contains a paragraph making it a misdemeanor for any person, among other things, to destroy any account, record, or memoranda of the facts and transactions kept by a common carrier. For your convenience I inclose a copy of the paragraph in question. The result of the provision has been to impose a very great hardship upon the railroads. As you will observe, it is both peremptory and comprehensive, and under its terms the carriers have felt that they could not destroy any of their records of any kind. We have been appealed to for relief. Railroad documents and papers accumulate in almost inconceivable numbers in short periods of time. If I am not mistaken, it was stated by an official of the Pennsylvania Railroad that its waybills accumulate to the extent of several millions a month. And it has been compelled to rent warehouses in which to store such documents in order to comply with the requirements of the paragraph to which I refer. The same is true of other carriers; all are finding it most burdensome to comply with that provision in the law.

The commission, in its last annual report, as you will see at page 87, recommends that authority be given it to issue orders from time to time prescribing the documents that may be destroyed after a given period and also prescribing the period of time during which documents shall be retained. And we very much hope that some amendatory act will give us the power to relieve the carriers of this unnecessary burden. We would, of course, act only after a very careful consideration of the matter, and would prescribe a definite period of years—in some cases as much as twenty years—for the preservation of documents that ought to be available for such periods of time. There are many documents, however, the force and effect of which is carried into books of account or otherwise recorded and become useless after one year, or even shorter periods of time. There are many duplicates that could be destroyed after a period, even, of six months.

I venture to inclose a draft of a bill covering my personal view of the amendment that should be made, and although I understand that it is not likely that any special legislation will be enacted at this session, it would, in my judgment, be a real public service if some such measure could be put through.

I shall be in conference on Monday and Tuesday, and leave on Tuesday night for the West. But should you care to have further information and will write me to that effect here, Mr. Adams or some one else who is familiar with the matter will call upon you.

Very sincerely, yours,

JAS. S. HARLAN, *Commissioner.*

Hon. JAMES R. MANN, M. C.,
House of Representatives, Washington.

Mr. TOWNSEND. Mr. Speaker, unless some one desires to ask a question, I reserve the balance of my time.

Mr. RYAN. Mr. Speaker, I do not desire to have anything to say on this bill, except this: That it is a unanimous report from the Committee on Interstate and Foreign Commerce. There is no appropriation carried with it; it is simply to permit the railroads of the country to destroy useless papers under the direction of the Interstate Commerce Commission, papers that they now are required by law to retain in their possession. The bill is entirely proper, in my opinion, and there should be no opposition to it.

Mr. TOWNSEND. Mr. Speaker, I ask for a vote.

The question was taken; and in the opinion of the Chair two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 1574) to create the Calaveras Bigtree National Forest, and for other purposes.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 8510) to extend the time of payments on certain homestead entries in Oklahoma.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 8899) granting pensions and increase of pensions to soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors, and asked for a conference with the House on the amendments, and had appointed Mr. MCCUMBER, Mr. SCOTT, and Mr. TALIAFERRO as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendments of the House to the amendment of the Senate to the bill (H. R. 21926) for the reorganization of the militia in the District of Columbia.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 19662. An act to amend an act entitled "An act to establish the Foundation for the Promotion of Industrial Peace;

H. R. 18487. An act for the relief of Charles H. Dunning;

H. R. 17214. An act for the relief of Harry Kimmell, a commander on the retired list of the United States Navy;

H. R. 26216. An act to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, to the Territories of New Mexico and Arizona;

H. R. 25805. An act to reenact and to amend sections 3646 and 3647 of the Revised Statutes;

H. R. 16274. An act to amend section 10 of chapter 252, volume 29, of Public Statutes at Large; and

H. R. 25552. 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.

The message also announced that the Senate had passed bills and resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8441. An act to authorize the Secretary of the Interior to cause to be surveyed any unsurveyed lands belonging to the Five Civilized Tribes, and for other purposes;

S. R. 127. Joint resolution authorizing an extension of the tracks of the Atchison, Topeka and Santa Fe Railroad on the military reservation at Fort Leavenworth, Kans.;

S. R. 128. Joint resolution authorizing the Secretary of War to donate four condemned cannon to the county of Warrick, in the State of Indiana;

S. 6971. An act authorizing the acceptance by the United States Government from the Woman's Relief Corps, auxiliary to the Grand Army of the Republic, of a proposed gift of Andersonville prison land, in the State of Georgia; and

S. 6935. An act for the relief of the Merritt & Chapman Wrecking Company.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 8898. An act granting pensions and increase of pensions to certain soldiers and sailors of the late civil war and to certain widows and dependent relatives of such soldiers and sailors;

S. 8254. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain dependent relatives of such soldiers and sailors; and

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. DANIEL L. D. GRANGER, late a Representative from the State of Rhode Island.

Resolved, That a committee of seven Senators be appointed by the presiding officer, to join a committee appointed on the part of the House of Representatives, to attend the funeral of the deceased at Providence, R. I.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

And that in compliance with the foregoing resolutions the Vice-President had appointed Mr. ALDRICH, Mr. WETMORE, Mr. BURROWS, Mr. MONEY, Mr. CLARKE of Arkansas, Mr. TALIAFERRO, and Mr. TAYLOR members of the committee on the part of the Senate.

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

H. R. 27311. An act 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."

ENLARGING INTERSTATE COMMERCE COMMISSION.

Mr. STEVENS of Minnesota. Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce I ask that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill H. R. 28072, the rules be suspended, and the bill be put upon its passage.

The SPEAKER. The gentleman from Minnesota, by direction of the Committee on Interstate and Foreign Commerce, moves that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the following bill and that the same do pass. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 28072) to enlarge the Interstate Commerce Commission.

Be it enacted, etc., That section 24 of the act to regulate commerce, approved June 29, 1906, be, and is hereby, amended so as to read as follows:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of nine members with terms of seven years, and each shall receive $10,000 compensation annually. The qualifications of the commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1915; one for a term expiring December 31, 1916. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than five commissioners shall be appointed from the same political party."

The SPEAKER. Is a second demanded?

Mr. ADAMSON. Mr. Speaker, I demand a second.

Mr. STEVENS of Minnesota. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Minnesota is entitled to twenty minutes and the gentleman from Georgia to twenty minutes.

Mr. STEVENS of Minnesota. Mr. Speaker, this is a bill to enlarge the Interstate Commerce Commission by adding to it two members. In the railroad rate bill which passed this House in 1906, known as the "Hepburn bill," there was a provision for 9 commissioners. The Senate insisted that the number be reduced to 7. That opinion prevailed, but the subsequent course of business before the commission has shown the wisdom of the action of the House. The report of the commission filed on the 24th day of December last showed that during the last year there was an increase of business over the year before in formal complaints of about 33 per cent; of informal complaints, over 100 per cent. That proportion of increase of business, important and unimportant, will probably continue so far as we can foresee into the future. In addition to that most important and, indeed, main business of the commission, Congress has placed upon the Interstate Commerce Commission a great deal of responsibility in addition to the administration and enforcement of the rate law, such as laws regulating traffic in interstate commerce, laws regulating the enforcement of safety appliances and the experiments upon safety appliances, the law regulating the hours of labor in transportation known as the "sixteen-hour law," the law governing the transportation of explosives, the law regulating the street-car business in the District of Columbia, and various miscellaneous matters.

Also Congress has ordered, from time to time, investigations of various sorts, and sometimes of great importance, by the Interstate Commerce Commission. Some are pending now. Many investigations are ordered by the commission itself, upon its own initiative, which are always liable to involve matters of very great importance and to require a large amount of time. In addition to these classes of public business, the commission is obliged, from time to time, to take up other matters of great importance, like that of uniform bills of lading, which involve the vast commerce of the country and where a great deal of time and attention are necessarily given by the commission. Then, the commission is seeking to bring about a uniform classification of freight and a physical valuation of all railroad property. Now, all of these things require a great deal of work by the commission, and every subject is of tremendous importance, present and future, to our people. Now, those of you who have watched the business of the commission during the last year will know that a great many of these investigations and examinations have not been able to be made by members of the commission themselves.

The commissioners have been obliged, owing to the great pressure of business, to have many of these important investigations conducted by examiners employed by the commission, who are not responsible to the Congress at all, who are mere employees and subordinates of the commission, and we deem it necessary that these investigations, that these great questions before that commission, be examined and personally determined in the proper way by the proper officials, whom we designate and who are accountable to us, and that the commission should have sufficient force to do that very work, however much may accumulate through pressure of business or may be ordered by Congress.

Now, I will yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Will the gentleman explain what an informal complaint is?

Mr. STEVENS of Minnesota. It is a complaint filed orally or by letter, and not in the form that is usually presented to the commissioner by trained lawyers, and upon forms prescribed by practice or the commission.

Mr. MADDEN. As to an overcharge in freight?

Mr. STEVENS of Minnesota. Anything of that kind.

Mr. MADDEN. Will the gentleman tell the House how many corrections have been made in the rates of freight fixed by the railroad companies on complaint to the commission during the last year?

Mr. STEVENS of Minnesota. The report shows that during the last year 4,640 were filed. There were 3,515 of these adjusted by the commission and 27 transferred to the formal docket and there are 1,288 yet pending.

Mr. MADDEN. Will the gentleman tell the House what good could come from the increase in the number of the commissioners until the commission is given sufficient power to fix the freight rates before they go into force and are obliged to wait for the complaint?

Mr. STEVENS of Minnesota. Mr. Speaker, I thought I made

that clear. The commission has this great variety of work to do that is now prescribed by law. This vast mass of complaints, concerning all sorts of subjects, is forwarded to the commission, very many every day. It is necessary for the vast business of the country to be properly transacted that these complaints be acted upon at once. The commission has done the very best it could, and is handling rapidly and satisfactorily this vast mass of business. In the meantime there is the enforcement of this great variety of other laws that must be looked after at once, in order to make them of any use to and properly protect the people. Now, this enforcement must be supervised by the commissioners themselves. It will not do to have the enforcement of a bill like the bills regulating the hours of labor, regulating safety appliances, or the carriage of explosives, by subordinates. These matters are of great importance, and people want that work done by men of character and ability, nominated by the President, confirmed by the Senate, and responsible to Congress. And for that reason the business can not be well done in the future unless this number of commissioners be increased.

Mr. MADDEN. Is it not a fact that the most important duty intended to be imposed upon the commission was the regulation of railroad freight rates, in which every citizen of the country is interested?

Mr. STEVENS of Minnesota. Yes, Mr. Speaker, that is the bulk of their work.

Mr. MADDEN. Do they regulate the freight rates?

Mr. STEVENS of Minnesota. Why, yes. They regulate them as well as they can.

Mr. MADDEN. Can they regulate them?

Mr. STEVENS of Minnesota. Yes. They are giving very good satisfaction within the scope of the duties that they have impressed upon them.

Mr. MADDEN. Have they any power to regulate them under the law?

Mr. STEVENS of Minnesota. Why, yes.

Mr. MADDEN. What are the powers?

Mr. STEVENS of Minnesota. Mr. Speaker, that does not come within the scope of this bill, but I will be glad to tell the gentleman. When a complaint comes before the commission involving the reasonableness of the rate, they have a right to fix the rate. That was the essence of the Hepburn bill passed by Congress in 1906.

Mr. MADDEN. Have they any power except when a complaint is filed?

Mr. STEVENS of Minnesota. Certainly. Complaint must be filed preliminary to a hearing.

Mr. MADDEN. It takes generally about a year or two before the case is tried, and conditions have all changed before the case is heard.

Mr. STEVENS of Minnesota. The report of the commission does not show that, but just the contrary stated by the gentleman. The commission is doing the best it can with the facilities at hand, and it has heard the cases and has decided the great bulk of them.

Mr. SIMS rose.

Mr. STEVENS of Minnesota. I yield to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Is there any limit as to the age of gentlemen who may be appointed on this commission?

Mr. STEVENS of Minnesota. No; not in the law.

Mr. SIMS. Does not the gentleman think there ought to be a limit? If the work is so great it can not now be discharged by the seven men there, that there should be a limit, and no one should be appointed on the commission who is over 50 years old?

Mr. STEVENS of Minnesota. Some of the best men on that commission are over that age, and we would not undertake to place that arbitrary limit. I think that has been one of the chief objections in the civil-service regulations that have been effective throughout the country—the arbitrary age limit, excluding some of the very best obtainable talent in the country.

Mr. SIMS. The gentleman has made an argument here in support of his bill based upon the statement that they are physically and mentally incapable of doing the vast amount of work.

Mr. STEVENS of Minnesota. Oh, I dislike to have the gentleman quote me unfairly.

Mr. SIMS. Why not have a limit upon the age which will guarantee to the public vitality, physical and mental, so that they may discharge the duties of the position.

Mr. STEVENS of Minnesota. There has been absolutely no complaint about the personnel of this commission. They are good men—able, competent, hard-working men. They are doing the tremendous work imposed upon them, and they are doing it well, as satisfactorily as can be expected considering the great difficulties of that work. The only relief that is possible is to give them a sufficient number, so that the work can be properly done.

I yield two minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, I think that before any bill is enacted into law creating additional Interstate Commerce Commissioners the commission which is now in existence ought to be given the power to do the things for which it was originally created, namely, to decide what a reasonable rate is before the railroads of the country are allowed to put that rate into force. Until that is done, any addition to the membership of the commission will simply be an addition to an already useless expense. The most important thing to-day before the American people is the question of whether the railroads are to be permitted to tax the people to the extent of their desires. The purpose of the establishment of the Interstate Commerce Commission originally was to prevent the railroad companies from exacting unjust railroad rates. Since the enactment of the so-called "Hepburn law" the railroad companies have increased indiscriminately, unjustly, and unjustifiably the railroad rates throughout every section of the Union, and the Interstate Commerce Commission as at present constituted is powerless to regulate these rates before they become effective.

Mr. STEVENS of Minnesota. Will the gentleman from Georgia use some of his time?

Mr. ADAMSON. Mr. Speaker, the purpose of this bill is to add two members to the Interstate Commerce Commission, making the number nine instead of seven. Ordinarily I am not in favor of enlarging the size of commissions nor increasing the number of officers nor their salaries. When the number was increased to seven I opposed it, believing that five competent men would form an efficient and satisfactory commission, but increasing the powers of the Interstate Commerce Commission has very materially increased their work. They are compelled to make numerous investigations of very important and laborious character. Their hearings are numerous, requiring much time and considerable study. Of course enlarging the number would not operate to relieve the situation if the commission were required to sit together in all hearings and investigations, but that is not necessary. On the contrary, the members divide up into sections, and often have different hearings going on at the same time in different parts of the United States. The enlargement proposed in this bill will enable the commission to separate itself into three subdivisions of three members each, so as to conduct three hearings and investigations at the same time. The large majority of the matters coming before them will not demand the united attention of the entire commission, but only matters involving differences of opinion need be referred to the full commission, so the different subdivisions of three members, each disposing finally of the consideration of numbers of matters, will leave a much smaller number involving such difficulties and disputes as to require consideration by the entire commission. Much more work can thus be done, and it is absolutely necessary that much more should be done in order that the benefits hoped for may be realized from our rate legislation.

We hear and read a great deal of late about the defects in that regulation. Of course the particular corporations whose conspicuous misdeeds contributed most to make rate regulation necessary objected most strenuously to that or any other regulation, and they did not set out to be satisfied with that or any other regulation. They deny their public capacity, they deny that they have any reciprocal obligations to the public in turn for the franchises and monopolistic privileges which they enjoy. In effect, they claim that the transportation of freight or passengers is an insensate commodity, to be disposed of on the market like other merchandise, combating flatly the well-established and fundemental doctrine that their relationship to the public is practically the same as that of any other officer charged with the responsibility of performing service for the public. I do not think that all corporations profess these opinions, nor do I believe that all corporations render such legislation necessary. As corporations are owned and conducted by mortal men, they are good or bad according to the character of the men who control them. Of course different men expected to accomplish different things by the attempted rate regulation. Different reformers desired different reforms to remedy different evils. I did not pose as a professional rate reformer myself, but sought correction of specific evils. I have always believed that all the people of this country were alike fellow-citizens, with the right to live and move and have their being, and own any kind of legitimate property that they were able to own, carry on any

kind of lawful business, and not only be protected in their holdings and operations but also enjoy the right to participate in the Government, and vote and petition, and speak and write, and exercise their influence in all legitimate ways in the consideration of all legislation affecting their own property or the property of their fellow-citizens without regard to kind or character, whether real, personal, mixed, rolling, stationary, on paper, or on the ground. There were some practical questions of vital importance to a great many local communities. For some reasons, possibly one of them being the consolidation and remoteness of ownership, which rendered it impossible for the owners and bondholders to see far enough to discover local trouble, local injustice, and inconvenience were inflicted on many communities.

Good towns, with large commerce and intelligent population, having much business abroad and often visited by many people from abroad, were unjustly discriminated against. Some of them by consolidation were bottled up, deprived of necessary passenger and mail facilities, and charged a higher freight rate than was charged to haul the same goods in the same direction through those towns and on to more distant points. Those were the main difficulties that fell under my observation and moved me to support an amendment authorizing the Interstate Commerce Commission to correct those evils. The evil as to passenger and mail connections was partially due to the effort to make fast schedules for through trains. Of course that is important to people who want to hurry across the country for long distances with as much haste and as little discomfort as possible, but they are not the people who control the legislative and legal and judicial and commercial weather for the railroads. The Boston drummer or the California or Florida tourist have very little influence with that local sentiment which must exist in whatever humor in a thousand localities between Boston and San Francisco. To that local sentiment the carriers are beholden in many ways. If their managers were wise enough to take notice of it and show a little intelligent consideration for the wishes and conveniences of the people living around those local stations a mere trifle in expense or apparent loss of revenue would produce a degree of popularity and prosperity all along the line that would be pleasing and profitable to the carrier, decrease the number and the character of complaints, minimize the amount of regulation demanded, greatly reduce the amount of litigation, and reverse the character of the verdicts. It is a matter of constant wonder to me that some of the carriers are so stupid or obstinate as to fail to see the facts here referred to.

There is one great mistake, in my judgment, the railroads make that adds to the difficulty and discontent about freight rates. When they pretend to operate on a mileage basis they do not make the initial charge large enough to permit of proper gradations in the charges to successive stations on long routes. They fail to take into consideration and charge enough for the initial care and handling and the terminal care and unloading. Those items are substantially the same for all distances and make up really the most troublesome part of the carrier's duty in handling freight. If a proper charge were made to begin with—for instance, to the first station on the line—then an infinitesimal addition in the rate to all successive stations would aid very materially in solving the problem of fair rates to all stations and minimize the danger of complaints against that evil, always obnoxious—discrimination in rates between two neighboring stations. Nothing in my mind can make a jobber lose his temper quicker or more justifiably than for a train of cars coming from the same point to leave for him a carload of goods and then run on to a station 40 miles farther in the same direction and leave another car at a rate of freight so much less that the latter consignee is able to ship back on a local train and undersell the first-named jobber in his own town. There is only one other thing that approximates it in wrath-producing efficiency, and that is for a number of good towns, who care more for communication with their county seats, their state capitals, or their immediate markets than they do for mail from Boston or passenger connections across the continent, to have to wait half the day or half the night, often without certain knowledge of the exact time to be lost, for a train either to take them home or to bring them their mail, or pay them, laid out on a side track.

A little intelligent good sense would have relieved all of these troubles and helped the carriers in every respect in proportion as they benefited and pleased their local patrons. "There is that that scattereth abroad and yet maketh rich; there is that withholdeth more than is meet, yet tendeth to poverty." There were other reformers who saw a great many other evils and sought to correct them. Well, I have no disposition to oppose any of those reforms, but I did not think it proper to devote time and attention to them at the expense of those that I considered more important. For instance, there is a great outcry about watered stocks and bonds and overcapitalization. The law undoubtedly ought to provide ample means for punishing surely, swiftly, and severely all the malefactors who swindle their fellow-men in that or any other way.

It is undoubtedly an outrage utterly inexcusable to burden legitimate traffic with exactions to pay unearned returns on entirely fictitious capital. Of course the doctrine of selfishness, coupled with power, alone supports the outrage, as in the case of some other vicious practices conspicuous of late years in this Government where certain people are permitted by law to destroy for their own benefit the business and opportunity of their fellow-citizens. A striking instance is the case of robber protective tariff which prostitutes the taxing function of the Government so as, without putting one dollar into the Treasury of the country, to compel honest industry to pay enormous tribute to government favorites or go out of business, or pay enormously higher for the necessaries of life than in the natural course of honest trade they would have to pay but for the dishonest and unnatural scheme foisted upon them to force them to pay unjust prices to such special beneficiaries.

There are other reformers who devote attention to seeking physical valuation of railroad properties. That is all right for some purposes. When you know how much a road is worth you are in possession of one important circumstance to enable those charged with that duty to pass on the proper rate and facilities that should be required on that road; but that fact in itself does not alone furnish an infallible basis, because one road running directly between two points which are connected by another road over a more circuitous route may not have cost near so much as the longer road, and yet, by its facility to transact business more rapidly and cheaply, it may be more valuable than the other, if judged by its net income, which would appear to me to be a more proper criterion. It is also valuable to have such valuation for the purposes of just and fair taxation. It is darkly insinuated that some railroad men are as bad as other folks about dodging their taxes. That is another place where the same kind of human nature crops out, and a man who cultivates a studied reserve about extravagantly pricing his property is as liable to withhold from the Government taxes due on railroad property as are other people in case of land, jewelry, or any other property.

There is another noticeable matter. When the Hepburn rate bill was under consideration, for several years violently opposed by various railroad authorities, it was denied that the Federal Government had anything to do with them, and they were the most patriotic, democratic, local self-government, liberty-loving, state-rights advocates I ever heard talk. We understood that if they were rid of free passes a 2-cent passenger rate would afford satisfactory returns; that counting out the deadheads they hardly realized 2 cents a mile on their passengers; that even as it was, hauling deadheads, many passenger trains ran through the country with only a small per cent of the seats occupied. When we adopted the Hepburn bill, we did not merely authorize the railroads to abolish free passes, but actually did it for them, and the States began to provide for the reduction of passenger rates.

Then those self-same railroad magnates became the most violent federalists and resisted in the federal courts the action of the very state sovereignties which they had formerly lauded, and when it was proposed in Congress to provide for uniformity as to lower rates those same magnates appeared with the most lugubrious countenances to make prolonged and wailing protestations as to the utter ruin facing carriers if compelled to adopt a lower rate. Yet, strange to say, the strong roads running through populous communities did not stress their own inability, but argued the inability of other weaker roads in more remote and sparsely settled regions to stand the reduction in rates. Yet one fact stood out prominent through it all—that those roads which permitted lower rates carried their trains loaded with passengers and realized handsome returns from their business, and that the roads which did put the reductions in force, even over their protest in regions where they claimed that they could not stand it, found their passenger receipts were increased. It is not insisted, however, that Congressmen can be dogmatic or arbitrary about fixing rates. Yet there is one thing that we ought to insist on: Transportation, being a public service, uniformly rendered alike to all, ought to be rendered at the same price to all comers, high, low, rich, or poor, where the same facilities are furnished, whether the ride is for a hundred miles or a thousand, and I for one will never consent to any other arrangement. Some of the railroads have acted very foolishly in making ill-tempered efforts at reprisal on the people for the agitation of the rate legislation. Where they have issued

mileage books, even at a rate discriminatory in price as against the local travel by ticket or cash fare, some of them have put unnecessary conditions and inconveniences upon the scheme.

They have ceased to allow a man in a hurry to get on a car and have his mileage book pay his fare to the conductor. He must go into the depot and exchange his mileage coupons for a ticket, and look after his baggage check, with as much detail and particularity and trouble as if he paid cash each time for his ticket. Those are the very things that travelers desire to avoid, and for that reason would buy mileage books at the same price or even higher than charged for local travel. I have never understood any reason for this, except the pretense that dishonest passengers may juggle with conductors to knock down fares more easily than they can with ticket agents. I do not know whether ticket agents are more honest than conductors or not. I doubt it. If they are, they are good men, for in the last forty years I have seen and ridden with hundreds of conductors, and I do not believe that in any walk of life or avenue of business I have ever known a higher class of men—uniformly polite, honorable, and vigilant.

Another defect that is not only without excuse, but subjects the carriers to criticism and ill will sometimes out of proportion to any consideration on which they may base it; that is, their refusal, in some instances, to sell through tickets and check baggage beyond connecting points. I have never seen nor heard a reason for it that the carrier could not have obviated by proper diligence in making joint rates and filing the same. It has been resented by the people as an effort by the railroads to hit back for adverse agitation, and the popular resentment, as in some other cases, may have exceeded the provocation.

These observations are meant in good will, in the hope that some of the erring corporation men may see proper to join others who are already doing right in trying to please and accommodate the people, thereby reducing the necessities for litigation or legislation and making the mutual transactions of the railroads and the people at once more profitable and more satisfactory to all concerned. There is no use for railroad authorities to try to fool anybody or themselves by remarking that points are not on their lines, and therefore they have no jurisdiction to make arrangements about them, nor by claiming that they are restricted by any laws or regulations from promoting the convenience of the people and rendering them fair treatment. Everybody knows that all the railroad interests are in a manner allied, not only from financial conditions in this country, but owing to the nature of their property and the peculiar business in which they are engaged. While they have no power to make unrighteous pools and combinations to destroy commercial points or rival lines, yet they can mutually consider the convenience and interest of the people, promote their own convenient and prompt connections, and arrange for joint routes of travel and freight to all points, in all directions, anywhere. A proper manifestation of a desire in that direction expressed in honest effort will go far to improve their standing before the commission, before the courts, with Congress and the state legislatures, and above all, with the people, who are at last, in their local communities, the final arbiters of the prosperity or adversity of the railroads, which are in position to turn to serve or to ruin their patrons.

Whatever their grievances may be, it behooves the people to take notice that legislation, however wise, specific, and comprehensive, will not alone suffice to redress their wrongs. The strong point about railroads is, they prepare to back up their policies by the most able counsel the country affords. In every judicial circuit the very ablest lawyers are engaged by the railroads and educated in their service for their benefit. All the people together are richer than all the railroads. The people support all the railroads; the law is, and should be, impartially administered between the people regardless of the character of their property or vocations, but no law will enforce itself. It must be invoked before the courts can administer it. If other people will stand the trouble and expense, as railroad managers do, to employ and pay good lawyers, it will be found that most of the trouble can be adjusted or avoided with very little additional legislation. The principles of right and justice are eternal. The law should be, and generally is, based upon those principles. People litigate about everything else under the sun, but think only of legislation when it comes to dealing with the railroads. The truth is, I have known few instances of injustice that could not have been redressed in the courthouse if the same legal talent had been engaged against the railroads that was employed in their favor. So, while I admonish the railroads to avoid the necessity of legislation or litigation by such fair treatment as will conciliate the favor of the public, I, at the same time, exhort all the other people to devote a little of their money and energy to compelling the railroads to do right by employing some of the good lawyers themselves, and invoking the justice and the power of the courts and commissions, both state and federal. Valuable amendments have recently provided for expediting proceedings in courts and before the commission in rate cases, of which injured communities should avail themselves by retaining lawyers and instituting proceedings.

I yield to the gentleman from Texas [Mr. HARDY] five minutes.

Mr. HARDY. Mr. Speaker, I listened with entire accord to the remarks of the gentleman from Illinois a moment ago, and I wish to add something to them. I believe if we increase this commission, there ought to be a restriction providing that the new members placed upon it shall not at the very outside be over 50 years of age. As a member of the Committee on Reform in the Civil Service I have discovered that we are up against the proposition now of providing a civil pension list for employees of the Government who have grown old in the service of the Government. The other day we ran across a proposition for a retirement pension for our circuit judges, or district judges raised one grade in order to retire them. That question—the question of a civil pension list—is growing in magnitude and menace, and increases in size as the Government increases in its own magnitude, and we are coming face to face with the proposition whether this Government shall have a retired list of civil pensioners so large that it would stand comparison with our army pensions. So it seems to me that in increasing this commission there ought to be a provision limiting the age at which appointments shall be made, for the effectiveness of the service to which they are devoted. Not only that; I doubt the wisdom of increasing the body called the Interstate Commerce Commission until we have made some law to render their action effective. It has been well said by the gentleman from Illinois that since the passage of the last noted, almost notorious, railroad act, the act of 1906, the railroads, instead of being held down to lower rates of freight, have gradually and generally increased their rates of freight, and there has been no power in the Interstate Commerce Commission to prevent it. When the commission undertakes to reduce those rates upon complaint of citizens, it takes not a week or a year but sometimes years and years in order to accomplish a reduction in a single schedule; and, then, under the law as it stands now, after three weeks' application of the schedule fixed by the commission under a hearing, the railroads may raise that rate without notice, notification to, or consent of the commission. We ought to have a law providing that no rate now in existence shall be raised without the consent of the commission.

But we can get no law requiring the valuation of railroad properties. We can get no law requiring the consent of the railroad commission to any raising of rates. What good does it do to fix a rate to-day if it may be raised without the consent of the commission to-morrow? What good does it do to have nine members of a commission to regulate this thing, when the railroads may, in utter disregard of the findings to-day, raise those rates to-morrow? It seems to me we have been like children playing with machinery they did not know anything about. We should have adopted some great principles and made them applicable to railroad rates, but we have left the maelstrom of multitudinous rates to be fixed by the railroads and regulated by the commission; and no commission, though it consisted of a hundred men, can ever be able to investigate the multitude of rates that the roads promulgate. They have no principles by which to be guided. They can charge twice as much for a hundred-mile haul as they do for a thousand-mile haul, and it is not illegal. We have refused or failed to adopt great principles to regulate and restrict that would hold down the railroad rates or prevent discrimination between places; and we want to commit the subject to an enlarged commission, for them to look over a field of vast area and attempt to enforce an utterly impossible law. That is the way we have handled the question. Now, I shall oppose the addition of more members, unless those members are required to be at least moderately strong in health as well as in mind, and of a reasonable age, not ready to be retired. They should not be over 50 years old, and they should be active intellectually and physically, and their number should not be increased until their labors can be made effectual when once performed.

Mr. ADAMSON. If any other gentleman desires to be recognized in opposition to the bill, I will be glad to yield time.

Mr. HITCHCOCK. I should like one minute.

Mr. ADAMSON. I yield one minute to the gentleman from Nebraska.

Mr. HITCHCOCK. Mr. Speaker, it seems to me that, with the whole country clamoring for an enlargement of the law, it is giving them worse than a stone when they ask for bread for

this Congress merely to enlarge the commission. Therefore I am opposed to the bill.

Mr. ADAMSON. I yield to the gentleman from Tennessee [Mr. SIMS] for five minutes.

Mr. SIMS. Mr. Speaker, if the commissioners are not able to do the work on account of its volume, the number ought to be increased. I for one have no objection to adding any useful powers to the commission that it does not now have; but if an increase is demanded on account of the inability of the present number to do the work, why, then, in all reason, there ought to be some age limit to the members to be added that will guarantee that that argument is a sincere one, and that the statement is a true one and really the cause of the legislation proposed by this bill.

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

Mr. SIMS. Certainly.

Mr. MANN. Does the gentleman understand that the work of the commission—the most of the work—is not done by the commission sitting as one body, but by different members of the commission having hearings, like an ordinary nisi prius judge, and making recommendations to the commission, and that they are all engaged in that work?

Mr. SIMS. I so understand; and that reenforces my argument, that each member of the commission should be able of himself to perform in the highest degree of efficiency all the work required of him.

Mr. MANN. They are. Each member of the commission is so qualified now.

Mr. SIMS. I understand that. The bill seeks to add new members to the commission, increasing it. Now, why not have an age limit that will guarantee a reasonable number of years of service of the highest order, both with reference to mental and physical endurance. I do not know who are going to be applicants for these positions. I do not know whether anybody is staked out or not; but if the object of this bill is to make a place for some man, I do not care who he is, or how great his efficiency, we should put on a limitation of age of some kind, whether it be 50, 55, or 60 years. I understand in appointing members of the federal judiciary there is a rule by which the President nominates no man exceeding 60 years of age.

Mr. MANN. Will the gentleman permit one suggestion there?

Mr. SIMS. Certainly.

Mr. MANN. This is different from the judiciary, where they retire them on full pay. That certainly has no application when we have no retirement in connection with the commission.

Mr. SIMS. I understand that. Why should not the great committee, of which the gentleman is so able and shining a member, agree to an amendment making 50 years as the age limit; and, if that is too low, 55; or, if that is too low, make it 60 years, so that it may be effective in the legislation as to the two commissioners created hereby.

Mr. MANN. They might want to put the gentleman on the commission.

Mr. SIMS. There is no probability of that. However, I am over 50, but under 60 years of age.

Mr. MANN. The gentleman will never be 60, if he lives one hundred years.

Mr. CAMPBELL. Can the gentleman think of a man of 50 or 55 years who can excel the work that Francis M. Cockrell, of Missouri, is doing on that commission?

Mr. SIMS. Now, Mr. Speaker, there is no necessity for bringing up a personal case. If my argument fits Francis M. Cockrell, let it fit him, or any other man.

Mr. CAMPBELL. He is doing as good and as much work on that commission as any other member of the commission.

Mr. SIMS. I do not question that for a moment, and the gentleman need not bring up his name because he is a Democrat. Sometimes a man of 80 years of age will do as much or more work than another who is 50 years; but why not have an age limit to this thing, guaranteeing physical and mental fitness to discharge the duties of the office? The very fact that gentlemen are not willing to accept a reasonable age limit seems to carry with it the suggestion that the idea of fitness of the highest order is not to be regarded; and after this discussion with reference to such an amendment, an adverse action of the House will indicate to the appointing power that these positions were made by Congress without reference to age. We know as a rule that increasing old age tends to inefficiency; that there ought to be an age limit put in this bill which will insure a high degree of physical and mental efficiency.

Mr. MANN. Does the gentleman think there ought to be an age limit of Members of Congress?

Mr. SIMS. The people put that on; and the term is for only two years, anyway.

Mr. MANN. There is no age limit, except their opinion.

Mr. ADAMSON. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has seven minutes.

Mr. ADAMSON. Mr. Speaker, it may be impolite for me to endeavor to reply to gentlemen to whom I have yielded time, but when they talk about an age limit they touch upon a tender subject to sensitive Members of this House. [Laughter.] There is nothing in this bill about age qualifications for membership on the Interstate Commerce Commission, and I am glad of it. I should certainly object to the limit being placed as low as fifty years, for that would shut me out, and I shall never admit the suggestion of my incompetency from age or decrepitude for that or any other public service. [Laughter.] How calamitous to even contemplate; God save the mark and avert the dread possibility; but after his able and distinguished services here, if ten or fifteen years hence the distinguished gentleman from Tennessee [Mr. SIMS] should happen by unaccountable error, carelessness, or hallucination of his constituents to fall outside the breastworks in a congressional election and the President should patriotically endeavor to make restitution for the mistake of his constituents by offering to restore his eminent talents to the public service by appointing him on this commission, would anybody say that he was too old? I would indignantly deny the allegation and fiercely defy the alligator. Yea, verily, I would fight him with cannon and gatling guns and everything else for such a vile assault on my young, vigorous, and virile friend. [Laughter and applause.]

It is said that some boys are prone to think themselves smart and regard old men as foolish fogies. It has even been said that no boy, until he reaches the age of 40 years, ever comes to believe that his father had any sense at all. I regard this as an exaggeration, because I know a good many boys who are really sensible, practical, and tractable. On sufficient authority I believe that we need "old men for counsel and young men for war." I utterly scout that old cynical stanza—

> Unless it also means growing wise and good,
> I can not respect you for growing old;
> It is a path you fain would avoid if you could,
> And it means growing ugly, crabid, and cold.

I believe some old men are right good citizens, still very useful in a great many ways and worthy to be respected and preserved among us a little while longer. In fact, I know some men 75 years old who are really smarter, abler, and physically more active than some younger men who do not talk like they believe it. I shall vote for this bill and shall not regard it as any mistake or calamity if some of my old friends in this House should be appointed to the new positions created. [Applause.]

Mr. Speaker, I reserve the balance of my time.

Mr. STEVENS of Minnesota. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has nine minutes.

Mr. STEVENS of Minnesota. I now yield five minutes to the gentleman from Michigan [Mr. TOWNSEND].

Mr. TOWNSEND. Mr. Speaker, I had not expected to say anything on this subject at all until I heard the argument of several gentlemen in opposition to the interstate-commerce law. Most of the discussion has been against the general law rather than against the proposed amendment. Of course, if it is conceded that the interstate-commerce law is a failure, it is nonsense to think of increasing the number of commissioners. But I deny that the interstate-commerce law is a failure or that it has failed in any important or material particular. I am ready to admit that that bill is not perfect.

The original proponents of the interstate-commerce law did not claim perfection for it. They knew it was aimed at giant evils intrenched in power. They were fearful that every obstacle would be thrown in the way of its enforcement; they somewhat understood the magnitude of the work that would devolve upon the commission; they realized that it was a compromise between those who would do nothing and those who would go too far, but they felt that it was a step in the direction of justice to the people in their relations to common carriers, and their faith in this particular has been realized. About this there can be no intelligent doubt.

Gentlemen say that rates have been raised since the passage of the law. True, but they were being raised before, and the law did not encourage higher rates. It has been the only barrier against them. Before the act of 1906 only a ten days' notice of raise was required; since then it has required thirty days' notice. Before there was no opportunity for an aggrieved shipper to attack unjust rates through a commission. Now

complaint can be made to the commission and it can hear and determine; and if a raised rate is found unjust, reparation to the shipper is ordered. Hundreds of complaints have been made and many rates have been reduced. Hundreds more have been reduced on the advice of the commission without formal order.

The commission can only act on complaint. This was expressly provided in the law after full and long discussion before the committee and the Congress. It was thought best that this should be so, and I still think it is wise.

I have no doubt some rates have been improperly raised, the carriers having taken advantage of the panic as an excuse to raise them; but some raises have been found necessary to meet cost of improvements and operation and some for the purpose of adjustment. But what would have happened if the commission had not been empowered to reduce rates on complaint and after hearing?

Mr. Speaker, the law is imperfect, and I have no doubt a revision of it will be made during the next Congress. Many amendments have already been proposed; I myself have offered three, and I have others in mind. One would reach the complaint which gentlemen make. I would permit any shipper to complain against a proposed higher rate, notice of which having been given by the carrier, and at any time after such notice is given. Thus opportunity would be afforded for a determination of the reasonableness of the rate before it took effect.

Mr. Speaker, it has seemed the part of wisdom for Congress to allow this law to remain unchanged long enough to discover its real defects, and thus afford information for intelligent revision. It has been a statute about two years, during which the commission has been organizing its work and perfecting its plans. In the meanwhile Congress has been piling new and difficult duties upon it. The law will be perfected and the great benefits already enjoyed will be thereby increased.

Mr. HARDY. Will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. HARDY. Does the gentleman's bill to which he refers permit any party to make complaint against the rates when the roads propose to raise them? Does it provide that the commission may enjoin the raise until they hear and decide the question?

Mr. TOWNSEND. It may on a prima facie showing.

Mr. HARDY. Without going to the trouble of getting an injunction?

Mr. TOWNSEND. The commission can enjoin the rate from going into effect.

Mr. HARDY. You give them by the bill the power to enjoin the raise until it is decided?

Mr. TOWNSEND. It gives the commission the right to enjoin the rate.

Mr. STEVENS of Minnesota. Mr. Speaker, just one word more. The objection that is made that there should be an age limit is met by the terms of the bill itself. The law provides that these terms shall be for seven years. At the end of that term of seven years the power is left to the President and to the Senate to determine whether that officeholder or another appointee shall be best fitted to discharge the duties of the office. The situation is entirely different from that of our federal courts. There is no provision for retirement. There is a fixed tenure of seven years, and it is not changed by this bill. If any member of the commission be unable, for any cause, to properly perform the duties of his office, it will lie with the President and the Senate, at the end of his term, to secure a man who can do the work properly. The argument that is made by the gentleman from Tennessee [Mr. SIMS] and the gentleman from Illinois [Mr. MADDEN], that the powers of the commission should be extended, is the very reason why we should provide machinery for the commission to do the work they ask and properly do the very work now at hand. The machinery can be best extended by having able men sufficient in number, in character, and in caliber to perform the work. This bill does not change the tenure of office or the compensation or the political affiliations of the commission. It leaves it just exactly as it is now. It adds two new members to do the proper work that is demanded by the people should be done by the Interstate Commerce Commission itself. I ask for a vote.

The SPEAKER. The question is on the motion of the gentleman from Minnesota to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. HARDY and Mr. MADDEN) there were—ayes 141, noes 51.

Mr. MADDEN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois demands the yeas and nays. All in favor thereof will rise and stand until counted. [After counting.] Thirty-three gentlemen have arisen, not a sufficient number, and the yeas and nays are refused.

Mr. MACON. Give us the other side, Mr. Speaker.

The SPEAKER. We just had the other side. The yeas and nays are refused, and two-thirds having voted in favor thereof, the rules are suspended and the bill is passed.

INSPECTION OF NURSERY STOCK AT PORTS OF ENTRY.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House from the further consideration of the 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, and to consider the same in the House at this time, which bill I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That all nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, shall be subject to inspection by official experts of the Department of Agriculture at such ports of entry as shall, from time to time, be designated by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, and published in the regulations provided for in this act: *Provided, however*, That the Secretary of Agriculture may, at his discretion, dispense with such inspection if he deems the certificate, provided for in section 2, of the official expert of the country from which the importation is made to be a sufficient guaranty of freedom from injurious insects or plant diseases. The Secretary of Agriculture may, at any time, extend the provisions of this act to fruits and vegetables or bulbs or other plants not specified in this act and imported from foreign countries whenever he shall deem such action necessary to prevent the entry with such products or stock of dangerous insects or plant diseases.

SEC. 2. That it shall be unlawful for any transportation company, person, or persons, after July 1, 1909, to offer for entry at any port in the United States any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, unless accompanied by a certificate of inspection by an official expert of the country from which the importation is made, which certificate shall be made in the manner and form prescribed by the Secretary of Agriculture, certifying that the contents have been examined and found to be apparently free from all dangerously injurious insect pests or plant diseases: *Provided*, That any nursery stock or other described articles offered for entry without such certificate shall be held in quarantine, and not admitted until its or their freedom from dangerous insect pests or plant diseases shall have been fully established.

SEC. 3. That any transportation company, person, or persons who shall receive, bring, or cause to be brought into the United States any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, shall, within twenty-four hours after the arrival thereof, notify the official expert of their arrival, and hold the same, without unnecessarily moving or placing such articles where they may be harmful, for the immediate inspection of such official expert. The official expert or his representative is hereby authorized and empowered to enter into any warehouse, depot, or upon any dock, wharf, or any other place where such nursery stock or other described articles are received for the purpose of making the inspection or examination herein provided for.

SEC. 4. That each case, box, package, crate, bale, or bundle of nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, imported or brought into the United States shall have plainly and legibly marked thereon the name and address of the shipper, owner, or person forwarding or shipping the same, and also the name of the person, firm, or corporation to whom the same is forwarded or shipped, or his or its responsible agent; also the name of the country and district where the contents were grown.

SEC. 5. That when any shipment of nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, imported or brought into the United States is found infested with injurious insects or their eggs, larvæ, or pupæ, or reason to presume that they may be infested or are so infested with tree, plant, or fruit disease or diseases, the entire shipment shall be disinfected at the expense of the owner, owners, or agent. After such disinfection it shall be detained in quarantine a necessary time to determine the result of such disinfection. If the disinfection has been so performed as to destroy all insects or their eggs, and so as to eradicate all disease and prevent contagion, and in a manner satisfactory to the official expert, the trees, vines, or other articles shall then be released. If it be not practicable to fully disinfect such stock, it or such portion of it as shall remain infested shall be denied entry or destroyed, at the option of the owner.

SEC. 6. That when any shipment of nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, imported or brought into the United States is infested with injurious insects or their eggs, larvæ, or pupæ, or any tree, plant, or fruit disease not known to exist in the United States or confined to limited districts thereof, such infested shipment shall be refused entry and returned to the consignor or destroyed, at the option of the owner, owners, or agent and at his or their expense.

SEC. 7. That whenever it shall appear to the Secretary of Agriculture that any nursery stock or other described articles or variety of fruit grown in an infested district outside of the United States is being, or is about to be, imported into the United States or the District of Columbia, and such nursery stock or such variety of fruit is infested by any seriously injurious insect or disease, and which insect or disease is liable to become established in the United States, he shall have authority to quarantine against any importations from said district and prevent the same until such time as it may appear to him that any such insect or disease has become exterminated in the country or district from which such nursery stock, etc., or variety of fruit is being or is about to be, imported, when he may withdraw the quarantine; and this shall operate to relieve all such nursery stock or fruit from further

quarantine or restrictions, save the inspection regulations at port of entry, so long as the conditions of freedom from seriously injurious insect or disease shall continue.

SEC. 8. That upon complaint or reasonable ground on the part of the Secretary of Agriculture to believe that any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, grown within the United States, are infested with injurious insects or diseases new to the United States and likely to become subjects of interstate commerce, the Secretary of Agriculture shall cause the same to be inspected by a qualified expert, and, if need be, placed under quarantine until such infestation is removed. This inspection shall be made, so far as possible, prior to November 1 of each year in the manner provided for and prescribed by the Secretary of Agriculture; and if such nursery stock is found to be apparently free from dangerously injurious insects or diseases the certificate of the officer making such examination and finding shall be issued to the owner or owners of such nursery stock, a copy of which certificate shall be attached to and accompany each carload, box, bale, or package, and when so attached and accompanying shall operate to release all such nursery stock from further inspection, quarantine, or restriction in interstate commerce.

SEC. 9. That it shall be unlawful for any person, persons, or corporation to deliver to any other person, persons, or corporation, or to the postal service of the United States (except for scientific purposes, and by permission of the Secretary of Agriculture), for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or for exportation to any foreign country, any trees, plants, shrubs, vines, or other nursery stock which are under quarantine in accordance with the provisions of section 8 of this act, or which on such examination have been declared by the inspector to be infested with dangerously injurious insects or diseases. Any person, persons, firm, or corporation who shall forge, counterfeit, or knowingly alter, deface, or destroy any certificate or copy thereof, as provided for in this act and in the regulations of the Secretary of Agriculture, or shall in any way violate the provisions of this act, shall be deemed guilty of a misdemeanor, and on a conviction thereof shall be punished by a fine not to exceed $500 nor less than $200 or by imprisonment not to exceed one year, or both, at the discretion of the court.

SEC. 10. That the rules and regulations herein provided for shall be promulgated on or before the 1st day of July of each year.

SEC. 11. That the sum of $100,000, to be available on the 1st day of May, 1909, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to carry into effect the provisions of this act.

SEC. 12. That this act shall take effect on and after the 30th day of June, 1909.

SEC. 13. That the provisions of this act shall not prevent the inspection of any nursery stock or other described articles by the authorized inspector of any State or Territory at the final point of destination in accordance with the laws of such State or Territory.

With the following amendment:

Page 7, line 19, strike out "one hundred" and substitute therefor "twenty-five."

The SPEAKER. Is there objection?

Mr. HARRISON. Mr. Speaker, reserving the right to object, I would like to ask the gentleman whether this bill creates any new officers or new salaries; and if so, what is the necessity for it?

Mr. SCOTT. Mr. Speaker, if the amendment which is recommended by the Committee on Agriculture prevails, the bill carries an appropriation of $25,000, to be available during the coming fiscal year, to carry it into effect; and necessarily, if that $25,000 is used, it will mean the employment of certain persons who are perhaps not now in the employ of the Government.

The necessity for it is found in the fact that we now have no law to provide for the inspection of nursery stock coming from abroad, or to exclude it from admission if it is found to be either infected by disease or infested by injurious insects. The immediate cause of the introduction of this bill is found in the fact that very recently in the shipment of nursery stock coming into the port of New York upward of fifteen hundred nests of the brown-tailed moth were found. That is an insect which is committing very serious depredation, as the gentleman doubtless knows, throughout New England, and yet we have no law on the statute books by which we can exclude a shipment of goods in which it is carried.

Mr. HARRISON. Will the gentleman state how those moths were found? Is not there some machinery now for doing that?

Mr. SCOTT. They were found by inspectors of the department of horticulture of the State of New York.

Mr. HARRISON. State officials?

Mr. SCOTT. State officials. And it is true, as the gentleman suggests, that several of the state officials in States having ports of entry have organized state boards for the inspection of these goods in an attempt to exclude them from the country. But this work is not always effective, as is shown by the fact that of the 73 varieties of injurious insects which the entomologists of our country put into the first class, more than half of them are known to have been imported from abroad.

Mr. HARRISON. Will the gentleman state that in his opinion the employment of this new appropriation will stop the importation and the spread of noxious insects for the extermination of which we are annually appropriating large sums of money? In other words, will it effect an economy in the long run?

Mr. SCOTT. I am very much of the opinion it will do so. We are proposing to expend only $25,000 for the exclusion of these insects, but we are appropriating $300,000 this year alone to limit the ravages of just one insect which has been imported.

Mr. BURLESON. As a matter of fact, then, the bill has in contemplation the appointment of a scientific horticulturist and a scientific entomologist at every port of entry where nursery stock is brought in.

Mr. SCOTT. The bill is intended to do with nursery stock that which has already been attempted in the protection of domestic animals in this country.

Mr. BURLESON. Well, you can not enforce it unless you have a scientific horticulturist and a scientific entomologist at each port of entry.

Mr. SCOTT. Undoubtedly it contemplates, and in fact by its terms, an inspection of all nursery stock seeking to come into this country, but it provides also that nursery stock that comes with proper certificates from recognized authorities abroad may be admitted without inspection.

Mr. DRISCOLL. If the Secretary of Agriculture recommended $100,000 for the administration of this law, why is it that the committee cut it down to $25,000?

Mr. SCOTT. The committee cut it down to $25,000 because it was a new departure, and the committee believed that the work could be done for $25,000. It is thought a beginning could be made with that amount.

Mr. DRISCOLL. I presume the committee thinks after they once get this law started and made a part of the business of the Department of Agriculture it will be easy to increase it from year to year?

Mr. SCOTT. Well, the committee thought even if it did cost $100,000 a year to keep these insects out it will be an economy, in view of the fact that the insects which have come in in the absence of this law are now actually causing millions of dollars' worth of loss to our country, and we are expending many hundreds of thousands of dollars in an attempt to exterminate them or limit their ravages.

Mr. DRISCOLL. Has the committee any information whatever what it would cost, or simply put on $25,000 and seek to get the law enacted and later on get more money? Have they any information as to what it would cost?

Mr. SCOTT. Until the law has been enforced a reasonable length of time it is impossible for us to tell what it will cost.

The SPEAKER. It seems to the Chair the gentleman had better make the motion. Is there objection?

Mr. COX of Indiana. Mr. Speaker, I reserve the right to object to get some information.

The SPEAKER. Well, what is in the mind of the Chair is the gentleman asked unanimous consent and——

Mr. SCOTT. Mr. Speaker, if objection is to be made, in order to save time I will move that the rules be suspended and the bill as amended be passed.

The SPEAKER. The gentleman from Kansas moves to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further discussion of the bill, and agree to the amendments and pass the bill. Is a second demanded?

Mr. PERKINS. Mr. Speaker, I do not know that I object to the bill, but it is a bill that may affect very largely the interests of our country, and I would at least like to understand what it is, and I would demand a second for the purpose of having an explanation of it.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Kansas is entitled to twenty minutes and the gentleman from New York to twenty minutes.

Mr. SCOTT. Mr. Speaker, I do not care to use any of my time except to answer such questions as may be asked.

Mr. PERKINS. I would like, Mr. Speaker, to ask the gentleman from Kansas with reference to the bill, because I do not quite understand the connection between the statement made by the gentleman and the form of the bill. As I understand it, it is desired to keep from importation into this country by proper examination insects that may be dangerous.

To that there can be no objection; but the bill also provides not merely for an examination of goods coming from other countries—and to what extent it provides I wish the gentleman would state—but for an examination of any nursery goods sent from any one of the 46 States into any other one of the 46 States. Now, if that is so, that provides that every package of nursery stock that goes from New York to Pennsylvania may be examined and inspected, which is a pretty serious proposition.

Mr. KENNEDY of Iowa. I think I can answer the gentleman.

Mr. PERKINS. I am asking for information. I have not read the bill.

Mr. KENNEDY of Iowa. Each State has provided an inspection law for nursery stock. The inspection is made by the state entomologist some time during the summer, and he gives a certificate, a copy of which certificate must accompany each shipment of stock. Now, I apprehend if this bill passes, this Government will adopt the same plan—that any inspection that is to be made must be made before shipment between the States. But any inspection to be made will be made before the shipment takes place.

Mr. SCOTT. I think the question of the gentleman from New York [Mr. PERKINS] is fully answered by the terms of section 8, as follows:

That upon complaint or reasonable ground on the part of the Secretary of Agriculture to believe that any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, grown within the United States are infested with injurious insects or diseases new to the United States and likely to become subjects of interstate commerce, the Secretary of Agriculture shall cause the same to be inspected by a qualified expert, and, if need be, placed under quarantine until such infection is removed.

It would appear from this that no broad general inspection of every interstate shipment of nursery stock is contemplated, such as the gentleman suggests, but merely that when complaint is made that any particular district of the United States is infested with injurious insects an inspection may be made, and if it is found that the injurious insects exist there the district may be quarantined, just as a portion of the United States may now be quarantined when it is infected with diseases injurious to domestic animals.

Mr. MANN. Like the foot-and-mouth disease now.

Mr. PERKINS. What I would like to ask is this, in order to find out whether or not the bill is too drastic: Suppose tomorrow a dealer in nursery stock in western New York has an order for the delivery of goods to California; in compliance with the order he packs his goods, he takes them to the railroad, and they are shipped to California; has he got to have any examination or have any certificate, or be subject to any formality any more than if he was shipping a lot of cotton goods?

Mr. SCOTT. Not unless his nursery is in a district against which complaint has been made. If that is the case, then the Department of Agriculture, under this bill, is authorized to send an expert to inspect the district and to inspect his nursery. If his particular nursery is found to be apparently free from dangerous and injurious insects or diseases—I am quoting now from the bill:

And if such nursery stock is found to be apparently free from dangerously injurious insects or diseases the certificate of the officer making such examination and finding shall be issued to the owner or owners of such nursery stock, a copy of which certificate shall be attached to and accompany each carload, box, bale, or package, and when so attached and accompanying shall operate to release all such nursery stock from further inspection, quarantine, or restriction in interstate commerce.

Mr. PERKINS. Then the law provides for quarantine of a certain district?

Mr. SCOTT. The law provides for a quarantine of the district which, upon inspection, may be found to be infected or infested.

Mr. PERKINS. Then you can not ship out of that district without certificate that your stock is all right and that the quarantine has been raised as to you?

Mr. SCOTT. That is the intention of the bill.

Mr. PERKINS. If no quarantine has been declared, he ships his nursery goods just as he ships his dry goods?

Mr. SCOTT. Just as a man, when no quarantine has been declared, ships his cattle.

Mr. MANN. Ship just as freely as he does now.

Mr. PERKINS. The bill provides that all nursery stock shipped from a port must be examined or a certificate made on the other side?

Mr. LAMB. This is chiefly to reach imported stock?

Mr. BURLESON. What powers are conferred upon the Secretary of Agriculture to designate ports of entry for nursery stock?

Mr. SCOTT. There is not any power in this bill to designate any particular port of entry. I refer to section 2, which declares:

That it shall be unlawful for any transportation company, person, or persons, after July 1, 1909, to offer for entry at any port in the United States any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, unless accompanied by a certificate of inspection by an official expert of the country from which the importation is made, which certificate shall be made in the manner and form prescribed by the Secretary of Agriculture, certifying that the contents have been examined and found to be apparently free from all dangerously injurious insect pests or plant diseases: *Provided*, That any nursery stock or other described articles offered for entry without such certificate shall be held in quarantine, and not admitted until its or their freedom from dangerous insect pests or plant diseases shall have been fully established.

Mr. KENNEDY of Iowa. I would like to ask the gentleman a question. A large part of the nursery stock that is imported into this country is seedling stock, and a very large part of it comes from France. Now, it is nothing uncommon to have 20,000 of those packed in a box, and they are packed loosely; that is, they are not tied in bunches. Now, is it practicable to undertake to inspect nursery stock packed that way? You would have to open the box, surely.

Mr. MANN. It does not require inspection when it comes with a certificate.

Mr. KENNEDY of Iowa. I think not. But it looks to me like the inspection at the port of entry would be impracticable.

Mr. MANN. It would, unless they had some other information.

Mr. KENNEDY of Iowa. As a matter of fact, I think it has to be governed largely by the certificate that accompanies the stock. It is like the state laws, where they have to have a certificate by the state entomologist after an examination of the stock as it leaves the nursery.

Mr. SCOTT. I do not think it would be any more difficult to enforce than the present law against the importation of adulterated or misbranded foods and drugs.

Mr. BURLESON. Would it be as expensive?

Mr. SCOTT. I have no idea it would be as expensive.

Mr. MANN. Upon the face of it, it would not.

Mr. SCOTT. The Secretary of Agriculture would doubtless prescribe as a regulation that the nursery stock coming in from abroad must have a certificate of good health.

Mr. KENNEDY of Iowa. That is the only way.

Mr. BURLESON. Why I ask that question is that Texas is now importing orange plants from Japan. Do I understand under the operation of this law every box of orange plants that should be shipped from Japan to Texas must be opened at San Francisco?

Mr. SCOTT. I understand there is an inspection under the direction of the state board of horticulture of that State.

Mr. BURLESON. Where there is a through bill of lading?

Mr. SCOTT. Well, I can not answer as to that.

Mr. SMITH of California. I think it is to be applied to stock to be used in the State. The gentleman's State would have to be very cautious about what stock it imported.

Mr. BURLESON. We do not want anything in the way of an obstruction to our getting the stock, nor anything to delay us.

Mr. SMITH of California. I think you would find it a good deal better to exclude injurious insects that you might get, and any little delay that might be suffered would be better than to have the pest.

Mr. SCOTT. I yield five minutes to the gentleman from California.

Mr. SMITH of California. Mr. Speaker, I only want to emphasize what the chairman of the committee has been saying, namely, that the gentleman from Texas wants to be very careful about doing anything that would allow the shipping in of diseased nursery stock in establishing an orange business. It is the most valuable nursery stock, and leads to exceedingly high-priced orchards when you get an orange grove. A few years ago there was introduced into the orchards of California the white fly. If it had not been attacked and stamped out, and that at very considerable expense, right at its incipiency, the damage would have run into the millions of dollars to the citrus orchards of California, and at a cost for extermination of many hundreds of thousands of dollars.

I think, as the chairman of the committee has said, we have a pretty severe law in California with reference to nursery stock, but I think we should also have some such general law as this to guard the character of stock that is brought in from foreign countries, as well as that which goes from State to State. There is no bill before this Congress, I think, that will give greater pleasure to the orchardists of California than this measure now before the House, and I earnestly hope that the House will give it careful consideration.

Mr. BURLESON. I would like to ask the gentleman from California a question.

Mr. SMITH of California. Certainly.

Mr. BURLESON. Has the gentleman read this bill with sufficient care to be able to state that no provision in it will interfere with the introduction of those plants that I have spoken of?

Mr. SMITH of California. I have not studied all the provisions of the bill in detail, but I am certain that the Agricultural Department in its management of the matter under this

bill will interpose no obstruction to bringing in proper nursery stock; and you do not want any other kind in Texas.

Mr. BURLESON. Certainly.

Mr. SMITH of California. I have no doubt the law will be administered wisely.

Mr. SCOTT. I now yield two minutes to the gentleman from Virginia.

Mr. LAMB. Mr. Speaker and fellow-Members, the State of Virginia is very much interested in this legislation. I had a letter from the state entomologist recently stating that some gypsy moths had been imported from a foreign State. The Committee on Agriculture has very carefully considered this measure and recommend the passage of the bill. It is in the interest of the people, and it will prevent, probably, in the future spending an immense amount of money in other States as we are now spending in the New England States in eradicating this pest. I hope it will be the pleasure of the House to pass this bill.

Mr. SCOTT. Mr. Speaker, I ask for a vote.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended, and the bill as amended was passed.

RADIO-TELEGRAPHY ON CERTAIN OCEAN STEAMERS.

Mr. GREENE. Mr. Speaker, by direction of the Committee on the Merchant Marine and Fisheries, I move to suspend the rules, discharge the Committee of the Whole House from the further consideration of the bill (H. R. 27672) as amended, to require radio-telegraphic installations and radio-telegraphers on certain ocean steamers, and pass the bill.

The SPEAKER. Is a second demanded?

Mr. COCKRAN. I demand a second.

The SPEAKER. The Clerk will read the substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That it shall be unlawful for any ocean-going steamer certified to carry, or carrying, 50 passengers or more, to engage in the business of carrying passengers, or to carry passengers, between ports 200 miles or more apart by sea, unless on leaving her port of departure such steamer shall be equipped with an efficient radio-telegraphic apparatus in good working order, and in charge of a person skilled in the use of such radio-telegraphic apparatus.

"SEC. 2. Any owner, agent, or master of any such steamer described in section 1 of this act, who shall carry, or permit to be carried, any passenger upon any such steamer not equipped with an efficient radio-telegraphic apparatus, in good working order, and in charge of a person skilled in the use of such radio-telegraphic apparatus, shall, upon conviction thereof, be fined not more than $3,000, or imprisoned not more than one year, or both.

"SEC. 3. That this act shall take effect and be in force one year after the date of its approval."

Mr. COCKRAN. I withdraw the demand for a second.

Mr. HUMPHREY of Washington. I demand a second.

Mr. GREENE. I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Massachusetts [Mr. GREENE] is entitled to twenty minutes and the gentleman from Washington [Mr. HUMPHREY] is entitled to twenty minutes.

Mr. GREENE. Mr. Speaker, there have been many hearings held before the committee regarding this bill, and there was no opposition before the committee to the bill as now presented. I do not care to occupy more time at this moment, and reserve the balance of my time.

Mr. HUMPHREY of Washington. Mr. Speaker, with the general ideas of this legislation I am in accord, but there are one or two points that I think ought to defeat its passage.

In the first place, there is no provision that will permit these vessels to escape compliance with the law, even if there should be a combination between these wireless companies to raise the price to any point, however unreasonable. As gentlemen of the House know, this wireless system is a patented system, and this bill compels all seagoing vessels running between ports 200 miles or more apart to equip themselves within a year with a wireless system. They are compelled to comply with that provision, and there is no way for them to escape it. I do not believe that is wise legislation. I think some provision should be made so that if it was discovered that there was a monopoly existing between these wireless companies, and there was an attempt to hold up these vessels and charge them exorbitant prices, they should not be compelled to equip within a year. Some latitude should be given.

Mr. GOULDEN. Can the gentleman tell me how many of these companies there are?

Mr. HUMPHREY of Washington. No; I can not.

Mr. GOULDEN. How many companies are there that now equip vessels?

Mr. HUMPHREY of Washington. There are quite a number, but only two or three of them are actually doing much work.

Mr. GOULDEN. I have a list here of 76.

Mr. BURLESON. Does this require equipment with any particular system?

Mr. GOULDEN. No. And I have a list here of 76 separate companies.

Mr. HUMPHREY of Washington. There is one other objection that I want to call to the attention of the House, and that is the inequality of this bill. It shows that it is hasty legislation, and that it should not have been reported in the shape in which it is. For instance, the committee in their report set forth the fact that the Great Lakes are excluded, and I think that was a wise conclusion. I think the Great Lakes should be excluded.

Mr. SULZER. Why should the Great Lakes be excluded?

Mr. HUMPHREY of Washington. Wait until I get through my statement, and I will answer the question. At the same time they include vessels running along the coast of Florida inside of the keys, where the water is always quiet and there is no occasion for wireless telegraphy, because they are never out of sight of land. They also include the vessels that run on the inside passage to Alaska, where they are always near the shore, where the water is never rough, where they never have any storms that will interfere with them, and if a vessel did not sink in a few minutes they could get ashore. Yet they exclude the Great Lakes, where the vessels do encounter great storms, and where there would be some use for the wireless system. As I have said, I am in sympathy with this legislation, but not in sympathy with this bill, the way it is drawn. It is not the right kind of legislation, in my judgment, for us to enact.

Mr. SULZER. Then you are in favor of including the Great Lakes?

Mr. HUMPHREY of Washington. No; I am not. Neither am I in favor of including these other vessels along the Florida coast and on the inside passage to Alaska. You might as well include vessels on the Mississippi River as vessels that run on the inside passage to Alaska, as my friend knows. I am simply calling attention to the defects of the bill. I do not think in the shape it is it ought to pass.

Mr. COX of Indiana. Does the gentleman base his sole objection to the passage of the bill upon the ground that he is afraid that the owners of these wireless-telegraph instruments will combine for the purpose of raising the price, or does the gentleman in addition to that have some other objection; and if so, what?

Mr. HUMPHREY of Washington. I have just tried to state that one objection is because there is nothing to prevent combination of the wireless companies, and the other is that it compels vessels on several different routes to be equipped with wireless telegraphy where there is no need for it.

Mr. COCKRAN. What is the alternative to adopting this bill? Would it leave these ocean-going vessels carrying passengers without any wireless system at all being required of them?

Mr. HUMPHREY of Washington. If this is not adopted, as I understand, there is no law now to compel them to use it.

Mr. COCKRAN. The gentleman is opposed to this because the measure is defective in some particulars. Would he be willing to defeat all legislation of this character and leave the ocean-going public without the safeguards provided by this measure because the bill is not perfect?

Mr. HUMPHREY of Washington. No; I would perfect the bill. I would have a bill reported that covers the situation and pass it.

Mr. COCKRAN. The gentleman does not think that there is any chance of doing that, does he?

Mr. HUMPHREY of Washington. I do not know why.

Mr. COCKRAN. There is a why and a wherefore.

Mr. HUMPHREY of Washington. I do not understand why we can not pass a bill correctly drawn, as well as one that does not contain what the House desires.

Mr. HOLLIDAY. I would like to ask the gentleman if it is true that there are ships that ply along the Alaskan coast and the Florida coast and do not go outside.

Mr. HUMPHREY of Washington. Yes; there are several such vessels. Mr. Speaker, I now reserve the balance of my time, and I will yield to the gentleman from Illinois.

Mr. MANN. The gentleman in favor of the bill is entitled to explain it, I think.

Mr. GREENE. Mr. Speaker, I yield three minutes to the gentleman from Ohio.

Mr. DOUGLAS. Mr. Speaker, while I am to some extent responsible rather for the form of this bill than for its general

policy, I have no doubt whatever in my own mind that the time has come in the development of radio or wireless telegraphy when Congress should require such vessels as are described in this bill to be equipped for its use. The whole coast of the Atlantic and the Gulf, as well as our Pacific coast, is now equipped with radio-telegraphic stations, which makes it possible for ships during the whole of any coastwise trip to communicate with the shore if they are equipped with this radio-telegraphic apparatus.

So I believe that the time has come when the Congress of the United States should require, as this bill does, vessels certified for carrying 50 passengers or more and running 200 miles (which, by the way, would exclude vessels in the inner key routes of Florida spoken of by the gentleman from Washington) to be equipped with this apparatus.

It will be seen that the bill is purely a penal bill; that its first section substantially defines the duty of equipping the vessels with this telegraphic apparatus and rendering it unlawful if they do not, while the second section defines the penalty. The penalty, it will be observed, is not more than $3,000 and not more than one year, leaving the minimum amount of fine or imprisonment entirely at the discretion of the judge.

But there is one thing more I do want to call attention to in the time allotted me, and that is that the committee left out section 3 of the old bill, which gives the Secretary of Commerce and Labor the right to remit or mitigate the penalty. I hope that that provision will not be carried any longer in any bills relating to navigation. I believe it is an absolutely vicious provision, and the penalty ought to be so arranged as to do without it. With the general provisions of this bill I am in hearty accord.

Mr. GREENE. Mr. Speaker, I now yield to the gentleman from New York [Mr. GOULDEN] three minutes.

Mr. GOULDEN. Mr. Speaker, I think no one questions for a moment the necessity for some legislation of this character. Our committee had many hearings and numerous sessions, and this bill, after careful deliberation, is the result. The objection that my friend from Washington [Mr. HUMPHREY] makes simply applies to some few vessels plying along the Pacific coast north of Seattle.

Mr. DAWSON. Will the gentleman yield?

Mr. GOULDEN. I will yield to the gentleman.

Mr. DAWSON. Would the terms of this bill, "if vessels engaged in intercontinental traffic," go to the greyhounds of the ocean that travel between the United States and foreign countries?

Mr. GOULDEN. Yes; certainly. Out of the foreign vessels, 110 of them, about one-half, are now equipped with proper apparatus and are able to communicate. There are a great many foreign vessels, however, bringing steerage passengers here that have no equipment of that character. They should be compelled to do so to protect human lives aboard. Among American vessels we find 127 equipped with this apparatus, 4 being on the Great Lakes. The reason that the latter are not included in this bill is because there are no stations, or very few, on the shores of the Great Lakes, so that a system of this character would be almost useless. At any rate, the committee thought it not so necessary there as on the ocean.

There is no doubt but that it is necessary to compel vessel owners who are guilty of indifference or negligence in this matter to equip their vessels with the necessary radio-telegraphic instruments and a competent operator. There are first-class seagoing vessels and coastwise steamers that are now properly equipped, but there are a number of others that have been neglected, either through carelessness or indifference. The case with the *General Slocum*, in New York Harbor, where the equipment in other ways was bad and inadequate, was simply that the law was not sufficient or well enough administered to compel them to use the required equipment for the safety of its passengers. As a result, more than 1,000 lives were lost on that terrible June day, 1904. In this connection, I find that the question of monopoly or combine was thoroughly thrashed out by the committee.

Mr. Wilson, of New York, the president of the United Wireless Telegraph Company, a well-established and efficient institution, at the hearings said:

> There are the Massie people, the International Company, the so-called "Slaby-Arco," and the Stone people. I do not know but there are more than that. Here is a list of them: Marconi, the United Wireless, the Fessenden, the Massie, and the Colliers.

All efficient and ready for use.

He further stated that there was no combination, either actual or contemplated, among these companies.

On this subject I ask unanimous consent to insert as a part of my brief remarks the message of the President, and to express the hope that the pending bill (H. R. 27672) will pass, as it is in the interest of human life.

The SPEAKER. Is there objection?

There was no objection.

THE PRESIDENT'S MESSAGE.

To the Senate and House of Representatives:

Your attention is invited to recent events which have conclusively demonstrated the great value of radio-telegraphy, popularly known as "wireless" telegraphy, as an instrumentality for the preservation of life at sea.

While the honor of the first practical application of the scientific principles involved may belong to another country, it is gratifying to know that our inventors have been quick to seize upon and develop the idea, and that several systems of approved scientific merit and commercial practicability have been put into operation in the United States.

Furthermore, through the liberality of Congress and the intelligence and industry of the Navy Department, our Atlantic, Gulf, and Pacific coasts are equipped with a chain of shore stations, designed primarily for the national defense, but capable of receiving and transmitting messages by any of the systems of wireless telegraphy now in general use. Even our distant insular territories and Alaska are so equipped.

So far as our own country is concerned, steps have thus been taken effectually to prevent the establishment of a monopoly in the practical use of the new applied art.

I deem it highly desirable that the Congress, before adjournment, should enact a law requiring within reasonable limitations, as determined by what the Government of the United States has already done, and by what prudent and progressive shipowners have already found practicable, that all ocean-going steamships, carrying considerable numbers of passengers on routes where wireless installations would be useful, should be required to carry efficient radio-telegraphic installations and competent operators. The subject is now under consideration by the Congress, and I am advised that legislation to effect the same general purpose is also under consideration abroad.

Our interest in its enactment is keen on account of the great number of steerage as well as cabin passengers who annually arrive at and depart from our ports. What we have already done along practical lines warrants the United States in being first among nations to enact a statute requiring the use of this safeguard of human life.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *February 8, 1909.*

Mr. HUMPHREY of Washington. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has fourteen minutes.

Mr. HUMPHREY of Washington. I yield to the gentleman from Illinois five minutes.

Mr. MANN. Mr. Speaker, sympathetic legislation is often dangerous. Everybody sympathizes with the desire to save human life, and if the various steamship companies are not now in the main equipped with wireless telegraph apparatus, it might be proper to pass this bill. But the large steamers are already equipped with wireless telegraphy. Now, here is a proposition to require every steamer which carriers 50 passengers, whether it be a freight steamer or a passenger steamer, to equip itself with wireless telegraph apparatus.

There are only two or three companies that can be utilized. It is the easiest thing in the world to make a combination. There is absolutely no restriction as to the cost to which vessels shall be put and no restriction as to the cost of messages when they are to be transmitted. It seems to me that when we pass a bill covering this subject we ought to cover the wireless telegraph subject. We ought to provide in reference to the use of the wireless telegraph on shore which now prevents the catching up of half the messages that are sent. We ought to limit the cost which these companies can charge a freight steamer or a passenger steamer, and then we ought to limit the cost which they can charge to a passenger when transmitting for him a message. Here we require certain things to be done, a patented device to be used, with no limitation on the power to combine and to make a charge. It seems to me preposterous.

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

Mr. MANN. Yes; for a question.

Mr. DOUGLAS. Does not the gentleman think that without regard to whether a vessel is called a passenger or a freight steamer, if it is certified to carry 50 passengers and does carry them, as this bill says, it ought to be equipped without regard to whether it is nominally freight or passenger?

Mr. MANN. I think that every vessel that sails the sea ought in some way to be equipped with some wireless instrument. I do not think that this bill accomplishes it in the proper way, nor do I think the bill is sufficiently considered. I have no criticism of the committee. The matter is a new proposition, and the Committee on the Merchant Marine and Fisheries promptly and properly considered the bill and reported it in. The committee of which I happen to be a member is still giving consideration to other bills on the subject. We had not thought we had learned enough of it to report in the bill. It seems to me that when we cover the cost we ought to make provision for these things. For instance, on a passenger steamer they now maintain the wireless telegraph for $1,000 a year after installation and furnish the operator. On a freight steamer they require the steamship to furnish the operator and still charge a considerable sum, so that it costs a freight steamer

now more to maintain the wireless telegraph for 50 passengers than it does the great big steamships with a thousand or more passengers. They can raise the rate just as high as they please, because when we provide that the steamship shall be fined if it does not make the installation, then they can put up a combination. Will they do it? Do the gentlemen know of any concerns in the country with power to combine that do not combine? Do the gentlemen know any two or three concerns in the country where Congress requires their instruments to be used who do not put up the price unless they are restrained from doing so by a limitation put upon the cost? There is no limitation here at all upon the cost, absolutely none, nor is there any limitation upon the cost of sending messages, and we all know that while these wireless companies are now asking for the passage of this bill the moment it is a law they will resist any desire or effort to regulate their charges.

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. I yield the gentleman two minutes more.

Mr. MANN. While we are requiring the use of their instruments, we ought to limit the amount of their charges. Why should we require a man wanting to send a message to pay the rate which these people choose to ask? To-day they furnish the messages to the ships free—that is, messages for the use of the ships—but does anyone think that the messages to the ships will be furnished free when the law puts a penalty on the ship if it does not have an instrument? This bill will put the shipping industry of the country absolutely at the mercy of two or three gentlemen, who may be very public-spirited, who may be exceedingly philanthropic and humane, but who will undoubtedly use every opportunity to make money for themselves. The bill ought to be recommitted to the committee; it ought to come back from it now, or at a future session of Congress, covering these points, restricting the amount that can be charged for the installation of the machinery, restricting the amount that can be charged for the maintenance and operation of it, and restricting and limiting the amount that may be charged for the use of it or for messages sent by passengers on the steamships.

Mr. HINSHAW. Mr. Chairman, even without this bill a large number of ocean-going steamers would finally be equipped with wireless telegraph. The competition among the greyhounds of the ocean is such that the great traveling public that pays good transportation rates would not travel on any other kind of a vessel, but there are a great many vessels that are not of this high class and character carrying steerage passengers for very low transportation rates that are not equipped and would not be equipped with these instruments, and it is necessary to compel them by law to be so supplied.

Now, as to the suggestion made by the gentleman from Illinois: The very thing that he says is not done by this bill is not done by the railroad rate bill, the appliance law we passed yesterday providing that certain kinds of appliances shall be used, and other laws that have been passed relating to the railroads of this country, and there is no place——

Mr. MANN. The gentleman is mistaken about that.

Mr. HINSHAW. And there is no place that we compel these companies to furnish railroad appliances of various kinds at any given price. I believe there would be objection to any form of bill that undertakes to force upon these vessels this kind of wireless telegraph, but if injustice occurs, if exorbitant charges are made and combinations appear within the next year, the Congress is fully able to take care of that matter when that situation arises. There are seven or eight different companies which engage in this business, and they are competitors. If by any chance they should combine and force up prices unduly, the Congress can meet the situation when it comes. I think it is a meritorious measure. We could not avoid all pitfalls and all troubles and objection that have been suggested. We could only suggest here a bill that will carry relief to most of the situations that occur in seagoing traffic.

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

Mr. HINSHAW. I will yield for a question.

Mr. GILL. I would like to ask the gentleman if this bill covers the radio-telephone?

Mr. HINSHAW. No; it does not, for the reason——

Mr. GILL. I would like to ask the gentleman if that should not also be taken in?

Mr. HINSHAW. I was one of those in favor of including the radio-telephone, but the evidence before the committee was almost overwhelming to the effect that the radio-telephone had not progressed sufficiently to make it proper or expedient to be included in this bill or to make it a vital proposition at the present time. When that system is perfected, as no doubt it will be, it can easily be taken care of by legislation. The radio-telegraph is in a present stage of efficiency so that it can be installed on all ocean-going vessels. General Uhler, Supervising Inspector-General of the Steamboat-Inspection Service, who appeared before the committee, advocated the putting of this upon every vessel—freight, passenger, steam, or sail vessels—whether they carried passengers or simply——

Mr. COCKRAN. Why did not they?

Mr. HINSHAW. Simply because at this stage of the proceeding it is almost impossible to reach a situation of that kind and compel every vessel, of small or large capacity, to put on this expensive service. It is almost impossible to compel every vessel now carrying no passengers to put up an installation that will cost a thousand dollars and initiate a service that will cost a thousand dollars a year to maintain.

The Members of the House, and the country, will understand that this is a new service, and that it was impossible for the committee preparing this bill to meet every possible case that will arise. No doubt further legislation will be necessary as the various systems of radio-communication are perfected. The startling disaster of the collision of the *Republic* and *Florida* has aroused not only this country, but other countries as well, to the necessity of having some efficient form of radio-communication on most vessels carrying passengers and eventually upon all.

This bill provides that a vessel carrying 50 or more passengers shall be provided with an efficient radio-telegraph. In navy and army circles the wireless telephone is now used to some extent with success, but the opinion of the naval officers indicates that the installation of this service on the fleet just now returning from around the world has not been such a success as to warrant us in compelling vessels to maintain it. When perfected the telephone will doubtless supersede the telegraph. It does not require an expert to operate; it is simpler and probably cheaper.

The Government of the United States has already established wireless stations along our seacoast. These stations receive messages from any and all of the various systems now in use. So far as your committee could ascertain, the seven or eight wireless systems now operating in this country are in competition for commercial business. If any combination shall hereafter be made by these various companies to raise prices of apparatus or charges for service, legislation can easily be enacted to protect the public, and it is probable that new systems would be so rapidly developed, because of the widespread use this marvelous system of communication is destined to enjoy, that prices of installation and maintenance are more likely to decrease than to rise.

There are at present in the United States, either partially or wholly equipped for services, five systems, to wit: The Fessenden, the United Wireless, the Massie, the Stone, and the Clark systems. In Germany the Telefunken system prevails. The Japanese vessels are equipped with the Teishinsho system. Denmark has the Poulsen. France the Branlypopp and the Rochfort. In England is the Lodge-Muirhead. In addition to these the United States Signal Corps has a system of its own, and there are various systems in embryo conducting experiments and perfecting appliances. Wireless telegraphy has already astonished the world, and yet we know it is but in its infancy. The possibilities of the development of wireless communication are limitless. The discoveries in new methods of communication and transportation are so marvelous that our imaginations can hardly conceive the changes that are destined in a few short years to take place, and which will affect the social, industrial, and political life of all the world.

Mr. COX of Indiana. Mr. Speaker, I regard this as one of the most important pieces of legislation offered for enactment by the Sixtieth Congress.

Mr. WALDO. Will the gentleman yield?

Mr. COX of Indiana. I would be very glad to, but I have only two minutes and I have not time to do so.

Mr. WALDO. I trust there will be some gentleman here who will yield to give us a little information on this subject——

Mr. COX of Indiana. There can scarcely be a bill presented upon the floor of the House but what there will be some objections urged against it. What are the objections waged against this bill this morning? For fear that the men who own the radio-telegraph instruments in the United States will unite and combine for the purpose of raising the price of these instruments. On one side that is an argument, placing the almighty dollar on one side of the ledger against the safety of human life on the other. I was one of the committee who firmly believed that this bill should provide that all steam vessels carrying passengers, or freight likewise, should be equipped with this kind of instrument, but, upon investigation, and particularly

from that stalwart gentleman who represents the city of Cleveland, I came to the conclusion it was premature at this time to incorporate a provision of that kind into this bill. The argument is further made that this is an inopportune time to legislate, for the reason that it is not well considered. Aye, Mr. Speaker, the very gentleman who is now opposing this bill upon this ground, I can refer him to the great Iroquois Theater fire, which occurred a few years ago in the city of Chicago, where 600 lives were lost, largely, if not entirely, as a result of the dereliction of duty of the people in power in the city of Chicago. Had the city authorities in the city of Chicago looked to the hanging of the doors before that direful calamity, and seen that the doors were hung so as to swing outward, the chances are largely in favor of the proposition that the many hundreds of women and children who were burned up in that holocaust would have been saved an untimely and unfortunate death. Again, I recall, and no doubt every Member here does the same, last winter when the city of Cleveland was overwhelmed by grief in the loss of more than 100 school children, brought about largely because of the fact that the doors to said school again swung inward instead of outward. The happening of these two catastrophes called attention everywhere to the existence of conditions, and no doubt led to sound and healthy legislation along these lines to improve conditions in the safety of human life. Shall we wait until thousands of human lives are actually lost at sea because vessels carrying passengers are not equipped with a proper radio-telegraphic instrument?

All because for fear if we pass this bill the owners of these instruments may raise their price to the shipowners. I say no. Humanity says no. Now is the time for us to act, and act at once, without delay, to the end that we may do something for the countless millions of passengers who annually cross and recross the great oceans and land at the various ports of the United States. Should an attempt be made to increase the price of these instruments our worthy Committee on Interstate and Foreign Commerce can easily take charge of the situation when this condition arises, if it ever does arise. The use of these instruments on passenger steamers has been going on for some time, with no evidence of any combination upon their part to increase the cost of the instruments to the shipowners. So far as I am concerned, I do not care if it does increase the cost to the shipowners. When I am called upon to decide between the safety and preservation of human life, on the one hand, and the distant fear of increase of cost on the other, I unhesitatingly cast my lot on the side of humanity. I hope the bill will pass and that it may become a law, and when it does it will be a monument of glory to the Congress enacting it.

Mr. GREENE. I would like to have the gentleman from Washington yield some of his time.

Mr. HUMPHREY of Washington. I yield two minutes to the gentleman from Ohio [Mr. KENNEDY].

Mr. KENNEDY of Ohio. Mr. Speaker, the object of this bill is all right, but I fully concur with the gentleman from Illinois [Mr. MANN] that hasty legislation of this character is apt to be ill-advised, and it seems to me that in one or two regards this bill is such. In the first place, I do not believe that the language limiting the appliances for communicating between vessels is well chosen. I do not know exactly what "radio-telegraphic apparatus" means; but in this age, when we are talking from one continent to another under the ocean, when crafts are sailing through the air, and when no man dare predict what may be or may not be in the near future, we certainly should not in a bill of this character limit and prescribe that ships should use any particular method of communication.

The telegraph is a wonderful thing. It may be better six months from now than anything known. So the committee in prescribing a particular appliance for communication has certainly closed the door against anything better that might be discovered in the near future. I am a believer in the doctrine that that government governs best which governs least, and I believe that all the ships carrying passengers will be compelled by the very circumstances that surround them to adopt some method of communication without compulsion and without criminal process.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GREENE. Mr. Speaker, I yield one minute to the gentleman from West Virginia [Mr. STURGISS].

Mr. STURGISS. Mr. Speaker, the last quarter of the nineteenth century and the opening years of the twentieth century have demonstrated beyond all the other years of history the supremacy of mind over matter. The mighty and often most terrible forces of nature have been subdued and not only stripped of their power for evil, but subjugated and harnessed, and have become benign instruments for helping to make life easy, attractive, and safe.

The most striking and recent illustration of this assertion was witnessed when two great ocean-going steamers, loaded with hundreds of people, the one nearing the conclusion of a 3,000-mile voyage, the other just leaving New York Harbor with a thousand pleasure-seeking passengers for a season's travel in the Mediterranean and the Orient, each all unconscious of the proximity of the other, till with a mighty crash in the darkness they were hurled against each other, dealing a deathblow to one vessel and inflicting great damage to the other, killing some passengers, and putting the lives of all in great peril. But mind, dominant over sea and darkness and distance, called aloud for help with the still, small voice of the radio-telegraph and told the tale of disaster and impending death and brought helping hands and words of cheer from scores of listening watchers.

One has truthfully said "the undevout astronomer is mad," who, having contemplated the stupendous magnitude of the solar systems that light our midnight skies, the enormous numbers of revolving suns and satellites, and the perfect harmony that holds each in his orbit and place, can see no divine supernatural power and wisdom displayed in all this mighty creation.

But the power and wisdom and beneficence of that Being who holds the firmaments in the hollow of His hand are no less plainly shown in the adaptation of mind to matter in this workaday world as in the heavens above; and the scientist who thoughtfully studies the qualities and properties, often occult and mysterious, that are inherent in matter, and considers the powers of the mind of man to discover and reveal them and apply them to his everyday uses and can see no God in it all, is undevout and mad. There are 10,000 inventions and discoveries that have so long been used that we regard them as commonplace and no longer marvel at them that illustrate the truth just stated.

The magnetic needle, the steam engine, the ocean greyhound, the railway locomotive, the telegraph, the submarine cable, the telephone, the phonograph, electric lighting, heating, and power, the natural gases, noxious and highly explosive, piped into our homes, furnaces, and factories, to give light and heat and power, are but a few illustrations of the nine days' wonder grown commonplace and prosaic. But each is proof of the fact that the mind of man, when stimulated by cupidity, curiosity, benevolence, or necessity, finds every form of material things endowed with or possessing inherently the property, quality, or characteristic that man needs in his operations and which he would give to matter if he possessed the power.

He wanted the magnetic needle, and found the loadstone; he needed the transparent glass, and with opaque sand and alkali he made the crystal lens; he wanted mechanical power to do his work, and found it in the energy of expanding steam, and so built his engine and steamship and locomotive; he wanted the metals with all their differing qualities of ductility, malleability, hardness, and temper, and found them in the ores and stones; he needed fuel for light and heat, and found it in coal and oil and gas; he worshiped in fear the lightnings of heaven till he had measured this most terrible and apparently most refractory element, but when his brain had mastered it, he found it possessed of the most varied and valuable properties; it became his messenger, outstripping Mercury, the winged god of the ancients; on land and under sea instantaneously it responded to his thought and touch; from it he derived light for his home and shop and street, and electricity made night as bright as the noonday; he grew tired of steam as a motive power and harnessed the lightning to his car; and needing a heat more intense than any fuel could produce, found it in the electric arc. He found this element was all about him, harmless and unnoticed in equilibrium, like the air we breathe, but like the air, which disturbed in its equilibrium, becomes the mighty tornado, destroying life and property, only a thousand-fold more terrible and quicker in its death-dealing and property-destroying power.

He devised the dynamo, like a great ventilating fan, gathering in the electric element, disturbing its equilibrium, and sending it out in mighty impulses over the wires to do his bidding. He found he must have a good conductor to transmit and control the electric current, and found in copper and aluminum just the quality or characteristic needed, but at the same time he found that absolute nonconductivity was just as essential in order to insulate his wires and handle this fearful genius with safety, and in glass, porcelain, and hard rubber he found or created from crude materials the most perfect nonconductor.

And so far as the mind has explored the realm of nature, man has found the former dominant over matter and natural forces,

and the latter everywhere responsive with the properties and qualities and characteristics that he needs.

Can it be that all this is chance, a mere fortuitous combination of elements, but always, when properly understood and applied, working for the good of humanity? Rather does it prove beyond all reasonable doubt that an all-wise, all-powerful, and always beneficent God reigns not alone in the invisible and visible heavens, but on and in the earth and the elements thereof and in the heart and brain of man.

What heart was not touched and eye moistened and love to man and praise to God stimulated when the account of the rescue of over sixty score passengers and half as many of the crews of the ill-fated *Republic* and *Florida* was first read a few days ago? Out of the darkness of fog and night came the sudden and awful collision that gave the death wound to one vessel and for a season paralyzed the other, giving promise of a fearful harvest of death. But here came a miracle of human genius and the application of the property of electricity and of the air to transmit for hundreds of miles the call of distress to all the listening ears on ship and shore that might be equipped with the newest device and discovery by man that wires are not needed to transmit thought and words, but that God's ether, ever around us, is ever ready to respond to man's call to his fellow-man in distress and in defeat, and in joy and in triumph.

Marconi, the inventor and discoverer, joined with Binns, the practical operator, in bringing speedy aid by friendly hands out of the darkness, from ship and shore, and in receiving words of cheer and encouragement for those waiting in suspense and dread. If man's inhumanity to man has caused countless thousands to mourn, nevertheless in these modern and, let us hope, better days, man's love of humanity and his dominion over the forces of nature have brought life and hope and happiness, as well as peace and prosperity, to millions in every land and every field of human activity. But let not our jubilation and emotions evaporate in speech, but let us give practical expression to them by voting for this bill, which requires every ocean passenger steamer embraced in the description in the bill to be equipped with efficient apparatus and a skilled operator that shall enable each vessel to keep in actual communication with every other like vessel and with each shore from the time she leaves port till she reaches her destination, and so diminish the dangers and lighten the solitude of those who sail the ocean and encounter the perils of the great deep.

Mr. GREENE. Mr. Speaker, I yield a half minute to my colleague from Massachusetts [Mr. PETERS].

Mr. PETERS. Mr. Speaker, the subject before the House is one of great interest to me, and I have introduced a bill which, in effect, is the same as the measure which we are considering to-day. Limited time for debate prevents my going into the reasons and prevents me from having the opportunity to answer some of the objections that have been made. In view of that fact, I do not care to go into the discussion, but I ask unanimous consent to print in the RECORD my remarks on this subject.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. STURGISS. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. GREENE. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has six and one-half minutes remaining.

Mr. GREENE. Mr. Speaker, I desire to say just a few words and yield to the gentleman from Pennsylvania [Mr. BURKE] to close the debate. It has been said by different Members in opposition to the passage of this bill that we are forcing these companies to put the radio-telegraph system upon their vessels. I think we are doing right when we do so, and I desire to call attention to the facts concerning two steamers which arrived in Boston on the 9th instant, one of them having first-class passengers and being fully equipped with everything necessary to preserve human life, including a radio-telegraph system. The other steamer carried a very large number of steerage passengers, and had more than twice as many passengers as the steamer first referred to, and it had no equipment such as is required by the terms of this bill. There is no reason why steerage passengers should not be supplied with every possible accommodation, and certainly with every modern improvement for the preservation of human life. Everyone knows that steerage passengers are profitable to the steamship owners. They occupy but very little space, they eat but very little food, and they come in large numbers. Owners of passenger steamers can not be excused on account of the question of the expense required by this bill from making the necessary provision for the preservation of human life.

Mr. HUMPHREY of Washington. Mr. Speaker, I shall say but a few words more. This bill strikingly illustrates what the gentleman from Illinois has said—that it is dangerous to legislate out of sympathy. And I think enough has been shown to the House that they agree with the gentleman from Illinois [Mr. MANN] that this bill should go back to the committee and a proper bill reported. We reported this bill which provides that every steam vessel within a year shall be equipped with wireless apparatus. We do not limit the companies as to what they shall charge for the equipment; we do not limit them to what they shall charge the public for sending messages. The only answer to the gentlemen who are in favor of this bill have made to these statements is that we can correct it by legislation hereafter. Now, it seems to me that when we are granting this power, when we are compelling vessels to equip themselves with wireless apparatus, is the time to make these restrictions. As the gentleman from Illinois has well said, pass this legislation, and the very moment we attempt to restrict them in any way these companies will be here opposing it. We have no assurance that the present prices will continue.

Mr. STEPHENS of Texas. Will the gentleman permit me to ask him a question?

Mr. HUMPHREY of Washington. I yield to the gentleman.

Mr. STEPHENS of Texas. Is it not a fact that this legislation is on all fours with the legislation for this city and a great many others, requiring fire escapes to be placed on hotels?

Mr. HUMPHREY of Washington. I do not think so.

Mr. STEPHENS of Texas. Can not you pass legislation of this kind in that way?

Mr. HUMPHREY of Washington. It is not the same as a law compelling equipment with fire escapes. This allows the companies owning these vessels to be charged by the wireless companies so much by the year, and there is no limit as to the charge the vessels may have to pay.

Mr. STEPHENS of Texas. There are a great many patents on fire escapes and railroad appliances, and it is made the duty of railroads, under the law, to select the best appliances. Why should not the railroads select the best appliances?

Mr. HUMPHREY of Washington. A fire escape is not a patented arrangement and not under the control of two or three companies.

Mr. HUBBARD of West Virginia. Is it not true that instead of the arrangement that the wireless company, at its expense, furnish the operator to passenger steamers that this bill transfers that burden to the ship, without any relief?

Mr. HUMPHREY of Washington. So far as this bill is concerned, the company furnishing the apparatus can do as they please. The only restriction is to compel every vessel to equip itself with this apparatus within a year.

Mr. HUBBARD of West Virginia. And also provide its own operator, which now the ship is not required to do.

Mr. WILSON of Illinois. Does the gentleman from Washington know of any law that has been passed through Congress which provides that the company selling a certain article for such consumption as this has to put a price upon it? Does he know of any railroad safety-appliance law which Congress has passed since the gentleman has been a Member in which it ever put any price on the appliance of any company supplying it?

Mr. HUMPHREY of Washington. I do not know. I am not qualified to answer that question. But I do know in this particular case where the power to fix the price rests. It rests with these wireless companies. I think there are seven reported, but only two or three, in fact, can furnish the equipment.

Mr. WILSON of Illinois. I want to know if the gentleman knows any law passed by Congress restricting the price of any product that should be consumed under that law.

Mr. MANN. What has the gentleman to say about the gas proposition?

Mr. WILSON of Illinois. I am talking about patented appliances.

Mr. GREENE. I yield the balance of my time to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE. I yield to the gentleman from Missouri [Mr. ALEXANDER].

Mr. ALEXANDER of Missouri. Mr. Speaker, the bill H. R. 27672 is very simple and easily understood. It provides that it shall be unlawful for any ocean-going steamer certified to carry, or carrying, 50 passengers or more, to engage in the business of carrying passengers or to carry passengers between

ports 200 miles or more apart unless equipped with an efficient radio-telegraphic apparatus, in charge of a person skilled in the use of such apparatus, with suitable penalties for the violation of the law. It was necessary to place some limitation in the law as to the steamers to which it should apply. The committee, in view of the fact that this is a new invention, and not wishing to impose any hardship on the shipping interests, thought it wise to limit the law to those vessels carrying 50 passengers or more. Then, again, the question came up for consideration as to whether or not the law should apply only to seagoing vessels or should include traffic on the Great Lakes. The committee were also called upon to consider whether or not the radio-telephone as well as radio-telegraph should be included in the bill. The bill was not made to apply to radio-telephone communication for the reason that the hearings disclosed that the radio-telephone is not of proven efficiency at greater distances than 25 miles. Indeed, there was testimony that 12 miles is the present limit. Hence it became apparent that it would have been unwise for the bill to provide for radio-communication, as it would have left it to the vessel owner to install the radio-telegraph or radio-telephone, and in the opinion of the committee the radio-telephone under its present limitations would not meet the needs of the service.

The committee had in view primarily the trans-Atlantic service, although the bill applies as well to steamers engaged in the coastwise trade. It was our purpose to provide for a service that would be effective on the high seas and at great distances. The wireless telephone would be of little or no value if an accident should occur to a vessel more than 25 miles distant from another vessel, although the other vessel should be provided with radio apparatus, or at a greater distance than 25 miles from a wireless station on shore. In the case of the recent disaster to the steamer *Republic*, radio-telephones would have been of little or no value, and having in mind the limited area in which the radio-telephone now has any possible value, the committee wisely, I think, excluded its use from the provisions of the bill. Science and invention are making rapid strides in the development of the radio-telephone, and the time may come in the near future when its efficiency may be as great as the wireless telegraph service. When that time comes it will be an easy matter to extend the law to include the radio-telephone, and we will welcome that time, as it will not then be necessary to keep an expert operator aboard ship to operate it, as is true of the radio-telegraph.

Radio-telephones were installed on our battle ships prior to their departure on their world voyage. We took particular pains to inquire of a representative of the Navy Department who appeared before the committee if the service had proven satisfactory even as a means of communication for short distances, and he stated that it had not, and this was an additional reason why we did not include this service in the bill.

The bill was not made to apply to the Great Lakes for several reasons, the main one being that there are now only three or four wireless stations on the Great Lakes, and they are under private control, whereas the Atlantic and Gulf and Pacific coasts are provided with government wireless stations, and hence are free from private control.

Again, the need is not pressing. The trips on the Great Lakes are short, we are told, and the steamers rarely out of sight of land except for brief intervals, and relief generally near at hand and within call by the distress signals now in use.

Great emphasis has been given by some to the objections that the bill does not safeguard the vessel owner and the public against extortionate charges for the service, and that the bill should limit the cost of installation and the rates to be charged for wireless messages.

It is enough to say that this method of communication is yet in its infancy; it is scarcely more than 8 years old, and it is only recently that the service has been reduced to a commercial basis. New discoveries and inventions are occurring rapidly, which tend to cheapen the cost of the apparatus as well as of the service, and it would be impracticable now to frame a law to regulate the price that manufacturers should charge for the apparatus or the cost of the service.

Although the Interstate Commerce Commission was created more than twenty years ago, it has not yet been given the power to regulate the rates that may be charged by railroad, telegraph, and express companies engaged in interstate business, and it was not thought sufficient reason why the safety-appliance law should not be enacted that it did not limit the price that manufacturers might charge for the appliances, although the inducement offered to manufacturers to combine was as great or greater than is the inducement for manufacturers of radio apparatus to do so. It might be well enough to remind the gentlemen who have urged this objection with so much zeal that our antitrust laws apply with equal force to such a combination as they apprehend may be formed should this bill become a law as to any other trust or monopoly, and while the committee would have been glad to relieve the shipping interests of this danger, yet, for the reasons that I have stated, we do not regard it practicable to do so at this time. But the committee took a wider view of the matter than simply the one involving dollars and cents. We thought the safety of human life of paramount importance. When we contemplate the appalling loss of life on the high seas in the past, the committee should be excused if in our desire to mitigate the perils of the sea we do not present to the House a bill as perfect and comprehensive in its provisions as time and the future developments of science and invention may make necessary.

This bill was framed to better secure human life, and if its enactment into law results in greater safety to those who travel the seas our object in some measure will have been accomplished and the author of the bill will earn for himself the gratitude of mankind.

Mr. BURKE. Mr. Speaker, one astonishing feature of this discussion is the statement that comes from the gentleman from Illinois [Mr. MANN] with respect to the character of this legislation, the assertion that it is sympathetic. The very fact that the father of the pure-food bill, upon which rests his fame in this land, should rise in his place in the halls of Congress and suggest that it is proper to oppose legislation because it is of a "sympathetic" character is so preposterous that it furnishes its own answer.

Now, in the first place this is a humanitarian proposition. As to the statement that only two or three companies are engaged successfully in the operation of these instruments, I believe the gentlemen who make them are not correctly informed. There are at least seven companies now in existence successfully operating the instruments or appliances which would be within the province of this act.

The names and field of operations covered by them appear from the following table, furnished me by Commissioner Chamberlain, of the Bureau of Navigation:

RADIO-TELEGRAPHIC SYSTEMS.

MARCONI.

The first practical system in the field. The first Marconi British patent was applied for on the 2d of June, 1896, and accepted on the 2d of July, 1897.

DE FOREST.

American in origin; acquired in Great Britain, and it is said for all parts of the world except North America, by a British company.

FESSENDEN.

American.

LODGE-MUIRHEAD.

British, both as regards invention and ownership. First patent applied for 10th of May, 1897; accepted 10th of August, 1898.

TELEFUNKEN ("FAR SPEAKING").

German; an amalgamation of the systems of several different inventors (Slaby, Arco, Braun, Siemens).

ROCHFORT.

French.

BRANLY POPP.

French.

POULSEN.

Danish; a recent invention, the rights of which for all parts of the world have also been acquired by the Amalgamated Radiotelegraphic Company.

SHOEMAKER.

American.

MASSIE.

American.

COMPANIES OPERATING IN UNITED STATES.

Vessels in trade with the United States are now equipped with installations furnished by companies using the following systems:

1. Marconi.
2. United Wireless (which is a combination of the De Forest and Shoemaker systems).
3. Fessenden.
4. Massie.
5. Stone (relatively new company).
6. Colliers (a relatively new company).

It is also possible that some vessels in trade with the United States may be equipped with the Telefunken (German), Poulsen (Danish), or some of the other systems.

Mr. WALDO. I should like to ask whether the shipping interests of New York have been consulted on this?

Mr. BURKE. The shipping interests of New York have been consulted, and on the very day that the measure under discus-

sion was proposed the directors of the Produce Exchange of New York City, by a unanimous vote, indorsed the measure. Subsequently the president of the Maritime Association of New York, Mr. Norman, communicated with the committee through a New York Representative [Mr. BENNET], stating that he did not find on the floor of the exchange one dissenting voice, and he said: "I trust our entire New York delegation will lend their best endeavors to have the law enacted at this session."

Its expediency is also evidenced by the following letter written to the gentleman from Massachusetts [Mr. GREENE] after we had revised the bill:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF NAVIGATION,
Washington, February 4, 1909.

SIR: In view of the suggestion of your committee that Mr. BURKE of Pennsylvania confer with the Commissioner of Navigation and the Supervising Inspector-General, Steamboat-Inspection Service, for the purpose of suggesting such amendments or revision of the bill heretofore introduced by Mr. BURKE in order to make the same as practicable and as efficient as possible, all things being considered, we beg to state that the revision made and incorporated in the bill, which will be presented by Mr. BURKE in substitution, meets our hearty approval, and we believe it will accomplish more nearly than any other legislation suggested the purposes in view.

Respectfully,

GEO. UHLER,
Supervising Inspector-General Steamboat-Inspection Service.
E. T. CHAMBERLAIN,
Commissioner of Navigation.

To the Hon. WM. S. GREENE,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

Now, as to the necessity of this legislation, Mr. Speaker, there are now in round numbers practically one-half the vessels that would be affected by it already complying with it. During the last year there were coming into the United States ports from foreign countries 149 ships, with a capacity of 182,144 passengers, which ships were equipped with the wireless instruments. There were entering these ports from foreign countries 97 foreign ships not equipped and having a capacity of 135,749 passengers. There were also 19 American vessels which were equipped, mainly on the Pacific Ocean, and having a very large passenger capacity. There were also 33 American ships engaged in the foreign trade not equipped. So that, speaking generally, one-half the vessels to which this legislation would apply are already equipped, and one-half are not.

Now, as to the necessity of the legislation and the question of a possibility of a monopoly arising, that is completely answered by the legislation enacted by the last two Congresses, introduced by gentlemen on this floor. There is no more possibility or probability of monopoly in the wireless business than there is in any other, as the antitrust laws enacted by past Congresses would apply to it just the same as to other monopolies. Its importance to humanity is so great that I trust its enactment to-day will result in America leading the world in this commendable field of human endeavor, as she has always done since the establishment of the Republic.

Mr. McDERMOTT. Is it not a fact that the Western Union-Postal Telegraph Company did agree less than two years ago to raise its rates from 20 to 60 per cent, and is it not a fact that if you want to send a wireless message you will have to send it by this one combination, and did not Commissioner Neill to-day make the statement that the operators' wages are lower now than they were in 1883?

Mr. BURKE. That question is irrelevant.

The SPEAKER. The time of the gentleman has expired.

Mr. GREENE. I ask unanimous consent that Members who have spoken on the bill be given leave to extend their remarks in the RECORD.

There was no objection.

Mr. HITCHCOCK. I ask unanimous consent to present an amendment to be inserted on page 2, line 17, after the word "apparatus," "to cost no more than the prices now prevailing."

The SPEAKER. That amendment can be considered only by unanimous consent. Is there objection to the amendment?

Mr. FOSTER of Indiana. Reserving the right to object——

The SPEAKER. The time for debate has passed. The Clerk will again report the amendment.

The Clerk read the amendment again.

The SPEAKER. Is there objection?

There was no objection.

The question being taken on suspending the rules and passing the bill with the amendments, the Speaker announced that in his opinion two-thirds had voted in the affirmative.

Mr. COCKRAN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. COCKRAN. What is the motion—to amend the bill or pass it?

The SPEAKER. The motion is to agree to all the amendments, including the last one, and pass the bill. It is all one motion.

Mr. MANN. Let us have a division.

The House divided; and there were—ayes 91, noes 23.

Accordingly (two-thirds voting in favor thereof) the rules were suspended and the bill was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolutions, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 95.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France.

Senate concurrent resolution 90.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey, with the view to obtaining a uniform depth of 10 feet in the inland waterway between Fernandina (Fla.) Harbor and the St. Johns River, and to report, together with an estimate of the cost of the project.

Senate concurrent resolution 91.

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 of the St. Johns River, Florida, between Jacksonville and the ocean, with a view to obtaining a depth of 30 feet at mean low water.

Senate concurrent resolution 93.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Smiths Creek, North Carolina, with a view to the removal of obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Smiths Creek.

Senate concurrent resolution 94.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Swift Creek, North Carolina, with a view to removing obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Swift Creek.

Senate concurrent resolution 92.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 6891) for the relief of Maj. G. S. Bingham.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution and bills of the following titles, when the Speaker signed the same:

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned bronze cannon and cannon balls to the city of Bedford, Ind.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.;

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, S. C.

H. R. 21926. An act for the organization of the militia in the District of Columbia;

H. R. 19662. An act to amend an act entitled "An act to establish the Foundation for the Promotion of Industrial Peace;"

H. R. 16274. An act to amend section 10 of chapter 252, volume 29, of Public Statutes at Large;

H. R. 26216. An act to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, to the Territories of New Mexico and Arizona;

H. R. 18487. An act for the relief of Charles H. Dunning;

H. R. 25552. 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; and

H. R. 25805. An act to reenact and to amend sections 3646 and 3647 of the Revised Statutes.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3969. An act to amend the laws of the United States relating to the registration of trade-marks;

S. 8510. An act to extend the time of payments of certain homestead entries in Oklahoma;

S. 9295. An act in relation to the salary of the Secretary of State;

S. 8254. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain dependent relatives of such soldiers and sailors;

S. 8898. An act granting pensions and increase of pensions to certain soldiers and sailors of the late civil war and to certain widows and dependent relatives of such soldiers and sailors; and

S. 1574. An act to create the Calaveras Bigtree National Forest, and for other purposes.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned brass or bronze cannon and cannon balls to the city of Bedford, Ind.;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, S. C.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.;

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming;

H. R. 24831. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 25391. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 25806. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 26461. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors.

SENATE BILLS AND RESOLUTIONS REFERRED.

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

S. 8441. An act to authorize the Secretary of the Interior to cause to be surveyed any unsurveyed lands belonging to the Five Civilized Tribes, and for other purposes—to the Committee on Indian Affairs.

S. 6971. An act authorizing the acceptance by the United States Government from the Woman's Relief Corps, auxiliary to the Grand Army of the Republic, of a proposed gift of Andersonville prison land, in the State of Georgia—to the Committee on Military Affairs.

S. 6935. An act for the relief of the Merritt & Chapman Wrecking Company—to the Committee on Claims.

S. R. 127. Joint resolution authorizing an extension of the tracks of the Atchison, Topeka and Santa Fe Railroad on the military reservation at Fort Leavenworth, Kans.—to the Committee on Military Affairs.

S. R. 128. Joint resolution authorizing the Secretary of War to donate four condemned cannon to the county of Warrick, in the State of Indiana—to the Committee on Military Affairs.

Senate concurrent resolution 94.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Swift Creek, North Carolina, with a view to removing obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Swift Creek—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 93.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Smiths Creek, North Carolina, with a view to the removal of obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Smiths Creek—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 91.

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 of the St. Johns River, Florida, between Jacksonville and the ocean with a view to obtaining a depth of 30 feet at mean low water—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 90.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey with the view to obtaining a uniform depth of 10 feet in the inland waterway between Fernandina (Fla.) Harbor and the St. Johns River, and to report, together with an estimate of the cost of the project—

to the Committee on Rivers and Harbors.

ADDITIONAL COTTON STATISTICS.

Mr. LEVER. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 231, authorizing the Director of the Census to collect and publish additional statistics.

The Clerk read the joint resolution, as follows:

Resolved, etc., That the Director of the Census be, and he is hereby, authorized and directed to collect and publish, in addition to the cotton reports now being made by him, statistics of stocks of baled cotton in the United States, to be summarized as of November 1, December 1, January 1, and March 1.

The following committee amendment was read:

In line 7 strike out the words "December first."

The SPEAKER. Is there objection to present consideration?

There was no objection.

The amendment was agreed to.

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

On motion of Mr. LEVER, a motion to reconsider the vote whereby the joint resolution was passed was laid on the table.

PROTECTION OF RIGHTS OF SURFACE ENTRYMEN.

Mr. MONDELL. 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. 24834) for the protection of the rights of surface entrymen, as amended by the committee amendments, and, with an amendment which I send to the desk, to suspend the rules and the bill be passed.

The SPEAKER. The gentleman from Wyoming moves that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill which the Clerk will report, with the committee amendments and the amendment as a substitute, and the bill be passed.

The Clerk read the bill, as follows:

Be it enacted, etc., That any person who has in good faith heretofore located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: *Provided*, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: *Provided further*, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him, and to a patent without reservation if the land shall be determined not to be chiefly valuable for coal, or to abridge or deny the right of any entryman who has earned a title to the land covered by his entry to a patent without reservation.

The SPEAKER. Is a second demanded?

Mr. GRONNA. I demand a second.

Mr. MONDELL. I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Wyoming is entitled to twenty minutes and the gentleman from North Dakota to twenty minutes.

Mr. MONDELL. Mr. Speaker, I think I can best explain the purposes of this bill by reading from the report which I made on the bill:

"The necessity for this legislation arises from the fact that it is often difficult for an entryman, settler, or locator under the nonmineral laws to determine at the time of his location or entry as to the coal or noncoal character of the lands he locates, because the occurrence of thin strata of coal or of considerable bodies of low-grade lignites on land does not necessarily take it out of the class of lands that can be located and acquired for agricultural purposes or under the nonmineral, land laws, and, further, because coal may occur in quantities at a considerable depth beneath the surface of the land without there being anything on the surface or in the locality to indicate the presence of such a deposit.

"Therefore, nonmineral entrymen have in many cases, in perfect good faith, gone on lands which contain thin veins of coal, or coal of low grade and not of merchantable quality, or which was, unknown to him, underlaid at some depth by considerable coal veins, and in many cases lands of this character have been patented under the agricultural-land laws.

"In various parts of the West, particularly in western North Dakota and eastern Montana, and to a lesser extent in South Dakota and elsewhere, there are very large areas of very low-grade lignites. These, particularly in certain portions of the areas, are of but very little value, except for fuel for domestic purposes on or in the immediate vicinity of the lands, and for years these lands have been homesteaded and patented without a thought on the part of anyone that they contained valuable coal. Some portions of these fields, however, contain coal that is of somewhat better quality, and in several Western States, notably Colorado, Wyoming, Utah, and Montana, are coal areas where the coal is of a better quality, but where the surface indications do not point to coal deposits of value and nonmineral entrymen have in many cases in good faith made locations.

"In July, 1906, and later, very large areas of land were withdrawn from entry on the theory that they contained coal or that they were within known coal areas. Later these orders of withdrawal were modified so that such of the lands as were in fact noncoal lands might be entered, and in 1907 the Geological Survey began an investigation of the coal area in various Western States for the purpose of determining the character and extent of the deposits, and of classifying the coal lands for the purpose of fixing a schedule of prices for the same.

"About the same time the General Land Office adopted the policy of placing under suspension all nonmineral final certificates which had been issued on lands within areas believed to contain coal, and has declined to issue patents on the same pending the ascertainment whether such lands were known to contain coal prior to the issuance of final certificate. Two thousand seven hundred and seventy-one such tracts entered under the homestead and desert land laws are now held in suspension. Since the coal land withdrawals no final certificates in the regular form have been issued on final proof on homesteads and desert entries within areas embraced in coal withdrawals or reported as coal lands, a special form of receipt for the money paid being the only evidence of title given to the entryman.

"A search of the public-land records indicates that 11,688 original homestead and desert entries are of record within known or reported coal areas, or areas which have been withdrawn as coal land. Since the investigation and classification of coal lands began and up to January 9, 1909, the special agents of the General Land Office had made investigation and submitted report on 3,240 entries and selections of all kinds reported as coal lands, and they have reported 943 of these as coal lands and 2,297 as having no coal, or as not having coal of a quality or value sufficient to prevent entry under the nonmineral-land laws.

"From the above it will be seen that there are in the neighborhood of 19,000 cases which might eventually be somewhat affected by this legislation. However, as the final entries are only about one in five of the original entries, the number of original entries which might be affected is probably much less than the total of such entries. Further, in the case of the first class of entries mentioned the question being not as to the coal character of the land, but as to whether the land was known to contain coal at the time of or prior to final proof, the number of these cases which would be affected might be comparatively small, and in cases where proof has been made and no certificate issued, many entrymen will no doubt be able to prove the noncoal character of their land; but, making due allowances for all these exceptions, it is clear that a large number of entries must be directly affected by the legislation, and that if no legislation is had the entryman will in many cases lose all his rights in the land claimed and improved by him.

"In a large number of cases a hearing would probably result in the land being declared by the government officials noncoal land, for it is notorious that many suspended entries are in regions that contain no coal at all or no coal of any value. Many of the entries have been suspended simply because they are located within a township in which a coal declaratory statement has at some time been made. Many other entries, as in the case of North Dakota and eastern Montana, are suspended because in a general region of inferior lignite coals, and the probability is that in the majority of cases it would not be held upon a hearing that these lands were valuable for coal. In many cases unnecessary hardship and expense has been laid upon the entryman by reporting as coal lands large areas which contain no coal at all, or veins of such character or quality as to exclude them from what may properly be classed as coal lands. Such entrymen must defend their claims at very considerable cost, or, as matters now stand, lose their land.

"It is undoubtedly true, however, that in some of the coal-land States, at least, homesteads and other classes of nonmineral entries have in good faith been placed upon lands which do contain valuable coal, though in most cases of this kind it would probably require drilling or sinking to definitely establish that fact.

"In this condition of affairs some legislation seems to be necessary. It has been suggested that a law be passed granting to all homestead settlers who have settled upon land in good faith prior to this time a title to their lands in fee without regard to whether the land contains coal or not. Such legislation would relieve entrymen from the necessity of defending at hearings, and the probability is that in a large majority of the cases now pending all lands thus patented would contain little coal of any considerable value. But since 1873, when Congress passed the coal-land law and first began to place a price on coal land above that charged for agricultural lands, Congress has not attempted to determine as to the coal or noncoal character of any particular tract, and it is quite certain that a law granting all who have heretofore made nonmineral entries in good faith a fee title to their land would enable some to secure land which may ultimately, if it is not at the present time, be of some considerable value for the coal which it contains.

"This being true, the legislation in question has been adopted. It takes no right from the nonmineral entryman which he now has, but it does give him the opportunity to elect, if he sees fit to do so, to take a patent to his land with a reservation in the United States of the coal in all cases where the character of the land has been called into question.

"Should this bill become a law, the probability is that a considerable number of entrymen, the character of whose lands has been or may hereafter be challenged, would immediately elect to take a title with a reservation, rather than demand and pay the expense of a hearing before the register and receiver of the land office to determine the character of the land. These hearings involve an expense of all the way from $50 to as high as $200 or $300 or possibly $500 for each entry of 160 acres of land. In many cases the entryman's financial condition precludes the possibility of his making a defense at such a hearing. In other cases the entryman would consider that his land was not sufficiently valuable to warrant the expenditure necessary, or a condition of poverty joined with one of small value in the claim would often exist, and in such cases the entryman would take his patent with a reservation.

"Your committee realizes that the Government ought not to compel an entryman to defend his entry for any slight or trivial cause. It is unfortunately true that the coal withdrawals have been so sweeping, and the boundaries within which the entries have been held up on a claim of coal value by the Government have been so wide, that many entrymen have been called upon to defend their entries where, as a matter of fact, there is but little, if any, foundation for the claim that the land contains coal of value. However, it is undoubtedly true, as has already been stated, that some lands taken under the nonmineral land laws do contain valuable deposits of coal, though the probability is that such lands are but a small percentage of the lands the character of which has been called in question.

"While a certain class of entrymen would take their limited title rather than demand a hearing, the probability is that the majority of entrymen would insist upon a hearing, and in some of such cases the land would no doubt be held by the department to be valuable for coal. These men, if we have no legislation, would ultimately lose their lands and improvements, and it is imperative that legislation for their relief be had.

"As the bill is drawn the entryman can exercise his right to elect to take his patent with a reservation at any time prior to the cancellation of his entry. For instance, if the entryman is notified that his land is claimed to be valuable for coal and that it will be held for cancellation, pending which he may ask for a hearing to determine the character of the land, he may thereupon elect to accept his title with a reservation, or he may demand a hearing, and if the final decision in his case be in favor of the contention that the land is chiefly valuable for coal, then he may exercise his right to take a patent with a reservation of the coal.

"Should any considerable number of the entrymen as to whose land the question of its coal character has been raised conclude to take a patent without trying the matter out at a hearing, the probability is that but a limited portion of the lands so patented would contain any considerable quantity of coal; but in view of the fact that some of the lands covered by these limited patents would contain coal which sometime would be valuable, it is important that there be some method whereby these deposits may be disposed of, and therefore provision is made that they shall be disposed of in accordance with the coal-land laws in force at the time of such disposal.

"Care has been exercised to protect the surface rights of the entrymen from any damage which might arise in connection with the prospecting, mining, or removal of the coal, and it is believed that the rights of the owner under the patent will be amply protected.

"The first proviso of the bill accords the owner under the patent the right to mine coal upon his land for domestic purposes thereon. This was believed to be a wise and just provision and will probably incline some entrymen to accept the limited fee rather than go to the expense of defending at a hearing.

"The second proviso of the bill is to the effect that nothing in the legislation shall be held to affect or abridge the right of an entryman to a hearing to determine the character of his land and to a patent in fee if it shall be held that the land is not chiefly valuable for coal, or to abridge or deny the right of any entryman to a fee title who has earned the same. This proviso was believed to be necessary to make it clear that there is no intent to coerce anyone into taking a limited patent or to take from anyone who has earned a title, by residence or otherwise, his right to a patent now clearly recognized."

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

Mr. MONDELL. I should be glad to.

Mr. MANN. Based upon two statements in the report, one of which is:

In a large number of cases a hearing would probably result in the land being declared by the government officials noncoal land, for it is notorious that many suspended entries are in regions that contain no coal at all or no coal of any value. Many of the entries have been suspended simply because they are located within a township in which a coal declaratory statement has at some time been made.

Again:

It is unfortunately true that the coal withdrawals have been so sweeping, and the boundaries within which the entries have been held up on a claim of coal value by the Government have been so wide, that many entrymen have been called upon to defend their entries where, as a matter of fact, there is but little, if any, foundation for the claim that the land contains coal of value.

Now, what I want to ask is, Why does not the department itself correct this difficulty?

Mr. MONDELL. Mr. Speaker, it is difficult for the department, having made a serious mistake, to fully correct that mistake. All the statements made in that report are absolutely true and borne out by the facts, the withdrawals have been too general, but, as the gentleman from Illinois will recall, the report goes on to say that of all the cases that have been suspended on the five-year proof or on proof upon which final certificate was issued and of cases where the final certificate has been withheld and of cases yet to come before the department within these withdrawals, there will be some cases unquestionably where the Government will be able to prove its contention that the land contains coal of value.

Mr. MARSHALL. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. MARSHALL. Will the gentleman state in what percentage of cases, in his judgment, the Government will be enabled to make their claim good?

Mr. MONDELL. Mr. Speaker, it is asking one to take a good deal of responsibility to answer a question of that kind. It is a matter of opinion. I know of one territory where over 100,000 acres was withdrawn as coal land in which there is no question at all in the mind of anyone who knows the situation that there is no coal of any sort or kind within that 100,000 acres.

Mr. MANN. When the gentleman says there is no question in the mind of anyone at all, that is all right, but how can the department justify itself in declaring that there is coal there, suspending entries, if it does not believe that there is coal there?

Mr. MONDELL. In my opinion the department can not justify itself, and I do not believe that anyone can justify the action of calling on entrymen to defend at a hearing in regions where there is no good ground for believing the land is valuable for coal.

Mr. MANN. That is a pretty sweeping indictment against our officials in the Land Department.

Mr. MONDELL. Mr. Speaker, I have made quite as sweeping statements on the same subject in the House before.

Mr. MANN. Yes; but the gentleman has never been sustained by the House before.

Mr. MONDELL. Well, I want the gentleman to remember that my view as to the number of cases that would be affected does not affect this legislation at all. Assuming that there was only 1 per cent of these cases in which the entryman would be finally unable to prove the noncoal character of his land, you must do something for that entryman or say to him that he shall not retain his improvements.

It was not my intent, Mr. Speaker, in connection with this legislation to go into any criticism of the department in the matter of withdrawals. I have voiced that criticism heretofore and in the day of the original withdrawals, when I called attention to the very difficulties that were bound to occur, and which have occurred.

Mr. STEPHENS of Texas. Will the gentleman yield for a question?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. I desire to know the difference between this law which the gentleman proposes and the law as it now exists. What change is proposed, and why?

Mr. MONDELL. Mr. Speaker, at present if the department can prove in the case of any one of the 2,000 entrymen, who have made final proof and to whom certificates have been issued, but patent withheld, that there was good reason to believe that the land was valuable for coal before final proof, then the department can entirely dispossess that entryman. In the cases where proof has been offered and final certificate withheld, in the cases upon which proof is yet to be offered, if the entryman is unable to disprove the department's contention that the land is chiefly valuable for coal, then he loses all right to the land and his improvement. This bill simply provides that in any case where, subsequent to the location or the entry, the character of the land has been called into question the entryman may, if he so elect, accept a limited patent. It is the first legislation before Congress providing for a limited patent, or a patent reserving the mineral. It is necessary in the opinion of our committee by reason of the conditions that exist. In some instances the entryman will accept the limited patent without making an effort to disprove the department's allegation that his land is valuable for coal, because in some cases the entryman will not feel he can afford to pay the expense of contesting the case; but should the entryman in any particular case contest with the Government and the Government sustain its contention, he may still accept his limited patent.

Mr. STEPHENS of Texas. Is it not a fact that valuable minerals are reserved now to the Government?

Mr. MONDELL. No; that is not true. The patent having issued, the patent carries everything in the land with it, and the Supreme Court has decided in a number of cases that if the law be complied with in good faith and the entryman makes payment and final proof, thereafter the Government is barred from raising the question as to any mineral that may occur in the land.

Mr. STEPHENS of Texas. That applies also to oil and coal?

Mr. MONDELL. It applies to all kinds of minerals. In other words, the patents issued by the Government of the United States heretofore have been patents in fee.

Mr. STEPHENS of Texas. Could the gentleman better arrive at what he desires by only patenting the surface of the land and reserving all minerals, precious and otherwise?

Mr. MONDELL. That has been discussed at some length, and the Committee on Public Lands is not of the opinion that that ought to be done. We believe this is quite a sufficient departure from the past practice of the Government. The lands which this legislation will affect are lands which the department has claimed contain some coals of value.

Mr. STEPHENS of Texas. Is not this a step in that direction of issuing limited patents?

Mr. MONDELL. It is; and I trust it is as far as we will go in that direction.

Mr. STEPHENS of Texas. If it is a good law, why not go the full length and declare nothing passes except the surface?

Mr. MONDELL. Mr. Speaker, it is a good law for this reason: Coal occurs oftentimes under conditions that render it impossible for the settler to know in advance with regard to the presence of coal beneath the surface of the ground.

But if the Government clearly demonstrates before the entryman has earned a patent that the land is more valuable for coal than for agricultural purposes, the agricultural entryman can scarcely expect to secure a patent in fee, and in order that these coal lands, some of which will not, perhaps, be mined for hundreds of years, may not be reserved that length of time from settlement or cultivation or improvement when their surface is such as to make cultivation and improvement possible, in order that the development of the country may go on, in order that the entryman who in good faith has gone upon the land may not lose the improvements, the committee brought in this bill. It has been very carefully considered. We had some five or six meetings of considerable length in which every phase and feature of the question was discussed, and, in my opinion and in the opinion of a majority of the committee, the legislation is wise and ought to be passed. Mr. Speaker, I reserve the balance of my time.

Mr. GRONNA. Mr. Speaker, I yield five minutes to the gentleman from Minnesota [Mr. HAMMOND].

Mr. HAMMOND. Mr. Speaker, one of the provisions of this bill I think merits rather careful consideration, and that is that part of it referring to the damages that are to be paid to the

owner of the surface in case any attempt is made to prospect on the land for coal or to undertake mining operations afterwards thereon. I want to read the lines referring to the payment of damages:

The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction.

Now, I would ask the lawyers of this body just what is meant by the language that I have read. A reservation is made here and a right given to enable the holder of the reservation to obtain its beneficial use. The United States Government, or anyone under its direction, may go upon this land to do these several things: Prospect for coal, mine coal, remove coal from the land; but all damages caused thereby, to wit, by the prospecting, by the mining, by the removal of coal—all damages caused thereby must be paid, and before any attempt is made to do any one of these things such payment must be secured. Now, of course, it is not intended, and can not be intended, to reserve the right to take coal from the land, but to render the person taking such coal liable to damages for its removal and for mining it. The language is not well chosen. It is not a good piece of legislation. It is ambiguous and it is uncertain. If passed, in my opinion, the language will not express the intent of Congress. I am opposed to this bill. I think it should be clearly stated for just what these damages shall be paid—damages for injuries to the land affecting its use for agricultural purposes; damages for injuries to any improvements that may be upon the land. I do not think this criticism is too fine or too technical. It is better to define the things for which damages shall be paid than to use the broad general statement which gives rise to uncertainty.

The SPEAKER. The time of the gentleman has expired.

Mr. MARSHALL. Mr. Speaker, this measure has been undoubtedly thought out and worked out carefully by the committee, and it affords partial relief to a small percentage of our people; and, in view of that, there are some of us, perhaps, who will accept it as being the only thing that we can get at this time. The condition is this in my State, and I think it is in no wise different in other States affected by this legislation, except that, perhaps, a larger percentage of coal in North Dakota is not more valuable for commercial purposes than in the other States: Under the direction of the Geological Survey there have been withdrawn in North Dakota something over 100 townships. Patents are withheld where final receipts were issued before withdrawal, and proofs offered after the withdrawal are also held up. These 100 townships have not been classified; they are withdrawn pending classification; and where in a township there is a single quarter section supposed to contain coal, the whole township has been withdrawn, and patents and proofs within that township are all held up until each individual case can be investigated by the coal-land inspector.

And in every instance where proof is ordered a fraud charge is entered against the entryman, and in all several thousand of these cases are listed among the so-called "fraud-charge cases." I have the figures for my State, taken from the reports of the coal-land inspectors, which show that 80 per cent of them are found not to contain coal. Twenty per cent are reported by the inspectors as containing coal, and under existing law these entrymen are given a chance for a hearing, the burden of proof being put upon the settlers to show that there is no coal of commercial value under those lands. And I want to say to you, gentlemen—and I believe I make an absolutely conservative statement—that when all of this process has been gone through, not in 5 per cent of the cases will the Government be able to maintain their claims. I think 2 per cent is nearer right. Eighty per cent are put to serious inconvenience and annoyance and damage of waiting a year or more. Twenty per cent of them are put to the expense of a hearing that is almost intolerable. *And what is the result of all this? In 2, or at the most 5, per cent of the cases the Government may be able to show that there is coal of commercial value, and even in those cases the homesteader will in all probability have entered in good faith and is entitled to a full patent. I want to tell you this is a case of bad faith on the part of the Government with the honest homesteader that is well-nigh unbearable. If the Members of this House understood the conditions as I do, they would agree with me that every man who has entered his land in good faith, having complied with the law, is entitled to a full patent for these lands instead of a surface patent.*

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

Mr. MARSHALL. With pleasure.

Mr. PARSONS. Assuming that the coal under the lands is good, merchantable coal, then does the gentleman think the entryman ought to be entitled to get the coal as well as the surface of the land?

Mr. MARSHALL. Not if he knew there was coal there; but if his neighbors who entered before him got patents alongside of him, and he entered his land believing there was no coal, then there is no excuse for this Government (not having classified those lands) to take a home away from the man who has rightly earned it. Such cases as the gentleman from New York describes are very rare in North Dakota. I do not believe in the State there are 5 per cent of them. They are so few that there is no excuse for the withdrawal of this great body of land and thereby causing untold worry, inconvenience, and loss, and sometimes suffering to so many honest homesteaders.

Mr. MONDELL. I realize that the department has laid this obligation of defending their entries upon more people than they should have laid that obligation upon in the gentleman's State, but if the legislation does not pass, what is going to happen to your entryman who can not disprove the allegation?

Mr. MARSHALL. He will certainly lose his land, but I will reach that in a minute. Now, under the workings of this bill if it becomes a law, a report having come from the coal inspector holding that there is coal under the land, the entryman can take two courses. First, if he feels satisfied there is no coal under his land, or is too poor to pay the expense of a hearing, he can take a surface patent; second, he can have a hearing, and in the end, if it is held at the hearing that coal underlies his land, then this bill will save the land to that entryman, who would otherwise lose it; and if that were not the case, I certainly would not consider the bill with any favor whatever.

It will help a few people, and, so far as I am able to judge, the rights of those who accept surface patents are fully protected, as they are fully insured against damages of all kinds. *If I had an opportunity to offer an amendment to this bill under our rules, I would offer one in the words of the bill which I introduced and which has been pending before the Committee on Public Lands, providing that where entries had been made in good faith, and after full compliance with the law, full patents should issue.* I would also provide, if I had an opportunity to amend this bill, that the settlers should have the perpetual use of the coal for domestic purposes instead of during the time that the Government owns it, as the bill provides. This coal in our State amounts to nothing more than a little timber lot. I would rather have 5 acres of good timber than the coal on one of these average quarters in North Dakota.

I have always maintained that the Government committed a grave error when it did not classify these lands before entries were permitted, and it is doing a very great wrong in undertaking to classify them after so many entries have been made and gone to patent, and thereby discriminating between neighbors. It is a matter of common knowledge that practically all of these lands in North Dakota are very much more valuable right now for agriculture than for coal, and the department should so classify them and relieve the distressful condition.

I am thoroughly in accord with the great movement looking to the conservation of our national resources, but to undertake to classify lands with a view of reserving the coal after homesteaders have entered upon them in perfect good faith and complied with the law in every respect, and thereby acquired sacred rights to them, is a preposterous thing and, in view of all that has gone before, is, to put it plainly, bad faith. There are numberless cases where men have filed in good faith, say, five or six years ago, some having commuted in fourteen months and received their patents, while others adjoining them are now refused patents after five or more years of faithful residence and the expenditure of everything they could earn to make improvements. Can anybody justify this or cite a more flagrant case of bad faith on the part of the Government, whose business it is to protect and care for our homesteaders rather than to harass them or break faith with them?

If the department fails to relieve the situation, then it is the plain duty of Congress to pass my bill granting everyone who has entered in good faith a full patent after having complied with the homestead laws. *Our homesteaders demand full patents; they have rightly earned them, and they should have them. They are entitled to a square deal and expect the Government to carry out its part of the agreement in good faith, and that, too, without subjecting them to the annoyance, serious loss, long delays, and the heavy expense of unnecessary hearings.*

Mr. Chairman, I regret exceedingly that the short time allotted to me will not permit the presentation of the rights of our homesteaders more fully. In the absence of relief from

the department or from Congress there is only one thing for them to do, and that is to fight. My advice is for them to unite and make one or more test cases in each township, and, having won these, possibly the Government may withdraw its charges in the other case, or, at least, it will be easier to try them out. These cases will throw light on the subject and do much to bring the Secretary of the Interior to a full realization of our conditions, and, having this, I am confident the Secretary will do everything in his power to relieve our conditions.

The question of the legal status of a surface patent, which is raised by this bill, is so entirely new in North Dakota that I desire to print in the RECORD a letter from Hon. George Otis Smith, Director of the Geological Survey, but in doing so I do not desire to assume responsibility for or sympathy with any statement in the letter, but am simply submitting it for what it is worth to those who might be interested:

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, February 6, 1909.

Hon. THOMAS F. MARSHALL,
United States House of Representatives.

MY DEAR MR. MARSHALL: Continuing a recent conversation with you regarding the separation of surface and mineral rights, in which you expressed the opinion that if only the surface rights were given to the settler, banks and others loaning money would not consider this sufficient security on which to advance the funds which the settler needs for his improvements, for the reason that the reservation of coal or other minerals would be a cloud on his title.

It is my opinion, after a careful consideration of the law and of the practice in this and other countries, that this danger is fanciful rather than real. The apprehension that a reservation of minerals is a cloud on the title arises from the consideration of certain mining agreements, which include both surface and mineral rights; in these cases the mining company acquires not only the mineral but so much of the surface as may be needed in connection with mining operations. This is clearly a cloud on the title of the surface owner, for the simple reason that he has parted with a portion of his surface rights. This question is entirely apart from the fact that he has parted with mineral rights. It is not essentially different from permission to erect a factory on a piece of land. This right to erect a factory is clearly a disposal of certain rights in the surface, which can not be disposed of again so long as the right of the factory owner to occupy the ground exists. The right "to use so much of the surface as may be needed for mining" is a great cloud on the surface title, so great that it may extend to the extinguishment of the right to any of the land, and a property so encumbered would naturally not be considered as of any value as a security by a carefully managed loan company.

The case is entirely different when the ownership of the minerals is entirely separated from the ownership of the surface. The owner of the surface has no right to the minerals; the owner of the minerals has, on the other hand, no right to the surface. Under this condition the mineral is, according to numerous court decisions, a separate piece of real estate. Commenting on this, Barrows & Adams, in the Law of Mines and Mining of the United States, state.

"Although minerals undisturbed * * * usually belong to the owner of the soil, they are capable of separate ownership and distinct possession. When there is such a severance of estates, the minerals are *real estate*, constituting a separate corporeal hereditament capable of distinct inheritance and conveyance. *There may be a further separation of the different strata, or of minerals of different kinds, each of which may have a different owner and constitute a distinct estate in land.*"

Among the court decisions are the following:

Adams *v.* Briggs Iron Company (7 Cush., 366, Mass.): "It is well settled that there may be a separate estate in mines and ores distinct from that of the land. There may be a severance of mines and a distinct estate and interest in them by grant or reservation. *When so severed, and thus are constituted a distinct estate, mines are regarded as real estate, and the general laws regarding real estate will apply to them.*"

In Caldwell *v.* Fulton (31 Penn., 475) the court held that "coal and minerals in place are land and may be conveyed as such."

In Caldwell *v.* Copeland (37 Penn., 427) the court stated that "mines are land and subject to the same laws of possession and conveyance."

In Logan *v.* Washington Co. (29 Penn., 373) the rule was laid down that "where the owner of the coal land has sold the coal under his land to another, *the owner of the land and the owner of the coal are each subject to a tax on real estate;*" and in Brown *v.* Corey (43 Penn., 495) the court laid down the rule that "proceedings may be had against the owner of a stratum of coal as contradistinguished from the owner of the surface to obtain an underground right of way."

In Powell *v.* Lantzey (173 Penn., 543) the court further adds: "*The owner of the mineral estate is neither a tenant in common nor a joint tenant with the owner of the surface; each has a separate estate.*"

I cite particularly from the Pennsylvania cases, for the reason that they involve matters of separation of coal from the surface and refer to a region where the separation of surface and mineral rights has been fully tried.

You can see the correctness of my position and the force of these rulings by considering the well-known fact that the owner of one piece of real estate may not injure an adjoining piece of real estate by undermining the wall along the common property line without being liable for damages. The fact that a piece of property is on a hillside and the retaining wall surrounding it may some time be undermined by the adjoining property owner is not considered by a loan company in the nature of a cloud on the title. The loan company knows, and everyone else knows, that while the owner of the lower property may so grade his land that he may undermine the retaining wall on the line between the two properties, the law requires that the lower property owner make good the damages to the man higher up the hill; so, if the law in the case of separation of surface and mineral rights provides that the owner of the mineral rights may only work them on payment of full compensation for damages to the owner of the surface, the interests of everyone are fully protected, and it can not be considered, even with the greatest stretch of the imagination, that there is any cloud upon the title of the surface owner.

The right of the mineral owner to develop his property (the mineral estate) on payment of compensation for damages to his adjoining property owner (the surface owner) to be determined by proper authority, is no greater cloud on a title than the right which to-day exists throughout the United States under which a railroad may appropriate private land for its own use on payment of full damages. A loan company would not refuse to accept a piece of property as security for the reason that it might some day be condemned for public use. This fact would really increase the value of the security.

A law which provides that patents shall be granted reserving to the Government all minerals and the right to use so much of the surface as is necessary to mine the same is clearly a cloud on the title of the surface owner, for the reason that it reserves not only the minerals but also a portion of the surface. Such a law should be strenuously opposed by you, for the reason that it will harm your constituents, and in objecting to a general law in this matter they evidently have such a law in mind. *But a law which gives the surface entirely to the agriculturalist and provides for full compensation for any damages resulting from mining, simply creates two pieces of real property without a cloud on the title of either.*

This is fully recognized throughout the eastern United States, particularly in the coal fields, where 90 per cent of the production comes from land where there is such a separation of surface and mineral rights. No question is here raised as to the suitability of a piece of property as a security for a loan when the complete ownership of the surface rests with the man seeking the loan. The fact that a new piece of real estate has been created by a division beneath the surface instead of upon the surface, as is more ordinarily the case, does not cloud the title of the absolute owner of either piece of real property.

I was just on the point of writing you, urging that, in my opinion, the only point needed to fully protect the interests of the citizens of North Dakota in the then pending Mondell bill was a provision that the owner of the surface should have the right to mine coal for use on the land for domestic and farm purposes, when I received the amended draft of the Mondell bill containing this provision, and I, therefore, delayed my letter until I could fully advise you on this matter of separate estates in the surface and minerals beneath it.

Yours, very truly,

GEO. OTIS SMITH, *Director.*

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

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. GRONNA. Mr. Speaker, I now yield two minutes to the gentleman from Colorado [Mr. BONYNGE].

Mr. BONYNGE. Mr. Speaker, it is with a great deal of reluctance that I oppose the passage of this bill. It is with reluctance, because the situation described by the chairman of the Committee on Public Lands is one crying aloud for relief, and for the further reason that I realize that the Committee on Public Lands has given to this question very careful consideration. I, however, am so firmly and thoroughly opposed to the new policy that is intended to be inaugurated by the passage of this bill, namely, the segregation of the surface from the other rights in the land, that I can not give the bill my support. It is said by gentlemen here that in not more than 5 per cent of these cases will the Government be able to sustain its contention that the land is coal land. Mr. Speaker, under such circumstances I think we ought not, in order to reach these few cases, to enter upon this new policy. I do not know just what relief ought to be given to these people, but it does seem to me there ought to be some way found by which when the entryman makes his final proof he can have it at once for all determined whether it is coal or agricultural land. If it is agricultural land, the entryman ought to get full patent for the land, and if coal land and known to be coal land, he ought not to get a patent at all to the coal land under an agricultural entry.

Mr. MONDELL. I want to ask the gentleman as to the suggestion made that a considerable number of entrymen would lose all their personal rights in homesteads.

Mr. BONYNGE. It would be so in a small number of cases. I agree with the gentleman in the statement that in not more than 5 per cent of these cases will the Government be able to prove that it is coal land and not agricultural land that has been entered, and to cover those few cases I do not think it would be wise to enter upon such a new and untried policy.

Mr. MONDELL. Then the gentleman misstates me.

Mr. MANN. He carefully refrained from giving that information.

Mr. BONYNGE. I may have been mistaken. It may have been the gentleman from North Dakota who made the statement that in not more than 5 per cent, and perhaps not in more than 2 or 3 per cent, of the cases would the Government be able to support its contention that it was coal land that was entered and not agricultural land, but I understood the statement to be made.

Mr. GRONNA. In my State. I yield one minute to the gentleman from California [Mr. SMITH].

Mr. SMITH of California. Mr. Speaker, in the space of one minute, of course, I can make no argument, but I invite the attention of the House to the very serious proposition presented in a case where the land contains coal. Neither the interests of the Government in the coal nor the interests of the farmer in

the surface are protected in this bill in the least degree. It is a very difficult matter to provide a law for the invasion of a farm by one who is not going in for a public purpose. If one man owned the coal and another man owned the surface, it requires much more legal machinery than is set out in this bill to allow a man to invade his neighbor's farm for a private purpose.

Mr. MANN. If that be the case, he can not invade it. That may be what this bill means.

Mr. SMITH of California. If one man owns the coal and mines for it, there would be no relief for the farmer, and no means of relief for any injustice that would be done him are to be found in the terms of this bill.

Mr. GRONNA. Mr. Speaker, I do not object so much to the provisions of this bill as I do to what it omits. In our State it does not give us the relief sought. There are to-day nearly 2,000 cases pending where the entrymen have, by complying with the law, earned title to lands that have afterwards been classified as coal lands. Mr. Speaker, I do not want to criticise or say anything against the system adopted or the methods pursued by the Government, because I realize fully as much as any Member of this House that we are living in an age when we want to conserve the mineral resources of our country. I am heartily in favor of reserving the coal where it is found in such quantities and of such a character as to have commercial value.

Now, Mr. Speaker, this bill provides, among other things:

> That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him, and to a patent without reservation if the land shall be determined not to be chiefly valuable for coal.

Now, what does this mean? It simply means this: The Government has practically challenged every entry in certain parts of our State. Every homesteader or entryman must go to the expense of a contest before he can make final proof of his entry. The burden of proof is wholly on the entryman. There are thousands of acres of land in our State that are underlaid with low-grade lignite coal, coal of such low grade that it has no commercial value; a grade of coal that no man of any business ability would undertake to mine for commercial purposes, although it may be worth something to the settler as fuel for domestic purposes. As I said, no man with ordinary business sagacity would undertake to mine this coal for commercial purposes; wherever such attempts have been made they have failed.

As the law now stands the burden of proof is upon the entryman, and it will cost every entryman from $300 to $400 to carry on a contest against the Government and establish that the land does not contain any coal of commercial value. This law contains these same provisions.

Mr. MONDELL. The gentleman refers to the expense of the contest. The gentleman, of course, understands that that expense is now laid upon the entryman by the department, that it is not laid on him by this legislation; that so far as the legislation affects this situation the effect is in the nature of a release.

Mr. GRONNA. Yes; that is true.

Now, Mr. Speaker, it is not surprising that the homesteader of to-day, who feels that he is being prosecuted as a perpetrator of fraud, no matter how honest his intentions may be, looks back to the good old days when the homestead settler in the States farther east made his entry in the fertile valleys of those States, with forests above the surface and valuable mines underneath; mines valuable for both iron and coal, mines containing the best grade of coal, worth millions upon millions of dollars. The coal and other minerals were not reserved by the Government then; the entryman was given everything above and beneath the surface. In my opinion no objection should be raised now to giving bona fide settlers, who have located on 160 acres of land that is clearly agricultural land, full title to all that the land contains, although it may contain a substratum of lignite coal. I introduced a bill in this House (H. R. 27423) which provides—

> That where public lands in the State of North Dakota have been entered in good faith for agricultural purposes under the homestead laws of the United States, and where full compliance with the requirements of the homestead laws is shown, final proof of such entries shall, when made in compliance with law, be accepted at the local land offices, and the Secretary of the Interior shall be required to issue patents for such lands, notwithstanding the fact that they may contain lignite coal.

Mr. Speaker, so far as my State is concerned there would be no danger of creating a monopoly in coal. It is true that lignite coal of a low grade has been found there and is being mined to-day. It is true that we have a few mines containing workable coal, but in most of the cases where homestead entries have been suspended, I will say that, in my judgment, in 90 per cent of the cases where the entries have been suspended patent will ultimately issue without any reservation whatever. In my opinion, the entryman has a right to the land in cases like these, because he earned a patent by entering the land and fulfilling all the requirements of the law before the land was classified as coal land.

The man with limited means, the homestead settler, has been the pioneer; he has paved the way for those more fortunate as regards means and money and made it possible for them to follow. Not only that, but these sturdy pioneers have always been found to be as patriotic and willing to make sacrifices for their country as any other class of citizens. And there is no valid reason why the homesteader of the present day should be discriminated against any more than there was in former days.

Mr. Speaker, I want to say that I tried to have this bill that is now pending amended in the committee so that it would give the entryman preference right to purchase the coal where the land proved to be coal land. I also offered another amendment, as follows:

> That unless the Government shall have established within five years from the date of issuing patent to the surface that the land is chiefly valuable for coal, a patent in fee, without any reservation, should issue to the entryman.

I realize, Mr. Speaker, that I can not be permitted, under the rules, to offer these amendments at this time; and while I feel that the bill does not contain what in my judgment it should, nor give the settlers in our State the relief that they should receive, I shall vote for it, as at least it takes nothing from them, but will permit them to take patent to the surface provided they may so elect, which I would not advise the entrymen of my State to do, because I believe they are entitled to a full patent of fee title, without any reservation whatever, and I presume that a contest to establish the agricultural character of the land will have to be carried on at the settler's expense.

Mr. MONDELL. Mr. Speaker, how much time have I remaining?

The SPEAKER. Four minutes.

Mr. MONDELL. I yield two minutes to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, the measure under consideration is not a bill that affects the people of my State in any way, but it is a matter that received careful consideration at the hands of the Public Lands Committee.

I very much dislike to differ in any manner from my colleagues on the committee, but it is my honest and faithful impression that they have a wrong conception of what this bill does. I favor the majority report and the passage of this bill for two reasons. First, I believe it helps the settler; second, I believe it reserves the right in the Government of the United States to save the coal and mineral deposits that they now possess. The difficulty that necessitates this legislation comes by reason of departmental withdrawal of lands from the public domain. The department, in their judgment, from time to time have withdrawn large tracts of land and denominated them mineral, coal, or asphalt lands, as the case might be.

In some instances they have reserved land that is not in truth and fact coal or mineral land. This bill reserves to the Government of the United States the mineral wealth where it does exist and permits the agricultural entryman to obtain and perfect his right to the surface, and it is my belief when an agricultural entryman enters land for agricultural purposes and it is found to be in truth mineral land, that is all he is rightfully entitled to. It never has been the province or intent of the public land law that an agricultural entryman going upon land to secure a home for himself should at the same time acquire mineral rights thereunder.

The measure in the event of conflict of rights enables the settler to acquire the surface and thereby carry on agriculture, and at the same time reserves inviolate to the Government the minerals, coal, or asphalt, as the case may be. It is not too much for an agricultural entryman to concede. It is not too much caution and prudence for the Government to exert. I hope the rule may be suspended and the bill passed.

Mr. MONDELL. I yield one minute to the gentleman from Alabama [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, undoubtedly this bill ought to become a law. As I understand it, there are some 2,000 applications on file now upon which proof can be made; but if this bill is not passed, and the man who has made his proof is not financially able to maintain a contest with the Government as to whether there is coal under his land or not, then he must lose his land, because it has been classified as coal land.

Now, to the objection made by the gentleman from Minnesota [Mr. HAMMOND], I say that if a third party goes in upon the

surface of land which has been granted to an applicant under this bill, and wants to prospect for, mine, or remove coal from that land, he ought to pay all damages done by him to the surface and improvements in such prospecting, mining, or removal. The bill provides that the party wanting to go in and prospect for, mine, or remove the coal must get the consent of the owner of the surface. If he does not succeed in getting that consent, then either party, as I take it from the language of this bill, may go into a court of competent jurisdiction and leave it to the court to say what damage will be done by the operations which are to be begun and carried out and what security is necessary under the circumstances of the case to protect the owner of the surface of the land. I say it is eminently just and right that it should be so.

Mr. MARTIN. I should like to ask a question of the gentleman from Wyoming. Has the gentleman considered the propriety of changing the burden of proof, in the latter part of the paragraph? At present it would give the patent without reservation if the land shall be determined not to be chiefly valuable for coal. Would it not be better, instead of requiring him to prove a negative, to change the word "if" to "unless" and strike out the word "not," so that it would read "and to a patent without reservation unless the land shall be determined chiefly valuable for coal?" In other words, to put the burden where the law always puts it—upon the one seeking to establish the existence of the fact. It seems to me you now put the burden of proving a negative upon the entryman.

Mr. MONDELL. Mr. Speaker, I am rather of the opinion that the bill as it reads does not throw the burden of proof upon the entryman. Under the amendment as suggested by the gentleman it would perhaps throw the burden of proof rather more definitely on the Government, and I doubt whether it would be wise to do that in view of the fact that except by expensive drilling it would not be possible in some instances to absolutely determine the fact.

The SPEAKER. The gentleman's time has expired, and all time has expired.

Mr. MONDELL. I wish to call attention to the amendment that I offered in line 19.

The SPEAKER. The amendment was incorporated in the gentleman's motion. The question is on the passage of the bill.

The question was taken; and two-thirds having voted in favor thereof, the bill was passed.

The title was amended.

UNITED STATES NAVAL ACADEMY BAND.

Mr. DAWSON. Mr. Speaker, I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. 4521) to reorganize and enlist the members of the United States Naval Academy Band, and that the same be now considered.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Naval Academy Band shall consist of one leader, who shall have the rank, pay, and allowance of a second lieutenant in the Marine Corps; one second leader, with pay at the rate of $50 per month; 29 musicians, first class, and 11 musicians, second class; and shall be paid from pay of the navy.

SEC. 2. That the members of the Naval Academy Band as now organized shall be enlisted in the navy and credited with all prior service of whatever nature as members of said band, as shown by the records of the Naval Academy and the pay rolls of the ships and academy; and the said leader and the enlisted musicians of the band shall be entitled to the same benefits in respect to pay, emoluments, and retirement arising from longevity, reenlistment, and length of service as are, or may hereafter become, applicable to other enlisted men of the navy.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman if this bill recognizes the existing band at Annapolis?

Mr. DAWSON. Yes.

Mr. MANN. I notice in the bill in one place it provides for a leader who shall have the rank of a second lieutenant.

Mr. DAWSON. I intend to offer an amendment striking out the word "rank." The leader of the band at West Point is without rank, although he has the pay and allowance of a second lieutenant, and the same is true of the Marine Band. It is my intention to offer an amendment striking out the word "rank."

Mr. MACON. Will the gentleman yield?

Mr. DAWSON. Certainly.

Mr. MACON. Does this bill entail any increase of salary?

Mr. DAWSON. Very slight. The bill increases the number of enlisted men in the navy. It provides that the band at Annapolis shall be made up of enlisted men, the same as other bands, both in the army and the navy. For some reason that band has stood alone and occupied an anomalous position for a number of years.

I will put into the RECORD the report of the committee on the bill, and also a recent letter from the Secretary of the Navy. They are as follows:

The Committee on Naval Affairs, to whom was referred the bill (H. R. 4521) to reorganize and enlist the members of the United States Naval Academy Band, having had the same under consideration, report the same to the House with the recommendation that it do pass with the following amendment:

Strike out all after the enacting clause and insert in lieu thereof the following substitute:

"That the Naval Academy Band shall consist of 1 leader, who shall have the rank, pay, and allowance of a second lieutenant in the Marine Corps; 1 second leader, with pay at the rate of $50 per month; 29 musicians, first class, and 11 musicians, second class, and shall be paid from pay of the navy.

"That the members of the Naval Academy Band as now organized shall be enlisted in the navy and credited with all prior service of whatever nature as members of said band, as shown by the records of the Naval Academy and the pay rolls of the ships and academy; and the said leader and the enlisted musicians of the band shall be entitled to the same benefits in respect to pay, emoluments, and retirement arising from longevity, reenlistment, and length of service as are or may hereafter become applicable to other enlisted men of the navy."

This bill places the Navai Academy Band on the same footing, as near as may be, with the Military Academy Band at West Point. A similar measure was favorably reported to the House last year as a part of the naval appropriation bill, the same having been favorably recommended by the Secretary of the Navy.

The reorganization of the Naval Academy Band is strongly recommended by the Board of Visitors to the Naval Academy for the years 1906 and 1907, as will be seen by the following extracts from the reports of the Board of Visitors, as follows:

"The band of the academy is the only one in the service, and in fact in either service, which is not composed of regularly enlisted men. It is not known how this anomalous situation grew up, but it ought no longer to continue. The musicians are employed under civil-service rules, and their pay is insufficient. It has accordingly to be supplemented by contributions from officers and midshipmen which is a condition of affairs not at all creditable to the Government. Some of the musicians are of advanced age, and are now barely able to perform their duties. The entire band should be put on a proper basis. It should be composed of enlisted men and there should be as many enlisted men in the band at Annapolis as there are in the band at West Point. The leader of the band should receive sufficient compensation to secure and hold a man equal at least to the present incumbent. (Extract from Report of the Board of Visitors to the United States Naval Academy, 1906, p. 11.)

"The following recommendations are also unanimously made by the board for the reasons given: * * *

"That authority be given to enlist the Naval Academy band and make such changes in its size and in the compensation paid to the musicians and the bandmaster as may be required to put it on the same basis as the band at the United States Military Academy." (Extracts from the Report of the Board of Visitors to the United States Naval Academy, 1907, pp. 2, 4.)

NAVY DEPARTMENT,
Washington, January 5, 1909.

SIR: Referring to your letter of the 12th ultimo, requesting the views and recommendations of the department regarding the bill (H. R. 20389) "to equalize the rank, pay, and allowances of the bandmaster and sword master at the Naval Academy with corresponding positions at the Military Academy," you are informed that the department recommends that the pay and allowances of the sword master and the bandmaster at the Naval Academy be made to equalize those received by the sword master and bandmaster at the Military Academy, but does not recommend that rank be conferred upon them. The efficiency of these men would in no way be affected by conferring rank upon them. It should be noted that the leader of the Marine Band has the pay and allowances of a first lieutenant, United States Marine Corps, while the leader of the Military Academy band has the pay and allowances of a second lieutenant in the army; but at present they have not the rank of those grades. The sword master at the Military Academy, however, has, by act of March 3, 1905, the relative rank, pay, and allowances of a captain mounted.

Very respectfully,
TRUMAN H. NEWBERRY,
Secretary.

Hon. GEORGE EDMUND FOSS,
Chairman Committee on Naval Affairs,
House of Representatives.

The SPEAKER. Is there objection?

There was no objection.

Mr. DAWSON. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

On page 2, line 9, strike out the word "rank."

The 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.

TRACHOMA AMONG THE INDIANS.

Mr. SHERMAN. Mr. Speaker, by direction of the Committee on Indian Affairs, I move to suspend the rules and pass the following House bill.

The Clerk read the bill, as follows:

A bill (H. R. 28164) for the investigation, treatment, and prevention of trachoma among the Indians.

Be it enacted, etc., That there be, and hereby is, appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of $12,000, to be immediately available to enable the Commissioner of Indian Affairs to investigate, treat, and prevent the spread of the disease of trachoma among the Indians.

The SPEAKER. Is a second demanded?

Mr. MANN. I ask for a second.

Mr. SHERMAN. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHERMAN. Mr. Speaker, it has recently been discovered that the disease of trachoma, a very serious disease of the eye and which is exceedingly contagious, frequently leading to blindness, is very prevalent among the Indians, particularly in some schools of the Southwest, and more particularly in the school at Phoenix, Ariz., where out of a total school population of 557 the specialist who has been called in consultation has discovered that 400 pupils are affected with the disease, and of the 54 employees 21 have the disease.

A cursory examination discloses the fact that the disease is also prevalent in certain other schools of the Southwest, and also on the reservations. It is a disease for the prevention of which in the immigrant service we are spending a great deal of money and exercising the utmost care for its prevention; and it seems that it is necessary with the Indian children to take special precaution against the further spread of the disease.

Mr. CLARK of Missouri. Will the gentleman allow an interruption?

Mr. SHERMAN. Certainly.

Mr. CLARK of Missouri. Is the disease indigenous to this country?

Mr. SHERMAN. No; it is not indigenous to any particular country.

Mr. CLARK of Missouri. Is not it an oriental disease that the Chinese brought in here?

Mr. SHERMAN. I do not know where it originated. It has been known in this country for some little time, but has been more prevalent during the recent years. Frankly, I can not answer the gentleman's question whether it originated with the Chinese or not. My impression is it did not.

Mr. BURLESON. And frequently occurs in public schools in the city of New York.

Mr. SHERMAN. Oh, yes; it occurs all over. I have known of acquaintances becoming infected with this disease from touching a doorknob, for instance, where one who had had the disease has passed through and touched it after rubbing the eye.

I have known of people taking it in street cars. It is a very virulent disease, contagious to an extreme degree, and frequently leads to blindness, and requires the utmost care to prevent contagion, and in a very large number of cases requires operation. It requires very great care in the way of nursing after the operation to prevent even more serious results.

Mr. STEPHENS of Texas. It is very prevalent among the Indians of the Southwest and among the lower class of Mexicans, and it is presumable that this is so on account of want of cleanliness.

Mr. SHERMAN. Of course, want of cleanliness aggravates any disease, particularly a disease of the eye.

Mr. MANN. If any gentleman desires time in opposition to the bill, I will be glad to yield it. Otherwise I do not care to consume any time.

The SPEAKER. The question is on the motion of the gentleman from New York to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. 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. 26916, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill, with Mr. LAWRENCE in the chair.

The CHAIRMAN. The Chair understands the time for general debate has expired. The Clerk will read the bill under the five-minute rule.

The Clerk read as follows:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to make investigations on Indian reservations and take measures for the purpose of preserving living and growing timber, and removing dead timber, standing or fallen; to advise the Indians as to the proper care of forests, and to conduct such timber operations and sales of timber as may be deemed advisable and provided for by law, $100,000, of which $10,000 shall be immediately available.

Mr. MANN. Mr. Chairman, I reserve a point of order on that. I would ask the gentleman how far it is intended under this provision for a Commissioner of Indian Affairs to enter into the business of lumbering.

Mr. SHERMAN. It is not intended for lumbering purposes. It is intended for the purpose of preserving the timber.

Mr. MANN. "And to conduct such timber operations and sales of timber as may be deemed advisable and provided for by law." Is it only intended to sell the timber itself?

Mr. SHERMAN. If I may, I will read what the commissioner says in that respect. He says:

I would say generally that it has been the effort of the Indian Bureau ever since I have been in there to try to cooperate with the other big bureaus of the Government, which bureaus the Government is maintaining at its expense, in order to get their particular expert knowledge to help us with reference to the various matters under their charge. The only alternative from that was for us to have a little forestry division and a little irrigation force and a little agricultural force, and so on. In that way we would have all little wheels within wheels, and a much more economical method would be, as we thought, to refer these questions to the different bureaus, and thus effect the same thing by turning the work of the bureaus to the larger ones which have been established by the Government for that purpose. We would simply take our service and place it in the hands of some bureau which had been established for the purpose of handling that particular thing. This method would put the Indian on a basis where, when he became qualified, he would be on the same footing with other citizens, receiving assistance from the same source.

In the case of forest reservations we found that we were continually in hot water over lumbering contracts in the administration of Indian forest lands. We considered, in view of the much more economical way in which that could be handled by a bureau having the proper machinery with which to do it in the fields, by saving in the details and in the expense of getting up the expert knowledge that would otherwise have to be done by the Forest Bureau, which we are now handling in a rather blundering sort of way. In order to do that we would have to increase in a considerable way the expenses of the Forestry Service by getting an increase of this appropriation. By this change we can keep our men on Indian work proper and have the Forest Service do this essential work.

Mr. MANN. It is intended, I take it, to have this work done through the Forestry Service?

Mr. SHERMAN. That is as I understand the commissioner.

Mr. MANN. I withdraw the point of order.

The Clerk read as follows:

That any moneys appropriated in this act for the general incidental expenses of the Indian service in certain States and Territories, including traveling expenses of agents, which are not needed in the particular States or Territories for which provided may be used for the same kind of expenses elsewhere, in the discretion of the Secretary of the Interior.

Mr. MANN. Mr. Chairman, I reserve the point of order on that paragraph. Just what is the object in making appropriations for specific States and Territories? It means nothing.

Mr. SHERMAN. It does mean something. In each individual case an appropriation is made about what it is thought is necessary to cover the expenses of that case. Every now and again it will occur that in a particular State quite a portion of the appropriation is not used. In another State it will occur that the full appropriation is not quite adequate to meet the requirements, and it will differ from year to year because of unforeseen exigencies that might arise, and this provision makes possible——

Mr. MANN. Does not the gentleman think there ought to be some limitation in the amount——

Mr. SHERMAN. I do not thnk so.

Mr. MANN. It is customary where we provide for transference to say not over 10 per cent, or some per cent.

Mr. SHERMAN. These are small appropriations, anyhow, that are for general incidental expenses. It is not a large sum appropriated for gratuities, for support and civilization, and that sort of thing. These are small amounts appropriated for incidental expenses in the several States, and the whole thing together amounts to less than $100,000.

The CHAIRMAN. The Chair understands the point of order is withdrawn, and the Clerk will read.

The Clerk read as follows:

INSPECTORS.

For pay of two Indian inspectors, who shall be engineers, one to be designated as chief, competent in the location, construction, and maintenance of irrigation works, one at $2,500 per annum and one at $3,500 per annum; in all, $6,000. For traveling expenses of two Indian inspectors, at $3 per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law, for incidental expenses of negotiation, inspection, and investigation, including telegraphing and expense of going to and coming from the seat of government, and while remaining there under orders and direction of the Secretary of the Interior, for a period not to exceed twenty days, $3,800.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The bill carries two Indian inspectors as against eight of last year, as I understand the other six are transferred to the legislative, executive, and judicial appropriation bill.

Mr. SHERMAN. That is correct.

Mr. MANN. This bill has never provided that these Indian inspectors should be appointed by and with the advice and consent of the Senate, although I believe that has been at times, if not always, done, whereas the distinguished gentleman from

Massachusetts, whose absence I regret, the chairman of my beloved Committee on Reform in the Civil Service, a member of the conference committee, has brought into the House a conference report, which, violating all the principles of the civil-service law, proposes to have these six new Indian inspectors, or six new inspectors, appointed by and with the advice and consent of the Senate, making them absolutely the patronage of certain distinguished gentlemen, citizens of the United States, holding official positions in this Capitol. When that conference report comes before the House I hope I will have the opportunity to call attention to this violation to what seems to me the proper ethics of the situation, together with some other violations also in the conference report. I withdraw the amendment.

The Clerk read as follows:

TRUXTON CANYON SCHOOL.

For support and education of 100 pupils at the Indian school at Truxton Canyon, Ariz., and for pay of superintendent, $18,200; General repairs and improvements, $3,000.

Mr. McLACHLAN of California. Mr. Chairman, at the end of line 6, page 13, I desire to offer an amendment.

Mr. SHERMAN. Following what line?

Mr. McLACHLAN of California. Line 6; I desire to increase the amount. The amendment I suggest is: "Balance due James H. Owen on contract for erecting buildings, etc., $930."

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

The Clerk read as follows:

After line 6, page 13, insert:
"Balance due James H. Owen on contract for erecting buildings, etc., $930."

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

Mr. SHERMAN. Mr. Chairman, the gentleman from Illinois was good enough to reserve the point of order. I would be glad for the gentleman from California to give some explanation of his amendment.

Mr. McLACHLAN of California. This amendment is for the balance due on a contract for the erection of some buildings by Mr. Owen. In 1906 he erected certain buildings at this school and constructed certain irrigation works there. The contract amounted, I believe, to $23,000 for all this work. In the contract which he took with the schools there was a provision that if the work was not completed within a specified time there should be a penalty of $30 a day for every day over the specified time.

Mr. SHERMAN. May I interrupt the gentleman right there? Is this the contract under which the Indian Office attempted to hold a penalty and found that they were unable to do so?

Mr. McLACHLAN of California. That is right; on a technicality.

Mr. SHERMAN. Is this a contract where the Indian Office in a report to the committee states that the man performed his contract in good faith, rendered good service, but that owing to some delay of the railroad he was unable to get his material there in time, and therefore attempted to waive it?

Mr. McLACHLAN of California. Yes. The facts are that he was not able to complete his contract within the specified time, for the reason that this was in 1906, when we all know the railroads were glutted with business and it was impossible to deliver goods on time. All the facts show that this contractor did his work faithfully according to contract; that the delay was caused not by his own acts, but it was impossible to avoid. And the Department of the Interior, realizing that he had done his work properly and faithfully, tried to find some way of paying this man, but concluded that technically they could not do it, inasmuch as the $30 a day was considered as liquidated damages, and the department claimed on that technicality that they had no right to waive that provision.

Mr. STEPHENS of Texas. This is a penalty for failing to comply with a contract at a certain date?

Mr. McLACHLAN of California. Yes, sir.

Mr. STEPHENS of Texas. And the penalty amounts to the sum that the gentleman has stated there? Did the Government collect that amount?

Mr. McLACHLAN of California. It retained that amount out of the contract price, and I am asking now that the Government pay this.

Mr. STEPHENS of Texas. I had a case of this character. In fencing the forest reserve in the Comanche country there was quite a hard contract made with the individuals who made the contract, and they lost quite a lot of money on it. They put in their claim for reimbursement in the shape of a bill which I introduced for them in this Congress, and it was sent to the Committee on Claims, and I have been unable to get a report thereon. I thought at first that it was on all fours with the claimants' case in my bill, but I find that it is not.

Mr. McLACHLAN of California. This bill has been before the Senate, and has passed that body. There is also a bill pending here in the House that has not yet been acted upon. It is a just claim, long since overdue.

Mr. COX of Indiana. What work was this contractor engaged in?

Mr. McLACHLAN of California. To erect buildings for this school and to build certain irrigating works connected with the school.

Mr. COX of Indiana. Build a schoolhouse?

Mr. McLACHLAN of California. I do not know whether it was a schoolhouse or not, but it was some building connected with the school.

Mr. MANN. Mr. Chairman, I think the item is subject to a point of order. It seems that under an appropriation the Interior Department advertised for bids for the construction of buildings at this Truxton Canyon school, requiring that the work should be completed by some time—I think the 1st of December of the year in which the advertisement was made, several years ago. The contract was to be some $23,000. It was entered into for that amount, providing for the completion of the work by the date named in the contract—I think December 1, or thereabouts—with the stipulation that $30 liquidated damages, and not as penalty, should be deducted for each day that there was delay. Now, the gentleman claims that delay was made because the railroad did not furnish the material in time, and I have no reason to doubt the claim. If the gentleman had completed his work in time, he probably would have made a very large profit, because it is evident, I think, from the facts in the case, that he has suffered by reason of delay a considerable loss in excess of the $900 which was retained by the Government. So that he took his chances on making a large profit on his contract, or making no profit, or on making a loss. If the gentleman had made a profit he would not have offered to return any of it to the Government.

Now, such cases are familiar. Perhaps under the rules laid down by the Committee on Claims they would allow a case like this. I do not undertake to say. A number of these cases have been reported into the House and a number of them passed, but the rule adopted in reference to such a case should be uniformly applied to all contractors under similar conditions.

Mr. STEPHENS of Texas. Does the gentleman yield? Does not he think that there is a difference in a contract, where time is the essence of the contract, for a building to be completed in a specified time?

Mr. MANN. That is this case. Time was the essence of the contract.

Mr. STEPHENS of Texas. In what respect was the United States damaged?

Mr. MANN. The United States was damaged in this respect——

Mr. STEPHENS of Texas. You have a quid pro quo for services? The fact that they advertise for bids for this work to be completed within a very limited period of time, much more limited than is usual to take, they knew they had to pay a higher price to get the work done than they would have if they had given more time. Whenever a contractor has a very limited time to complete his job we know he must pay higher prices than when the work is leisurely done. I think the item is subject to the point of order because the auditor and comptroller have ruled that it can not be paid under existing law, and hence there is no authority of law; and I must insist upon the point of order.

The CHAIRMAN. The amendment proposed by the gentleman from California provides for an appropriation to pay what appears to be a claim against the Government. It seems to the Chair it is clearly a deficiency item, and not in order upon the Indian appropriation bill. The Chair therefore sustains the point of order.

The Clerk read as follows:

SHERMAN INSTITUTE.

For support and education of 500 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay of superintendent, $86,000.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 13, line 24, strike out the words "five hundred" and insert in lieu thereof the words "five hundred and fifty;" and page 13, line 26, strike out the words "eighty-six thousand dollars" and insert in lieu thereof the words "ninety-four thousand three hundred and fifty-seven."

Mr. SHERMAN. Mr. Chairman, this is an increase in the number of pupils appropriated for at that school by 50. The

average number in attendance last year was 577, although but 500 were appropriated for. At this time there are over 600 students, and the students are largely from California. More than half of them are full-blood Indians. It is a very popular school; it could not be otherwise, considering its name, let me say, anticipating the gentleman from Illinois. [Laughter.]

Mr. MANN. I would like to ask the gentleman whether this rapid increase would keep up as long as it bore the name of the gentleman who so highly honors the school by its having his name?

Mr. SHERMAN. I assume, if I were as modest as the gentleman, I would answer the gentleman untruthfully; but, being truthful as well as modest, I must say it always will. [Laughter.]

Mr. MANN. I hope we will always have plenty of money to keep it up. [Renewed laughter.]

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

Mr. SULZER. Mr. Chairman, yesterday was the eleventh anniversary of the destruction of the *Maine* in the harbor of Habana. That event made history, wrote a glorious chapter in our annals, and changed the map of the world. More than a decade has now come and gone since that tragic event occurred, and as yet nothing has been done by the Government of the United States to raise the wreck of the *Maine*, and to bring home and bury, with military honors, in Arlington Cemetery, the remains of the sixty-odd brave and gallant sailors entombed in that hulk in the muck and slime of Habana Harbor.

The records in the Navy Department show that 231 men were killed when the *Maine* was blown up; that 24 bodies were immediately recovered and buried in Key West, Fla.; that later 144 bodies were recovered and buried in Habana; that these bodies were subsequently brought home and buried in the national cemetery at Arlington; that at least 63 bodies were never recovered or accounted for, and are now entombed in the wreck of the *Maine*. For some inexplicable reason the *Maine* has never been raised and these bodies of the nation's heroic dead recovered and brought home for burial. Our dereliction in this matter is little less than a national disgrace. It is becoming a big black blot on our boasted patriotism. Public sentiment has demanded for years that the wreck of the *Maine* be raised; that the truth of her destruction be told; that the derelict be removed from the channels of commerce; that the bodies of these brave sailors who sacrificed their lives on the altar of their country be recovered and brought home and decently interred in the national cemetery.

Sir, for several years past I have endeavored in every way in my power to have something done about this deplorable matter, but thus far without success. Long ago I introduced a resolution which passed the House unanimously, calling on the Secretary of the Navy for information as to the cause of delay. The Secretary of the Navy sent to the House of Representatives, in compliance with that resolution, some data which was printed as a House document and is now before the Congress. In that document the Secretary of the Navy makes the following statement:

The best information at the command of the Navy Department respecting the probable cost of the removal of the wreck of the *Maine* and the burial of the dead now lying in the hulk of that vessel, with regard to which inquiry is made in the resolution of the 10th instant, is afforded by an examination of the expenditures actually incurred in the attempt to accomplish those objects and in their partial achievement under the appropriations above cited.

It is a matter of record and tradition that when in February, 1898, this work was undertaken representatives of the wrecking companies visited the Department and suggested that on account of the peculiar circumstances under which the vessel was sunk, the nature of the work, and the conditions existing in the harbor at the time, it would be extremely difficult to name in advance any reasonable lump sum at which the task could be undertaken, or to give assurance that the vessel itself could be raised; and after full conferences it was determined that the work of recovering the bodies entombed in the ship and saving such portions of the armament and equipment as could be reached should be immediately entered upon, provision being at the same time made for the raising of the vessel if found practicable.

I now read in this connection a letter from the Secretary of the Navy to the Secretary of State concerning the matter. It is as follows:

NAVY DEPARTMENT,
Washington, March 4, 1908.

SIR: Your letter of the 27th ultimo inclosing a translation of a note from the Cuban minister inquiring "whether the decision reached by this Government recognizing Cuba's rights in the matter of the wrecks of the *Alfonso XII* and *Maine* also applies to the wrecks of all the Spanish war ships destroyed during the war of 1898 in Cuban waters," was duly received.

In reply I have the honor to state that the Secretary of the Treasury, Mr. Shaw, in a letter dated January 9, 1903, said that the Treasury Department did not desire to take further action regarding wrecks in Cuban waters and "was inclined to the opinion that any authority or rights it may have had formerly may properly be considered as having lapsed in favor of the Government of Cuba." (Sec. 3755, R. S.)

On the contrary, however, the Navy Department (letter of July 1, 1902, to Mr. George Richardson, copy herewith, and in other correspondence) has taken the attitude that the disposal of the wreck of the *Maine* rests with the Congress, and that no Executive Department could give assurance of its abandonment by the United States. With respect to the wreck of the *Maine* and those of the Spanish war ships destroyed during the war of 1898 in Cuban waters, however, it may be added that the Navy Department is not now engaged in, and has not in contemplation, any work thereupon.

After correspondence on the subject, the Department of State, October 27, 1904, expressed the view that "in order to obtain a valid and effective disposition of the *Maine* wreck" the matter should appropriately "be settled by a convention with Cuba."

The Navy Department expressed its concurrence in this view; but it is understood that the action thus suggested has not been taken.

Very respectfully,

V. H. METCALF, *Secretary.*

The SECRETARY OF STATE.

That letter and the report of the Secretary of the Navy made it clear to me that legislation was necessary to accomplish the object desired. Hence, on the 20th day of April, 1908, I introduced a bill which I now send to the Clerk's desk and ask to have read.

The Clerk read as follows:

A bill (H. R. 21176) to raise the wreck of the U. S. battle ship *Maine* in Habana Harbor, and remove the bodies therein to Arlington Cemetery for interment.

Be it enacted, etc., That the Secretary of the Navy be, and he hereby is, authorized and directed to forthwith prepare and publish proposals requesting bids for the removal of the wreck of the U. S. battle ship *Maine*, now sunk in Habana Harbor, and have the bodies therein brought to Washington for interment in the national cemetery at Arlington; and that the contract or contracts for the purposes herein specified shall be let to the lowest responsible bidder.

SEC. 2. That the President be, and he hereby is, authorized and directed to make the necessary arrangements, if any be necessary, for the purposes herein designated, with the Republic of Cuba.

SEC. 3. That any money now at the disposal of the Navy Department is hereby made applicable for the purposes herein specified, and if the same be not sufficient to carry out the purposes herein specified, then such sum of money as may be necessary to meet all the requirements of this act is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act.

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

Mr. SULZER. Mr. Chairman, that bill speaks for itself. It is now slumbering in the Committee on Naval Affairs, where it has been pigeon-holed ever since I introduced it. I have done everything in my power to get it reported, but thus far without success. I say now it should be speedily reported and passed ere this session of Congress adjourns. It will accomplish the object desired, and it meets with the approval of the patriotic people of this country. The delay has been disappointing to the friends of the *Maine's* heroic dead. I proclaim that the Government has been recreant in this matter. But I am not disheartened. I shall keep working for this legislation until the *Maine* is raised and the bodies of our dead sailors are brought home for interment. The fault is not mine. I have done, and I am trying to do, my duty. The fault is with the Naval Affairs Committee of this House. The members of this committee are to blame for the disgraceful neglect and delay. Yesterday being the eleventh anniversary of this tragical calamity, I tried to get the Speaker to recognize me, it being suspension day in the House, to make a motion to suspend the rules, discharge the Committee on Naval Affairs from further consideration of my bill, and pass the same. The Speaker refused to grant me recognition, although the Speaker recognized other Members on the floor for the purpose of calling up and passing bills far less commendable than my bill to raise the *Maine*, the enactment of which is demanded by our liberty-loving people from one end of the land to the other.

On the 28th day of January this year the President sent to the House of Representatives a special message in which he urged the Congress to take action in regard to the removal of the *Maine* from the harbor of Habana. The President says in his special message:

Governor Magoon, on the eve of leaving Cuba, has expressed the hope that the wreck of the battle ship *Maine* may be removed from the harbor of Habana. I trust the Congress will see the wisdom of this suggestion and will provide for the removal of the *Maine*. We should not allow the wreck of this historic ship to remain as a possible danger to navigation in Habana Harbor, for this is wise from no standpoint. An appropriation should be made for the removal.

But, sir, nothing is done. The Speaker and the Committee on Naval Affairs, for some inexplicable reason that I can not fathom, refuse to respond to the request of the President based on the statement of Governor Magoon, and neglect to report or act on my bill to remove the wreck of the *Maine* from the harbor of Habana and bring the remains of our sailors home to the land they loved and died for. What a shame! What a disgrace to America! What an object lesson of our neglect to every man in the navy of which we feel so proud! Let me read you a part of the statement of Governor Magoon made to the Cubans just before he left Habana. Governor Magoon said:

The wreck of the *Maine* continues to lie in the mud and waters of Habana Harbor. The sunken battle ship is a serious menace to the shipping of the harbor, as it occupies a portion of the best anchorage. The obstruction has increased annually during the last ten years by causing a shoal. The moderate tides prevailing in the harbor are hardly sufficient to prevent a gradual filling up, and this shoal seriously

interferes with the action of the tides, and therefore the entire harbor is rapidly filling. It will be necessary in a short time to begin dredging in order to provide proper anchorage for the large amount of shipping now entering the harbor unless the wreck is removed. The anchorage is also restricted by the wreck and the shoal, for ships are obliged to anchor at sufficient distance to prevent grounding in case they strain on their cables.

Even more important than this obstruction to navigation is the fact that this wreck, although it contains the bodies of sixty-three American seamen, or what is left of them, is apparently abandoned and forgotten by the Government and people of the United States. Thousands of Americans and other thousands of other nationalities annually enter the harbor of Habana, and probably not one omits to express regret and censure for the deplorable spectacle. It has become a national reproach and an international scandal.

The neglect to remove the wreck is attributed by many, especially the large Spanish contingent in Cuba, to the fear that its removal will disclose the fallacy of the popular belief that the *Maine* was destroyed by a torpedo or mine instead of an interior explosion. So generally does this opinion prevail that I believe the Cuban Government was deterred thereby from dealing with the wreck as an obstruction to navigation of its coastal waters and destroying it; however, it should be added that the Cuban authorities were also restrained by a belief that the United States would sometime desire to attempt to remove it and preserve the wreck as a whole instead of breaking it up and removing it in the more inexpensive manner.

The correspondence on file in the Department of State and the Navy Department at Washington shows that a belief prevails in those departments that it is necessary to secure, by a treaty or otherwise, the consent of the Republic of Cuba to the authorities of the United States entering the harbor of Habana and proceeding with the work of removal. This permission, if necessary, can be easily secured, and the Cuban Government would gladly afford assistance in its power to accomplish the desired result, not only because of the injury to the harbor facilities, but also because of the prompting of patriotism and sentiment. I earnestly recommend that the United States Government take immediate steps to accomplish the removal without further delay.

Mr. Chairman, I do not know just why the Committee on Naval Affairs refuses to take action in this matter. I have done my best to get my bill reported. I would like to have some reason for this delay. The patriotic press of the country rings with commendable editorials day in and day out in favor of this legislation. The Government has been derelict in its duty to these brave and gallant men. The Congress must act. The wreck of the *Maine* must be raised. The bodies of her heroic dead must be brought home. Gratitude commands it. Patriotism demands it. The *Maine* must be raised. Let us do our plain duty now. Let us be grateful. Let us be patriotic. Let us enact this legislation—lest we forget——

Mr. COX of Indiana. Has the gentleman from New York any data as to what it will cost the United States Government to raise the wreck of the *Maine?*

Mr. SULZER. I have.

Mr. COX of Indiana. How much do you estimate it will cost?

Mr. SULZER. Less than $50,000 according to competent experts, and I think the Navy Department has available now all the money that is necessary for the purpose—money that was heretofore appropriated. All that is necessary to do now is to pass my bill directing it to be done.

Mr. COX of Indiana. Has the gentleman any data as to the physical value of the *Maine* after it is raised?

Mr. SULZER. Possibly the old hulk will have no great monetary value save for scrap; but that is not the question. This matter is one of gratitude to those who died for their country—of patriotism—of sentiment—of all that makes a nation grand and great. It rises above the sordid question of dollars and cents. I say there are entombed in the hulk of the Maine the bodies of 63 brave and loyal sailors who died for their country, and the greater value is in the gratitude of the Government for which they offered up their lives; and if we do not do our plain duty in the premises we will be false to ourselves; false to our boasted patriotism; false to the demands of public sentiment now sweeping over the land, which insists that the Congress now legislate to remove the wreck of the *Maine* and bring these bodies home and bury them with their comrades in Arlington Cemetery. That is the duty of the hour—raise the *Maine*—lest we forget——

Mr. COX of Indiana. Can these bodies be recovered by diving?

Mr. SULZER. No, they can not. They are buried in the hulk of what is left of the *Maine*, and the wreck must be removed—raised—to get the bodies; and the old hulk should be removed because it is a menace to navigation, and the Cubans want it out of the way.

Mr. COX of Indiana. And the gentleman says there are still 63 bodies in the wreck of the *Maine?*

Mr. SULZER. Yes; at least that many, according to official reports.

Now, sir, during the Spanish-American war our battle cry was "Remember the *Maine!*" Have we forgotten that? Have we, forsooth, so soon forgotten the *Maine?* Should not every prompting of patriotism impel us not only to remember the *Maine*, but to raise the *Maine?* The veterans of the Spanish-American war, from one end of the country to the other, are very much in favor of action along the lines of my bill, and nearly every camp has passed resolutions favoring its speedy enactment into law. Our neglect of the dead sailors buried in the wreck of the *Maine* is a shame and a disgrace. The wreck of the *Maine* must be raised. The bodies of our gallant seamen must be brought home and interred with their ill-fated comrades in the national cemetery. Let us do our duty. Let us enact this law. Let us raise the *Maine*. Let us find out for all time if the *Maine* was destroyed by an explosion from within or without. Let the truth be known to all the world. I am not afraid of the truth. No true American is afraid of the truth. The raising of the *Maine* will forever dissipate doubt—forever clear the sky of history—forever be a credit to our heart, and our courage, and our manhood, and our patriotism, and our gratitude to our heroic dead. [Loud applause.]

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

Mr. SULZER. Mr. Chairman, I ask unanimous consent to print, in connection with my remarks, a few letters and newspaper comments regarding this matter.

The CHAIRMAN. Is there objection. [After a pause.] The Chair hears none, and it is so ordered.

The data follow:

[From the Newark Evening News, April 28, 1908.]

PRAISE FOR MR. SULZER—VETERANS INTERESTED IN HIS BILL TO RAISE THE "MAINE"—SENATOR COLBY'S LETTER.

To the Editor of the News.

SIR: Patriotic organizations, together with survivors of the civil and Spanish wars in this State, numbering something over 100,000, are deeply interested in association and individual effort to remove the wreck of the battle ship *Maine* and her dead to a final resting place under the flag which was honored by "the *Maine* and her men." Keenly recognizing the conspicuous national indifference and neglect of a decade in the matter of the sunken *Maine*, a deep sense of national pride and local patriotism have steadily worked together through the public press, and fraternal organizations, to initiate and support Congressional action, which has now taken encouraging shape and promise, in a bill just introduced by Congressman SULZER.

Thousands of survivors of the civil war, both Union and Confederate, congratulate Mr. SULZER for the introduction of this bill, and they stand ready, with a soldier's welcome, for the success of its purpose and provisions. The drift of sentiment, outside of this, may be seen in a letter from a distinguished State senator. It was written by Senator Everett Colby on April 18 last, and sent to Congressman SULZER. The letter follows:

"MY DEAR SIR: I want to add a word to the many you are receiving in favor of the movement to raise the battle ship *Maine*. Your efforts are indorsed by the veterans of our State, for whom I am glad to speak."

Thanking you in advance for giving space to this, I remain,

Yours, truly,

VETERAN.

ARLINGTON, *April 27, 1908.*

[From the Newark News, March 31, 1908.]

WOULD RAISE THE "MAINE"—NEGLECT OF SHIP AND THE NATION'S DEAD UNPARALLELED IN HISTORY OF NAVY.

To the Editor of the News.

SIR: Your valued editorial comment on the recent action of the Secretary of the Navy, in sending to Congress all information in the possession of his Department concerning the wreck of the battle ship *Maine* and the men who went down with her, is read with interest and appreciation in this State by the majority of those who are identified with patriotic and veteran organizations that was ever moved by an appeal to Congress and national honor in behalf of a famous ship and the nation's dead.

The national indifference to and neglect of the *Maine* since her "terrible taking off" is unparalleled in the history of our Army and Navy, and the repeated charges that the United States feared to face the facts, such as the wounds of the *Maine* would disclose, have been publicly charged and reiterated to such an extent that popular sentiment has almost surrendered to feelings akin to the humiliation of an apology to the perpetrator of a crime that shocked the civilized world. In this connection it is recalled that after the Cuban war was over and the details of peace were settled in Paris the Spanish commission said to our representative that "the United States had put a stigma on Spain in charging that Spaniards had wrecked the *Maine*, and they asked the privilege of raising the battle ship and proving that she was blown up from the inside." However, great credit is due to Congressman WILLIAM SULZER for his untiring efforts, up to and including the passage of his resolution in behalf of the *Maine* and its dead on the tenth anniversary of her destruction.

Survivors of the civil and Cuban wars, together with the membership of a patriotic organization numbering over 47,000 in New Jersey alone, are enthusiastic spporters of the movement to float the *Maine* and give proper sepulcher to her honored dead—to have them "brought home to sleep under the Stars and Stripes."

Yours, truly,

A. KING (Veteran 1862–1865).

NEWARK, *March 29, 1908.*

[Editorial from the New York Sun, April 29, 1908.]

THE SULZER BILL TO RAISE THE "MAINE."

Representative SULZER, of New York, has introduced a simple and effective measure designed to obliterate a national scandal and disgrace. Mr. SULZER's bill is now in the hands of the House Committee on Naval Affairs. It authorizes and directs the Secretary of the Navy to contract for raising the wreck of the battle ship *Maine* and removing the bodies found therein to Arlington Cemetery, to rest hereafter alongside others of the nation's dead. It authorizes and directs the President to make the necessary arrangements for this purpose with the Republic of Cuba.

There should be no partisanship of attitude toward the patriotic, just, decent, and necessary action proposed by Mr. SULZER. The bill represents the common interests and well-nigh unanimous desire of the American people. We are informed that eminent Republicans, as well as Democrats, from this and other States are hastening to assure Mr. SULZER of their approval and support. The sentiment of the veterans, both Union and Confederate, and likewise of the blue and the gray that blended in the Spanish war, is strongly enlisted in the movement.

How could it be otherwise? The thought of those neglected and forgotten bones in Habana Harbor is argument enough. Shall Decoration Day of 1908 pass with the Sulzer bill not yet enacted?

[Editorial from the Albany Argus, March 14, 1908.]

THE WRECK OF THE "MAINE."

Speaking of the resolution offered by Representative WILLIAM SULZER, of this State, asking the Secretary of the Navy to give his opinion to the Congress on the right of the Government of the United States to raise the wreck of the battle ship *Maine* and clear the harbor of Habana of the obstruction, the Cincinnati Commercial Tribune, in an interesting editorial comment, says:

"It is altogether probable that Congresssman SULZER, with his colleagues of the House, is fully advised of the rights of the United States in the premises. The raising of the wreck might revive the old question of its destruction by connivance or by direct instructions from the Spanish Government, or by an explosion which came from within the *Maine* and from causes over which the Spanish Government did not and could not control. That the wrecking of the *Maine* precipitated hostilities is not to be doubted, neither is it to be doubted that hostilities between the two countries were inevitable and would have come about even if the *Maine* had steamed safely out of the harbor where she never should have been sent. That the explosion was due to connivance or to direct instructions of the Spanish Government is not believed to-day. If the explosion came from the outside, it was the work of Spanish scoundrels determined to bring on the war or the work of hot-headed Cubans who saw in the certainly of war their certainty of independence. But apart from all questions of that nature, the wreck of the *Maine* should be cleared from Habana Harbor and the causes of the explosion determined if they are possible of determination. It is not altogether creditable that the gallant ship should find burial in foreign waters, and history will not be satisfied without the knowledge of the cause of the explosion. The revival of the question of the cause might be acute for a time, but with all other questions of the war settled the acuteness would neither hurt nor become chronic."

Mr. SULZER'S activity in this matter is very generally commended. It is nothing short of a national disgrace that to-day (more than ten long years after the destruction of the *Maine*) the hulk of that ill-fated battle ship should still be obstructing the harbor of a friendly city—or an unfriendly one, for that matter—and the bones of those who perished in her be left without decent interment.

Nor does it give a creditable—nor, in our opinion, an accurate—impression of American sentiment to have it said abroad that we as a nation are afraid to raise the *Maine* for fear it will be proved that the explosion was from within.

The American people are never afraid to do the right thing and to stand for truth, right, and justice. If it was an accidental explosion from the inside which destroyed the *Maine*, all the world is entitled to the knowledge of the fact, and it would set at rest many ugly rumors and hints made at the time of the explosion and since.

[Editorial from the Washington Post, February 16, 1908.]

ANNIVERSARY OF THE "MAINE"—HABANA DISASTER RECALLED BY RESOLUTION AND HOUSE CHAPLAIN'S PRAYER.

With the view to the raising of the ill-fated battle ship *Maine* and "the proper burial for its dead, now lying with the hulk of that vessel in the harbor of Habana, Cuba," Representative SULZER of New York yesterday introduced in the House a resolution calling upon the Secretary of the Navy for papers and correspondence bearing on the international status of the question and the rights of the Government of the United States in the matter.

Chaplain Couden, in his invocation, recalled the destruction of the *Maine*, and prayed that war may never visit this country again. After referring to the abiding patriotism of the American people, he said:

"We are reminded of the brave men who, ten years ago to-day, went down to death in the ill-fated *Maine*. Grant, O God, that their sacrifice may be an inspiration to the living. Make us to know that our country is not only worth living for, but if need be it is worth dying for; that vigilance is not only the price of liberty, but it is the price of everything worth while. Help us, therefore, to be patriots in times of peace as in times of war; but we most fervently pray, O God, that war shall never come to us again, but that we may live in harmony with each other and in peace with all the world."

[Editorial from the New York World, March 26, 1908.]

THE PROJECT TO RAISE THE "MAINE."

Secretary Metcalf, in accordance with the Sulzer resolution, has furnished the House of Representatives with a statement of the work done in recovering the bodies of officers and men lost with the battle ship *Maine* and in saving equipment and machinery, together with a report on the present status of the project.

The total number of bodies recovered was 188, leaving 63 unaccounted for. A balance of $145,000 remains of the $200,000 appropriated by Congress for the purpose in February, 1898, and $3,000 from the additional appropriation of $10,000 for the removal of the bodies to Arlington Cemetery. Some pieces of armament were saved and the loose wreckage dumped at sea.

What is left is a worthless hulk. But sentiment attaches to it as the tomb of American sailors, and considerations of patriotism urge the raising and removal of the wreck, if only to settle finally the causes of the *Maine's* destruction. If a convention with Cuba is necessary, it can readily be arranged.

TWIN OAKS, NEWPORT, R. I.,
May 5, 1908.

DEAR SIR: Admiral Luce has sent me your letter to him re raising the *Maine*. He suggests that as a member of the board of inquiry upon the cause of her loss, that I give you my views in the matter.

I have always held that the ship should be raised and the work be done in a way to allow a thorough examination of her condition as she lies. This would, of course, require the building of a cofferdam which could be pumped out. It should have been done at once after the war. While absolutely sure that the conditions will be found such as described in our report, the question of result should have no bearing in the matter. The board did its duty according to its lights, and I am sure that I can answer for the other surviving members as well as for myself, in saying that we should welcome any new light which exposing the wreck might bring.

Our failure to raise the wreck has undoubtedly given an impression to many of a want of openness and straightforwardness on the part of the Government. It is our duty to remove this. We can afford to say we were mistaken; we can not afford the imputation of fearing the truth.

I am, very truly yours,

F. E. CHADWICK,
Rear-Admiral, Retired.

ARLINGTON, N. J., *May 9, 1908.*

Hon. WILLIAM SULZER, M. C.,
Washington, D. C.

MY DEAR SIR: I have mentioned the fact that you have decided to speak for the "*Maine* and her men" in the House to several of my friends who have expressed an interest along the lines of our effort in behalf of the famous wreck and its dead. This information is gratefully accepted by all, many of whom think it most commendable as means to record just what was done from a purely patriotic impulse and sense of honor due the nation and its dead.

If you have not already gotten all the data as to the facts of the *Maine* when she rode at anchor in Habana Harbor, allow me to say that the ship, as she stood before the explosion, represented an outlay of $5,000,000, according to Captain Sigsbee, her commander. Her machinery cost $735,000. The hull represents tons of steel. The turrets were steel, 8 inches thick, of which there were two, equipped with 10-inch guns. She was protected for a length of 180 feet amidships with Harveyized steel armor 12 inches thick, worth $500 a ton. Her entire equipment was all that is represented by a first-class battleship of her class at the time. We shall look with interest for all that you may say of the *Maine*.

Yours,

ALFRED KING.

HEADQUARTERS OF THE DEPARTMENT OF NEW JERSEY,
UNITED SPANISH WAR VETERANS,
Rutherford, N. J., December 26, 1907.

Mr. ALFRED KING, *Arlington, N. J.*

MY DEAR SIR: I have just learned of your correspondence with Q. M. Gen. Charles Burrows, Grand Army of the Republic, in regard to bringing the question of floating the old battle ship *Maine*, now lying in the harbor of Habana, to the attention of Congress during its present session. The greatest indifference and neglect seems to be the rule in connection with this famous wreck, and it is certainly commendable on the part of the survivors of the Union armies to ask for national legislation in behalf of the *Maine*. In this connection I desire to say in our own behalf that the Spanish War Veterans are deeply interested, and peculiarly so, in the fate or removal of the wreck of the U. S. battle ship *Maine* from Cuban waters, and also that we are in hearty accord with this movement or any other that your efforts may adopt to give the hulk, with its honored dead, an appropriate and final resting place under the flag of our country.

Fraternally, yours,

JOHN T. COLLINS,
Department Commander.

ARLINGTON, N. J., *April 10, 1908.*

Hon. WILLIAM SULZER, M. C.,
Washington, D. C.

MY DEAR SIR: Through the public press and private correspondence of those who are taking a personal interest in raising the old battle ship *Maine*, I learn of your past and continued efforts in Washington in behalf of the survivors of the civil and Spanish wars, who are taking a deep interest in floating this famous wreck and giving proper burial to its dead. I desire to say in this connection, as an ex-soldier of the Spanish war, that your efforts to float the remains of this battle ship has the support and best wishes of all who are glad to be recognized as comrades and ex-soldiers of the war with Spain for the freedom of Cuba.

Sincerely, yours,

FRANK KOCH.

CHICAGO, ILL., *May 5, 1908.*

Hon. WILLIAM SULZER.

SIR: It was a source of pleasure to me to read of your bill in Congress to have raised the battle ship *Maine*, now lying in Habana Bay. This has been my hope and desire since the destruction of the battle ship on February 15, 1898, and I am sure in that bill you voiced the sentiments of the whole American people. My son, Edward F. Kean, was on duty as a marine guard that night, as I understand, in the lower cabins, and is still among the missing, as also another Chicago boy named Shillington. I trust you will keep the matter of the raising of the battle ship before this honorable session so the work will not be delayed more than is necessary, and, thanking you for your kindly and true American spirit, I remain,

Respectfully,

MRS. MARGARET KEAN,
1006 North Talman Avenue, Chicago, Ill.

15 FRANCIS STREET, NEWPORT, R. I.,
May 18, 1908.

Hon. WM. SULZER, M. C.

DEAR SIR: In reply to your very polite favor of 16th, I beg to say that if my letter to you urging favorable consideration of the plan for the raising of the *Maine* can be of the slightest use, please make such disposition of it as you think proper. I trust with all my heart you will not let the matter drop.

Very truly, yours,

S. B. LUCE.

THE KNOLLS, CORNISH HILLS, N. H.,
(POST-OFFICE WINDSOR, VT.)
May 11, 1908.

DEAR MR. SULZER: I have only received yours of the 7th to-day, on account of my absence from Newport.

My letter is entirely at your service to use as you think best.

I am, very sincerely, yours,

F. E. CHADWICK.

[From the Washington Post, Monday, February 15, 1909.]

READY FOR MEMORIAL—PREPARATIONS COMPLETE FOR REMEMBERING THE "MAINE"—MAY HAVE NAVY-YARD SALUTE—MANY FLORAL DECORATIONS RECEIVED, WHICH WILL BE PLACED UPON THE ANCHOR IN ARLINGTON NATIONAL CEMETERY—SHORT PROGRAMME THERE, AND PRINCIPAL EVENT IN CHURCH IN THE EVENING.

The final meeting of the committee of arrangements of the Maine Memorial Association and the Army and Navy Union to close up the details for the observance of to-day as the eleventh anniversary of the sinking of the battle ship *Maine* was held in the parlors of the Portner yesterday afternoon. There will be three features of the day and possibly four. There will be a military mass celebrated at St. Patrick's Catholic Church this morning at 10 o'clock, a pilgrimage to Arlington Cemetery to dedicate the anchor of the *Maine* in that cemetery, and a memorial service at the First Presbyterian Church, John Marshall place, at 8 o'clock to-night. The fourth feature will be the firing of a national salute at the navy-yard, if the request for such a salute forwarded the President yesterday is complied with.

The military mass will be celebrated by Father McGuigan, assisted by Fathers Carroll and Smyth as deacon and subdeacon. Following the mass Dr. W. T. Russell, rector of St. Patrick's, will deliver a short address.

PILGRIMAGE TO ARLINGTON.

The pilgrimage to Arlington will start from Aqueduct Bridge promptly at 2.30 o'clock, no matter what the condition of the weather may be. It will be made up of men and women from all the patriotic organizations of the District. Two wreaths sent by President Roosevelt will be among the floral tributes placed on the anchor by Mrs. C. Walton Dunlap and Mrs. Mary V. Goundie. It was arranged at yesterday's meeting that a detachment of uniformed men from the gunners' class, headed by Albert Osenger, will assist at the military mass and place a floral offering on the *Maine's* anchor. The wreath will be entwined with American, Cuban, and Spanish flags. An offering comes from the Mary A. Babcock Auxiliary and Admiral George Dewey Auxiliary, United Spanish War Veterans. Mrs. Ada M. Galloway, in the name of the National Auxiliary of the United Spanish War Veterans, will place a large sheaf of American Beauties on the anchor. Mrs. I. W. Ball, for the National Woman's Relief Corps, will place a wreath on the anchor. Among the other floral offerings there will be one from Phil Sheridan Woman's Relief Corps, department of the Potomac, in charge of Mrs. Fannie Worden, and flowers for the graves of the valiant dead from the same organization. Those having charge of this work are Mrs. Charles Sidman, Mary A. Babcock Auxiliary, United Spanish War Veterans; Cora Campbell, Dewey Naval Auxiliary, United Spanish War Veterans, assisted by Master Henry Moultin Goundie and Mrs. Lida Oldroyd.

The *Maine* memorial committee will decorate the graves of Mrs. Helen G. Sparhawk, one of the original movers in the *Maine* memorial last year, who has since died and is buried in Arlington.

PERMANENT COMMITTEE CHOSEN.

This permanent committee was elected yesterday to look after the distinguished visitors who will attend the services: Mesdames Christine W. Dunlap, Mary V. Goundie, Annie W. Johnstone, Matilda R. Sprague, Ida Galloway, Cora Campbell, Charles A. Sidman, Fannie Worden, J. Walter Mitchell, Frank Fauth, Ruth M. Griswold Peater, and Luchy Graham, Gen. Andrew S. Burt, Capt. J. Walter Mitchell, Capt. J. J. Strain, Capt. William A. Hickey, Charles E. Claggett, Charles W. Blush, Lemuel Fugitt, Albert Osenger, Robert Finn Finucane, and B. F. Sparhawk.

The orations at the anchor in Arlington will be by Father Eugene A. Hannan, the Rev. Zed H. Copp, and Maj. Frank A. Butts. Gen. A. S. Burt will preside, and Capt. J. J. Strain will be officer of the day. Two troops of mounted men from Fort Myer will fire the salute, a bugler will sound "taps," and the military band from that post will play the dirge music. The weather permitting, Admiral Sigsbee will be present and make a short address. Admirals Dewey and Schley have been asked to attend the services in Arlington. Two hundred and sixty-six men lost their lives on the *Maine*, 198 bodies were recovered, and 68 bodies lie in the hulk of the ship. The recovered bodies were buried in Arlington, with a few exceptions.

SERVICES AT THE CHURCH.

The memorial services proper will be held to-night, commencing at 8 o'clock, in the First Presbyterian Church, John Marshall place. General Burt and Col. Charles M. Shinn will preside. The interior of the church will be elaborately decorated with flags and flowers, and the large model of the battle ship *Maine* in the Pension Office will be among the decorations on the altar. Admiral Charles D. Sigsbee, who commanded the *Maine* when she was blown up, will tell the story of that tragic event. The United States Marine Band will furnish the music. When Admiral Sigsbee enters the church he will be met by a drummer boy, who will sound the admiral's roll and lead the way up the main aisle, followed by color bearers. There will be an elaborate musical programme.

AN APPEAL FOR THE "MAINE"—STATE COUNCIL OF THE JUNIOR ORDER UNITED AMERICAN MECHANICS SENDS RESOLUTIONS TO PRESIDENT ROOSEVELT.

To the Editor of the News.

SIR: Survivors of both sides of the civil war and every patriotic American will be glad to learn that the State Council of New Jersey, Junior Order United American Mechanics, representing over 47,000 members in the State of New Jersey alone, will include in the published report of its recent session at Trenton the following preamble and resolutions as an appeal from all councils to President Roosevelt in behalf of the wreck of the battle ship *Maine:*

"Whereas the wreck of the U. S. battle ship *Maine*, now lying in the harbor of Habana, Cuba, together with scores (74) of her dead entombed in the hulk are, and have been, the object of material neglect and indifference, unparalleled in the annals of our army and navy: Therefore be it

"*Resolved*, That the State Council of New Jersey, Junior Order United American Mechanics, hereby respectfully requests the President to include in his recommendations to our next National Congress such measures as may be deemed most practical and effective for the early removal of the battle ship *Maine* from Habana Harbor, and for the proper sepulture of her dead under the flag of our country for which they died; and, be it further

"*Resolved*, That the recording secretary of this council be, and is hereby, ordered to send a copy of these resolutions, under the seal of the council, to the President at Washington."

These resolutions are signed by Frank R. Sharp, State councilor.

Yours, truly,

VETERAN 1862–05.

TRENTON, *November 4, 1907.*

[Editorial from the New York Sun, Wednesday, April 8, 1908.]

THE WRECK OF THE MAINE.

If we do not err about the temper of the House of Representatives, an appropriation will soon be made to raise the unsightly and melancholy wreck of the battle ship *Maine* in the harbor of Habana after almost ten years of neglect and vacillation. Mr. SULZER'S amended resolution calling upon the Secretary of the Navy to send to the House "all letters and data as to the cost and legal status under which the Congress may exercise immediate or future action for the removal of the wreck," and provide burial for the unrecovered dead, was adopted on March 10, and on March 25 Mr. Metcalf complied. His report was referred to the Committee on Naval Affairs the following day.

There was at first no disposition to disregard an obvious duty. Eight days after the blowing up of the *Maine*, which occurred on the evening of February 15, 1898, Congress appropriated $200,000 to recover the remains of the dead, raise the ship, and save any parts of the machinery and equipment that might be used again. On March 30 the sum of $10,000 was appropriated "for the removal of remains of officers and men who perished by the destruction of the U. S. S. *Maine*." A wrecking and a towing company contracted to do the work. It was abandoned on April 2, 1898, after a report had been made by a naval board recommending that because the contractors were "disinclined to work during the rainy season" and it would take from six to eight months to raise the shattered hull, it was advisable to suspend operations. Meanwhile the court of inquiry had taken evidence and reported, on March 21, that the *Maine* had been wrecked by the explosion of a mine "under the bottom of the ship at about frame 18 and somewhat on the shore side of the ship." On April 20 President McKinley signed the joint resolution of Congress declaring war upon Spain.

Of the original appropriation of $200,000 the sum of $54,043.94 was expended in stripping the wreck above water and recovering four 6-inch guns, the paymaster's safe, two 6-pounder guns, two searchlights, a steam cutter, the breech mechanism of the after 10-inch guns, and 100 shells. The naval board estimated the value of material which could be recovered if the ship were raised "in good order" at $670,600. It was the judgment of the board that "the machinery would not suffer from being submerged several months." It went on record (March 28, 1898), with the opinion that it had "no doubt of the ability of a good company to do such work." Of the appropriation of $10,000 for the transfer of dead to the United States and their burial at Arlington, $6,968.72 was expended. One hundred and eighty-eight bodies were recovered and buried and sixty-three were "not found."

Among the documents in the case sent by Secretary Metcalf to the House is a statement of the date of May 16, 1902, by Charles E. Magoon, who is now the Provisional Governor of Cuba, and at that time was acting chief in the division of insular affairs, War Department. Mr. Magoon wrote in response to an inquiry:

"The military government of Cuba will take no further steps in regard to the *Maine*, and after the withdrawal of our military forces from Cuba, unless Congress should otherwise provide, any attempt made by this Government to raise the *Maine* will come within the jurisdiction of the Navy Department."

The Navy Department has steadily maintained (to quote Mr. Metcalf) "that no executive department of the Government has authority to dispose of or to abandon the wreck, but that such power rests solely, so far as this Government is concerned, in the Congress." In one instance, when the Hon. William H. Moody was Secretary of the Navy, the department (December 3, 1902) disapproved emphatically of Senate bill 5806 "for raising the wreck of the battle ship *Maine*."

"The department does not regard with favor the raising of the *Maine* for the purpose of photographing her with the view of entering upon another investigation as to the cause of her destruction. No reason is perceived why the former investigation is not sufficient. The material of the vessel would not be of value to the Navy Department. The sentimental consideration attached to the raising of the *Maine* appeals to all, but the department does not recommend the passage of the bill."

Earlier in 1902 Representative ROBERTS of Massachusetts had introduced a bill "for raising the wreck of the battle ship *Maine*," and Acting Secretary Darling, on behalf of the department, wrote to Chairman Foss of the House Naval Committee that "no objection is perceived to the passage of the measure." Six months later, when Chairman HALE of the Senate Naval Committee consulted Mr. Moody about a Senate bill, the Secretary overruled his assistant.

In view of the fact that Cuba is now ruled by a provisional governor, with army officers governing the provinces and an advisory law commission, presided over by Col. E. H. Crowder, U. S. Army, making the laws, the meetings of congress having been suspended by decree of Secretary Taft—in view of these conditions an opinion given by Secretary of State Hay to the Secretary of the Navy on October 8, 1904, is interesting:

"It might be advisable, in order to obtain a valid and effective disposition of the *Maine* wreck, that the matter be settled by a convention with Cuba, which could be submitted to the Senate of the United States for its concurrence."

Mr. Paul Morton, then Secretary of the Navy, concurred. Cuba is no longer in a position to enter into a subvention on the subject. Her right to do so has been suspended. It is renewable at the pleasure of the United States, and the time of the renewal has not been definitely determined. There can be no doubt that the Cuban people would like to have the wreck of the *Maine* removed, for the reason, if for no other, that it is an obstruction to navigation. To the American people it is an eyesore when they see it and a heartache when they think about it. Their Government now has the power, if it has the will, to remove the wreck of the *Maine* without having to ask the permission of Cuba, which would not be withheld if Cuba were articulate politically.

There is no longer any excuse for not raising the *Maine*. The American people desire that it be done. Let Congress make the appropriation and direct the President to execute the will of the people.

[From the New York Times, April 14, 1908.]

THE MYSTERY OF THE "MAINE."

As long as the *Maine* stays where it is now, just showing above the unsavory waters of Habana Harbor, there will probably be people to greet every proposition in or out of Congress for raising the vessel with the prophecy that if this ever is done their belief that it was sunk by an interior explosion will be confirmed. Now, as a matter of fact, even the most malignant of these prophets have no such belief; they simply remember that for a while they had suspicions—perhaps "hopes" would be the better word—that such was the case, and their minds are so constructed that these suspicions or hopes have survived the presentation by the Board of Inquiry of evidence absolutely proving that the *Maine* was blown up from the outside.

Even admitting what these strange persons are so fond of asserting, that the board's report was a tissue of lies and suppressions, they still have to ignore the fact that to this day the keel of the *Maine* mutely testifies against the interior explosion theory by protruding above the decks through which it was driven by the force of the submerged mine. Even that apparently impossible task they perform offhand, however, and maunder on endlessly about how strange it is if there was a mine that no fragments of it were ever found—how remarkable that if a Spaniard or Cuban pressed the key that set off the mine his identity has never been discovered.

It is nothing to the upholders of the interior explosion theory that when the wreck was first examined large quantities of unburned powder were found in the holds, and nothing to them that all their talk about the deterioration of modern ammunition with age and its consequent tendency toward spontaneous ignition is made absurd by the circumstance that on board the *Maine* there was not a pound of the kind of powder to which they refer. There is, indeed, still a "mystery of the *Maine*," but it is the mystery how anybody can now affect a doubt as to the method of her destruction. That was settled for good and all over nine years ago, and, beyond clearing Habana Harbor of a troublesome obstruction, nothing would or could be accomplished by raising the wreck, except, perhaps, a needless confirmation of what is already known.

Women are often charged with a large capacity for disputing the indisputable, and for arguing anew questions that have been argued out, but this is not a sex peculiarity, unless it be true that the men who show it are not men at all. The ever-recurring chatter that comes from some of them about the *Maine* is enough to make one think so.

[From the Newark News, September 19, 1908.]

"REMEMBER THE MAINE."

ALFRED KING COMMENDS A NEWS EDITORIAL ON NATION'S NEGLECT.

To the Editor of the News:

SIR: Your excellent editorial on "The *Maine*" deserves all that popular recognition can give as an appeal, in cold logic, from the American people for humane consistency. Every survivor, North and South, of both armies of the civil war is keenly sensible to the fact that hostilities with Spain were urged and recognized by the civilized world in response to the pathetic demands of humanity for the cessation of shocking cruelties in the name of war on the island of Cuba.

As a nation we went to the rescue, affording relief and protection forever under our flag, and the humiliation for a decade of unparalleled national neglect of scores of those who died to save a people from extermination, and that Cuba might be free. It seems to me that in this connection the following poem, "Remember the *Maine*," written by W. J. Lampton, is worth reprinting:

Down in that tropic, torpid bay,
In the slime and filth of the Spanish way,
Shall the hulk of the *Maine* forever stay?
Shall the ship that stood for Freedom rot
In the stench of that unhallowed spot?
No, No! Let the people rise as one
With a firm demand that right be done
And the dead be honored—the dead who died
That Liberty should be satisfied.
Take the old ship out of her filthy grave
To the clear, blue sea and the whitecapped wave,
And there in the depths, serene and pure,
Give her a glory sepulture.
And moor above her the flag that waves
Forever above all our heroes' graves.

Yours, truly,

ALFRED KING.

ARLINGTON, *September 18, 1907.*

[Editorial from The Evening Sun, Monday, February 15, 1909.]

REMEMBERING THE "MAINE."

Services of one sort and another are being held in Washington to-day commemorative of the destruction of the *Maine* in Habana Harbor on February 15, 1898. It is befitting that the eleventh anniversary of that fateful disaster should be so observed, and at the National Capital, too. We learn from the Washington dispatches that the memorial service may be said to have begun yesterday with an appropriate sermon in one of the Capital's churches to veterans of the Spanish war, to be continued to-day with exercises at Arlington Cemetery around the Maine Monument, a memorial mass in St. Patrick's Church, and an address this evening by Rear-Admiral Sigsbee, who was captain on the *Maine* when the battle ship was blown up. As we read about this we feel that it is proper and right for memories of the *Maine* thus to express themselves at Washington, the capital of the Nation.

It is different at the nation's Capitol. Congress does not remember the *Maine*. Individual members of the Congress do, and have tried to stir the recollection of their fellows, but vainly. The wreck of the *Maine*, from which the bodies of some three score of our sailors who went down with it were never recovered, has lain in the mud and slime of Habana Harbor for eleven long years, and still lies there, a monument to congressional neglect and oblivion.

There are of course no votes in appropriating money to be spent in Habana Harbor in raising the *Maine*. Perhaps if there were the collective memory of Congress would not be so short.

[Editorial from The Times, January 27, 1909.]

MR. SULZER'S TRIUMPH.

At last Congress is thinking about raising the wreck of the *Maine* in Habana Harbor. That the sunken vessel was not raised years ago is a disgrace, and the only public official who can truthfully say that he has a clear conscience in the matter is WILLIAM SULZER, who introduced bill after bill in one session after another to bring the *Maine* to the surface and take out the bodies of the brave Americans who went down with her.

Mr. SULZER fought vainly for years, and his reward will come, for the American people will always remember that he led the small force of Congressmen who sought to have a wrong righted, and who are now on the verge of seeing their efforts crowned with success.

[Editorial from the North American, Philadelphia, Friday, January 29, 1909.]

THE FORGOTTEN "MAINE."

Down in the harbor of Habana on Wednesday morning there was a ceremony which did honor to some of the poorly paid servants of this nation, but which made darker this nation's black shame.

The common seamen of the United States battle ship *Maine* scraped their pennies together and, with the $150 so collected from the forecastle, they bought wreaths and garlands and clustered flowers and a new American flag.

And with launches laden with those purchases, accompanied by Captain Caperton and other officers who wished thus to show their approval of the enlisted men's sentiment, the sailors crossed the harbor from the new *Maine's* anchorage to the spot where a tangled, twisted, rusted mass of metal, not yet sunken into the mud, that is the coffin of sixty-three Americans who gave their lives for the flag, marks the spot where the old *Maine* anchored eleven years ago.

It was a silent trip, and the work that followed was done in silence. Half-masted and reversed—the signal of distress—the Stars and Stripes were hoisted on the military mast which still protrudes above the water, reminding every foreigner who sees the coast of Cuba that we have not remembered the *Maine*.

There was no silly speech making. The oratory of those hard-bitten, hard-handed, hard-living, and hard-fighting sailors is of deeds, not spoken words.

All that they did was to hide with blossoms and green garlands every vestige of that rusted, neglected sepulcher of our forgotten dead and, after a silent salute to the wreck and the flag, to journey back in silence from the *Maine* of 1898 to the *Maine* of 1908.

Of course, a subscription of $150 is not a thing to make a stir about, even when it comes from men whose pay ranges from $16 to $70 a month. But those men on the *Maine* can hardly be considered cheap men. That sum happened to be all they had left. Because when they heard of the death and suffering in Sicily and Calabria they "chipped in" all they could spare to swell their officers' contribution to the relief fund for Italy and so made possible a wireless message that one American battle ship alone had added $1,000 to the life-saving work on the other side of the world.

So the sailors had not much money left to buy flowers with. They could buy only enough to cover that wreckage in Habana harbor. Yet we do not think they are cheap men, even though all the hundreds of them could put into the cap passed around only a pitiful $150.

Our sorrow is that we can not disclaim cheapness as a stigma which any foreign critic is entitled to put upon this rich nation.

"Remember the *Maine!*" Do not all of us remember how the signal that Dewey flew when, like Farragut, he said: "Damn the torpedoes!" and sped into Manila bay, first made us storm, then settle into fixed wrath, and finally indulge in stern exultation?

"Remember the *Maine!*" And for eleven years 63 of our dead have been settling slowly with their ship deeper and ever deeper into the mud of that harbor bed.

In the hour of our highest pride and strength and boasting there never will be need for a poet to write a "Recessional" for America. In bitterness and sadness let us confess that the message for our self-study is not "Lest we forget," but "We have forgotten."

Certain material truths we consider of comparative unimportance. We have freed Cuba, and have done our best to uplift her to independence. Yet we leave her with "the sunken battle ship a serious menace to the shipping of the harbor, as it occupies a portion of the best anchorage. The obstruction has increased annually during the last ten years by causing a shoal. It will be necessary in a short time to begin dredging, in order to provide proper anchorage for the large amount of shipping now entering the harbor unless the wreck is removed."

We leave that wreckage not only an obstacle at Cuba's doorway, but a standing scandal upon this nation and a slander upon the American navy. For it is only too true that "the neglect to remove the wreck is attributed by many, especially the large Spanish contingent in Cuba, to the fear that its removal will disclose the fallacy of the popular belief that the *Maine* was destroyed by a torpedo or mine instead of an interior explosion. So generally does this opinion prevail that the Cuban government was deterred thereby from dealing with the wreck as an obstruction to navigation of its coastal waters and destroying it."

These reasons, cited by Charles E. Magoon, provisional governor of Cuba, in his annual report, forwarded to the War Department, are forceful and sufficient. Emphasized by a special message of the President, pleading with Congress to "see the wisdom" of Governor Magoon's suggestion for the removal of the wreck should bring even from this Congress the small appropriation needed for the work.

But it is in the following passage of the Magoon report that we find the stinging indictment of American patriotism and national decency that should stir the country to self-respect and elicit a mandate to Congress jarring the unspeakable pettiness of its ruffled "dignity" to realization of what the nation's dignity demands:

"Even more important than this obstruction to navigation is the fact that this wreck, although it contains the bodies of 63 American seamen, or what is left of them, is apparently abandoned and forgotten by the Government and people of the United States. Thousands of Americans and other thousands of other nationalities annually enter the harbor of Habana, and probably not one omits to express regret and censure for the deplorable spectacle. It has become a national reproach and an international scandal."

Fair men did not quarrel with the greatest living poet when he called the American spirit "uncouth, illogical, elate." But the sense of injustice was keen when he proclaimed us "careless 'mid his dead, the scandal of the elder earth."

How can we declare that taunt untrue, how can we cleanse our honor as a people, while the skeletons that were our heroes only eleven

years ago lie in their rotting uniforms in that harbor slime, unremembered and unhonored save by those poor wreaths hung on the wreckage by grace of the pennies of a few sailors ready to face the same death any day for the sake of the same reward from the country that is the richest of all on earth—save in remembrance and self-respect?

The Clerk read as follows:

COLORADO.

For general incidental expenses of the Indian Service in Colorado, including traveling expenses of agents, $1,000.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment to follow line 14.

The Clerk read as follows:

Insert after line 14 "the Secretary of the Interior is hereby authorized to dispose of and convey the real estate, including buildings and fixtures of the Grand Junction and Fort Lewis schools, Colorado, to the State of Colorado upon the condition that the properties shall continue to be maintained and operated as educational institutions, and that children of Indian parents shall have the same privileges of education as white children, with tuition free: *Provided*, That the Commissioner of Indian Affairs is authorized and directed to dispose of by sale or transfer to other schools such property as is not covered by the transfer of the real estate, buildings, and fixtures."

Mr. MANN. Mr. Chairman, I reserve a point of order.

Mr. SHERMAN. I do not think any point of order would lie against it.

Mr. MANN. The transfer of property of the United States to a State is subject to a point of order; whether it does or not is a question.

Mr. SHERMAN. That is not the question here; we want to get at whether it is advisable to do it or not.

Mr. MANN. I do not doubt the advisability of doing it on proper terms. I wish the gentleman would explain the amendment.

Mr. SHERMAN. A special report was made to the House in Document No. 1071, in which it is stated, among other things, that, so far as the Fort Lewis and Grand Junction schools of Colorado are concerned, Governor Buchtel answered the inquiry sent out by the department that he was quite certain that the State could use one or both of these properties as normal schools, that they were very much needed, and he would take up the subject with the government officials.

The commissioner stated to us later—I supposed it was in this report—that negotiations had been taken up with the State of Colorado and the State was anxious to obtain the title to these two schools, with the agreement that they should be maintained in perpetuity as schools and that in these schools any Indian pupils should be educated and cared for at the expense of the State of Colorado. That is all there is to it.

Mr. MANN. I withdraw the point of order.

The amendment was agreed to.

The Clerk read as follows:

KANSAS.

HASKELL INSTITUTE.

For support and education of 750 Indian pupils at the Indian school, Haskell Institute, Lawrence, Kans., for transportation of pupils to and from said school, and for pay of superintendent, $137,750; for general repairs and improvements, $10,000; for hay barn, $3,000; for equipment new manual-training building, $1,000; for ventilation system, $2,500; for equipment of manual training school, $2,500. In all, $156,750.

Mr. SHERMAN. Mr. Chairman, I move to amend by striking out lines 6 and 7 on page 17. It is a duplication.

The amendment was agreed to.

The Clerk read as follows:

MORRIS SCHOOL.

That the Secretary of the Interior is hereby authorized and directed to dispose of and convey the real estate, including buildings and fixtures, of the Morris School of Minnesota, in the State of Minnesota, under such terms and conditions as he may prescribe, including the necessary land therefor: *Provided*, That the Commissioner of Indian Affairs is authorized and directed to dispose of by sale or transfer to other schools such property as is not covered by the transfer of the realty, buildings, and fixtures.

Mr. MANN. Mr. Chairman, I reserve a point of order to that.

Mr. SHERMAN. What I said in reference to the Colorado schools applies to this.

Mr. MANN. This school has not been in existence a great while, has it?

Mr. SHERMAN. Something like thirteen years, I think; I may be in error.

Mr. MANN. Is there any possibility of our providing some other schools to take the place of these after we give them away?

Mr. SHERMAN. The thought is in the disposition of these schools to dispose of those remote from reservations; to dispose of those which have not a sufficient number of pupils to make it worth while and expedient to maintain the schools. That is, that have not enough pupils within the reasonable radius of the school; at the same time to provide, in the disposal of them, that there shall be free tuition for the Indians at that school, and to dispose of them to States upon the proviso that they shall maintain them as educational institutions.

Mr. MANN. There is no such provision in this paragraph.

Mr. SHERMAN. We did not put it in the bill, but we authorize the department to dispose of it upon those conditions.

Mr. MANN. But it was in the gentleman's other amendment.

Mr. SHERMAN. There is no thought of disposing of the schools other than to provide for free tuition for such Indians as present themselves for schooling.

Mr. MANN. I think the gentleman and I agree about the advisability of maintaining the nonreservation schools, although the gentleman would hardly be understood as insisting that they were disposing of schools far away from the reservation first.

Mr. SHERMAN. No; there are other considerations than that. For instance, in what is known as the Haskell School in Kansas, a most excellent school with a manual training department; there is no better school anywhere, and still that school is more remote from large numbers of Indians than other schools that we would sooner dispose of. There is no better school anywhere or one which furnishes a better education than the Haskell School.

Mr. MANN. There are a large number of Indians in Minnesota. Are we going to get ourselves into the position in giving away the present school that in a year or two we will be asked by gentlemen who represent the State of Minnesota to provide another school up there, and possibly some more complaisant chairman, not so long in the service as the gentleman from New York, will agree to provide the additional school.

Mr. SHERMAN. I anticipate that within the service of the gentleman from Illinois—and I trust that will be as long as it has been valuable, and that makes it almost perpetual—I doubt if anybody within that length of time will undertake to establish a new nonreservation school in this country.

Mr. MANN. Oh, they have been established since I have been here. There are many more ways than one of killing a cat.

Mr. SHERMAN. Well, nobody knows that better than the gentleman from Illinois. [Laughter.]

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

The Clerk read as follows:

To enable the Secretary of the Interior to complete the survey, allotment, classification, and appraisement of the lands in the Blackfeet Reservation, in the State of Montana, $100,000: *Provided*, That this sum shall be reimbursed to the United States from the proceeds of the sale of the surplus lands after the allotments are made.

Mr. MANN. I move to strike out the last word. I would ask the gentleman how much of a reservation this is.

Mr. SHERMAN. It is not as large as the Crow Reservation. I wonder if the gentleman from Montana [Mr. PRAY] can tell me from memory.

Mr. PRAY. About 1,800,000 acres.

Mr. SHERMAN. It is larger than I had supposed.

Mr. MANN. After this survey is made, will that be followed up by a bill to open it up for entry?

Mr. PRAY. That is for an irrigation project, and this is to continue that—this appropriation. About 30,000 acres of it will be available for irrigation.

The Clerk read as follows:

For construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under the act of April 23, 1904, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," including the necessary surveys, plans, and estimates, $250,000, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within said reservation.

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

The Clerk read as follows:

On page 23, line 21, at the end of the paragraph, after the word "reservation," amend by inserting the following as a new paragraph:

"That any of the lands withdrawn under the reclamation act in pursuance of the provisions of section 5 of the act of Congress approved April 27, 1904, entitled 'An act to ratify and amend an agreement with the Indians of the Crow Reservation, in Montana, and making appropriations to carry the same into effect,' which are not disposed of within five years from the date of the passage of said act shall remain subject to disposal under the provisions of the reclamation act until otherwise directed by the Secretary of the Interior."

Mr. SHERMAN. On that I reserve the point of order.

Mr. MANN. What is the number of the gentleman's bill?

Mr. PRAY. Senate 8357. It was reported by the Indian Committee a few days ago. I will state that the purpose of this

amendment is simply to enable the Reclamation Service to retain control of the disposition of the balance of the lands now remaining under the Huntley irrigation project. The chairman of the Committee on Indian Affairs will recollect that a few years ago a portion of the Crow Indian Reservation was ceded to the United States, and that about 30,000 acres were withdrawn under the reclamation act for the purpose of building an irrigation project about 12 miles from Billings, Mont. This project was constructed at an expense of about a million dollars. It was provided in the act opening this portion of the reservation that all lands not disposed of within five years—that is, five years from the 27th of April, 1904, when the act took effect——

Mr. STEPHENS of Texas. When do the five years expire?

Mr. PRAY. April 27, 1909. That the balance of the land would be sold to the highest bidder for cash, as appears from the Senate report. That would enable speculators to come in and take up the balance of the lands under the Huntley project and defeat the purpose of the reclamation act.

Mr. STEPHENS of Texas. The purpose of this amendment is to extend the time?

Mr. PRAY. It is to extend the time and enable the Secretary of the Interior to dispose of them as was originally intended.

Mr. STEPHENS of Texas. Then it would be a benefit to the Indians, inasmuch as it would bring them more money, and there would be a chance to get a better price for the land.

Mr. PRAY. Yes; I think the gentleman is correct.

Mr. STEPHENS of Texas. I think it would be a good amendment.

Mr. PRAY. The Indians receive $4 an acre.

Mr. MANN. Suppose this amendment be not adopted, then what will be the result? Will not this land be sold to the highest bidder?

Mr. PRAY. If this amendment is not adopted, and I am not fortunate enough in passing the bill before the end of the session, it will be sold to the highest bidder and speculators will be enabled to get control of these valuable lands, and I would say to the gentleman that three-quarters of the land under the Huntley irrigation project, consisting of about 30,000 acres, are now settled, and the service desires to go ahead and carry out the purposes of the act.

Mr. MANN. If these lands are so extremely valuable and settlers want them, why haven't the settlers taken them within the five years' time?

Mr. PRAY. The gentleman will understand that it took considerable time to complete an irrigation project costing a million dollars. In fact it was only completed about a year and a half ago, to the best of my recollection.

Mr. MANN. Plenty of time within which to settle it. Why should we provide this land should be disposed of for a less price than these Indians would otherwise obtain, if the law now in force is continued in force?

Mr. PRAY. I will say to the gentleman that under the provisions of the original act opening this portion of the Crow Reservation about 30,000 acres were withdrawn, and it was provided by treaty agreement and by statute that the Indians should receive $4 an acre for that land, which would amount to about $120,000; and in addition to that, other valuable considerations specified in the original act, and that the land should be reclaimed under the provisions of the reclamation act——

Mr. MANN. Which land?

Mr. PRAY. The land under the Huntley irrigation project.

Mr. MANN. Now, I will say to the gentleman I have read the report in this case, and nobody can understand what it means. It purports to be a copy of the Senate report, possibly incorrectly copied or incorrectly printed in the first place. This is what the report says:

> All lands which were not disposed of within five years from the date of the passage of said act remain subject to disposal under the provisions of the reclamation act.

Now, if that is the case, if all lands undisposed of within five years remain subject to disposal under the reclamation act, what more does the gentleman want?

Mr. PRAY. Well, aside from the language, which is clearly an error, that is what the bill seeks to accomplish.

Mr. MANN. Yes; but here is a report stating that this is existing law.

Mr. PRAY. I do not know as to that. What report is it?

Mr. MANN. The House report.

Mr. PRAY. I have before me the Senate report——

Mr. MANN. This is the House report. I am reading from the House report purporting to give the Senate report.

Mr. PRAY. The same words are here in the Senate report. I should say that is evidently an oversight or a clerical error.

Mr. MANN. I could not understand, and I do not yet. I assume that that possibly was an error because, otherwise, the bill would not be here, yet there is a statement.

Mr. PRAY. Perhaps I did not quite understand the former question of the gentleman or did not explain it fully in my reply.

Mr. MANN. I do not know whether——

Mr. PRAY. I mean the former question.

Mr. MANN. I am trying to ascertain now whether that statement is correct. The gentleman says that statement is incorrect.

Mr. PRAY. I have tried to explain what the bill seeks to accomplish; that is evidently an error in the report.

Mr. MANN. Then the report says that if this bill be not passed and the five-year period expires, then the land will be sold to the highest bidder for cash. Is that correct?

Mr. PRAY. Yes; according to the bill and report that is correct.

Mr. MANN. Why should not that be done? Why should not the Indians have the land sold to the highest bidder for cash? The homesteaders have had a chance to take it up and have not taken it up.

Mr. PRAY. They are taking it up as rapidly as circumstances will permit; they are building up a prosperous community.

Mr. MANN. It seems to me that after five years if it has not been taken that nobody has a license to complain.

Mr. PRAY. It seems to me, if the gentleman will permit, that the very purpose of the reclamation act, and likewise the original act, would be absolutely defeated if that were allowed to be done, because one man or set of men might go in there and gain possession of the entire tract; and yet, assuming that was not the intention——

Mr. MANN. I would not assume that would be the case. Of course I am not in favor of speculators getting this land, but the gentleman assumes speculators would get this land. It seems to me this is a distinction between the existing law and what would be the law if the gentleman's bill prevails; that now the homesteader gets this land, and the amount that he pays is restricted to the amount set forth in the law at $4 per acre, whereas much of this land is worth $25 an acre or more; and if the law is continued as it is now, a man could go there and buy this land, this valuable land, paying the Indians what it is worth instead of getting it for "a song and dance."

Mr. McGUIRE. But it does not go to the Indians——

Mr. PRAY. I will say to the gentleman that he is hardly——

Mr. MANN. Then who gets the money for this land if it does not go to the Indians?

Mr. PRAY. It is provided that the Indians shall receive $4 an acre for their land——

Mr. MANN. Not less than $4.

Mr. PRAY. The law says the price shall be $4. Now, the settler has to pay $30 in addition to that on account of the money expended for the construction of——

Mr. MANN. The Indians are to receive not less than $4 per acre for the land, and if they sell for $100 an acre it is their land and it is their money. Now, the Government does not own this land, but it is making improvements, and it is supposed to pay for the improvements out of the money for which the land is sold. Now, I do not see any reason why the Government, although desirous of having homesteaders settle upon this land, should give favoritism to some particular man who wants to settle, at the expense of the Indians.

Mr. PRAY. Well, I do not look at it in that way.

Mr. McGUIRE. Has not that always been the policy of the Government?

Mr. MANN. Quite the contrary; that has not been the policy of the Government.

Mr. McGUIRE. I do not so understand it. It has always been the policy of the Government to allow homesteaders to take up lands throughout the West in general.

Mr. MANN. The gentleman himself had a bill here the other day, with a plea under which he shed tears almost in the House——

Mr. McGUIRE. Not that.

Mr. MANN (continuing). Stating that the lands had been sold to the Indians for twice its value, or such a matter, and were seeking to be let off.

Mr. McGUIRE. The only exception that has been made to this rule in the last fifty years has been in Oklahoma and one or two other points.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MANN] has expired.

Mr. MARSHALL. Mr. Chairman, possibly I can give the gentleman from Illinois a little light on this subject. Here is the proposition: It is not the policy of the Government to get the very last dollar out of lands for the Indians. The idea is to divide these lands up and get as many white men intermingled with the Indians as possible. But, further than that, this great irrigation project, if I am right, was planned with a view of putting water on these lands. Now, if they are allowed to be sold in a body at the end of five years, as the provisions of the bill opening the reservation provide, they can go into the hands of a single person or corporation, be withheld from this irrigation project, and, in a measure, defeat it, because it will make the balance of the lands that have already been brought under the project bear an unreasonable part of the cost of the plant.

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

Mr. MARSHALL. Certainly.

Mr. MANN. Does the gentleman think that anybody will buy this land for the purpose of keeping it out of reclamation and irrigation when it would be worth five or ten times as much by being irrigated?

Mr. MARSHALL. But the gentleman must remember this——

Mr. MANN. They may be very foolish people out West, but I do not think anybody is foolish enough in the West to do that.

Mr. MARSHALL. The gentleman who buys this land and puts it under the irrigation project will be obliged to part with every particle of it except one unit, which is perhaps 80 or 160 acres, so there is no possibility of one man bringing all these lands under this project and no particular object for him to divide it up, because they compel him to sell it and sell it quickly.

Mr. MANN. The cost of this irrigation, as I understand it, is paid out of the Indians' money?

Mr. MARSHALL. No, indeed. It is paid out of an assessment on the lands, and paid by the man who buys them.

Mr. MANN. On the Indians' lands?

Mr. MARSHALL. No; I think not.

Mr. MANN. Is it not, like these other provisions in the bill here, advanced out of the Treasury and reimbursed to the Treasury out of the funds coming from the Indians' lands?

Mr. MARSHALL. Yes.

Mr. MANN. In other words, we make an experiment at the Indians' expense. If it is successful, we take the benefits. If we lose, they are the ones who lose. That is a jug-handled experiment.

Mr. MARSHALL. Not at all. The homesteader, or whoever gets this land, pays the Indian his money, and pays enough to make the Indian whole for the cost of the project. It does not cost the Indian a cent.

Mr. MANN. It does not cost the Indian a cent if it is successful.

Mr. MARSHALL. Nor if it is unsuccessful. The idea is to make this project a success.

Mr. SHERMAN. I had reserved the point of order; I now make it.

The CHAIRMAN. It seems clear to the Chair that the amendment offered by the gentleman from Montana is legislative in character, and not in order on a general appropriation bill. The Chair therefore sustains the point of order.

The clerk read as follows:

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Winnebago tribe of Indians the sum of $883,249.58, being the balance of the unappropriated amounts due said tribe under the fourth article of the treaty of November 1, 1837, to wit, $804,909.17 (7 Stat. L., 544), and the act of July 15, 1870, $78,340.41 (16 Stat. L., 355), and the Secretary of the Interior is authorized to pay per capita to the members of the tribe the said sum, under such rules and regulations as he may prescribe, in the same manner as provided by the act of April 21, 1904 (33 Stat. L., 201).

Mr. MANN. I reserve the point of order upon the paragraph.

Mr. SHERMAN. It is a provision such as we often make with reference to Indian agreements, where the United States agrees to pay to Indians a certain sum of money and until it is so paid to pay them interest on that fund. This particular amount has never yet been set aside in the Treasury and appropriated, although the agreement provides that we shall pay them interest upon such particular sum; and heretofore they have been paid interest thereon. Now, we capitalize the full amount and put it in the power of the Secretary of the Interior, under the provisions of existing law, to pay to each individual Indian whom he may determine upon investigation is competent to take care of his own affairs his share of that particular sum.

Mr. MANN. On what basis does it capitalize?

Mr. SHERMAN. It capitalizes on the basis of 5 per cent.

Mr. MANN. Has the gentleman any idea how much there is outstanding of this sort of obligation?

Mr. SHERMAN. I could tell the gentleman correctly by reference to the book. It is several million dollars; I have not the exact amount in mind, and I have not the book with me here. I would guess the total amount of Indian funds in the Treasury which have been set aside by appropriations in cases similar to this would amount to something like thirty-one or thirty-two millions of dollars, as I now recall. The greatest amount due to any single tribe is the Osages, which amounts to something over $8,000,000. Altogether it is something over $30,000,000. I can not give the exact amount from memory.

Mr. MANN. I withdraw the point of order.

The Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the board of county commissioners of Ormsby County, Nev., for damages to the public road caused by the breaking of the dam belonging to the Indian school at Carson City, Nev., the sum of $70 from an unexpended balance of the appropriation "Indian school, Carson City, Nev., 1907," not required for other purposes.

Mr. MANN. I reserve the point of order against that paragraph. I do not know but what it may be better to pay it.

Mr. SHERMAN. It went out last year on a point of order, and if the gentleman makes the point of order this year it will have to go out, because it is clearly subject to it.

Mr. MANN. Why should it be in the Indian appropriation bill?

Mr. SHERMAN. Because they could not get it in any other place. [Laughter.]

Mr. MANN. I did not know that the committee was easier to work than any other.

Mr. SHERMAN. Oh, no. It is something that the Indian agent at that locality thought ought to be paid, and there was an unexpended balance of the sum appropriated for the fiscal year 1907. He desired to pay it out of that fund, but had no authority to do so, and he asked Congress to grant him authority. It was sent here with a favorable recommendation by the Commissioner of Indian Affairs last year, and was put in the bill, and went out on a point of order, undoubtedly raised by the gentleman from Illinois, who is here with his watchful eye and thoughtful care of the Treasury; and it will have to go out this year if the gentleman makes the point of order.

Mr. MANN. I do not think items of this sort ought to be in the bill. If this was a case of a poor widow——

Mr. SHERMAN. I never was in very hearty sympathy with it myself, but it is in the bill, and I would like to see it remain there.

Mr. MANN. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For support and civilization of Indians at Fort Berthold Agency, in North Dakota, including pay of employees, $20,000.

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

The Clerk read as follows:

Page 33, line 23, insert a new paragraph, to read:

"For payment to such Indians of the Fort Berthold Reservation, in North Dakota, as the Secretary of the Interior shall determine to be entitled thereto the value of certain horses condemned and destroyed by the Bureau of Animal Industry in the years 1906 and 1907, said value to be ascertained and determined by the said Secretary of the Interior, $13,860, or so much thereof as may be necessary.

Mr. MANN. I reserve the point of order on the amendment.

Mr. GRONNA. Mr. Chairman, I received my information regarding this matter too late to appear before the committee; I have, however, a letter from the acting commissioner, under date of January 25, 1909, which reads as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 25, 1909.

Hon. A. J. GRONNA,
House of Representatives.

SIR: The office has received your letter of January 14 inclosing a communication from Superintendent Hoffman, of the Fort Berthold Agency, in regard to the claim of certain Indians of his agency for infected horses destroyed by order of the Bureau of Animal Industry, Department of Agriculture, in 1906 and 1907.

There does not appear to be any way in which these Indians can be compensated unless an appropriation for the purpose is made by Congress.

I shall be very glad to have such an appropriation made. The horses were condemned to prevent the spread of an infectious disease, and the Indians were given to understand that they would be remunerated to the value of the horses destroyed.

The office has no further information concerning the number and value of the animals destroyed or the names of the owners.

An item of appropriation, however, might be drawn so as to authorize payment after due investigation. Probably the following would answer the purpose:

"For payment to such Indians of the Fort Berthold Reservation in

North Dakota as the Secretary of the Interior shall determine to be entitled thereto, the value of certain horses condemned and destroyed by the Bureau of Animal Industry in the years 1906 and 1907, said value to be ascertained and determined by the said Secretary of the Interior, $13,860, or so much thereof as may be necessary."

I return Superintendent Hoffman's letter.

Very respectfully,

R. G. VALENTINE,
Acting Commissioner.

Mr. STEPHENS of Texas. Can the gentleman inform the committee why that was not brought before the Committee on Indian Affairs for investigation?

Mr. MANN. He said he did not get it until too late.

Mr. GRONNA. The claim came too late for me to bring it before the committee. They had already reported the bill out.

Mr. STEPHENS of Texas. Were the horses killed because they had some disease?

Mr. MANN. Glanders.

Mr. STEPHENS of Texas. Were they condemned by some competent authority?

Mr. GRONNA. They were condemned and killed by an agent of the Government.

Mr. HINSHAW. Of the Bureau of Animal Industry.

Mr. STEPHENS of Texas. How many horses were killed?

Mr. SHERMAN. One hundred and eighty-one.

Mr. GRONNA. One hundred and eighty-one. There is also a bill introduced in the Senate by Senator McCUMBER, on which a favorable report has been made.

Mr. STEPHENS of Texas. Who estimated the value?

Mr. GRONNA. I was going to state that I have here a letter addressed to Senator McCUMBER, and I had a similar letter sent to the committee, but which was mislaid. This is the letter from Mr. Hoffman, the agent on the Indian reservation.

Mr. MANN. Has the gentleman any letter from the Agricultural Department on the subject?

Mr. STEPHENS of Texas. Doctor Wiley, for instance.

Mr. MANN. Doctor Wiley kills a great many bad things, but he does not kill horses on account of the glanders.

Mr. GRONNA. I was going to read a letter from the agent sent out by the Agricultural Department under the Bureau of Animal Industry:

If a successful extermination of glanders is to be effected this following summer, the Indians will have to be made to understand that they will be remunerated for their horses which are destroyed. The conditions on the reservation are such that it will be very easy for the Indians to hide their suspicious cases in the timber on the bottom lands along the river, and in the Bad Lands. Unless they know they are to be given a fair price for their horses which will be destroyed, much difficulty will be experienced in finding their worst cases.

Mr. STEPHENS of Texas. I believe the gentleman is a lawyer. As a matter of fact would not the courts in passing upon this question require the Government—your State, for instance, or the United States Government—to pay the actual value of the property at the time it was destroyed? Is not that the measure of damages?

Mr. GRONNA. If the gentleman will have the amendment read again, I believe the amendment provides for that. The damages will be such as the department may determine.

Mr. STEPHENS of Texas. Does the gentleman consider a glandered horse of any value whatever? Isn't he worse than nothing? In fact, would it not be a benefit to the tribe of Indians to have it destroyed?

Mr. GRONNA. I will say to the gentleman that unless the Indians had been given to understand that they would be reimbursed, it would cost the Government a great deal more to exterminate this disease than it would be allowing them a fair price for the horses.

Mr. STEPHENS of Texas. By what authority would the agent of the Government give such advice as that to the Indians?

Mr. GRONNA. I can not say.

Mr. STEPHENS of Texas. You have laws against glanders in your State.

Mr. GRONNA. We have.

Mr. STEPHENS of Texas. Glandered stock?

Mr. GRONNA. Yes.

Mr. STEPHENS of Texas. Does the State pay full value for a glandered horse destroyed?

Mr. GRONNA. We do, to an amount not to exceed $100 for a horse.

Mr. STEPHENS of Texas. For every horse?

Mr. GRONNA. For every horse.

Mr. STEPHENS of Texas. Condemned and killed in your State?

Mr. GRONNA. Yes.

Mr. STEPHENS of Texas. Who makes this valuation?

Mr. GRONNA. The veterinary surgeon—the state veterinary.

Mr. STEPHENS of Texas. And you pay for the horses in that way?

Mr. GRONNA. Yes.

Mr. STEPHENS of Texas. Is that the amount you propose to pay here, that the Government shall pay these Indians?

Mr. GRONNA. No.

Mr. MARSHALL. It is left to the Secretary of the Interior.

Mr. GRONNA. Such amount as the Secretary of the Interior may determine to be just.

Mr. MANN. Has the gentleman any report from the Department of Agriculture or the Bureau of Animal Industry on this subject?

Mr. GRONNA. My colleague has.

Mr. MARSHALL. He just read from the report of E. J. Cary, veterinary surgeon.

Mr. MANN. I have that in my hand. That is no report on the point.

Mr. GRONNA. Yes, it is; it covers this proposition. I have another report.

Mr. MANN. No report of how many horses were destroyed?

Mr. GRONNA. Yes; there is.

Mr. MANN. Not from the Bureau of Animal Industry, the people who destroyed the horses; no report as to the value of the horses from the bureau that destroyed them. One department of the Government does a thing, and the gentleman goes to another department of the Government to get the information. What reason is there for not applying to the department that did the work to know what was done?

Mr. GRONNA. This is a report from the parties that did the work.

Mr. MANN. I beg the gentleman's pardon. The gentleman reads from a report in which it says that something should be done, and then not a word more from the department of the Government that did it.

Mr. GRONNA. If the gentleman will look on page 2 he will see a report——

Mr. MANN. A report from somebody else to the Indian agent that the man from the Agricultural Department did something. Why do we not have a report from the Agricultural Department as to what they did, let me ask the gentleman? We are constantly destroying noxious and communicable diseases of animals that are dangerous. We have just passed an appropriation for stamping out the foot-and-mouth disease, and are likely to be called upon for a considerable additional appropriation. We carry every year in the agricultural bill a large sum of money for the purpose of paying for just such things as this. If the case arose in the way stated, it is easy to get the money out of the direct appropriation or in a deficiency.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the time of the gentleman be extended five minutes. Is there objection?

There was no objection.

Mr. GRONNA. I will say in reply to the gentleman that I have a letter from the Acting Commissioner of the Indian Office.

Mr. MANN. He did not destroy the horses?

Mr. GRONNA. No; but I want to say that if there are no horses destroyed there will be no money paid out.

Mr. MANN. Here is the point: The Government in stamping out a disease like glanders pays, as I understand, the real value of the animal that is taken, but a horse that has the glanders is not worth anything. The sooner it is dead the better; it is of no use. Now, I do not know whether this comes within the rule of the Department of Agriculture in such cases or not, but I see no reason for making a distinction, giving the Indians a better service than is given the white men as the owners of these horses.

Mr. MONDELL. Do I understand the gentleman from Illinois to say that the Bureau of Animal Industry is authorized to pay, and does pay, out of this appropriation for animals killed?

Mr. MANN. In some cases I understand that is the case.

Mr. MONDELL. And they have the authority to do it?

Mr. MANN. They have the authority and the money, and they do it.

Mr. MONDELL. If that can be done it means that all the States will proceed to unload charges of this kind on the Federal Government.

Mr. MANN. All the States are trying to do it, and the gentleman's own State is one of them, but Congress does not undertake to do all of it.

Mr. MONDELL. That is entirely new to me. My State is paying out a considerable amount of money every year for glandered horses that are killed and other horses that are killed, but if the Federal Government is doing it elsewhere I am glad to know about it.

Mr. MANN. I do not undertake to say whether they pay for glandered horses or not, but I do know that we carry an appropriation under which they are authorized to expend money for the purpose of stamping out some of these diseases, as they are now spending money for stamping out the foot-and-mouth disease.

Mr. MONDELL. It is important to know whether the Federal Government has a right to spend money to pay for animals within a State——

Mr. MANN. The gentleman understands very well that the National Government has no more authority to go into a State and take a man's private property and destroy it without paying for it than has the State. If the State does it the State must make provision for it. If the General Government does it, the General Government must make provision for it.

Mr. MONDELL. I did not understand that the Congress ever authorized that kind of expenditure to pay money for animals killed. We have been behind the times in my State because the State has been paying for the animals killed.

Mr. MANN. Oh, the gentleman can not convince me nor the the rest of the House that anything of that sort misses his State, because he is as diligent in looking after those things as anybody that ever came inside these walls. [Laughter.]

Mr. MONDELL. Since the gentleman from Illinois has informed me on the subject I assure him that we will see that we get our share.

Mr. MANN. We pay for the vaccine to keep the gentleman's cattle well. We pay for it in Chicago.

Mr. MONDELL. That is not paying for animals killed.

Mr. MANN. No; that is paying for trying to keep them well.

Mr. GRONNA. Now, Mr. Chairman, permit me to make one more statement; I read from the report:

There does not appear to be any way in which the Indians can be compensated unless an appropriation is made by Congress. I shall be glad to have such an appropriation made. The horses were condemned to prevent the spread of an infectious disease, and the Indians were given to understand that they would be remunerated for the horses destroyed.

Now, this is a statement by the Acting Commissioner of the Bureau of Indian Affairs.

Mr. MANN. Does not the gentleman himself think that when we seek to pay for property destroyed by the Department of Agriculture on the ground that they promise to pay for it, we ought to have a statement from the department as to what they say they did?

Mr. GRONNA. This amendment is drawn in such a way, I would say to the gentleman, that nothing could be paid to them. It will be paid out at the direction——

Mr. MANN. This amendment is drawn in such a way that the money will be paid to them and the Department of Agriculture will never know it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I think I must insist on the point of order.

The CHAIRMAN. The Chair understands the gentleman from Illinois to insist on his point of order.

Mr. MANN. I am perfectly willing, if this bill is not to be passed to-night, to have the item go over without prejudice. I would not object to having the item passed over if the bill should not be finished to-night.

Mr. GRONNA. I hope that it will be passed over.

The CHAIRMAN. The gentleman from North Dakota asks unanimous consent that the pending amendment may be passed without prejudice. Is there objection? [After a pause.] The Chair hears none. The Chair understands that the point of order is pending against it.

The Clerk read as follows:

For general incidental expenses of the Indian Service in Oklahoma, and for pay of employees, $22,000.

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

The Clerk read as follows:

Insert, after the word "dollars," line 21, page 36: "That the Secretary of the Interior be, and he is hereby, authorized and directed to withdraw from the Treasury of the United States, in his discretion, the sum of $500,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma, and pay the same to the members of said tribes, per capita, in such manner and under such regulations as he may prescribe."

Mr. SHERMAN. Mr. Chairman, I reserve the point of order on the amendment.

Mr. FERRIS. Mr. Chairman, this amendment becomes necessary from the fact that about seven years ago the major portion of their estate was sold, and about two years ago the rest of it was sold other than their allotments. Prior to the time this land was sold and the proceeds thereof placed in the Treasury as a trust fund, they used the lease money for their maintenance and support, but since the land has been sold and the money deposited in the Treasury, subject only to the order of Congress, these Indians have been without any support whatever. Delegations from the Indians have come on and asked that this be done. The Indian agent in charge of these Indians is here in the city now asking that this be done. The Indian Office, both the commissioner and the other parties of the Interior Department, have asked that it be done, and I think the chairman of the committee now has, perhaps not in his possession on the floor, but I am sure in his office, a letter to that effect. I would also state further, and I think the chairman of the committee will confirm it, that the Indian delegation has called on him in person and represented the facts there, and also the Indian agent did so to-day. I think the amount is necessary. It is their own money, the proceeds of their land that was sold a few years ago. They are in debt and they need the money to square themselves up and keep them going.

The money is drawing only 4 per cent, and the local rates of interest in Oklahoma are much higher, and this being needed it is a matter of poor economy to permit them to pay 10 or 12 per cent, and perhaps more, with the money on deposit here receiving only 4 per cent, and that paid by the Government itself. I hope that the point of order may not be made against this item, to the end that justice be done the Indians.

Mr. SHERMAN. Mr. Chairman, let me ask the gentleman what portion of the $500,000 which he proposes to have withdrawn is required to pay the debts of these Indians?

Mr. FERRIS. Replying to the chairman of the committee, I am not informed in detail as to the amount. However, the Indian agent who is in charge of the Indian bureau tells me this. He estimates that there are about 3,750 Indians, and he estimates that they owe in excess of $100 per capita on an average. Of course, in some cases they owe more and some less. That was about as near as he could estimate it for me.

Mr. SHERMAN. The gentleman is correct in saying that I have a letter from the department which approves this proposition of permitting the withdrawal of the money. He is also correct in his statement that the agent for the Indians has called on me and urged me very earnestly to consent to this amendment; but what assurance can the agent or can anybody give us that if we permit the withdrawal of this fund to pay these debts a year from now the Indians would not be just as much in debt as ever?

Mr. FERRIS. Replying to that, I can only say this, that prior to the time the lands of the Indians were sold they then derived their money and lived upon their lease money, but since these lands have been sold the money has been in trust and not subject even to the order of the Interior Department. They are a class of people—the Comanche and Kiowas—of which some have begun farming and others have expressed a desire to farm if they can obtain the means.

Mr. SHERMAN. If we are to permit the withdrawal now of a half a million dollars of their fund, and it takes four-fifths of that to pay their existing debts, it leaves a very small per capita, does it not, to assist them in supporting and maintaining themselves by farming?

Mr. FERRIS. I agree with the chairman in every respect, but it is now the expressed policy of the Indian Office that that whole amount should be turned over to them, aggregating some $3,000,000 on deposit and some $6,000,000 now due them for lands the settlers owed for—that the whole amount should be turned over to them and the policy inaugurated of establishing them on their homesteads, which policy I heartily favor, knowing them as I do and having lived among them as long as I have. However, I thought that was too big a project to be undertaken at the short session, and I thought this would be temporary and the Congress could afterwards devise means for meeting the situation.

Mr. SHERMAN. This $6,000,000 that is due them, it is part of that $6,000,000 the payment of which we extended the time for the other day?

Mr. FERRIS. Yes; and they have more than $3,000,000 on deposit now that is not available at all.

Mr. SHERMAN. I understand it. If we give $500,000 now we will be asked undoubtedly a year from now to appropriate three or four or five hundred thousand dollars again; and would not that lead us to believe that in future years when this is expended we will have to appropriate large sums in form of gratuities to care for these Indians?

Mr. FERRIS. As again suggested, the amount that they would receive I think the chairman would hardly want to call an appropriation.

Mr. SHERMAN. I am talking about the eventual appropriation. This is not an appropriation; this is an expenditure of part of their funds, but I was talking about what we may eventually be called upon to do.

Mr. FERRIS. I anticipate and I think I fully understand what the chairman says, but I want to urge this one proposition, that Congress would hardly want to leave the Indians in a state of destitution, these Kiowas and Comanches, when they have $3,000,000 on deposit not subject to their order and $6,000,000 due them which is withheld and they can not get hold of until some plan can be inaugurated so that it can be turned over to them.

Mr. MANN. Did not we have the same thing up last year or the year before?

Mr. FERRIS. I was not here the year before.

Mr. MANN. But since the gentleman has been here.

Mr. FERRIS. Last year.

Mr. SHERMAN. We have, in reference to these Indians and in reference to many others. There has been a payment to them per capita of some portion of their funds in the Treasury, but always on the theory of their ultimate betterment to put them in a position where they could do something to maintain and support themselves. Now, I understand this proposition is, largely, to provide means with which to pay existing debts. Why did the people trust them? This $500,000 withdrawal is not to provide for the present pressing needs, but is to provide for their present pressing creditors. That is about the size of it.

Mr. FERRIS. If I may be pardoned a little further, I will say that it is not only needed for existing indebtedness, but likewise for their pressing needs, because when an Indian is head over heels in debt and paying an exorbitant rate of interest I undertake to say that it is of pressing importance that he have some relief, because the dodging of and the evading of creditors—most of the Indians are honest, though some of them are dishonest, perhaps—is not a pleasant situation for the Indian to be in. And it seems to me it is not economy on the part of the Government to force him to pay exorbitant rates of interest when he has money on deposit and is only receiving a small rate of interest.

One word further regarding the necessity of payment of debts. It is true that it is for the payment of debts, but it is also for immediate relief. And I want to say one word further. From time immemorial these Indians have been paid in quarterly and semiannual payments, and now that their lands are sold there is not any money to give them unless Congress affords to them from their own means. The Interior Department has no authority to act in the premises without congressional authorization.

Mr. MANN. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. MANN. Why is it that these Indians all have land that has been allotted to them, considerable quantities of land, and are not able to support themselves?

Mr. FERRIS. For the simple reason that they have no tools, they have no teams, and they have no houses. The Kiowa, Comanche, and Apache people do not live on their homesteads. They hang around the agencies and do not, as a rule, live on their Indian allotments.

Mr. MANN. They have not got to the point yet where they are willing to go to work on a farm and support themselves?

Mr. FERRIS. In the absence of any money whatever turned over to them to buy tools, or to buy houses, or to buy implements, their present state does not warrant them in going ahead, and they are, as the gentleman suggests, not yet willing to undertake the task of self-maintenance.

Mr. MANN. Does the gentleman think that if they had tools they would go to work and support themselves and cultivate their farms?

Mr. FERRIS. My impression is that in time they would; and it is my well-defined idea that a plan should be inaugurated whereby their money, or portions of it, and such assistance as the Government might see fit to render them should be expended in establishing them on their individual allotments and withhold further payments from them until they show some signs of work in their own behalf.

Mr. MANN. The gentleman will remember that last year, when this matter was up, I said to the gentleman that if we paid their debts then, they would be just as much in debt a year from then—the same set of people, all of whom want to get the money out of the Treasury. If we pay the money now they will want just as much in another year, and in the course of a few years their principal will be all gone, and then there will be no money with which to buy tools, and no Indian supporting himself, and necessarily the Government, having been at fault in paying over the principal, will be compelled to support them.

Mr. STEPHENS of Texas. Will the gentleman from Illinois permit me to suggest——

The CHAIRMAN. The gentleman's time has expired.

Mr. SHERMAN. Mr. Chairman, I ask that the time of the gentleman from Illinois [Mr. MANN] be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Will the gentleman from Illinois permit me to suggest that there should be something paid these Indians in lieu of the lease money that they have had heretofore?

Mr. MANN. I do not know anything about that. I believe in giving these Indians anything that is proper.

Mr. STEPHENS of Texas. Should they not have the interest on their money in lieu of the lease money that the cattlemen have paid them for the lands? We have had the use of the money, and they should have interest on the money instead of the lease money.

Mr. MANN. If the gentleman will pardon me, when the proposition to allot these lands in severalty came up and was adopted, it was the expectation and intention that the Indians living upon the land, or otherwise, as they pleased, would be able to take care of themselves.

Mr. STEPHENS of Texas. That may be true. But if the gentleman will figure just a moment, he would find that the $6,000,000 coming to them on the land sale, and $3,000,000 on hand now, would make $9,000,000, which at 4 per cent interest would amount to $360,000 per annum, would it not—more money than they derived from the lease money?

Mr. MANN. What is done with the interest money now?

Mr. STEPHENS of Texas. There are $6,000,000 of it, I understand, not available, because the settlers have not paid for the land in full.

Mr. MANN. It seems they have been paid the interest; now what has been done with the money? They get the interest on $9,000,000.

Mr. STEPHENS of Texas. On $3,000,000.

Mr. MANN. They get the interest on $9,000,000 each year, and still they go on year after year incurring debts to white men who want them to get in debt.

Mr. FERRIS. I hope the gentleman will withhold his objection until I repeat one statement that I wish to make more clearly, and that is this: Prior to 1901, when the Kiowa and Comanche country was sold, they had been receiving quarterly, semiannually, and annually payments from this lease money. Since the land was sold the money went into a trust fund, and is not available only upon congressional authorization for their use since that time. Now, when their lands are disposed of and they are forced to take up their residence on an allotment and the money is tied up in the Treasury, these people need assistance. They at least are deserving of the right to expend their own funds. And while the gentleman from Illinois very wisely suggests that they may come in next year asking for the same relief, I want to say that unless some new plan is devised by which they can be stimulated to establish themselves on that land, or until they are supplied with tools, horses, and implements, no doubt they will. It is merely asking for their own. They have no earning capacity. These Indians, many of them, are located in the county in which I live. I know them, their traits, and how they live. These people as they now stand differ widely from the other Indians of my State and need the assistance this amendment gives them.

Mr. HINSHAW. How does the amount received at interest compare with the amount received on the leases?

Mr. FERRIS. I am unable to give that. The lease money was distributed to them in quarterly, semiannual, and annual payments until they became reliant on it to a certain extent each year. Since their lands have been sold they have been unable to get this annually. However, last year the chairman of the committee and the House yielded to me and allowed me to put on an amendment for their immediate necessities. It was necessary last year, and it is necessary this year, and unless some new plan is devised it will be necessary hereafter.

Mr. HINSHAW. Why not change the law so that they can get the interest quarterly as they did get the grass money quarterly?

Mr. FERRIS. I have no objection to that.

Mr. MANN. Do they not get the interest now?

Mr. FERRIS. They get the interest now.

Mr. MANN. The gentleman one minute tells us that they have nothing, and the next minute tells us that they get the interest. I do not mean that the gentleman would mislead the House.

Mr. FERRIS. I feel sure the gentleman from Illinois has no desire to misquote me, not even misquote my intentions.

My statement, as I recall it, is they neither have the land nor the money, meaning the lands that were sold and the proceeds derived therefrom. It is true that they have the interest on this fund, also true they have their individual allotments. The Kiowas and Comanches are a dependent people with both their land and money tied up, and they will be in this condition until they are assisted and forced to establish themselves on their allotments.

Mr. MANN. They now have land and interest on their fund, and, like everybody else who are improvident, they are not satisfied until they get the principal.

Mr. SHERMAN. In view of the fact that the department asked that this authorization be given, and in view of the fact that the agent down there is most earnest in his desire to have the authorization given, I hesitate to insist upon the point of order. But I want to make this suggestion to the gentleman rather than insist upon the point of order: Let us pass this by, and if the gentleman will draw an amendment providing that, for instance, $250,000 may be withdrawn, not to pay their debts, but to supply their necessities for the coming year, I will not object to that. Let those people who have trusted them and gotten them in debt—and I have no doubt sold them pianos and sewing machines and all sorts of things, and who expected them to loot the Treasury for their fund—let them wait a while longer by providing that $250,000 may be withdrawn and expended through the department or the bureau, I do not care which way you put it, for their support during the coming year and for furnishing such agricultural implements and the like as necessary to make it possible for them to support themselves, and I will not make any objection.

Mr. FERRIS. I would like to ask the chairman of the committee to dictate the amendment to the Clerk.

Mr. SHERMAN. I simply ask unanimous consent to pass by this amendment without prejudice.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the pending amendment be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. I asked that the amendment offered by the gentleman from North Dakota be passed without prejudice. I would like to have it recurred to.

The CHAIRMAN. Is there objection to returning to the amendment offered by the gentleman from North Dakota at this time. [After a pause.] The Chair hears no objection.

Mr. MANN. I reserved the point of order. The gentleman from New York [Mr. COCKS] has obtained some information in regard to it which I think would, as I indicated to him, probably satisfy me and the House in reference to the matter.

Mr. COCKS of New York. Mr. Chairman, I have communicated with the Chief of the Bureau of Animal Industry, Doctor Melville, who stated to me that these animals were destroyed to prevent the spread of a disease there, and it was an understanding between the bureau and the Indian Department that this was for the remuneration of the Indians for these horses.

Mr. MANN. I understood the gentleman to say that at the time of the destruction of the horses it was not understood that they were to be paid for out of the fund provided for the Bureau of Animal Industry, but, being an Indian matter, that they should be paid for out of Indian Department funds.

Mr. COCKS of New York. Yes.

Mr. MANN. That being the understanding, I withdraw the point of order.

The amendment of Mr. GRONNA was agreed to.

The Clerk read as follows:

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Sacs and Foxes of the Mississippi tribe of Indians the unappropriated sums of $200,000, due under the second article of the treaty of October 21, 1837 (7 Stat. L., p. 540), and $800,000 under the second article of the treaty of October 11, 1842 (7 Stat. L., p. 596).

Mr. MANN. I move to strike out the last word, for the purpose of asking the gentleman from New York [Mr. SHERMAN] whether this and the preceding item in any way involve the controversy between the Sac and Fox Indians of Iowa and those of Oklahoma?

Mr. SHERMAN. No, Mr. Chairman; the pending suit has reference to other funds than either of those appropriated for here.

The Clerk read as follows:

That there be, and hereby is, appropriated, out of the money in the Treasury of the United States belonging to the Osage Nation of Indians, the sum of $14,000 for the erection of a new building at the Osage Boarding School, Oklahoma, to replace the one recently destroyed by fire.

Mr. SHERMAN. Mr. Chairman, I move to strike out lines 3 to 8, inclusive, on page 40. That provision has already been cared for.

The Clerk read as follows:

Page 40, strike out lines 3 to 8, inclusive.

Mr. SHERMAN. That has already been cared for in the deficiency bill.

The amendment was agreed to.

The Clerk read as follows:

DISTRICT AGENTS.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated for the salaries and expenses of district agents and other employees connected with the work of such agents, out of any funds in the Treasury not otherwise appropriated, the sum of $90,000, to be immediately available and available until expended as the Secretary of the Interior may direct; and all powers heretofore conferred by law on said district agents, who are designated by the act of May 27, 1902 (35 Stat. L., p. 312), as "local representatives" of the Secretary of the Interior, are continued in full force and effect: *Provided*, That the Secretary of the Interior is hereby authorized to employ of such district agents such number, not exceeding five, as he deems proper, to perform like duties as those now performed by them among the Five Civilized Tribes in Oklahoma in other portions of that State.

Mr. MANN. I reserve a point of order on that paragraph.

Mr. SHERMAN. Mr. Chairman, a provision similar to this was carried last year in the bill known as the "removal of restrictions bill," and under that provision agents, who are called "district agents," to the number of about 50, have been appointed and are now acting, and are doing a very important work in the portion of Oklahoma which heretofore has been known as "the Indian Territory." They have been engaged in looking after the interests of the Indians in every possible way, seeing that those who have not selected their allotments select them, seeing that they are not defrauded out of their lands, that they do not enter into leases for a consideration which is not adequate, and all that sort of thing. They are rendering a very important service for the benefit of the Indians. It is a service now in existence.

Mr. MANN. Is this connected with the land frauds down there?

Mr. SHERMAN. No; not what the gentleman calls land frauds. It is connected wholly with the Indian Service.

Mr. MANN. What is the object of making the fund here available until expended?

Mr. SHERMAN. I suppose the theory is that, all of it not being used during this fiscal year, whatever is unused can be used during the next fiscal year.

Mr. MANN. That would apply to any appropriation.

Mr. SHERMAN. Yes. I know of no other reason for putting it in.

Mr. MANN. What differentiates this from the ordinary appropriation?

Mr. SHERMAN. Nothing that I know of. It is a question of the importance of the service, that is all; and if they do not use it all during this coming fiscal year, the desire is that what is not used that year may be used in the following year.

Mr. MANN. Is there any reason why next winter the committee considering this bill should not be informed as to the necessity for this service?

Mr. SHERMAN. Not at all; and there is no expectation of not informing them.

Mr. MANN. They could not be informed if this goes in.

Mr. SHERMAN. Oh, yes.

Mr. MANN. They would not know anything about it.

Mr. SHERMAN. We are always informed as to the condition of every appropriation. I will say to the gentleman that there is not a year that we are not informed of the condition of every fund, exactly how much was expended during the fiscal year, exactly how much was left on hand, and all that sort of thing, and we will have that same information next year.

Mr. MANN. The gentleman refers to the Book of Estimates?

Mr. SHERMAN. No; I do not. The gentleman misunderstands. Fuller information than the Book of Estimates ever contains is required by the committee from the department every year, and we get it. I can tell the gentleman, for instance, the amount that was left over in every particular fund that was appropriated for in our bill the last fiscal year, and what the condition of the fund was on January 1 of this year.

Mr. MANN. Tell us about this fund, how much was appropriated and how much was expended.

Mr. SHERMAN. This was not included in last year's appropriation bill and therefore I have not the figures for this one item. Every item included in last year's appropriation bill I have the figures for.

Mr. MANN. That is exactly it. I said, if this was not to be in the appropriation bill next year there would be no in-

formation furnished about it. The fund has been appropriated, and has been expended, and the gentleman's committee has not been given any information concerning it. I do not know anything about the item, and do not pretend to; but I make the point of order on so much of the item in lines 18 and 19 as reads "and available until expended."

Mr. SHERMAN. The point of order is well taken, I will admit.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HACKNEY. Mr. Chairman, I move to amend by striking out the word "two," in line 22, page 41, and inserting the word "eight." It is a clerical or typographical error.

The Clerk read as follows:

Page 41, line 22, strike out the word "two" and insert the word "eight."

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to return to page 36 of the pending bill to offer the following amendment, which I send to the desk.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to return to page 36 of the bill for the purpose of offering an amendment. Is there objection?

There was no objection.

The Clerk read as follows:

Insert on page 36, line 21, after the word "dollars," the following: "That the Secretary of the Interior be, and he is hereby, authorized and directed to withdraw from the Treasury of the United States, at his discretion, the sum of $250,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma, and pay out the same for the benefit of the members of said tribes for their maintenance and support for the ensuing year in such manner and under such regulations as he may prescribe."

Mr. MANN. On that I reserve a point of order. What is the difference between this and the other except in amount?

Mr. SHERMAN. The other authorized the withdrawal of the fund, and it was stated that it would be used to the amount of $400,000 in the payment of existing debts. Now this eliminates existing debts. It leaves the people who have been foolish enough to trust the Indians, and perhaps not only foolish enough to trust them but so criminal, if I may use the word, as to induce them to go into debt, leaving them to wait for their money, and it is provided that $250,000 of their own money may be used under the direction of the Secretary of the Interior for their support and maintenance during the coming year. That is the difference between the two.

Mr. FERRIS. This provides for $250,000 and the other provided for $500,000.

Mr. MANN. How much do the Indians now receive as interest on their fund?

Mr. SHERMAN. They must receive in the neighborhood of $300,000.

Mr. MANN. How much per capita?

Mr. SHERMAN. I should say about $80.

Mr. MANN. Eighty dollars for each one in the family?

Mr. FERRIS. They do not get that much, for a part of it is outside money that no interest is paid on.

Mr. MANN. We provided the other day for interest on town-site sections. Each one in the family gets the money—one man gets it for all in the family. It seems to me that a family of Indians with a homestead and that much clear coming to him ought to be able, if he is ever going to be able, to begin to learn the necessity for living on his income.

Mr. STEPHENS of Texas. I want to say to the gentleman that the land is all new; it is a prairie country, and the land is not yet reduced to cultivation. When it is reduced to cultivation it can be rented for from one to five dollars an acre, according to the value of the land. Now, that would be quite an income to have; but wild land, fresh land, can not be rented to the farmers.

Mr. MANN. That is it; it can be rented to white men. I want the Indians to understand that it is their business to cultivate the ground themselves or else for us to understand that we have got to support them for all time, and if so, we had better keep the fund and support them on the interest. Here is a proposition to give them the land which you do not expect them to cultivate, and also the funds, which were supposedly to protect us, and in the end we will have to take care of them.

Mr. STEPHENS of Texas. The white men will have to make a living for them.

Mr. MANN. It may be that the white men will have to make a living for them. I have discovered by observation and reading in this world that the only way anybody makes a living is for fear of starvation or freezing to death. Nobody here would work if it was not for fear of those two things. [Laughter.]

Mr. FERRIS. I hope there will not be any misunderstanding, Mr. Chairman, as to the amount of money that the Indians receive.

The report of the Secretary last year shows that they received $50 per capita as interest, and the prior years it was $30.

Mr. MANN. For each Indian.

Mr. FERRIS. Instead of receiving $80 last year, they received $30, and the year before nothing, and this year $50.

Mr. MANN. That is it; it is going up all the time, and the debts are just as much; and if we gave them $500,000, they would owe just as much as they do now. That is the system the gentleman wants to encourage. We ought to stick to the policy of having these people do some work, and I make a point of order against the paragraph.

The CHAIRMAN. It is new legislation, not in order on an appropriation bill, and the Chair sustains the point of order.

The Clerk read as follows:

That the Secretary of the Interior is hereby authorized to make an investigation of the status of all tracts of land reserved for members of the Creek, Choctaw, and Chickasaw tribes of Indians under the Creek treaty of March 24, 1832 (7 Stat. L., 366), the Choctaw treaty of September 27, 1830 (7 Stat. L., 333), the Chickasaw treaty of October 27, 1830 (7 Stat. L., 381), and the Chickasaw treaty of May 24, 1834 (7 Stat. L., 450), for which patents have not been issued, or conveyances made by the reservees under the treaties have not been approved by the President, and he shall report his conclusions with his recommendation concerning any action by the Congress needed to clear up the titles to those lands, and the sum of $10,000 is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the expense of the investigation provided for herein.

Mr. BYRD. Mr. Chairman, I make the point of order on the whole paragraph that it is legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from New York wish to be heard on the point of order?

Mr. SHERMAN. No.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

For the completion of the work heretofore required by law to be done by the Commission to the Five Civilized Tribes, $140,000, said appropriation to be disbursed under the direction of the Secretary of the Interior.

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

The Clerk read as follows:

Insert, after line 19, page 43:
"Said appropriation to be disbursed under the direction of the Secretary of the Interior, who is directed to so disburse this appropriation as to complete said work by July 1, 1910."

Mr. MANN. I reserve the point of order simply for the purpose of asking whether that extends the time another year.

Mr. CARTER. It does extend the time for twelve months.

Mr. MANN. We have put this sort of a provision in the bill several times. Does it amount to anything?

Mr. CARTER. I think this is the first time it has been in for several years.

Mr. SHERMAN. Of course it does not amount to anything. It was in last year.

Mr. MANN. I know it was. I withdraw the point of order.

Mr. CARTER. I just want to state this, That I have been requested very urgently to make a point of order against that provision, but I have not done it, primarily, because it is necessary for some of this money to be appropriated, possibly all of it, and, secondarily, I wanted to see our worthy chairman, before he was exalted to the high position of the second highest office in this great Republic, get through his last supply bill in the House with as little contention as possible from the members of his own committee. For these reasons I have not made the point of order against it, and I would like very much to see the amendment agreed to.

Mr. STEPHENS of Texas. I make the point of order against the amendment. I do not think this ought to be limited, the time in which to close these rolls.

Mr. Chairman, I desire to call the attention of this House to the fact that Congress, in its endeavor to close up the business of the Choctaw and Chickasaw tribes of Indians in Oklahoma in a very short time, has failed to enroll Indians that should have been enrolled and permitted others to be enrolled that should not have been enrolled. This is not my assertion, but the statement of the Secretary of the Interior, Mr. Garfield, to this Congress in an official communication, viz, his annual report for the year 1907, page 20. If this is true, and no one will dispute it, we should not close the rolls before we purge them.

The Supreme Court in the Stephens case (174 U. S. Repts.) holds that Indians are the wards of the Government; hence Congress is the court that must distribute their property to them justly and fairly, and if we do not, but disinherit part of

the heirs and give part of the estate to parties not heirs, then we will render the Government, in my judgment, subject to having to pay the disinherited Indians for the property we have unjustly given to Indians not entitled to it.

Now, to obviate this danger, while we have, still belonging to this estate and in our hands, subject to our disposition, surplus land and money enough to give all these Indians their share of this property, we should open up these rolls and let the Indians of these tribes by blood be enrolled and have their property given to them. I would not disturb any Indians now in possession of the land allotted to them, but I would give to those entitled to it as Indians by blood all the remaining property; and with that end in view I have introduced the following bill:

Be it enacted, etc., That the provisions of an act approved February 6, 1901 (chap. 217, U. S. Stat. L., 56th Cong.), entitled "An act amending the act of August 15, 1894, entitled 'An act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaties and stipulations with various Indian tribes for the fiscal year ending June 30, 1895, and for other purposes,'" be, and the same is hereby, extended to any person claiming any right in the common property of the Choctaw or Chickasaw Indians or tribes; and in order to make said act applicable to any person claiming any such right in said property said act is hereby amended to read as follows:

"SEC. 2. That all persons who are, in whole or in part, of Choctaw or Chickasaw blood or descent and who are entitled to share in the common property of the Choctaw or Chickasaw Indians under any treaty with said Indians or law of Congress, or who claim to be so entitled under any treaty, grant, agreement, or act of Congress, or who claim to have been unlawfully denied or excluded from participating in the common property of the Choctaws or Chickasaws to which they claim to be lawfully entitled by virtue of any treaty, grant, agreement, or act of Congress, may commence and prosecute or defend any action, suit, or proceeding in relation to their right thereto in the proper district or circuit court of the United States; and said district and circuit courts are hereby given jurisdiction to hear, try, and determine any action, suit, or proceeding arising within their respective jurisdiction and involving the right of any person, in whole or in part of Indian blood or descent, to share in the common property of said Choctaw or Chickasaw Indians under any treaty, grant, agreement, or law of Congress (and in said suit the parties thereto shall be the claimant as plaintiff, and the Choctaw and Chickasaw nations or tribes jointly as party defendant); and the judgment or decree of any such court in favor of any claimant to share in the common property of said tribes shall have the same effect, when properly certified to the Secretary of the Interior, as if such judgment or decree had been allowed and approved by him: *Provided*, That the right of appeal shall be allowed to either party, as in other cases, and that no act of Congress or agreement limiting the time in which an application or assertion of right should be made shall operate to defeat the rights of any person entitled to share in the said common property under any treaty with or grant to said Indians.

"SEC. 3. That the plaintiff shall cause a copy of his petition, filed under the preceding section, to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail copies of same, by registered letters, to the principal chief or governor of the Choctaw and Chickasaw nations, respectively, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letters. It shall be the duty of the district attorney upon whom service of petition is made as aforesaid to appear and defend the interests of the Choctaw and Chickasaw nations in the suit, and within sixty days after the service of petition upon him, unless the time should be extended by order of the court made in the case, to file a plea, answer, or demurrer on the part of the Indian governments or tribes, and to file a notice of any counterclaim, set-off, claim for damages, or other demand or defense whatsoever in the premises: *Provided*, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court.

"SEC. 4. That wherever it shall appear to the satisfaction of the court in which the proceedings has been instituted that there is in the possession of any department of the Government or of any bureau, division, or commission thereof or thereunder, any record or records material to the proper determination of the issue being heard, or about to be heard, the head of the department in which such record is kept shall, upon request of the judge of said court, transmit a certified copy of the record or records on file in his department to the clerk of the court to be used at the trial of the case without any charge therefor: *Provided further*, That all records in the possession or custody of any government officer or department or division, bureau, or commission thereof or thereunder pertaining or appertaining to the rights of any such claimant shall, upon request of the claimant or his authorized attorney, be open to inspection; *Provided further*, That all suits brought under the provisions of this act shall be commenced within six months after the passage of this act, and the court, upon the request of either the plaintiff or defendant, shall advance any suit instituted under the provisions of this act on the dockets thereof to as early hearing as is consistent with the rights of the parties and the interests involved."

Mr. Chairman, this bill should become a law. If it does not, hundreds of Indian families will lose their homes and become outcasts. Let me give you a true history of this matter. By article 2 of a treaty negotiated September 27, 1830, and ratified by the Senate of the United States and proclaimed as a law on February 24, 1831 (7 Stats., 333), the United States agreed to specially convey certain lands west of the Mississippi River (and which are now being allotted) in fee-simple title to the Choctaw Nation in trust for the exclusive use and benefit of a designated class of persons composed of all those persons comprising the Choctaw community on the day the treaty was ratified and their descendants.

On March 24, 1837, the Senate of the United States ratified a treaty entered into by the Choctaws and Chickasaws, by terms and provisions of article 1 of which treaty those persons comprising the Chickasaw community on the day the treaty was ratified and their descendants acquired by purchase an equal, undivided individual interest in the property agreed to be conveyed to the Choctaws by article 2 of the treaty of 1830, on the same terms that the Choctaws held it, and by this treaty the Chickasaws became a part of the designated class of Choctaws for whose exclusive use and benefit the grant was to be made.

On February 24, 1842, the President of the United States specially conveyed by patent the said western lands in fee-simple title to the Choctaw Nation, to be held by said nation in trust for the exclusive use and benefit of said designated class of persons.

By act of Congress approved June 10, 1896, a commission known as the "Commission to the Five Civilized Tribes" was directed to receive, consider, and determine applications of persons claiming citizenship in the Choctaw and Chickasaw nations preparatory to the preparation of final citizenship rolls to be used as a basis for the distribution in severalty of the tribal property. Said act expressly directed said commission to determine all such applications according to the treaties with and laws of the United States. This act required the enrollment of all persons who made application who were of the said designated class of persons named in the treaties and the grant. Said act further provided that either the Indian nations (who were represented by their officials and attorneys) or the applicants could appeal from the decision of the commission to the United States district courts. Only a comparative few of the Choctaws and Chickasaws applied to said commission under said act, and of the number who applied, appeals were taken to the United States district courts in cases involving the rights of about 5,000 persons. The United States district courts heard the cases and rendered judgments admitting to citizenship approximately 4,000 persons. Appeals were taken in these cases from the judgments of the United States district courts to the Supreme Court of the United States, which court affirmed said judgments. (174 U. S., 476.) Thereafter, by act approved July 1, 1902, a legislative commission, designated therein as the "Choctaw-Chickasaw citizenship court," was created with authority to review, revise, and annul said judgments entered by said United States district courts and affirmed by the Supreme Court of the United States. The attorneys (Mansfield, McMurray, and Cornish) who procured this legislation held inviolate contracts with the officials of the Indian governments by which, in the event they could secure a reversal of said judgment rendered by the federal courts, they were to receive 9 per cent of the value of the property each such person was entitled to receive under said judgment.

This citizenship court rendered judgments and decrees affirming the judgments of the federal courts in cases involving the rights of 156 persons and reversed and rendered null and void the judgments of the federal courts in cases involving the rights of approximately 3,800 claimants. This citizenship court, under congressional act approved March 3, 1903, was authorized to fix the compensation of the attorneys who secured the legislation under which the court was created, for their entire services rendered in these cases, both in procuring the legislation and conducting said cases before said citizenship court. Said court under said act entered a decree awarding a fee of $750,000 to said attorneys, but did not state upon what basis the allowance was made.

The charge has often been made that certain members of the citizenship court were improperly, if not corruptly, influenced to render said judgments, and thereby deny to upward of 4,000 Indians their property rights which had been decreed them by the federal courts. It is believed by many persons that there was just ground for said charge, and that these people were improperly, if not fraudulently, denied their property rights by federal officers who profited financially thereby.

Mr. Chairman, on April 29 of last year I offered a resolution, No. 389, authorizing the appointment of a subcommittee of this House to investigate the charge that this citizenship court had been corrupted or bribed to render the opinions they rendered in said cases. This resolution was referred to the Committee on Rules, and has never been reported from said committee. It is as follows, viz:

[House of Representatives. Resolution 389. Sixtieth Congress, first session.]

Whereas under an act of Congress approved June 10, 1896, the United States district courts in Indian Territory heard and determined the rights of approximately 5,000 people claiming citizenship in the Choctaw and Chickasaw nations; and

Whereas the said United States district courts rendered judgments

and decrees entitling approximately 4,000 of said persons to enrollment as Choctaw and Chickasaw citizens; and

Whereas said judgments were thereafter affirmed by the Supreme Court of the United States; and

Whereas by an act of Congress approved July 1, 1902, a legislative commission therein designated as the Choctaw-Chickasaw citizenship court was created and authorized to readjudicate the rights of the said 4,000 persons who had procured judgments from the United States district courts, some of which judgments had been affirmed by the Supreme Court of the United States; and

Whereas said legislative commission, known as the Choctaw-Chickasaw citizenship court, heard and determined, or pretended to hear and determine, on review, the rights of said 4,000 persons who theretofore procured favorable judgments from the United States courts; and

Whereas said Choctaw-Chickasaw citizenship court rendered a finding, judgment, or decree affirming the judgments of the United States courts in cases involving the rights of only 156 persons and illegally, wrongfully, and it is charged corruptly, denied the rights of all other persons who had theretofore secured favorable judgments from the United States courts decreeing them to be citizens of the Choctaw and Chickasaw nations, and thus depriving them of their property and citizenship rights; and

Whereas said Choctaw-Chickasaw citizenship court awarded a fee of $750,000 to George Mansfield, J. F. McMurray, and Melvin Cornish, doing business under the firm name and style of Mansfield, McMurray & Cornish, for pretended legal services in procuring the enactment of legislation creating said court and in prosecuting said cases before said court; and

Whereas it is generally believed and charged that certain members of said court were corruptly induced to render said findings, judgments, or decrees denying said persons enrollment as Choctaws and Chickasaws for a money consideration paid to them out of the fee awarded to said attorneys: Therefore be it

Resolved, That the Committee on Indian Affairs of the House, or a subcommittee thereof consisting of three members, one of whom shall belong to the minority party, to be appointed by the chairman, is hereby authorized and directed to investigate said charges and to report the facts to the House; that said committee or subcommittee is further authorized to sit during the sessions of the House or during vacation, in Washington or elsewhere, to employ a stenographer and one clerk, to summon and subpœna witnesses and to compel their attendance, to administer oaths, to require the production of books and papers, and to exercise any and all other powers necessary to a full and complete investigation of the conduct of said court, or any member thereof, to the end that it may report the true facts to the House with reference to said charges; and it is further provided that the expense incident to said investigation shall be paid out of the contingent fund of the House.

Resolved, That said committee shall report to the House whether, in their judgment, any of said Indians whose judgments were set aside by said court have been unjustly deprived of their property without due process of law, and if they so find, to suggest in their report appropriate legislation for restoring them to their personal and property rights as citizens of said tribes.

Mr. Chairman, this resolution was referred to the Committee on Rules and never reported from that committee. This citizenship court rendered some very strange opinions. One of the investigations made by the Senate shows that this court in the case of 17 different families put on part and left off part of families. This affidavit shows one example. It is as follows:

Anderson F. Cowling, of Cowlington, Okla., Choctaw by blood.

STATE OF OKLAHOMA, *Pittsburg County, ss.*

Personally appeared before me, Mrs. R. H. Tarter, a notary public in and for the county and State aforesaid, Anderson F. Cowling, to me well known, who upon his oath deposeth and said:

That he is a citizen of the United States, a resident of the town of Cowlington, La Flore County, State of Oklahoma, and is 65 years of age; that he has been a resident of the Choctaw Nation for thirty-two years last past; that he is a son of Sallie Kemp, a Choctaw by blood, who was a daughter of Sol Kemp, a Choctaw by blood; that in the year 1896 affiant made application to the Commission to the Five Civilized Tribes for the enrollment of himself, his wife, and three children as citizens of the Choctaw Nation by blood, under the act of June 10, 1896; that said application was allowed by said commission and affiant, his wife, and three children enrolled; that thereafter an appeal was taken to the United States district court, central district, Indian Territory, by the Choctaw Nation from said decision of the Commission to the Five Civilized Tribes enrolling affiant, but that no appeal was taken from the decision of the commission enrolling affiant's wife and his three children, notwithstanding the fact that the said children were enrolled as a result of the Indian blood of their father, affiant; that after a full hearing before said court a judgment was entered adjudging affiant to be a citizen of the Choctaw Nation; that thereafter his case, together with all other cases in which judgment had been rendered by the United States territorial courts for Indian Territory, was appealed to the Supreme Court of the United States, and that said United States Supreme Court rendered a decision affirming the decision of the United States territorial court adjudging affiant to be a citizen of the Choctaw Nation; that thereafter the judgment of the United States courts adjudging affiant to be a citizen of the Choctaw Nation was set aside by the legislative commission known as the "Choctaw-Chickasaw citizenship court," and that affiant is to-day without any recognition of his right to share in any of the common property of the Choctaws and Chickasaws.

Affiant further states that his three children were enrolled as blood citizens of the Choctaw Nation, by reason of his Indian blood, by findings of the Commission to the Five Civilized Tribes, the Commissioner of Indian Affairs, and the Secretary of the Interior, and that they are now on the approved blood roll of the Choctaw Nation; that his wife is enrolled on the approved rolls of the Choctaw Nation as an intermarried citizen, deriving her enrollment by reason of her marriage to him.

ANDERSON F. COWLING.

Subscribed and sworn to before me this the 16th day of November, 1908.

[SEAL.] MRS. R. H. TARTER, *Notary Public.*

My commission expires June 24, 1912.

The Commission to the Five Civilized Tribes was expressly directed by section 21 of said act to make the rolls in conformity with the treaties and laws of the United States, and to enroll as citizens all persons of Choctaw or Chickasaw blood and descent who were bona fide residents of said nations on the 28th day of June, 1898; and to prepare rolls of freedmen entitled to any rights or benefits under the treaty of 1866, and their descendants who were bona fide residents of said nations on June 28, 1898; and it was expressly provided that when the rolls were made as the act provided, and were approved by the Secretary of the Interior, they should be final.

The Commissioner of Indian Affairs, under date of July 25, 1899, directed the commission in performing its work under said act as follows:

The rolls as made up by your commission must, to become final, receive the approval of the Secretary of the Interior. It will therefore be necessary for you to make a record of all cases sufficient to enable this office and the department to take intelligent action in the premises, and especially in those cases where your decision either for or against the right of any person to have his name appear upon the roll is complained of.

For the purpose of this record you will require each applicant for enrollment to present himself in person before the commission at one of its appointments within the tribe in which such applicant claims right to enrollment for examination under oath, his statements to be taken down by the commission, upon which the commission will determine his right to enrollment, and such record and action of the commission would be preserved and transmitted with the rolls to be considered by this office and the department when the rolls made by the commission are submitted for the approval of the Secretary of the Interior.

Tams Bixby and A. S. McKennon, two members of the commission, who had direct charge of the preparation of the citizenship and freedmen rolls, testified before the select committee of the Senate (vol. 1, S. Rept. No. 5013, 59th Cong., 2d sess.) that no person appearing before said commission was examined under oath and his or her statements reduced to writing as required by the departmental instructions.

On June 7, 1897, another act was approved directing the commission to enroll as citizens of said nations all persons whose names appeared on any approved roll of the Choctaws or Chickasaws and their descendants born after the approval of any of said rolls.

On June 28, 1898, Congress, acting upon the recommendation of the Commission to the Five Civilized Tribes, passed an act giving the commission full authority to make correct and complete rolls of all persons entitled to share in the common trust property (H. R. Rept. 593, 55th Cong., 2d sess.).

There appears, therefore, no way by which any error committed by the commissioners in examining persons in the field could have been corrected on review by the Secretary, as the only record before the Secretary was such memorandum of evidence taken as the commission had seen fit to make of record.

Many persons of mixed Indian and negro blood, undoubtedly of the designated class of persons for whose benefit the grant was made, were enrolled by the commission as "freedmen" and no mention made in the memorandum of their Indian blood. These people under treaty stipulations appear to be entitled to as full property rights as Indians, many of them being, as appears from the evidence offered and photographs exhibited, of more than half Indian blood, and some of them practically full bloods.

Under date of March 17, 1899, Assistant Attorney-General Willis J. Vandevanter, in an official opinion rendered for the guidance of said commission, construed the act of June 28, 1898, to mean that all persons whose names lawfully appeared upon the tribal rolls and their descendants should be enrolled on the citizenship rolls of said tribes and should receive distributive shares of the common property of said Indians. (S. Rept. 5013, 59th Cong., 2d sess., p. 1555.) The report of the Secretary (pp. 49–50, Hearings on H. R. 15649) states that only such rolls as had been prepared by the Indian officials during the years 1885 to 1896, inclusive, were in the possession of or were consulted by either the commission or the department in the preparation of the citizenship rolls which are now being used as a basis for the distribution of the tribal property. It is charged that these rolls were prepared by individuals who were pecuniarily interested in the division of the estate and were notoriously inaccurate and incomplete.

The parties preparing the rolls were Mansfield, McMurry, and Cornish, the attorneys I have named before, and it was not proper for said commission to have used said rolls exclusively as a basis for the final citizenship rolls, particularly as there were then in the possession and custody of the Secretary of the Interior and the Secretary of the Treasury a large number of complete and authentic rolls of the members of said tribes, which were not consulted and which are believed to contain the names of many persons of Indian blood, or the names of the ancestors of many persons of Indian blood, who are undoubtedly,

of the same designated class of persons for whose exclusive use said grant was made, but who have been refused enrollment by said commission and said Secretary, and thereby denied the right to share in the common property.

It appears from incontestable evidence, and it is admitted by the Secretary of the Interior on page 20 of his annual report for the year ending June 30, 1907, that the rolls are incomplete and that many blood citizens are not enrolled who are entitled to enrollment, and it is claimed by the department that many persons have been enrolled who are not entitled to enrollment.

The official certifications contained in Senate Report No. 5013 (pt. 2, 59th Cong., 2d sess.) show that blood Indians have been enrolled as citizens and given distributive shares in the property, while their full brothers and sisters have been either denied enrollment, and thereby denied their lawful property rights, or enrolled as freedmen and given freedmen limited property rights of 40 acres of average land. It appears further from the report of the Secretary, set out in Senate Document No. 390, Fifty-ninth Congress, second session, that during the week immediately preceding March 4, 1907, on which day the jurisdiction of the Secretary to approve enrollments terminated, the department examined and decided 2,023 cases, which it is claimed by attorneys for claimants involved the rights of approximately 10,000 persons. It is apparent that the Secretary could not have properly considered these cases in the time in which he had to act, and it would be unjust to deny these claimants their property rights because the administrative officers did not have time to properly consider their cases. Many other evidences of irregularities in the preparation of said rolls at least cast suspicion on the rolls as approved by the Secretary. For the reasons thus stated by me, I do not believe the said rolls as approved by the Secretary under existing law are final, for they have not been made as the statute provided they should be made; therefore my bill should pass, opening up these rolls, so that justice may be done.

Under agreements with the Choctaws and Chickasaws, ratified June 28, 1898, and July 1, 1902, each person enrolled as a citizen by the Secretary was to receive 320 acres of the average allottable lands and a distributive share of all funds; persons enrolled as freedmen were to receive 40 acres of the average allottable lands and were not to share in any funds.

I am firmly of the belief that, owing to the nature of the title to this property and the notorious mistakes committed by administrative officers (which have undoubtedly resulted in unlawfully depriving many persons of their property), the Government will become liable for millions of dollars in claims brought against it by persons whose rights have been thus denied. They have been always held to be the wards of the Government by Congress and by the courts, and if they are wards then the United States Government is their guardian and as such will be in law and morals bound to justly administer the estates of its wards, and my bill will accomplish that purpose. It does not seek to change existing law, but simply permits every person who claims a right in this property to go into the proper United States district or circuit court in Oklahoma, and there have his or her claim judicially determined. The same law is now in force in every jurisdiction in the United States except the eastern district of Oklahoma, and I can see no reason why the Choctaws and Chickasaws should be deprived of the benefits of a law which has met with universal approbation in every other jurisdiction and in every civilized country in the world.

The bill could be amended so as to authorize the Attorney-General of the United States to examine the rolls of the Choctaws and Chickasaws after they are prepared by the administrative officers under my proposed bill, and to investigate any suspicious enrollments, and if from said investigation he is satisfied that any person or persons have been unlawfully enrolled, to cause such names to be stricken from the rolls, or appeals could be provided for to the United States district or circuit courts.

Mr. Chairman, I will specifically point out certain Indians in the Choctaw Nation who are real Indians by blood, born in that country, and lived there always, that are not on the rolls, but are clearly entitled to be under the treaties of 1830 and 1866.

These people did not know of the requirements of the act of June 10, 1896, nor of the existence of said act. Some of these people, to wit, Sallie Berryman, for herself and children; Victoria Boyd, for herself and children; and Mrs. Banty, for herself and children; and several other heads of families, whose names I do not know, were applicants before the Choctaw council for enrollment in 1896, and again in 1897.

The council passed upon their testimony, said they were entitled to be enrolled, and upon the payment of $100 per head they would place them on the rolls. This they were not able to pay, went home to try to raise the money, and before council convened again the governor of the Choctaw Nation was notified that the council was without authority to enroll its members since the creation of the Dawes Commission. These applicants were notified by the council and instructed to go before the Dawes Commission at Atoka, Ind. T., in August, 1898, which they did. A. S. McKinnon was the acting chairman of said commission. He heard their applications and dismissed them, telling them that the commission was without authority to enroll them, and the said McKinnon refused and did not make any record of said applications, as I have before stated the law required this commission to do.

There were then some parties who complained to the department in Washington, with many affidavits as to the refusal of said McKinnon to make a record. These affidavits are, I presume, now on file in the department. In the year 1900 the commission was again instructed by the department to make a record of all those who made application, and just at this time the act of May 31, 1900, was enacted, depriving the commission of the right to receive or consider applications of Indians by blood, but to receive applications of Mississippi Choctaws; this was afterwards construed to apply only to those claiming rights under the fourteenth article of the treaty of 1830, and to give no rights to blood citizens.

At the very first opportunity, in the year 1900, they made application and were forced to make it as Mississippi Choctaws, notwithstanding they were Indians by blood, and said commission permitted them to introduce testimony and make a record, and these records are here on file in the office of the Commissioner of Indian Affairs, and show clearly that these people are Indians by blood and entitled to enrollment.

Some of them supposed they were enrolled, and they may have been, for there were not then and are not now any rolls of several of those counties. Many of them did not make applications for enrollment until the time came to allot lands. It was the allotment that directed their attention to the necessity of the preservation of their rights.

The act of June 28, 1898, gave jurisdiction to the department; properly construed, it authorized the enrollment of every Indian by blood who was entitled, but the commission construed it otherwise and held they had no authority under this act to enroll applicants by blood.

People went before the commission desiring to apply for citizenship and were told that they were too late. They were told, however, that they could apply as Mississippi Choctaws, so a number made applications as Mississippi Choctaws just as soon as they learned that they could apply in that manner.

The term "Mississippi Choctaw" had no meaning in that country at that time, such as was subsequently given to it. They were all from Mississippi, and the common people construed the term to mean any enrolled Choctaw whose people had come from Mississippi.

By the act of May 31, 1900, these blood Indians were prevented from making any application at and after that date, but it should be remembered that none of their applications as Mississippi Choctaws had been taken up and considered at that time, so after it was too late to apply by blood the Mississippi Choctaw applications were taken up, and they were denied because they were not fourteenth article Mississippi Choctaws. By this method of whipsawing their little farms have been taken from them; they have been denied every right.

These people were entitled under the law, are entitled in equity; there is no reason that they should not be enrolled, for there is plenty of land, and if there are to be any corrections of the roll, the act should be plain enough to enroll them.

Their records are all before the department. No new testimony need be taken. They can file an application for reconsideration within sixty days if a time limit is given. It ought to be limited to Indians by blood otherwise entitled under the law, and then take off the limit of time which barred their applications; and, if they applied as Mississippi Choctaws and were Indians by blood because of a mistake or through ignorance, that fact should not bar them, for it was the duty of the officers to enroll those who were entitled.

The Dawes Commission went down there, not as a court to enforce strict pleading, but as a commission to enroll those entitled, and the duty still exists on the part of the Government to protect them. It can be properly done and the act can be made definite, and I most respectfully submit that this is the time to do it, and my bill will accomplish that result. Let me warn this Congress that if it refuses to enroll these Indians and if we divide up all of the land and property of the tribe among the favored ones now on the rolls and fail to give the others their share of their common estate, Congress will be besieged for

many years with these claims for their distributive shares, to be paid out of the Treasury of the United States.

My friend from Mississippi [Mr. BYRD], on February 17 last year, in an eloquent and able speech, advocated the rights of the Mississippi Choctaws to enrollment. Speaking of the unjust acts of the Dawes Commission toward the Mississippi Choctaws, he said in that speech:

The first edict issued was that none but those residing in the Territory at that time could share in the distribution of the lands, but this was abandoned. Then it was contended that only those who could trace their ancestry back to a certain class who participated in the treaty could receive a share, and this, too, was abandoned; and next it was insisted that only the descendants of the full bloods could inherit, and this likewise was overruled.

Being forced to admit that the Choctaw territory belonged to the tribe in common, regardless of where they lived or who their ancestors were, or whether half blood or whole blood, it was decided that the only way to outlaw the Mississippi Choctaws was to railroad a law through Congress requiring them to immediately remove to the Territory and live upon their several allotments, and that unless this was done within six months they were forever barred. Under this unlawful, unjust, and cruel law they have lost all. The book of fate seems to be forever closed against them. It was the "unkindest cut of all."

Why, Mr. Chairman, this procedure was nothing less than legalized robbery. Upon what process of reasoning can we justify either the justice or the legality of such action? Can the Government after executing a fee-simple title to this estate afterwards destroy the title by entailing an impossible condition upon it? Certainly not. There is not a lawyer who ever read three pages of Blackstone who will disagree with me on this proposition. But, whether the law be or be not constitutional, the Mississippi Choctaws are bound by it just the same, for the reason that the Government is cloistered behind that relic of kingcraft, that the sovereign can do no wrong, nor be sued, except by consent. Bills are pending before the Committee on Indian Affairs providing that these poor people be given access to the courts to ascertain their rights, but not one of them will be reported, for to do so would mean the defeat of the well-planned scheme of robbery.

Then, too, how unreasonable was the proposition to require these poor people to remove to the Territory within the short period of six months. They were without means, ignorant, and helpless. But it is contended that the Government made an appropriation of $20,000 to move them. This might have sufficed to take some of them, but the whole amount was expended, and yet over 350 remained in Mississippi.

But admitting that they could have provided means for transportation, how were they to live on the blizzard-swept prairie, without houses, without food, clothing, or the implements of husbandry? Why, sir, a decree requiring the public-school children of this city to go and provide homes for themselves on the frozen plains of Manitoba would not have been more cruel and unreasonable. Many of those who did go died from exposure. In many instances they were crowded during a long, cold winter into cotton sheds, barns, and warehouses. Disease broke out among them, and in some instances whole families perished.

Let it never be forgotten that this Government since 1831 has been the self-constituted guardian of the Choctaws. Without invitation we assumed the right to administer this sacred trust. Have we kept faith with our wards? Let their destitution and the deeds of robbery perpetrated upon them answer. Were we discharging our duty with all fidelity to them when we leased their valuable oil and coal lands to corporations for a mere trifle, or when we paid one law firm a little less than $1,000,000 out of their common fund, in order to assist us in robbing them? Three hundred and fifty shares of that great sum was the lawful property of the Mississippi Choctaws and should have gone to them instead of to attorneys especially employed to defraud them. I don't say that these lawyers did not earn their fee. They won the case. With the aid of a few government officials they succeeded in robbing my Choctaw friends of an interest in an empire. I dare say that no Roman general ever more thoroughly looted or pillaged a conquered nation than did these officers and attorneys these unfortunate people.

But I understand that there are yet 3,000,000 acres of this common estate and about $400,000 unappropriated and unstolen. Now, in the name of reason and common justice, why not repeal this cruel statute and let these Mississippi Choctaws yet share in this common estate? If you are not willing to do this, then open the doors of the courts and let them sue for their property, and if you are blinded to this just demand, let me implore you to provide for their support by a direct appropriation from the Treasury.

My friend BYRD appealed to the President in behalf of the Mississippi Choctaws and received the following reply:

THE WHITE HOUSE,
Washington, March 18, 1908.

MY DEAR CONGRESSMAN: Referring to your letter of the 7th instant in regard to the condition of the Choctaws in Mississippi, the inclosed very interesting communication of Commissioner Leupp explains itself. Will you see Mr. Leupp and try to reach with him an agreement as to what can best be done to relieve the condition of these Choctaws, and then let me know? I will do all I can to aid you to secure the passage of a measure of relief. I thank you for the course you are taking in bringing up this matter, the urgency of which I keenly appreciate.

Sincerely, yours, THEODORE ROOSEVELT.

Hon. A. M. BYRD,
House of Representatives.

Mr. Leupp, in reply to the above letter, states that:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 16, 1908.

The PRESIDENT: I have received Secretary Loeb's note of March 10, submitting letter of Hon. A. M. BYRD, House of Representatives, regarding the need of relief for the Choctaws remaining in Mississippi, and asking for my views as to whether anything can be done for them.

Mr. BYRD says that the four or five hundred Choctaws remaining in Mississippi are in a destitute condition and believes that some provision should be made for their support.

It is true, as he says, that the Choctaws in Mississippi are in a forlorn plight. They represent that element which refused to accompany the larger part of the tribe when removed by the Government in 1831–1833 to Indian Territory under the treaty of 1830. Under the fourteenth article of this treaty the privilege of remaining and taking land was reserved for those who saw fit to conform to its requirements, and three thousand or more remained; but through misconduct on the part of representatives of the Government and the violence and fraud resorted to by white men who coveted the lands hardly any of them secured the reserves to which they were entitled. The pressure on the Government from the people of Mississippi to secure the removal of the Indians was so great that it continued its efforts to transfer the remaining Choctaws to their country west, and their emigration was in progress during most of the years from 1837 to 1855. In 1855, when the removal policy was abandoned, there were possibly 2,500 of the Indians east of the Mississippi, in the States of Alabama, Mississippi, and Louisiana.

Under the act of Congress approved June 28, 1898 (30 Stat. L., 295), provision was made for the "identification" of Mississippi Choctaws claiming descent from ancestors who complied with the fourteenth article of the Choctaw treaty; and in the Choctaw-Chickasaw agreement, approved July 1, 1902 (32 Stat. L., 641), it was provided that persons so identified should remove to and make settlement in the Choctaw-Chickasaw country in Indian Territory within six months from date of identification. Representatives of the Commission to the Five Civilized Tribes visited the State of Mississippi and proceeded with the work of identification. No provision at that time had been made for transportation of the Indians to the Choctaw-Chickasaw country or for their subsistence after they arrived there; neither was there any provision, financial or administrative, for locating them on particular tracts of land. Subsequently Congress appropriated $20,000 to aid in the removal of Mississippi Choctaws, which was expended by the Commission to the Five Civilized Tribes, and a relatively small number of those identified were transported west and subsisted for a short time in Indian Territory out of this fund.

The majority of those who did reach Indian Territory were either transported at the expense of private parties under contracts made with the Indians or removed themselves on their own resources. Several hundred of those who were identified never reached the Indian Territory or made proof of settlement there, and some who were removed, owing to their lack of financial resources, found the conditions they faced in the West worse than those they left and returned to Mississippi. It is fair to presume that many of them did not go because they were unable to secure funds with which to remove. Because the measures meant to be advantageous to the Indians were in some respects inadequate or incomplete they failed to bring the relief that was anticipated.

Racial feeling has been especially strong among those Choctaws who remained in Mississippi. They have not mixed in marriage with the whites or negroes to as great an extent as the Indians who removed to Indian Territory, and the larger part still are full-blood Choctaws. Many are unable to speak the English language, and to find one who can read is a rarity. They have lived in small settlements, holding aloof from white men as much as possible, although employed almost exclusively on the plantations; and in many respects, growing out of this social condition, they have retrograded even from the not very advanced condition of their people as it existed in 1830. Shunning the white men to so great a degree, they have lacked the opportunity of learning business methods and agricultural skill that has been enjoyed by the negroes who were formerly slaves, with the result that they are more undeveloped in business and productive capacity, have lived more poorly, and in the main have sunk to a lower level in every respect than the former slaves and their descendants. After seventy years of separation from the main body of their tribe, they have failed to profit by being surrounded by white men, and have acquired only a smear of civilization. They have shown no disposition to send their children to school, and apparently have not been encouraged to do so. They do not care to mix with the negroes, and it is questionable whether their children would be received in the white schools.

Mr. BYRD is correct in painting them in his speech before the House of Representatives as being in a deplorable condition. They abandoned their tribal brethren and refused through many years to go west, where they might share in the tribal property; but their conduct in that regard grew out of their ignorance and their indisposition through timidity to forsake that with which they were familiar and could endure for new surroundings and new industrial and social conditions, under which they feared they might not be able to succeed. They have no special claim on the Government, unless it be based on the ground that through the misconduct of the government representatives they or their ancestors were deprived of the land in Mississippi to which they were entitled under the treaty, or because as Indians they have a natural right to the protection of the Government. Throughout the last fifty years the office has periodically received petitions for the relief of these Choctaws, but nothing has ever been done, except the opportunity accorded them to go to the Choctaw Nation west.

Under the act of Congress approved February 8, 1887 (24 Stat. L., 388), as amended February 28, 1891 (26 Stat. L., 794), provision is made for allotting on the public domain Indians who abandon the tribal status, and it is the privilege of such Indians to take advantage of that law; but the Choctaws are so situated financially and so entirely lacking in the intelligence necessary to set up an independent establishment that it is questionable whether any measures the Government might take toward making possible their settlement under that law would be of real advantage to them. Certainly this law could not be made beneficial unless very careful supervision were maintained over them for at least a generation. These Indians have no skill in any agricultural pursuit except cotton raising, and the Government has no public lands available within the cotton-growing States.

Another solution of the problem might be the purchase from the unallotted lands of the Choctaws and Chickasaws of a sufficient tract to settle them in Oklahoma, where they would be able to come in contact with the more intelligent members of their tribe, and this would also necessitate an expenditure of considerable money and the supervision of their affairs for some time to come. The only other solution that occurs to me would be the purchase of lands for these Indians in Mississippi, where they would be surrounded by the conditions under which they have always lived, so that they may own their lands and maintain their own establishments.

I shall certainly be glad to do anything in my power to aid in a solution of this difficult problem.

Very respectfully, F. E. LEUPP,
Commissioner.

Mr. Chairman, on the first day of this Congress I introduced a bill, No. 122, authorizing the defendants in one of the court citizenship cases to appeal from said citizenship court to the Supreme Court of the United States. The preamble of the bill explains fully the reasons and necessity for the passage of the measure, and is as follows:

A bill (H. R. 122) to provide for an appeal of one case from the Choctaw and Chickasaw citizenship court to the Supreme Court of the United States.

Whereas under the act of Congress of June 10, 1896, the Commission of the United States to the Five Civilized Tribes of Indians (known as the "Dawes Commission") was authorized and empowered to hear, pass upon, and determine the application of all persons claiming to be members of either of said tribes and whose right to citizenship had been denied by the tribe, and granted to the tribe, or person claiming citizenship therein, the right of appeal to the United States courts in the Indian Territory from the decision of said commission, if it or he was aggrieved thereby, and provided that the judgments of saidcourts should be final (20 Stat., p. 339); and

Whereas many persons did apply to said commission to be identified and enrolled by said commission as members of one of said tribes and many of them, as well as said tribes, did appeal to said United States courts aforesaid from the decisions of said commission and obtained and caused to be rendered and entered final judgments in accordance with the provisions of said act of June 10, 1896; and

Whereas under an act of Congress of July 1, 1898, the tribe against whom final judgments had been obtained in said United States courts, and the persons whose claims to citizenship had been denied by said courts, were granted an appeal from the final decisions of said courts directly to the Supreme Court of the United States (30 Stat., p. 591); and

Whereas the Choctaw and Chickasaw nations, respectively, under the terms of said last-named act did appeal from the judgments rendered by said United States courts against them, respectively, to the said Supreme Court; and whereas all of said judgments so appealed from were by the said Supreme Court affirmed and held to be final (Stephens et al. *v.* Cherokee Nation et al., 174 U. S., p. 1041, law edition); and

Whereas under an act of Congress approved July 1, 1902, entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes." Fifty-seventh Congress, first session, chapter 1362, page 646, a court was created and designated as the Choctaw and Chickasaw citizenship court; and whereas in section 31 of said act it is recited, "It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in said courts being given to each of said nations; and it being insisted by said nations that in such proceedings notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in the Indian Territory under the act of June 10, 1896, should have been confined to a review of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to said commission, and should not have extended to a tribe de novo of the question of citizenship, and it being desirable to finally determine these questions, the two nations, jointly, or either of said nations acting saparately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one, but not to both, of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit, but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. * * * Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in the Indian Territory was wrongfully obtained, as provided in the next section;" and

Whereas under the terms of section 31 of said act of July 1, 1902, the Choctaw and Chickasaw nations filed in said citizenship court, at South McAlester, Ind. T., their petition in equity against J. T. Riddle, D. S. Riddle, L. A. Riddle, Elizabeth Casey, John Casey, Andrew B. Hite, L. T. Hill, James W. Balthrop, T. D. Arnold, and J. H. Bratcher, for themselves and as representatives of all persons similarly situated, who had established their right to citizenship in either the Choctaw or Chickasaw nations by obtaining judgments in said United States courts, as provided under act of June 10, 1896, and sought the vacation and cancellation of all such judgments rendered by said United States courts, because of the two questions of law named in section 31 of said act of July 1, 1902, said cause in said citizenship court being entitled, styled, and numbered "The Choctaw and Chickasaw nations, or tribes of Indians, *v.* J. T. Riddle et al., No. 1;" and

Whereas on the 17th day of December, 1902, said citizenship court rendered and caused to be entered in said cause a judgment wherein it held and decided—

First. "That notice to each of said Choctaw and Chickasaw nations, or tribes of Indians, of the proceedings of the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, admitting persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw nations, respectively, was indispensable."

Second. "That in said proceedings in the United States courts in the Indian Territory said courts proceeded to hear and determine said causes de novo."

"That by reason of each of said facts, to wit, that the proceedings in said United States courts were had without notice to each of said tribes or nations when notice to each of said nations was indispensable, and that said United States courts tried said causes de novo when their action should have been confined to a review of the action of the Commission to the Five Civilized Tribes upon the papers and evidence submitted to such commission, all of said proceedings, decrees, and decisions of said United States courts in the Indian Territory admitting any and all persons to citizenship or enrollment as such citizens in said nations or tribes of Indians, or either of them, ought to be set aside, annulled, and vacated." And "Ordered, adjudged, and decreed that all of said judgments, decrees, and decisions rendered by the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, admitting persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, upon appeal from the Commission to the Five Civilized Tribes, in favor of the ten defendants named in the bill in this proceeding, as well as to those who have come in and made themselves parties thereto, and the judgments rendered as aforesaid in favor of all persons similarly situated are set aside, annulled, vacated, and held for naught;" and

Whereas under the law the decision of the said citizenship court has resulted in decitizenizing about 3,000 persons, whose right or claim to Choctaw or Chickasaw citizenship had been adjudicated by the United States courts in the Indian Territory in accordance with the act of Congress of June 10, 1896, and in striking their names from the roll of citizenship of said tribes prepared by the Dawes Commission, and has resulted in the destruction of the property rights of such persons in good faith acquired after the rendition of said judgments so attempted to be canceled; and

Whereas it is contended by such persons that the said decision of said citizenship court is invalid, and upon appeal to a competent court of appeals upon review would be reversed for the following reasons:

First. Because said section 31 of the act of Congress approved July 1, 1902, was an attempt on the part of the legislative branch of the Government to vacate, cancel, and annul final decrees of a court of competent jurisdiction, and because at the date of the passage of said act both the questions of law in said section named had been submitted to, passed upon, and adjudicated by courts of competent jurisdiction in a controversy between the same parties.

Second. Because when the said act of July 1, 1902, was passed, and when the decision of said citizenship court was rendered, the Supreme Court of the United States had passed upon and decided the two questions of law named in said act in the case of Stephens and others *v.* Cherokee Nation and others (174 U. S., 339, bottom of page, law edition) adverse to the holding and decision of said citizenship court.

Third. Because said section 31 of said act is class legislation and discriminates between persons exactly in the same status, in that according to the terms thereof persons admitted to citizenship by the Dawes Commission with notice to one and not both said nations are unaffected thereby, whereas upon appeal from said commission to the United States courts notice to both of said nations was required according to the tenor and effect of the decision of said citizenship court.

Fourth. Because said citizenship court had not the power in an action in personam to set aside judgments in favor of persons not parties to said test suit without naming such persons in the bill in equity filed and causing them to be personally served with process.

Fifth. Because in the determination of Indian citizenship no property right, but the status only of the person, is involved, as has been decided by the Supreme Court of the United States in the cases of Roff *v.* Burney (168 U. S., 442, bottom of page, law ed.), Stephens *v.* Cherokee Nation (174 U. S., 1041, bottom of page, law ed.), Cherokee Nation *v.* Hitchcock (187 U. S., 184, bottom of page, law ed.), Lone Wolf *v.* Hitchcock (187 U. S., 299, bottom of page, law ed.).

Sixth. Because since the year 1855 the Choctaw and Chickasaw nations have maintained separate and distinct political autonomies, the one in no way depending upon the other in the management of its political or governmental affairs, and because at no time in the history of said tribes has the Choctaw Nation acted with or assumed the right to act with the Chickasaw Nation in inquiring into, passing upon, and determining the citizenship or membership of said tribe, and vice versa. (Treaty of 1855, 11 Stats., p. 611, arts. 4, 5, 6, and 7; const. of the Chickasaw Nation.)

Now, therefore, to the end that the rights of such persons to citizenship may be determined by a court of competent jurisdiction, and to the end that the decision of said citizenship court may be reviewed by such court,

Be it enacted, etc., That any person who is a party to said test suit of the Choctaw and Chickasaw nations or tribes of Indians *v.* J. T. Riddle and others, as aforesaid, as one of the original ten defendants, or who has made himself a party thereto, or whose claim to citizenship was affected by the decision of said Choctaw and Chickasaw citizenship court as aforesaid, is hereby granted and allowed an appeal from said cause in said court directly to the Supreme court of the United States, and said cause by said Supreme Court shall be advanced upon its docket and set down for hearing at as early a day as is practicable. There shall be but one appeal from said cause, in which all persons as aforesaid may join, and the same shall be allowed, prosecuted, and determined as appeals in civil cases from the United States court of said may join, and the same shall be allowed, prosecuted, and determined, except that the amount or value of the matter, thing, or question involved shall in no way affect the jurisdiction of the Supreme Court: *Provided, nevertheless,* That said appeal herein provided for shall be perfected within six months from the date of the passage and approval of this act.

SEC. 2. That in passing on and determining the two questions of law hereinbefore mentioned the Supreme Court may consider all of the laws, customs, and usages of the Choctaw and Chickasaw nations, respectively, with reference to the admission of persons to citizenship or enrollment in either of said nations, and to that end, upon application, it may require the Secretary of the Interior, the Commissioner of Indian Affairs, or the Commission of the United States to the Five Civilized Tribes, or any of their subordinates, or officers of the United States courts in the Indian Territory, or the chief executive of either of said nations to furnish certified copies of any record, decision, ruling, or opinion applying or referring to the said questions. All notices or process necessary to perfect the appeal herein provided for shall be served upon the chief executive of the Choctaw Nation and the Chickasaw Nation, respectively, or upon the attorneys of record for said nations in said cause appealed from.

SEC. 3. That pending said appeal and the decision of the Supreme Court thereon all the rights of the appellants therein shall remain unimpaired and shall in no way be affected by the decision of any court whatsoever.

SEC. 4. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act take effect from and after its passage.

Mr. Chairman, this bill, like the resolution I have referred to, has never been reported to this House, and I fear it never will be reported. But I indulge the hope that the Sixty-first Congress will refuse to close the rolls of the Choctaw and Chickasaw Indians until every Indian is enrolled, and full and complete justice will thus be done our Indian wards.

The CHAIRMAN. Does the Chair understand the gentleman from Texas to make the point of order against the amendment offered by the gentleman from Oklahoma?

Mr. STEPHENS of Texas. Yes.

The CHAIRMAN. I should say that the point of order comes too late.

Mr. SHERMAN. Mr. Chairman, the point of order has been re-formed so as to cut out some extra words which are a duplication.

Mr. STEPHENS of Texas. I understood the gentleman from Illinois made the point of order.

Mr. MANN. I withdrew the point of order.

Mr. SHERMAN. Mr. Chairman, I will ask the Clerk to re-report the amendment. There was a duplication of words as it was first handed up.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Insert at the end of line 19, page 43:
"And the Secretary of the Interior is directed to so disburse this appropriation as to complete said work by July 1, 1910."

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

To reimburse Dr. G. W. Harkins, of Coalgate, Okla., for services rendered and expenses incurred in suppressing the spread of smallpox in Indian Territory from June 30, 1901, to August 8, 1901, $634.15, the same to be accepted by said Dr. G. W. Harkins in full payment of all demand for such services and expenses.

Mr. MANN. Mr. Chairman, I reserve the point of order on the paragraph and ask the gentleman whether these services were rendered by direction of any of the officials of the Indian Department?

Mr. CARTER. Yes; they were rendered by direction of the Secretary of the Interior.

Mr. MANN. I withdraw the point of order.

The Clerk read as follows:

For permanent annuity for support of light horsemen, per thirteenth article of treaty of October 18, 1820, and thirteenth article of treaty of June 22, 1855, $600.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I want to ask whether there is any appropriation in this bill carried for the support of heavy horsemen. We have a new administration coming in, and the distinguished chairman of the Indian Committee is a part of it; and it seems to me that it is a discrimination to carry an appropriation for the support of light horsemen when we all know that both the gentleman and his running mate are heavy horsemen. [Laughter.]

Mr. GARRETT. Mr. Chairman, it has been stated here that the administration intended to use automobiles and abandon horses.

Mr. MANN. What I am referring to is the discrimination between the character of light horsemen and heavy horsemen.

Mr. SHERMAN. Mr. Chairman, I will state that at the time this agreement was entered into the distinguished heavy-weight gentlemen who are to be inaugurated on the 4th of March were not in existence, and that may account for applying the provision of the treaty only to light horsemen rather than heavy horsemen.

Mr. MANN. I withdraw the pro forma amendment.

The Clerk read as follows:

SALEM SCHOOL.

For support and education of 600 Indian pupils at the Indian school, Salem, Oreg., and for pay of superintendent, $102,200;
For general repairs and improvements, $10,000;
In all, $112,200.
For general incidental expenses of the Indian Service in Oregon, including traveling expenses of agents, and support and civilization of Indians of Grande Ronde and Siletz agencies, $3,000;
Pay of employees at the same agencies, $3,000;
In all, $6,000.

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

The Clerk read as follows:

Insert after line 15, and before line 16, on page 47, the following:
"Siletz Indian Reservation: That within one year from the date of the approval of this act any religious or missionary society now occupying, under proper authority, for religious or educational work among the Indians, any lands of the Siletz Reservation in Oregon, shall have the right to purchase 10 acres of land on said reservation, or a less quantity, at the option of the purchaser, at the rate of $2.50 per acre, and the same shall be conveyed to such religious or missionary society by patent."

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

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

The Clerk read as follows:

Provided, That if such school is disposed of as above authorized at any time during the fiscal year of 1910 the pro rata share only of the appropriation for the maintenance of said school for the portion of the year which the school is maintained by the United States shall be available.

Mr. MARTIN. Mr. Chairman, it was my purpose to have made some remarks under general debate on this bill on this subject of reservation and nonreservation schools, but the consumption of the entire time that was expected to have been taken in general debate to-day in other ways made that impossible. At this late hour I will not attempt to enter into a lengthy discussion of the question, but I may say, while it is well known that the views of the present Commissioner of Indian Affairs are not in favor of the continuance of the system of nonreservation schools, and while with most of the plans of the present commissioner for the general education and improvement of the Indians I quite agree, to this one proposition I am not able to bring my concurrence. The truth is, I believe the nonreservation school, considering the fact that the ultimate purpose and obligation on the part of the Government is the civilization of the Indian so that he can be placed in a position where he can support himself and become in some measure a citizen of the United States, bearing that in view, I believe the nonreservation school is to-day the strongest single civilizing force standing between the blanket Indian and barbarism.

We have always had an Indian problem. When our forefathers landed at Jamestown and Plymouth our Indian problem began, and it will continue at least for some generations to come. No great public question is really settled until it is settled right. The Indian question can only be settled by the civilization of the Indian.

It would be anomalous and unthinkable that we should tolerate permanently within the boundaries of States and the Nation large bodies of people who have nothing in common, politically or industrially, with the balance of our people. The Indian must therefore be prepared for citizenship; and when prepared, the responsibilities of citizenship must be placed upon him.

The Indian must be advanced to civilization by the same means that have lifted up all races of men—hard work and education. The ministry of toil is the best antidote for indolence and barbarism. Able-bodied Indians should either work or starve. This is the settled policy at the Indian Bureau as now administered. We are helping the Indian most when we are teaching him to help himself. Our present commissioner has been specially successful and thorough in his efforts to make the Indian industrious and self-reliant, and thorough also in his promotion of Indian education.

Real progress is being made, and no period of like duration has seen so great progress, particularly in the West, as the past four years. While speaking in praise of the general work of the Indian Office, I am equally positive that the commissioner's often-expressed purpose to close out our nonreservation schools, if carried into execution, would not be for the best good of the Indian nor of the States containing the Indian population. Abandon these schools, and we would retrograde at least a decade in the final solution of the Indian problem.

I desire to submit here the views of one who has been for many years in the Indian Service as inspector, teacher of reservation schools, and superintendent of nonreservation schools. He has had exceptional opportunities for studying the education question in all of its phases. The commissioner requested him to place his views in writing, and I am permitted to present a portion of his communication as bearing upon this question:

In a general view of Indian education, as seen by one who has had many years of experience, not only in observation, but in actual work and contact, there appears many features of the work which are encouraging and promising, and, on the other hand, there have been and are at present many things to discourage and dishearten those who may be active in the work.

I will say that, under certain conditions and with suitable employees, I believe that a reservation day school is capable of accomplishing more for the money expended than any other school in the Indian Service. But I am sorry to say, in this connection, that the changing conditions

and the lack of suitable employees to conduct these little institutions of learning have resulted apparently in lessening very materially the scope of their influence. Eight or ten pupils, poorly supplied with clothing, with little or nothing to eat a good portion of the time, dirty in their homes, and not presentable in their personal appearance in school, are not very inspiring to the average teacher who attempts to instruct them, and there is apt to arise a condition of indifference and the child comes to school and returns to its home, and it would be hard to determine just what has been gained, if anything.

Then there comes the reservation boarding school, which, in many respects, should be able to perform just as good service as the nonreservation school; but there are conditions surrounding these institutions that have a retarding influence. The employees are isolated in many instances, and there is apt to grow up a condition of narrowness and lack of interest. This often results in frequent changes in the employee force, and it would seem in some instances that when an employee received an appointment to a reservation school the first thing sought for was a transfer, and in many instances it would seem for the good of the school that the transfer be granted.

As an illustration of this fact, there was one reservation school to my knowledge of a capacity for 60 pupils that has perhaps had more changes in its employee force in one year than a nonreservation school with which I am familiar has had in four years. It can not be otherwise than a broken and disconcerted effort maintained under such conditions.

The mission schools are in a class by themselves. They are now largely contract schools, and as to what extent the Government has supervision I am not aware. In former years, when my duties took me in contact with these schools, I observed a fair degree of efficiency, though I never conceded the point that such schools were, in the general results, superior to the well organized and conducted government school. In brief, my observation has been that there should be on every reservation a good, thorough, and well-equipped school system, and the only suggestions that I would make along this line is to redouble the effort, energy, and interest in the reservation schools, but at the same time keep open before the child the fact that it can reach out into a broader life if it so desires, and that the nonreservation school can offer opportunities beyond what can be obtained at home.

The nonreservation schools have certainly done a great deal in the general education of these people. It is very difficult for one who has not lived on a reservation for any considerable length of time and who has not tried to see things from the Indian standpoint to realize what a wonderful revelation it must be to the Indian boy or girl who for the first time sees a city or a train or who comes in contact with the outside world.

It is now true that many reservations are being encroached upon by the white man and that many of these features are being brought close to the homes of the Indian. But while this is true, there is an element in this new and rapid advance that is not calculated to elevate the undisciplined mind of the Indian. The living at a nonreservation school for a period of a year, the having of three meals a day, the clean bed, the regular bath, the meeting of a number of employees and teachers and mingling with their own people under proper restrictions, and the ever-present earnest effort of those about them can not help but have an influence on the life to follow. It is also true that reservation schools are not living up to their privilege, and for that matter the whole educational work is undoubtedly below what it should be. This, perhaps, would be the conclusion of every sincere worker, though he may have done all that he knew how to do; yet, after it is over and after the time for work is ended, it is only natural that one can see wherein there might have been improvements. That being the case, it should be the earnest endeavor of everyone in the work to make a study of the existing conditions and be able, in so far as possible, to meet the requirements. In other words, we should all be alive to the needs of the time in which we are working.

The one sad feature of this work is that the results as seen on the reservations are not flattering, to say the least. This apparent failure of many who have had some education is often held up as a reason for condemning the schools, and the question is often asked the nonreservation superintendent: "Do they go back to the old reservation life after they leave here?" My answer invariably is that they do not, and then I explain that no child can remain in my school for a single term, let alone a period of from three to six years, and then return to the reservation and be the same as it would have been had it never gone to school. The young man or woman may not show improvement over those who have not gone to school; they may even be worse in a single instance or exception; but there is an impression made on that mind that can never be erased, and whether there is an improvement or not, the person has a better knowledge of the ways of the world and of right and wrong than it would have had had it remained in ignorance of all these things.

It was at one time my task to make a careful investigation of the lives and conduct of returned students. This was some years ago, and no doubt conditions are somewhat changed at this time. In so far as I can recall, my conclusion was that 15 per cent of persons attending nonreservation schools showed no improvement whatever, though it is possible that in later years there might be manifest some characteristics which would indicate a benefit received at school.

The failure of the young man or woman leaving the nonreservation school is not, in my opinion, due, to any large extent, to the school, but to the conditions to which they return. There seems to be no systematic effort to train or develop the returned pupils. The conditions are such that the person returning to a reservation falls into idleness, and in many instances, there being a living furnished without any effort on the part of the individual, there grows up an extravagance that is very detrimental to progress. The young man who comes into possession of a few hundred dollars feels that he must have a good time, and he spends his money more freely than the white man who might be worth as many thousands; and there seems to be a disposition on the part of many on the reservations, and especially those living around the borders, to encourage the Indian in getting rid of what he has. They encourage him in selling his land, in selling his horses, sheep, and cattle; they encourage him in doing anything that will separate him from his wealth; and there does not seem to be any systematic effort to teach these people to be frugal and provident. I do not know what could be done, but whatever of failure there appears to be with the Indian, it should not be charged to the school nor to the good, honest, conscientious men and women who have given their lives to instruct these people in the right way and who have succeeded, for the time being, at least. When these persons were with them, under their influence, they led them in the ways of right and progress, and then, when their influence is severed, have been unable to control the actions or life of the student. I sincerely believe that whatever there is of success among the young men and women on the reservation is due more largely to the influences that have been exerted by their teachers and matrons and other employees of the school than any other single force that could be mentioned.

As to the Chamberlain School, I have been ready as a member of the committee to concur in this particular plan, from the fact I believe these nonreservation as well as the reservation schools should be distinctively industrial schools. One of two things ought to be done in regard to the Chamberlain School. Either it should have larger areas of land, greater facilities for industrial education, or to do what we have done with it. Upon the remaining nonreservation schools in our State the Government has already made good provision of sufficient land and facilities to teach the Indian youth industries under similar climatic conditions with which they will be met when they work out their destiny after they return to their people.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to ask the gentleman if he does not think it would be well to discontinue such schools as Hampton, Va., Carlisle, Pa., and schools hundreds of miles away from the Indian reservation, on the ground, as the gentleman has stated, of climate which causes pulmonary diseases and others.

Mr. MARTIN. So far as disease is concerned, and so far as the merits of each particular school is concerned, I think these are not specially dependent upon proximity to or remoteness from the reservations. As to the expense or economy, I admit that is an important question. I will say, more directly in answer to the gentleman's question, that I think the nearer the nonreservation schools can be to the reservation from which the Indian pupils come, other things being equal, the better. I think that the nonreservation schools at long distances from the reservations ought to be considerably improved as to their methods and the attention that is given the pupil in order to prepare him for the particular work he has to do in the future——

Mr. STEPHENS of Texas. I understand that——

Mr. MARTIN. And if I had the time——

Mr. STEPHENS of Texas. And is it not a fact that most of the children in your State which attend Indian schools have parents who are voters, and some of them holding office?

Mr. MARTIN. Not in my State. A very small percentage of children of voting parents attend these nonreservation schools.

I think, Mr. Chairman, that while the reservation schools have some advantages and should be continued, unfortunately the Indian parent, as well as the Indian student, kept exclusively upon the reservation, and considering the character of the white people that go to those reservations for the purpose of speculation and profit upon the ignorance and out of the property of the Indians, view necessarily the problem of civilization as represented in the white population in its most unfavorable aspect. Where the nonreservation schools are near the reservation and it is the habit of the parents to take their children in their own conveyances to the schools, they come in contact with the white population from a better view point and get a better opportunity to observe the elements of civilization. Education and progress are as much, indeed more, a matter of example than of precept, and I think under this nonreservation school system in close proximity to the reservation the Indian has his best view of the white population instead of continually seeing it in its worst aspect.

No people advance more rapidly than their ideals. Ideals of home and comfort can only be formed by observation and contact with like conditions. The student on the reservation sees few examples of thrift and progress. In the nonreservation schools the girls may be employed in near-by houses and many become good domestic servants. Athletics, in competition with high schools and colleges, are a most wholesome influence.

When the last reservation is abandoned and the unallotted lands have become the homes of thrifty settlers and the sites of cities and towns, then civilization will have come to the Indian; but until that is done I believe that Congress ought to liberally support the nonreservation schools, particularly those which are close to the reservation, as affording the best opportunity that the Indian student and the Indian parent now have to observe the example of civilization in one of its most inspiring demonstrations.

The time of the gentleman from South Dakota [Mr. MARTIN] having expired, by unanimous consent he was granted one minute more.

Mr. CARTER. Suppose we do away with the nonreservation schools; as there are not enough reservation schools to care for the Indians there at present, what method does the gentleman propose to follow in order to care for these children who are now attending the nonreservation schools?

Mr. MARTIN. I would not abandon them. I think they should be retained and improved; but I am here to say, as I regard the Indian problem, as it has come under my own observation in the West, in its educational phases, I doubt very much whether we could continue this plan of closing nonreservation schools without a very serious impairment of our educational system. My own view is that we ought to retain both the reservation and nonreservation schools.

The CHAIRMAN. The time of the gentleman has expired.

The Clerk resumed and continued the reading of the bill.

Mr. SHERMAN. Mr. Chairman, I ask unanimous consent that on page 51, in line 4, after the word "sixty" there be inserted the word "eight," so as to read "sixty-eight thousand;" and in lines 6 and 7, on the same page, to strike out the words "at seven agencies."

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SHERMAN. Then, Mr. Chairman, I ask unanimous consent that in engrossing the bill the Clerk make such corrections in the totals as are found necessary by reason of the changes that have been made by amendment.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Chairman, I see an error on page 36, line 5, in the spelling of a name. It ought to be "Cynthia Ann Parker" instead of "Cynthia Parker."

The CHAIRMAN. Without objection, the correction will be made.

There was no objection.

Mr. SHERMAN. Mr. Chairman, I move that the committee do now rise and report the bill and amendments to the House with a favorable recommendation.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LAWRENCE, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill (H. R. 26916) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1910, and had directed him to report the same to the House with sundry amendments, with a recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any of the amendments? If not, the vote will be taken on the amendments in gross.

The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. SHERMAN, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken on subjects in the bill have the privilege of extending their remarks on those subjects in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO EXTEND REMARKS.

Mr. CUSHMAN. Mr. Speaker, I ask unanimous consent to extend in the RECORD remarks I made this morning in relation to an additional judge in the western district of Washington.

There was no objection.

RETURN OF BILLS FROM THE PRESIDENT.

The SPEAKER laid before the House the following concurrent resolutions of the Senate, which were severally read, considered, and agreed to:

Senate concurrent resolution 95.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France.

Senate concurrent resolution 92.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 6891) for the relief of Maj. G. S. Bingham.

FORT PECK INDIAN RESERVATION.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent for the immediate consideration and adoption of the order which I send to the Clerk's desk.

The Clerk read as follows:

Ordered, That the Clerk be directed to request the Senate to furnish the House of Representatives an engrossed copy of the bill of the Senate (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," the original copy being lost.

Mr. CLARK of Missouri. What is the object of this thing?

Mr. CAMPBELL. The object of it is to supply the Speaker's table with a bill that is not there.

Mr. CLARK of Missouri. What is the reason it is not there?

Mr. CAMPBELL. It is lost.

Mr. CLARK of Missouri. Somebody stole it?

Mr. CAMPBELL. I do not know.

The SPEAKER. The bill was not lost from the Speaker's table.

Mr. CLARK of Missouri. Has it passed both Houses?

Mr. CAMPBELL. It passed the Senate.

The SPEAKER. The bill was referred to the Committee on Indian Affairs.

Mr. CLARK of Missouri. I have no objection.

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

WITHDRAWAL OF PAPERS.

Mr. HUBBARD of West Virginia, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of J. H. Wills, Fifty-eighth Congress, no adverse report having been made thereon, and also the papers in the case of L. M. Thomas, Fifty-ninth Congress, no adverse report having been made thereon.

RECESS.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent that we now stand in recess until 11 o'clock to-morrow morning.

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

Accordingly (at 6 o'clock and 6 minutes p. m.) the House was declared in recess until 11 o'clock a. m. to-morrow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting a copy of a letter from the president of the Spanish Treaty Claims Commission submitting an estimate of appropriation for payment of awards (H. Doc. No. 1453), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 6392) authorizing the Secretary of War to donate two condemned cannon to the county court of Mercer County, W. Va., reported the same without amendment, accompanied by a report (No. 2167), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COLE, from the Committee on the Territories, to which was referred the bill of the House (H. R. 27971) authorizing the Attorney-General to appoint as special peace officers such employees of the Alaska school service as may be named by the Secretary of the Interior, reported the same without amendment, accompanied by a report (No. 2168), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FOSTER of Vermont, from the Committee on Foreign Affairs, to which was referred the joint resolution of the House (H. J. Res. 257) to authorize the Secretary of State to invite the Governments of France and Great Britain to participate in the proposed tercentenary celebration of the discovery of Lake Champlain by Samuel de Champlain, reported the same without amendment, accompanied by a report (No. 2169), which said joint resolution 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. HOWARD, from the Committee on the Library, to which was referred the joint resolution of the House (H. J. Res. 217) concerning the manuscript prepared by Charles Chaillé-Long, containing an account of the proceedings at the unveiling of the statue of the late Maj. Gen. George B. McClellan, reported the same without amendment, accompanied by a report (No. 2164), which said joint resolution and report were referred to the Private Calendar.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3826) for the relief of Reed B. Granger, reported the same with amendments, accompanied by a report (No. 2165), 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. 7009) for the relief of John H. McBrayer, reported the same without amendment, accompanied by a report (No. 2170), which said bill 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. 16920) granting a pension to John Waters—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 20284) granting an increase of pension to Catherine Hanigan—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

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. WASHBURN: A bill (H. R. 28162) to amend the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies"—to the Committee on the Judiciary.

By Mr. FERRIS: A bill (H. R. 28163) removing restrictions on lands lying along section lines in Oklahoma for road purposes—to the Committee on Indian Affairs.

By Mr. GREENE: A bill (H. R. 28165) to promote the merchant marine and foreign trade of the United States and to provide auxiliaries for the national defense—to the Committee on the Merchant Marine and Fisheries.

By Mr. ANDREWS: A bill (H. R. 28166) to validate an act of the legislative assembly of the Territory of New Mexico in reference to the issue of certain bonds—to the Committee on the Territories.

By Mr. BARTHOLDT: A bill (H. R. 28167) to grant additional authority to the Secretary of the Treasury to carry out certain provisions of public-building acts, and for other purposes—to the Committee on Public Buildings and Grounds.

By Mr. HUGHES of West Virginia: A bill (H. R. 28168) to authorize the Secretary of War to furnish two condemned brass or bronze cannon and balls to the city of Huntington, W. Va.—to the Committee on Military Affairs.

By Mr. STEVENS of Minnesota: A bill (H. R. 28169) authorizing the Secretary of War to donate two brass or bronze cannons to the city of Stillwater, Minn.—to the Committee on Military Affairs.

By Mr. GOULDEN: A bill (H. R. 28170) to encourage the sale and exportation of articles of domestic manufacture—to the Committee on Ways and Means.

By Mr. REYNOLDS: A bill (H. R. 28171) making an appropriation for the erection of a monument in memory of the soldiers of the Revolutionary war of Captain Philip's company of Colonel Piper's regiment, murdered by Indians near Saxton, in Bedford County, Pa., Sunday, July 16, 1780—to the Committee on the Library.

By Mr. BRADLEY: A bill (H. R. 28172) to authorize the Secretary of War to donate one condemned bronze fieldpiece and cannon balls to the city of Port Jervis, State of New York—to the Committee on Military Affairs.

Also, a bill (H. R. 28173) to authorize the Secretary of War to donate one condemned bronze fieldpiece and cannon balls to the city of Middletown, State of New York—to the Committee on Military Affairs.

By Mr. BATES: A bill (H. R. 28174) granting certain rights and privileges to the department of fisheries of the State of Pennsylvania—to the Committee on Military Affairs.

By Mr. DALZELL: A bill (H. R. 28175) to amend section 4434 of the Revised Statutes of the United States, and for other purposes—to the Committee on the Merchant Marine and Fisheries.

By Mr. GAINES of West Virginia: A bill (H. R. 28176) to amend an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and the acts supplementary thereto, so as to extend the benefits thereof to the District of Columbia—to the Committee on Agriculture.

By Mr. COOPER of Wisconsin (by request): A bill (H. R. 28177) 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"—to the Committee on Insular Affairs.

By Mr. MANN: Resolution (H. Res. 568) requesting the Secretary of War to transmit to the House copy of the last report of Charles E. Magoon, provisional governor of Cuba—to the Committee on Foreign Affairs.

By Mr. FOSTER of Illinois: Joint resolution (H. J. Res. 258) to authorize the Secretary of War to furnish one condemned cannon and cannon balls to J. S. Chandler Post, No. 102, Grand Army of the Republic, Salem, Ill.—to the Committee on Military Affairs.

By Mr. HULL of Tennessee: Concurrent resolution (H. C. Res. 65) directing the Secretary of State to instruct our representatives abroad to make certain investigations concerning income tax, etc.—to the Committee on Ways and Means.

By Mr. ANTHONY: Memorial of the legislature of Kansas, urging that Congress impose a just and reasonable duty on imported zinc ores—to the Committee on Ways and Means.

Also, memorial of the legislature of Kansas, urging the enactment of a law by Congress for the creation of a retired list for volunteer officers of the civil war—to the Committee on Military Affairs.

Also, memorial of the legislature of Kansas, urging the passage by Congress of Senate bill 3755, for the relief of John F. Lewis—to the Commitee on Military Affairs.

Also, memorial of the legislature of Kansas, urging the passage by Congress of H. R. 4020—to the Committee on Invalid Pensions.

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. ANSBERRY: A bill (H. R. 28178) granting a pension to Barbara A. Dewel (now Bacon)—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 28179) granting an increase of pension to William Wafford—to the Committee on Invalid Pensions.

By Mr. FOELKER: A bill (H. R. 28180) granting an increase of pension to William G. Bailey—to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 28181) granting an increase of pension to John A. Burns—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 28182) for the relief of the legal representatives of T. C. McCulloch—to the Committee on War Claims.

By Mr. JONES of Virginia: A bill (H. R. 28183) for the relief of the Grafton Christian Church, of Grafton, Va.—to the Committee on War Claims.

By Mr. KEIFER: A bill (H. R. 28184) granting a pension to Sarah Otstot—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 28185) granting an increase of pension to John W. Roy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 28186) granting an increase of pension to James L. Dungan—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 28187) for the relief of the legal representatives of John Lewis Tindall, deceased—to the Committee on War Claims.

By Mr. BARCHFELD: A bill (H. R. 28188) for the relief of Margaret F. Watson—to the Committee on Claims.

By Mr. SCOTT: A bill (H. R. 28189) removing the charge of desertion from the name of Alfred Rebsamen—to the Committee on Military Affairs.

By Mr. LIVINGSTON: Resolution (H. Res. 569) to pay to Robert Coates, Arthur L. Lucas, and James E. Dent additional compensation—to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER of New York: Petition of United Trades and Labor Council of Buffalo, Erie County, N. Y., favoring abolition of piecework in the Mare Island Navy-Yard—to the Committee on Naval Affairs.

By Mr. ANSBERRY: Petition of farmers' institute of West Unity, Williams County, Ohio, favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of Hicksville Farmers' Institute Society, favoring legislation for parcels-post and postal savings bank laws (S. 5122 and 6844)—to the Committee on the Post-Office and Post-Roads.

By Mr. ASHBROOK: Petition of Alvin Rich, of Wooster, Ohio, against a duty on oilcloth and linoleum—to the Committee on Ways and Means.

By Mr. BARTLETT of Georgia: Petition of the Whitfield Grocery Company, of Milledgeville, Ga., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. COLE: Petition of Livingston Post, Grand Army of the Republic, of Richwood, Ohio, against consolidation of pension agencies—to the Committee on Appropriations.

Also, petition of citizens of Ohio, for legislation to establish a parcels post and postal savings bank—to the Committee on the Post-Office and Post-Roads.

By Mr. COOK of Colorado: Petition of members of Berkley Presbyterian Church, of Denver, Colo., favoring the so-called "Littlefield bill"—to the Committee on the Judiciary.

Also, petition of stock growers of Uncompahgre Valley Water Users' Association, asking extension of time for payment of water under the reclamation act—to the Committee on Irrigation of Arid Lands.

By Mr. FOSTER of Illinois: Petition of Chandler Post, No. 102, Grand Army of the Republic, of Salem, Ill., for cannon for a monument to soldiers of the civil war—to the Committee on Military Affairs.

By Mr. FULLER: Petition of J. W. Howard, C. E. E. M., of New York City, favoring placing crude asphalt and crude bitumen on the free list—to the Committee on Ways and Means.

Also, petition of National Business League of Commerce of Chicago, Ill., favoring the Lowden bill (H. R. 21491) for appropriation to erect buildings for consular service—to the Committee on Foreign Affairs.

Also, petition of the Church of the Christian Union, of Rockford, Ill., favoring H. R. 24148, for establishment of children's bureau in the Interior Department—to the Committee on Expenditures in the Interior Department.

Also, petition of merchants of Grand Ridge, Ill., against parcels-post and postal savings bank bills—to the Committee on the Post-Office and Post-Roads.

By Mr. GOULDEN: Petition of Brotherhood of Locomotive Engineers, Trainmen, and Firemen, against H. R. 26725 (the Watson bill supplement of the safety-appliance act)—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. F. Henngtin, of New York City, for legislation favorable to railway interests—to the Committee on Interstate and Foreign Commerce.

By Mr. GUERNSEY: Petition of Ernest Conner and others, of Guilford, Me., favoring parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. HAMMOND: Petition of Sheaffer & Alvey and 13 others, of Winnebago, Minn., against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. HOBSON: Petition of 110 citizens of Tuscaloosa, Ala., favoring the antiopium bill—to the Committee on Interstate and Foreign Commerce.

By Mr. KELIHER: Petition of Knights of Labor District Assembly No. 30, favoring legislation to prevent exorbitant prices in food products—to the Committee on the Judiciary.

By Mr. LAFEAN: Petition of Gettysburg Lodge, No. 1045, Benevolent and Protective Order of Elks, favoring creating a reservation in the State of Wyoming for care and maintenance of the American elk—to the Committee on the Public Lands.

Also, petition of Hanover Lodge, No. 763, Benevolent and Protective Order of Elks, for a reservation in Wyoming for care of the American elk—to the Committee on the Public Lands.

By Mr. LINDBERGH: Petition of citizens of Brainerd, Minn., against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. LOWDEN: Petition of citizens of the Thirteenth Congressional District of Illinois, opposing tax on tea or coffee—to the Committee on Ways and Means.

By Mr. MOON of Tennessee: Papers to accompany bills for relief of James L. Dungan and John W. Roy—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of James C. Connor—to the Committee on War Claims.

By Mr. PORTER: Petition of W. A. Trimble and other citizens of Conesus, Livingston County, N. Y., favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

By Mr. REYNOLDS: Petition of Lodge No. 102, Benevolent and Protective Order of Elks, asking for the creation of a reserve in the State of Wyoming—to the Committee on the Public Lands.

By Mr. RYAN: Petition of the National Shoe Wholesale Association of the United States, against a duty on hides—to the Committee on Ways and Means.

Also, petition of the German-American Alliance, of Buffalo, N. Y., against a duty on scientific books—to the Committee on Ways and Means.

Also, petition of the United Trades and Labor Council, of Buffalo, N. Y., against the piece and task system at Mare Island Navy-Yard—to the Committee on Naval Affairs.

By Mr. WANGER: Petition of B. P. Tomlinson, master, and Emma F. Smith, secretary, on behalf of Pineville Grange, No. 507, Patrons of Husbandry, of Pineville, Bucks County, Pa., for legislation creating a national highways commission and for an appropriation to aid in the improvement and maintenance of public roads—to the Committee on Agriculture.

SENATE.

WEDNESDAY, *February 17, 1909.*

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

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

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

The VICE-PRESIDENT. The Journal stands approved.

NAVAL APPROPRIATION BILL.

Mr. HALE. Now, Mr. President, in accordance with the notice given last night, I ask that the naval appropriation bill be laid before the Senate and proceeded with.

The Senate resumed the consideration of the bill (H. R. 26394) making appropriations for the naval service for the fiscal year ending June 30, 1910, and for other purposes.

The VICE-PRESIDENT. The first amendment reserved was reserved by the Senator from Massachusetts [Mr. LODGE], and is the amendment on page 60, relative to the Marine Corps. It will be read.

The SECRETARY. On page 60, line 6, after the word "dollars," insert the following proviso:

Provided, That no part of the appropriations herein made for the Marine Corps shall be expended for the purposes for which said appropriations are made unless officers and enlisted men shall serve as heretofore on board all battle ships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than 8 per cent of the strength of the enlisted men of the navy on said vessels.

Mr. HALE. Notice was given, instead of remaining longer last night in session, that the Senate would be asked to proceed at once to the consideration of the bill this morning. But the Senator from Massachusetts [Mr. LODGE] is not present. One or two Senators suggested that they would desire to debate some of these amendments. If any Senator desires to do so, and is ready, I wish, for the convenience of the Senator who is absent, that he would proceed.

Mr. CUMMINS. I suggested last evening that I wanted to submit some observations to the Senate upon this amendment. I am quite ready to proceed, but it is evident the Senate is not ready to proceed.

Mr. HALE. I will say to the Senator that while full notice was given I shall not attempt to proceed to take questions by votes until Senators have time to reach the Chamber. I merely suggested that if any Senator desires to debate the amendment