Also, petition of United Master Butchers' Association of New York, asking repeal of tax of 10 cents per pound on colored butterine—to the Committee on Ways and Means.

Also, petition of the Public Education Association of New York, favoring passage of H. R. 24148, for the establishment of a child labor bureau—to the Committee on Expenditures in the Interior Department.

Also, petition of the Chamber of Commerce of Pittsburg, Pa., asking passage of liberal river and harbor bill in the special session—to the Committee on River and Harbors.

Also, petition of the Star Egg Carrier and Tray Company, of Rochester, N. Y., favoring passage of H. R. 21929—to the Committee on the Judiciary.

By Mr. MALBY: Petition of residents of Tuxedo Park, N. Y., favoring H. R. 24148, to provide for a children's federal bureau—to the Committee on Expenditures in the Interior Department.

By Mr. OVERSTREET: Petition of the Progress Club of South Bend, Ind., favoring H. R. 24148, to establish in the Department of the Interior a children's bureau—to the Committee on Expenditures in the Interior Department.

Also, petition of Woman's Missionary Society of the First Presbyterian Church of South Bend, Ind., favoring H. R. 24148, for the establishment of a children's bureau—to the Committee on Expenditures in the Interior Department.

By Mr. PAYNE: Petition of Manchester Grange, No. 501, for parcels-post and postal saving bank bills—to the Committee on the Post-Office and Post-Roads.

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

By Mr. REEDER: Petition of citizens of Kansas, favoring the Littlefield-Bacon bill—to the Committee on the Judiciary.

By Mr. ROBINSON: Petition of J. L. Williams and others, asking that the duty on lumber remain at its present rate—to the Committee on Ways and Means.

By Mr. RYAN: Petition of Trades League of Philadelphia, Pa., to increase power of Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. SABATH: Petition of Chamber of Commerce of Pittsburg, favoring appropriation of $50,000,000 annually for improvement of inland waterways—to the Committee on Rivers and Harbors.

Also, petition of commercial and industrial organizations of Indiana, favoring the ocean mail bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Chicago Surgical Trade Association, against removal of duty on surgical instruments—to the Committee on Ways and Means.

By Mr. SULZER: Petition of the Chamber of Commerce of Pittsburg, favoring a river and harbor bill for the extra session of the Sixty-first Congress—to the Committee on Rivers and Harbors.

Also, petition of the Chamber of Commerce of Pittsburg, favoring an appropriation of $50,000,000 yearly for internal waterway improvements—to the Committee on Rivers and Harbors.

Also, petition of P. W. Wilde, for a children's federal bureau—to the Committee on Expenditures in the Interior Department.

By Mr. SWASEY: Petition of Oxford County Pomona Grange, of South Paris, favoring constitutional amendment granting equal suffrage to women—to the Committee on the Judiciary.

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

By Mr. TOU VELLE: Petition of Homer Monroe, of Sidney, Ohio, favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. TOWNSEND: Petition of many citizens of Michigan, for removal of the duty on hides—to the Committee on Ways and Means.

By Mr. WALLACE: Petition of many citizens of Arkansas, favoring reduction of duty on lumber—to the Committee on Ways and Means.

By Mr. WANGER: Petition of Pottstown (Pa.) Lodge, Benevolent and Protective Order of Elks, for reservation in Wyoming for the care of the American elk—to the Committee on the Public Lands.

Also, petition of Trades League of Philadelphia, in favor of such amendments to the interstate-commerce act as will protect the interest of shippers from damage arising from misquotation of freight rates by carriers—to the Committee on Interstate and Foreign Commerce.

Also, petition of Allied Argicultural Organizations of Pennsylvania, in favor of H. R. 18204, known as the "Davis bill on industrial education"—to the Committee on Agriculture.

Also, petition of Allied Agricultural Organizations of Pennsylvania, favoring H. R. 21318, regulating manufacture, sale, or transportation of insecticides and fungicides—to the Committee on Interstate and Foreign Commerce.

Also, petition of Pennsylvania Child Labor Association, favoring H. R. 24148, for establishment of children's bureau in the Interior Department—to the Committee on Expenditures in the Interior Department.

By Mr. WEBB: Petition of citizens of Newbern, N. C., against repeal of the duty on lumber—to the Committee on Ways and Means.

Also, petition of citizens of Gaston, N. C., favoring a parcels-post and postal savings bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. WEISSE: Petition of Fond du Lac (Wis.) Benevolent and Protective Order of Elks, favoring an elk reservation in Wyoming—to the Committee on the Public Lands.

Also, petition of W. S. H. S., of Madison, Wis., in favor of H. R. 21318, relating to fungicides—to the Committee on Interstate and Foreign Commerce.

By Mr. WHEELER: Petition of Peter C. Curry and 22 others, urging removal of duty on hides—to the Committee on Ways and Means.

By Mr. WOOD: Paper to accompany bill for relief of Michael Fanley—to the Committee on Invalid Pensions.

SENATE.

SATURDAY, *February 20, 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.

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. 2982) to codify, revise, and amend the penal laws of the United States with an amendment, asks a conference with the Senate on the bill and amendment, and had appointed Mr. MOON of Pennsylvania, Mr. PARSONS, and Mr. SHERLEY managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 26305) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1910, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. OVERSTREET, Mr. GARDNER of New Jersey, and Mr. MOON of Tennessee managers at the conference on the part of the House.

The message further announced that the House had agreed to concurrent resolution 100 of the Senate, authorizing the cancellation of the signature of the Speaker of the House of Representatives, the Vice-President of the United States, and President of the Senate to the enrolled bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De Witt Willcox decoration and diploma presented by Government of France, and providing for the correct enrollment of the bill.

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

H. R. 23468. An act to amend sections 11 and 12 of an act entitled "An act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks and to enable it to relocate parts of its railroad therein, and for other purposes," approved February 12, 1901;

H. R. 27054. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes;

H. R. 27068. An act to extend the time for the completion of the Alaska Central Railway, and for other purposes; and

H. R. 27139. An act 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.

ENROLLED BILLS SIGNED.

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

S. 8048. An act to withdraw from settlement and entry certain lands in the State of California; and

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

H. R. 10752. An act to complete the military record of Adolphus Erwin Wells.

MAJ. C. DE W. WILLCOX.

The VICE-PRESIDENT. Under Senate concurrent resolution No. 100 the Chair announces the cancellation of his signature to the enrolled bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Willcox decoration and diploma presented by the Government of France.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a joint resolution of the legislature of South Dakota, which was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,
HOUSE OF REPRESENTATIVES.

House joint resolution 7.

Joint resolution and memorial requesting Congress, under the provision of Article V of the Constitution of the United States, to call a convention to propose an amendment to the Constitution of the United States whereby polygamous cohabitation shall be prohibited and Congress given power to enforce such prohibition by appropriate legislation.

Be it resolved by the house of representatives and senate concurring: Whereas it appears from investigation recently made by the Senate of the United States, and otherwise, that polygamy still exists in certain places in the United States notwithstanding prohibitory statutes enacted by the several States thereof; and

Whereas the practice of polygamy is generally condemned by the people of the United States, and there is a demand for the more effectual prohibition thereof, by placing the subject under federal jurisdiction and control, at the same time reserving to each State the right to make and enforce its own laws relating to marriage and divorce: Now therefore be it

Resolved, That application be, and hereby is, made to Congress, under the provision of Article V of the Constitution of the United States, for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited, and Congress shall be given power to enforce such prohibition by appropriate legislation.

Resolved, That the legislatures of all other States of the United States now in session, or when next convened, be, and they are hereby, respectfully requested to join in this application by the adoption of this or any equivalent resolution.

Resolved further, That the secretary of state be, and hereby is, directed to transmit copies of this application to the Senate and House of Representatives of the United States and to the several Members of said bodies representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

STATE OF SOUTH DAKOTA,
DEPARTMENT OF STATE.

UNITED STATES OF AMERICA, *State of South Dakota:*

I, Samuel C. Polley, secretary of state of South Dakota, and keeper of the great seal thereof, do hereby certify that the attached instrument of writing is a true and correct copy of house joint resolution No. 7, as passed by the legislature of 1909, together with the indorsements thereon and of the whole thereof, and has been compared with the original now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota. Done at the city of Pierre, this 6th day of February, 1909.

[SEAL.] SAMUEL C. POLLEY,
Secretary of State.

I hereby certify that the within act originated in the house and was known in the house files as "Joint resolution No. 7."

JAMES W. CONE,
Chief Clerk.

STATE OF SOUTH DAKOTA, *Office of Secretary of State, ss:*

Filed February 5, 1909, at 3.45 p. m.

SAMUEL C. POLLEY,
Secretary of State.

A joint resolution requesting Congress, under the provision of Article V of the Constitution of the United States, to call a convention to propose an amendment to the Constitution of the United States whereby polygamous cohabitation shall be prohibited, and Congress given power to enforce such prohibition by appropriate legislation.

M. J. CHANEY,
Speaker of the House.

Attest:
JAMES W. CONE,
Chief Clerk.

HOWARD C. SHOBER,
President of the Senate.

Attest:
L. M. SIMONS,
Secretary of the Senate.

Mr. FRYE presented a petition of Local Lodge No. 964, Benevolent and Protective Order of Elks, of Augusta, Me., 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. CULLOM. I present resolutions adopted at the Consular Conference of Industrial and Commercial Organizations, held January 18, 1909, at the New Willard Hotel, Washington, D. C., favoring the adoption of a complete system of examination, appointment, and promotion of consular officials. It is an important paper; and as it is very brief, I ask that it be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the resolutions were referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

At the Consular Conference of Industrial and Commercial Organizations, held January 18, 1909, at the New Willard Hotel, Washington, D. C., the following resolutions were unanimously adopted:

Whereas as America must reach out for a vastly increased foreign trade, and just as every business house requires a high efficiency and the best possible training of its own employees, so must the Nation have in its consular service men of especial business ability and training, of high commercial honor and capacity. Therefore, be it

Resolved, That this conference of the business interests of the United States, held in the city of Washington this 18th day of January, 1909, urges upon Congress the enactment, at the earliest possible date, of a law embodying the principles in Senate bill 7804 and House bill 22883, the essential provisions of which are the adoption of a complete system of examination, appointment, and promotion of consular officials and thorough Americanization of the service; and be it further

Resolved, That copies of this resolution be sent to the President of the United States, the Senate Committee on Foreign Relations, and to the Committee on Foreign Affairs of the House of Representatives.

Mr. CULLOM presented a petition of the National Business League of America of Chicago, Ill., praying for the enactment of legislation to create a nonpartisan tariff commission, which was referred to the Committee on Finance.

He also presented a memorial of the National Business League of America of Chicago, Ill., remonstrating against the enactment of legislation to create a national consular school, which was referred to the Committee on Commerce.

Mr. PLATT presented a joint memorial of the legislature of New Mexico, which was referred to the Committee on Territories and ordered to be printed in the RECORD, as follows:

Council joint memorial 4. By Mr. Hanley.

Memorial asking the immediate admission of New Mexico into the Union as a State in compliance with the recent pledges of the two great political parties of the United States.

Your memorialists, the thirty-eighth legislative assembly of the Territory of New Mexico, representing the united sentiment of the people of this Territory, as well as the sentiment of the people of the various States of the Union, as repeatedly expressed in party platforms of the two great political parties of the country, and especially in the two last national platforms of the Republican and Democratic parties of the United States, renew their demand for the admission of this Territory into the Union as a State.

We have now arrived at a point in our history when to furthey delay this much-desired boon to us would be to discriminate against us as American citizens without cause or excuse. Our population, our wealth, our great area, and our admirable system of public schools are so well and favorably known that it is hardly necessary to refer to them again, but lest all of our Senators and Representatives may not have kept our steady progress in mind, we, at the risk of repetition, submit a few facts for their consideration:

On the 1st day of January, 1909, our population was	400,000
Our gold production for the year was	$300,000
Our silver production was ... ounces	500,000
Our copper production was ... pounds	8,000,000
Our lead production was ... tons	2,000
Our coal production was ... do	2,500,000
Our iron production was ... do	125,000

There are in this Territory 120 newspapers, 70 banks, 3,000 miles of railroad, 2,500,000 acres of land under cultivation, 400,000 acres under irrigation, 2,000,000 acres capable of irrigation, 13,000,000 acres capable of dry farming, 40,000,000 acres open for private entry. Our taxable property has a valuation of more than $250,000,000. For the last sixty years we have been contributing our money to the support of the General Government without any voice as to how the money thus contributed should be expended. The system of government under which we exist is not only unrepublican, but in its character is autocratic, and opens the door for many abuses. A territorial form of government is wholly incompatible with the interest of the people. It is intolerable to the average American citizen, and is only intended to endure for the brief time required to prepare for statehood. A procrastination of this right is not justified beyond the point of the inability of the people to support and maintain a state government.

To keep a Territory like New Mexico in territorial bondage when the necessity for so doing has long since ceased to exist, is an unpardonable wrong to over 400,000 people, whose record is that of unswerving loyalty and devotion to the General Government: Therefore be it

Resolved, That the secretary of the Territory be, and he hereby is, directed to transmit a certified copy of this memorial to the President of the United States, to the President of the United States Senate, to the Speaker of the House of National Representatives, to the members of the Committees on Territories in both Houses of Congress, and to individual Members and to the Delegate in Congress from this Territory.

CHAS. A. SPIESS,
President of the Council.
WM. F. BROGAN,
Chief Clerk of the Council.
E. A. MIERA,
Speaker House of Representatives.
E. H. SALAZAR,
Chief Clerk House of Representatives.

Approved this 10th day of February, A. D. 1909.

NATHAN JAFFA,
Acting Governor of the Territory of New Mexico.

Filed in office of secretary of New Mexico February 11, 1909, 10.15 a. m.

NATHAN JAFFA, *Secretary.*

I, Nathan Jaffa, secretary of the Territory of New Mexico, do hereby certify that I have compared the foregoing copy of council joint memorial No. 4, passed by the thirty-eighth session of the legislative assembly of the Territory of New Mexico and approved on February

10, A. D. 1909, with the enrolled and engrossed original now on file in this office, and declare it to be a correct transcript therefrom and of the whole thereof.

Given under my hand and the great seal of the Territory of New Mexico, at Santa Fe, the capital, this the 11th day of February, A. D. 1909.

[SEAL.] NATHAN JAFFA,
Secretary of New Mexico.

He also presented a memorial of the New York Antisaloon League, of New York City, N. Y., remonstrating against the adoption of certain proposed amendments to the agricultural appropriation bill relating to the Bureau of Chemistry, which was referred to the Committee on Agriculture and Forestry.

He also presented the petition of S. J. Vickers, of New York City, N. Y., praying for the passage of the so-called "Burkett-Foelker antigambling race bill," which was referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the Congregational Church of Reed Corners, N. Y., and the petition of William B. Cliff, of Rochester, N. Y., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, which were referred to the Committee on the Judiciary.

He also presented a petition of Local Lodge No. 101, Benevolent and Protective Order of Elks, of Amsterdam, N. Y., 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.

He also presented a petition of the Council of Jewish Women, of Rochester, N. Y., and a petition of the superintendent of the Hebrew Orphan Asylum of New York City, N. Y., praying for the passage of the so-called "children's bureau bill," which were ordered to lie on the table.

He also presented a petition of Manchester Grange, No. 501, Patrons of Husbandry, of Shortsville, N. Y., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the New York State Retail Hardware Association, of Rochester, N. Y., remonstrating against the passage of the so-called "rural parcels-post" bill, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. NELSON presented a petition of Local Lodge No. 845, of Red Wing, of Local Lodge No. 414, of Austin, and of Local Lodge No. 327, of Winona, all of the Benevolent and Protective Order of Elks, in the State of Minnesota, 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. BRANDEGEE presented petitions of Local Lodge No. 19, of Hartford, of Local Lodge No. 372, of Torrington, and of Local Lodge No. 771, of Middletown, all of the Benevolent and Protective Order of Elks, in the State of Connecticut, 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.

He also presented a petition of Local Grange No. 91, Patrons of Husbandry, of Seymour, Conn., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. FRAZIER presented petitions of Local Lodge No. 601, of Clarksville, of Local Lodge No. 160, of Knoxville, of Local Lodge No. 1029, of Murfreesboro, of Local Lodge No. 192, of Jackson, and of Local Lodge No. 91, of Chattanooga, all of the Benevolent and Protective Order of Elks, in the State of Tennessee, 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. BROWN presented a petition of the Dempster Manufacturing Company, of Beatrice, Nebr., praying for the appointment of a nonpartisan tariff commission, which was referred to the Committee on Finance.

He also presented a petition of the North Platte Valley Water Users' Association of the State of Nebraska, praying for the adoption of certain amendments to the present law appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands, which was referred to the Committee on Public Lands.

Mr. HEYBURN presented sundry papers to accompany the bill (S. 7087) to modify the boundary lines of the Priest River National Forest in Idaho, which were referred to the Committee on Public Lands.

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

Senate concurrent resolution 19.

Whereas under the laws of the United States concerning internal revenue, the United States Government issues licenses to wholesale and retail dealers in intoxicating liquors in Kansas, thus authorizing such dealers, so far as the United States is concerned, to sell intoxicating liquor without regard to the right of such dealers so to do under the constitution and the laws of the State of Kansas; and

Whereas such practice on the part of the United States seriously interferes with the execution of the laws of Kansas and encourages the violation thereof: Therefore be it

Resolved by the senate of the State of Kansas (the house of representatives concurring therein), That we instruct our Senators and request our Representatives in Congress to use all honorable means to secure the enactment in Congress of such laws as will prohibit the issuance of liquor licenses, as aforesaid, to anyone except in cases where the persons applying for such licenses are shown to be entitled under the laws of Kansas to engage in the business of handling and selling such intoxicating liquors: Be it further

Resolved, That it is the sense of this legislature that the law governing interstate commerce should be so amended that no common carrier can transport into the State of Kansas any article or articles prohibited to be kept or sold in this State by the constitution thereof: And be it further

Resolved, That a copy of this resolution, signed by the president of the senate and the speaker of the house and certified by the secretary of the senate and the clerk of the house, be immediately transmitted to each Senator and Representative of the State of Kansas in Congress.

I hereby certify that the above concurrent resolution originated in the senate and passed that body February 5, 1909.

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

Passed the house February 6, 1909.

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

Approved February 11, 1909.

W. R. STUBBS,
Governor.

STATE OF KANSAS,
OFFICE OF THE SECRETARY OF STATE.

I, C. E. Denton, secretary of state 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 13th day of February, 1909.

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

Mr. WARREN. I present a petition relating to the preservation of the elk. I may state that the legislature of Wyoming has just made an appropriation of several thousand dollars for their protection. The petition is a very short one. I ask unanimous consent to have it printed in the RECORD, and that it be referred to the Committee on Forest Reservations and the Protection of Game.

There being no objection, the petition was referred to the Committee on Forest Reservations and the Protection of Game and ordered to be printed in the RECORD, as follows:

RAWLINS (WYO.) LODGE 609 OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA.

RAWLINS, WYO., *February 9, 1909.*

Hon. FRANCIS E. WARREN,
Washington, D. C.

DEAR SIR: The following resolution was unanimously adopted at the last regular meeting of this lodge, and in pursuance of same we submit it to you for your attention and trust that you will do everything in your power to secure the passage of the desired legislation:

Whereas the Benevolent and Protective Order of Elks of the United States of America is now endeavoring to secure from the Congress of the United States legislation which will create a reserve in the State of Wyoming for the care and maintenance of the American elk, from which our order derives its name; and

Whereas such legislation will involve an appropriation of about $30,000; and

Whereas our order is profoundly interested in securing legislation: Now therefore be it

Resolved, That this lodge of Elks does hereby earnestly request and urge upon the United States Senators from this State and the Congressman from this district to aid in every legitimate manner the passage of such legislation; and be it further

Resolved, That a copy of this resolution be at once forwarded to the said United States Senators and Congressman by the exalted ruler and secretary of this lodge.

Respectfully submitted.

[SEAL.] C. R. WATSON, *Exalted Ruler.*

Mr. HALE presented a petition of Local Lodge, No. 964, Benevolent and Protective Order of Elks, of Augusta, Me., 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. SCOTT presented a petition of sundry citizens of Ravenswood, W. Va., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, which was referred to the Committee on the Judiciary.

Mr. WETMORE presented a petition of the Audubon Society of the State of Rhode Island, praying for the enactment of legislation providing for the protection of migratory game birds, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. BURNHAM presented petitions of Local Lodge No. 879, of Claremont; of Local Lodge No. 146, of Manchester; and of Local Lodge No. 618, of Berlin, all of the Benevolent and Protective Order of Elks, in the State of New Hampshire, 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.

He also presented the petition of M. W. Hale and sundry other citizens of Surry, N. H., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, which was referred to the Committee on the Judiciary.

He also presented a memorial of the board of directors of the Nashua Trust Company, of Nashua, N. H., remonstrating against the passage of the so-called "postal savings banks" bill, which was ordered to lie on the table.

He also presented the petition of James Tucker and sundry other citizens of the State of Washington, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

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

Senate concurrent resolution 19.

Whereas under the laws of the United States concerning internal revenue the United States Government issues licenses to wholesale and retail dealers in intoxicating liquors in Kansas, thus authorizing such dealers, so far as the United States is concerned, to sell intoxicating liquor without regard to the right of such dealers so to do under the constitution and the laws of the State of Kansas and;

Whereas such practice on the part of the United States seriously interferes with the execution of the laws of Kansas, and encourages the violation thereof: Therefore be it

Resolved by the senate of the State of Kansas (the house of representatives concurring therein), That we instruct our Senators and request our Representatives in Congress to use all honorable means to secure the enactment in Congress of such laws as will prohibit the issuance of liquor licenses as aforesaid to anyone except in cases where the persons applying for such licenses are shown to be entitled under the laws of Kansas to engage in the business of handling and selling such intoxicating liquors: Be it further

Resolved, That it is the sense of this legislature that the law governing interstate commerce should be so amended that no common carrier can transport into the State of Kansas any article or articles prohibited to be kept or sold in this State by the constitution thereof: And be it further

Resolved, That a copy of this resolution, signed by the president of the senate and the speaker of the house and certified by the secretary of the senate and the clerk of the house, be immediately transmitted to each Senator and Representative of the State of Kansas in Congress.

W. J. FITZGERALD,
President of the Senate.

I hereby certify that the above concurrent resolution originated in the senate, and passed that body February 5, 1909.

Z. E. WYANT,
Secretary of the Senate.

Passed the house February 6, 1909.

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

Approved February 11, 1909.

W. R. STUBBS,
Governor.

STATE OF KANSAS,
OFFICE OF THE SECRETARY OF STATE.

I, C. E. Denton, secretary of state 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 13th day of February, 1909.

[SEAL.]

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

Mr. LONG presented a petition of Local Lodge No. 412, Benevolent and Protective Order of Elks, of Pittsburg, Kans., and a petition of Local Lodge No. 595, Benevolent and Protective Order of Elks, of Lawrence, Kans., 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.

He also presented a petition of the Woman's Christian Temperance Union of Mound, Kans., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, which was referred to the Committee on the Judiciary.

He also presented a petition of the Mercantile Club of Kansas City, Kans., praying for the enactment of legislation providing for the construction of public roads in the Territory of Alaska, which was referred to the Committee on Territories.

Mr. DEPEW presented petitions of Local Lodge No. 748, of Cortland; of Local Lodge No. 161, of Saratoga; and of Local Lodge No. 645, of Port Jervis, all of the Benevolent and Protective Order of Elks, in the State of New York, 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.

He also presented a petition of Local Grange No. 418, Patrons of Husbandry, of Stafford, N. Y., and a petition of Manchester Grange, No. 501, Patrons of Husbandry, of Shortsville, N. Y., praying for the passage of the so-called "rural parcels-post" and "postal savings bank" bills, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of the New York Yearly Meeting of the Religious Society of Friends and of sundry church organizations of Brooklyn, in the State of New York, remonstrating against any further appropriation being made for the increase of the navy, which were ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom were referred the following bills and joint resolution, submitted adverse reports thereon, which were agreed to, and the bills and joint resolution were postponed indefinitely:

A bill (S. 9299) to regulate the price of gas in the District of Columbia, and for other purposes (Report No. 1048);

A bill (H. R. 18513) to repeal section 5 of an act entitled "An act relating to the sale of gas in the District of Columbia," approved June 6, 1896 (Report No. 1049);

A bill (S. 8655) to require the Washington Gaslight Company and the Georgetown Gaslight Company to maintain and record a certain pressure of gas (Report No. 1050); and

A joint resolution (S. R. 11) suspending section 5 of the act of Congress entitled "An act regulating the sale of gas in the District of Columbia," and the jurisdiction of the supreme court of the District of Columbia thereunder (Report No. 1051).

Mr. GALLINGER. Yesterday I reported a bill in the nature of a substitute for the several bills which have just been indefinitely postponed. I then said that I would at an early day file a written report. I now present that report (No. 1054) and ask that 100 additional copies of the bill and report be printed for the use of the Committee on the district of Columbia.

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

Mr. PAYNTER, from the Committee on Claims, to whom was referred the bill (S. 8183) for the relief of the several States under the act of July 8, 1898, and acts amendatory thereto, reported it with amendment and submitted a report (No. 1052) thereon.

Mr. GUGGENHEIM, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 3237) for the relief of C. E. Moore, reported it without amendment and submitted a report (No. 1053) thereon.

Mr. FORAKER, from the Committee on Military Affairs, to whom was referred the amendment submitted by himself on the 18th instant, authorizing the Secretary of the Treasury to cover into the general fund of the Treasury any unexpended balance that may still remain of the appropriation of $3,000,000 made by the deficiency act of March 3, 1899, etc., intended to be proposed by him to the general deficiency appropriation bill, reported favorably thereon and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

NATIONAL CONSERVATION COMMISSION.

Mr. PLATT. I am directed by the Committee on Printing, to whom was referred Senate concurrent resolution 97, submitted by the Senator from Minnesota [Mr. NELSON] on the 17th instant, to report as a substitute a joint resolution, and I ask unanimous consent for its present consideration.

The joint resolution (S. R. 138) to provide for the printing of 25,000 copies of a portion of the report of the National Conservation Commission was read the first time by its title and the second time at length, as follows:

Resolved, etc., That there be printed and bound in cloth 25,000 copies of a portion of the report of the National Conservation Commission, consisting of the message of the President transmitting the report of the commission, the report proper of the commission, summaries of the four sections of the full report, a statement by the secretary of the

commission, and the proceedings of the Joint Conservation Conference, of which 6,500 copies shall be for the use of the Senate, 13,000 copies for the use of the House of Representatives, and 5,500 copies for distribution by the National Conservation Commission.

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

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

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred Senate resolution No. 293, submitted yesterday by the Senator from New Hampshire [Mr. GALLINGER], to report it favorably with an amendment, and I ask for its present consideration, as follows:

The Senate, by unanimous consent, proceeded to consider the resolution, as follows:

Resolved, That the Committee on the District of Columbia be, and hereby is, authorized and directed by subcommittee or otherwise, to examine into all matters relating to the government of the District of Columbia, and to report from time to time to the Senate the result thereof; and for this purpose they are authorized to sit, by subcommittee or otherwise, during the recesses or sessions of the Senate, to send for persons and papers, to administer oaths, and to employ such assistance as may be necessary, the expense to be paid from the contingent fund of the Senate upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

The amendment was, in line 4, after the word "the," to strike out the words "government of the," so as to read "to examine into all matters relating to the District of Columbia."

The amendment was agreed to.

The resolution as amended was agreed to.

JOINT COMMITTEE ON PRINTING.

Mr. ELKINS. I am directed by the Committee on Printing to report a joint resolution. It has been agreed on by the House Committee on Printing as well as by the Senate committee. I ask for its present consideration.

The joint resolution (S. R. 139) amending section 1 of an act providing for the public printing and binding and the distribution of public documents, approved January 12, 1895, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That section 1 of an act providing for the public printing and binding and the distribution of public documents, approved January 12, 1895, be amended by striking out the whole of said section and substituting in lieu thereof the following:

"That the Committee on Printing of the Senate and the Committee on Printing of the House of Representatives, each to consist of three Members of their respective Houses, shall constitute a Joint Committee on Printing, who shall have the powers hereinafter stated, and the Speaker of the House of Representatives, before the termination of the last session of each Congress, including the Sixtieth Congress, shall appoint from the Representatives elected to the succeeding Congress a temporary Committee on Printing consisting of three members, who shall have the same powers and perform the same duties as are now imposed by law and the rules of the House of Representatives upon the regularly appointed Committee on Printing for the House of Representatives until the organization of the succeeding Congress and the appointment of a regular Committee on Printing.

"SEC. 2. In addition to the duties now imposed and the powers conferred upon the Joint Committee on Printing, the said joint committee is hereby authorized to inquire at any time into the subject of the public printing and binding for Congress and for the various executive departments and government establishments not connected with an executive department, and to report to Congress from time to time any abuses in the public printing and binding, and to recommend to Congress such remedies as in their judgment may seem proper; and the said Joint Committee on Printing is hereby authorized to send for or subpœna persons, books, papers, or documents, and, through the chairman or acting chairman, or the chairman of any subcommittee thereof, to administer oaths, examine witnesses, books, papers, or documents respecting all matters pertaining to the public printing and binding, and to have such printing done as may be necessary to the business of the said Joint Committee on Printing; and the said joint committee, or any subcommittee thereof, may convene at any time for the transaction of public business.

"SEC. 3. The Joint Committee on Printing shall elect a secretary, who shall be the executive officer of the said joint committee and who shall be authorized to carry into effect the orders and regulations of the said joint committee. The salary of the secretary of the said Joint Committee on Printing shall be at the rate of $4,000 per annum, and shall be appropriated for and paid by the Secretary of the Senate."

Mr HALE. Let the joint resolution go over. I discover from the reading that it ought to be thoroughly examined.

The VICE-PRESIDENT. The joint resolution will be placed on the calendar.

ROYAL L. SWEANY.

Mr. ALDRICH. I am directed by the Committee on Finance, to whom was referred the bill (H. R. 24373) to reimburse Royal L. Sweany, late deputy collector of internal revenue at Tacoma, Wash., to report it favorably without amendment.

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

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to Royal L. Sweany, late a deputy collector of internal revenue at Tacoma, State of Washington, $107, as a reimbursement for that amount of money paid by him to the Government to cover the value of certain documentary revenue stamps forwarded in the mails by him as deputy collector on or about June 30, 1902, from Tacoma, Wash., to the office of the collector for the district of Oregon, at Portland, Oreg., and lost in transit.

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

ALASKA-YUKON EXPOSITION.

Mr. SUTHERLAND. From the Select Committee on Industrial Expositions, I report back favorably without amendment the bill (S. 9154) to amend an act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes, approved May 27, 1908, and I submit a report (No. 1047) thereon. I call the attention of the Senator from Washington [Mr. PILES] to the bill.

Mr. PILES. I ask for the present consideration of the bill just reported by the Senator from Utah.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend section 11 of the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes," approved May 27, 1908, by adding at the end thereof the following:

Provided further, That the board of managers herein above described may, in its discretion, cause any exhibit or part thereof to be exhibited in any building or buildings, or other place on said exposition grounds, provided or furnished by any State or other organization.

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

IMPROVEMENT OF ARKANSAS RIVER.

Mr. FRYE, from the Committee on Commerce, to whom was referred concurrent resolution 101, submitted on the 18th instant by Mr. CLARKE of Arkansas, 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 that part of the Arkansas River between Little Rock and Dardanelle with a view of ascertaining if said part of said river is susceptible of being made available for purposes of navigation during the entire year, and if found capable of being made so available, then to report an estimate of the cost of improving such part of said river by the construction of locks and dams or otherwise, as well as to report an estimate of the probable tonnage that will seek transportation thereon in the event the same were so improved.

BILLS INTRODUCED.

Mr. BANKHEAD introduced a bill (S. 9426) for the relief of John C. Stoutenborough, of Richmond, Ala., which was read twice by its title and referred to the Committee on Claims.

Mr. CULLOM introduced a bill (S. 9427) for the construction of a wall on the Ohio River at Fort Massac Park, Massac County, Ill., which was read twice by its title and referred to the Committee on Commerce.

Mr. RAYNER introduced a bill (S. 9428) for the relief of the heirs of Thomas Miller, deceased, which was read twice by its title and referred to the Committee on Claims.

Mr. BACON introduced a bill (S. 9429) for the relief of the heirs of Charles H. Wright, deceased, which was read twice by its title and, with the accompanying papers, referred to the Committee on Claims.

Mr. TALIAFERRO introduced a bill (S. 9430) for the relief of Sarah R. Bexley, administratrix of the estate of the late Augustus R. Bexley, which was read twice by its title and, with the accompanying paper, referred to the Committee on Claims.

Mr. LONG introduced a bill (S. 9431) for the relief of the estate of John McQuiddy, deceased, which was read twice by its title and referred to the Committee on Claims.

Mr. SCOTT introduced a bill (S. 9432) for the relief of the estate of John Burns, deceased, which was read twice by its title and referred to the Committee on Claims.

Mr. WETMORE introduced a bill (S. 9433) granting an increase of pension to John H. Flier, which was read twice by its title and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McCREARY introduced a bill (S. 9434) to authorize the Court of Claims to admit as evidence affidavits in certain cases, which was read twice by its title and referred to the Committee on the Judiciary.

Mr. ALDRICH introduced a bill (S. 9435) granting an increase of pension to Maryetta Thurber, which was read twice by its title and referred to the Committee on Pensions.

He also introduced a bill (S. 9436) granting an increase of pension to Charles Hatfield, which was read twice by its title and, with the accompanying paper, referred to the Committee on Pensions.

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

A bill (S. 9437) granting an increase of pension to Hans Wickstrum; and

A bill (S. 9438) granting a pension to Luella A. Taylor.

He also introduced a bill (S. 9439) for the relief of Lemuel H. Redd, which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SIMMONS submitted an amendment providing for a survey of Cape Lookout, North Carolina, and also of Cape Hatteras, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. NELSON submitted an amendment providing for an examination and survey for the location of a canal connecting Lake Superior and the Mississippi River, by way of the St. Croix River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $150,000 for dredging the inner basin of Duluth Harbor, Minnesota, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. DEPEW submitted an amendment providing for the examination and survey of Bay Ridge and Red Hook channels, New York Harbor, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CARTER submitted an amendment proposing to appropriate $550,000 for the purchase by the Commissioners of the District of Columbia of certain land in the District for park purposes, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

REVISION OF PENAL LAWS.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2982) to codify, revise, and amend the penal laws of the United States, which was, to strike out all after the enacting clause and insert a substitute.

Mr. HEYBURN. I move that the Senate disagree to the amendment proposed by the House, agree to the conference asked by the House, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and the Vice-President appointed Mr. HEYBURN, Mr. SUTHERLAND, and Mr. MCLAURIN conferees on the part of the Senate.

POST-OFFICE APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 26305) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1910, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PENROSE. I move that the Senate insist on its amendments and agree to the conference asked for by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Vice-President appointed Mr. PENROSE, Mr. DOLLIVER, and Mr. CLAY conferees on the part of the Senate.

ALASKA CENTRAL RAILWAY.

The bill (H. R. 27068) to extend the time for the completion of the Alaska Central Railway, and for other purposes, was read the first time by its title.

Mr. NELSON. The Senate has reported a bill (S. 8821) similar to that, and I ask that the House bill be substituted for the Senate bill on the calendar.

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

Mr. NELSON. I call the attention of the Senator from Illinois [Mr. CULLOM] to the matter.

Mr. CULLOM. I hope that the House bill may be taken up and disposed of at this time.

The VICE-PRESIDENT. If there be no objection, the bill (S. 8821) to extend the time for the completion of the Alaska Central Railway, and for other purposes, for which the House bill has just been substituted, will be indefinitely postponed. The Senator from Illinois asks for the present consideration of the House bill. It will be read.

The bill was read the second time at length, as follows:

Be it enacted, etc., That the time for filing the map of definite location of the Alaska Central Railway, as required by the provisions of chapter 299 of the Laws of the United States, entitled "An act extending homestead laws and providing for the right of way for railroads in the district of Alaska, and for other purposes," approved May 14, 1898, be, and the same is hereby, extended for three years from the date of the passage of this act, and that the time for completion of said Alaska Central Railway be, and the same is hereby, extended for three years from the expiration of the period provided for in the act entitled "An act to extend the time for the completion of the Alaska Central Railway, and for other purposes," approved June 30, 1906: *Provided*, That nothing herein contained shall be held or construed to affect any lawfully accrued rights.

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

Mr. KEAN. It is a bill to extend the time for the completion of a railroad in Alaska?

The VICE-PRESIDENT. It is.

Mr. KEAN. I object. Let us have the regular order.

Mr. HALE. I call for the regular order.

The VICE-PRESIDENT. The regular order is demanded. The bill will be placed on the calendar.

HOUSE BILLS REFERRED.

H. R. 23468. An act to amend sections 11 and 12 of an act entitled "An act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks and to enable it to relocate parts of its railroad therein, and for other purposes," approved February 12, 1901, was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 27054. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

H. R. 27139. An act 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, was read twice by its title and referred to the Committee on the Judiciary.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I move that the Senate proceed to the consideration of House bill 26916, the Indian appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider 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, which had been reported from the Committee on Indian Affairs with amendments.

Mr. CLAPP. I ask consent that the formal reading of the bill be dispensed with, and that the bill be read for action on the committee amendments.

The VICE-PRESIDENT. The Senator from Minnesota asks unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that the committee amendments shall be first considered. Is there objection? [After a pause.] The Chair hears none. The Secretary will proceed to read the bill.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Indian Affairs was, under the subhead "President," on page 2, after line 13, to insert:

That whenever so directed by the President the Secretary of the Interior shall cause allotments in severalty to be made to the Indians of any reservation in accordance with the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians of various reservations and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," as amended by the act of February 28, 1891 (27 Stat. L., 794), and as amended by the act of May 8, 1906 (34 Stat. L., 182), in such areas as he may consider equitable and just, not, however, exceeding 160 acres of agricultural land to any one Indian, and all Indians of the reservation to be allotted, living at the date of the President's order, shall be entitled to receive an allotment, and if any Indian thereafter die prior to being allotted the lands he would have received if living, such lands shall be allotted in his name and descend to his heirs in accordance with the laws of descent and distribution of the State in which the land is situate.

Mr. SUTHERLAND. I desire to call the attention of the chairman of the committee to the language in line 9, on page 3. Beginning with line 7, it reads:

And if any Indian thereafter die prior to being allotted the lands he would have received if living, such lands shall be allotted in his name and descend to his heirs in accordance with the laws of descent and distribution of the State in which the land is situate.

It seems to me that the words "in his name," in line 9, should be stricken out. We can not allot land to a man who is dead. It would then read "such lands shall be allotted and descend to his heirs."

Mr. McCUMBER. Perhaps the Senator should insert the word "to," so as to read "shall be allotted to and descend to his heirs."

Mr. SUTHERLAND. Very well.

The VICE-PRESIDENT. The Senator from Utah proposes an amendment to the amendment, which will be stated.

The SECRETARY. On page 3, line 9, strike out the words "in his name" and insert "to," so as to read "shall be allotted to and descend to his heirs," and so forth.

Mr. CLAPP. The amendment to the amendment is accepted by the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 3, after line 11, to insert:

SECRETARY OF THE INTERIOR.

That when, in the judgment of the Secretary of the Interior, it is necessary for any railway company owning or operating a line of railway in any Indian reservation to acquire lands in such Indian reservation for reservoirs, material, or ballast pits for the construction, repair, and maintenance of its railway, or for the purpose of planting and growing thereon trees to protect its line of railway, the said Secretary be, and he is hereby, authorized to grant such lands to any such railway company which shall comply with the provisions of this act and such rules and regulations as may be prescribed by the said Secretary thereunder.

That when any railway company desiring to secure the benefits of this act shall file with the Secretary of the Interior an application describing the lands which it desires to purchase, the said Secretary shall ascertain and fix the value of said land, and upon the payment of the price so fixed the said Secretary shall cause such lands to be conveyed to the railway company applying therefor upon such terms and conditions as he may deem proper: *Provided*, That no lands shall be acquired under the provisions of this act in greater quantities than 40 acres for any one reservoir, and 160 acres for any material or ballast pit, to the extent of not more than one reservoir and one material or gravel pit in any one section of 10 miles of any such railway in any Indian reservation: *And provided further*, That the lands acquired for tree planting shall be taken only at such places along the line of the railway company applying therefor as in the judgment of the said Secretary may be necessary, and shall be taken in strips adjoining and parallel with the right of way of the railway company taking the same, and shall not exceed 150 feet in width.

That all moneys paid for such lands shall be deposited in the Treasury of the United States to the credit of the tribe or tribes, and the moneys received by said Secretary as damages sustained by individual members of the Indian tribe, which damages shall be ascertained by the Secretary of the Interior and paid by the railway company taking such lands, shall be paid by said Secretary to the Indian or Indians sustaining such damages.

Mr. HEYBURN. Mr. President, I desire to suggest a point of order against this amendment, and I also desire the privilege of suggesting it against the preceding amendment.

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

Mr. HEYBURN. That it is general legislation.

Mr. CLAPP. Before the Senator presses that point, I should like to submit this consideration to the Senate: We have in the bill a measure passed by the House covering this identical subject with reference to the Great Northern Railway in Montana. They are obliged to come to Congress whenever they need anything of this kind and secure a special act giving the Secretary of the Interior the authority to grant gravel pits and reservoir sites.

Mr. HEYBURN. I should like to ask what portion of the amendment the Senator is referring to now.

Mr. CLAPP. I am talking now of the amendment relating to ballast pits and reservoirs.

Mr. HEYBURN. In what line?

Mr. CLAPP. It goes from line 13, on page 3, to and including line 2, on page 5.

Mr. HEYBURN. I will withhold the point of order, with the understanding that these amendments will not be hurriedly passed. The first amendment was passed so hurriedly that I did not have an opportunity even to interpose a point of order against it.

The VICE-PRESIDENT. The Senator from Idaho withholds his point of order, and if there be no objection the amendment to which it was directed will be passed over for the present.

Mr. HEYBURN. I am only withholding it upon the suggestion of the Senator from Minnesota that he would explain the purpose of the amendment. I understood him to say that he desires to explain the purpose of the amendment.

Mr. CLAPP. The purpose of the amendment is simply this: These railroads run through Indian reservations. There is a general law which allows the Secretary of the Interior, upon the filing of a plat and complying with the conditions prescribed by him, to grant a right of way through different reservations. There is no law at present under which they can acquire gravel pits or sites for reservoirs. At every session more or less special bills have to be passed for that purpose. I had one passed through the Senate this winter, and it comes back here as a provision of this bill, put in by the House. Instead of requiring, in such cases, that they shall come here and get special legislation, it occurred to the department and the committee that it would be a wiser way to make a general provision.

I recognize the fact, as I said yesterday, that we have reported some administrative legislation in this bill. Senators realize the difficulty of getting legislation, especially at this period in the session. I would be perfectly willing to have the merits of these matters considered, and if they are not properly framed I would cheerfully join in perfecting the framing of them.

I do hope the Senator will withhold his point of order against this amendment and against some others which we have put in the bill and which I will explain as we reach them.

Mr. HEYBURN. Mr. President, I am loath to raise the point of order against a portion of this proposed legislation, but it is a complete departure from anything we have heretofore known in connection with our dealing with the Indian lands, which under the Constitution of the United States are made the subject of treaty arrangement. It is rather shocking to turn over to the Secretary of the Interior a power which originally had to be exercised under the treaty-making power of the Constitution, and, as a matter of fact, which is now turned over to a clerk in the department.

Mr. CLAPP. Mr. President——

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

Mr. HEYBURN. Certainly.

Mr. CLAPP. The Senator, I think, recalls the fact that there is similar legislation on the statute books relating to the right of way.

Mr. HEYBURN. Unfortunately, yes.

Mr. CLAPP. I would hardly concede that it is unfortunate. Railroads have to be built in the western country. They have of necessity to go through reservations. It benefits and enhances the value of the land of the allottees and the owners of those reservations. I would hardly agree that it is unfortunate.

Mr. HEYBURN. Mr. President, I have had some experience on this question, commencing some twenty-odd years ago, and with a supplement last year. Under the old law it was necessary to make a treaty with the Indians and determine the damages and the conditions under which the land might be taken. It was not inconvenient. It was a law that had worked satisfactorily for nearly a century.

Take the right of way for the Minneapolis and St. Paul road through the Coeur d'Alene Indian Reservation. Those Indians did not know until months afterwards that their rights had even been in question or under consideration. They came here to me in Washington at the last session and were utterly astonished when they found that the right of the railroad to go through that reservation from one end to the other had absolutely been determined, that the amount of compensation to the Indians had been fixed, and that it had been paid, as they understood, without their ever knowing that the matter was even being considered.

In 1878 or 1879 I conducted the making of the treaty with those Indians for the right of way for the O. R. and N. Railroad. The O. R. and N. went through that same reservation. We were in council for days. Those Indians understood at that time, as they do now, their rights under the law, and that the Government will deal with them in the nature of a treaty. It is not the same character of treaty making that we have with foreign nations, but it is one adapted to the conditions and circumstances. The Indians at that time received—I would not undertake to say without having the figures before me how much—several times as much for a shorter right of way to the O. R. and N. road than they have received from the independent action of the Indian agent representing the Interior Department for a right of way through the long way of their reservation. The sum that they have been awarded is a mere bagatelle, it does not amount to anything to them; and that was done under the law to which the Senator refers.

I am not at all in sympathy with making a short cut in dealing with the Indians for their lands, because while it seems like a very innocent proposition upon its face that you are going to have a right of way for a railroad, yet you find that in this and in the other measures they may take 120 acres for a reservoir site.

Mr. CLAPP. No; 40 acres for reservoirs and 160 acres for ballast pits.

Mr. HEYBURN. I will look at it:

Provided, That no lands shall be acquired under the provisions of this act in greater quantities than 40 acres for any one reservoir, and 160 acres for any material or ballast pit, to the extent of not more than one reservoir and one material or gravel pit in any one section of 10 miles of any such railway in any Indian reservation.

Under the old act we took 10 acres for a depot site and the right of way of a given width for the railroad. Now we are bringing in reservoir sites upon the Indian reservations. For whom are the reservoir sites?

Mr. CLAPP. The reservoir sites are for the railroad companies, for the purpose of accumulating, storing, and using water.

Mr. DIXON. Mr. President——

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

Mr. HEYBURN. I do not want to interrupt the Senator from Minnesota.

Mr. CLAPP. No; go ahead.

Mr. DIXON. I wanted to express a hope that the Senator from Idaho will not insist on the point of order. At every session we are loaded down with dozens of individual bills to give railroad companies the right to purchase gravel pits and settling tanks. I think this amendment came up here, and several other bills of the kind. To save Congress every year from taking up its time with dozens of these little individual bills it is merely proposed to give the Secretary the right to negotiate, without going through the formula of passing special bills through Congress.

In this case the bill which I think was the cause of the introduction of this general provision was a bill concerning the railroad through the Fort Peck Reservation of northern Montana. The Great Northern Railroad runs for 200 miles through that reservation. They have got to have gravel to ballast the road. In certain places it goes through an alkali country. They must have settling tanks in order to get water for their engines.

I do not think this provision is subject to the objection that it gives the Secretary of the Interior the right to grant rights of way indiscriminately. It is merely for these gravel pits and settling tanks that the railroads must have. I assure the Senator from Idaho [Mr. HEYBURN] that the experience in the past has been that the Indians get ten times as much for these special 40-acre tracts from the railroad companies as they do under the general act opening land for settlement. I know the Great Northern Railway Company paid these same Indians, I think, as high as $30 an acre for gravel pits.

There is no question, so far as the Indian is concerned, that he will get more under this arrangement, and there is no question but what it will be a great convenience to these great transportation companies and save much time here in the passage of a dozen bills at every session of Congress.

Mr. HEYBURN. Mr. President, I am decidedly in favor of granting rights of way through the Indian reservations for railroads and of the opening up and developing of these areas, and I am not to be understood as opposing that principle or any legislation which involves it. It is only the character of this particular legislation that I am directing my remarks to.

Mr. DIXON. But the Senator——

Mr. HEYBURN. I am proceeding to make plain my objection.

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

Mr. HEYBURN. I do.

Mr. DIXON. I want to suggest to the Senator from Idaho that when we pass a special bill concerning matters of this kind, the price of the land must be fixed by the Secretary of the Interior. Under every special bill we pass the Secretary of the Interior must take into consideration the price to be paid; and this is only proposing to confer generally what we do here every session of Congress half a dozen times at least.

Mr. HEYBURN. I see no sufficient reason for not pursuing the old method of obtaining rights of way; that is to say, take the owners of the land into your council and agree with them, and not have it done without their even knowing that it is being considered. That is what I object to.

Mr. DIXON. But would the Senator from Idaho urge in a case where a railroad company wanted a gravel pit to ballast the track, or a settling tank to settle their water for use in the engines, that we should convene a tribe of Indians of twenty-five hundred people to negotiate for a 40-acre tract?

Mr. HEYBURN. A hundred-and-sixty-acre tract is named in this bill.

Mr. DIXON. It would be impossible.

Mr. HEYBURN. No; I can not concede that the Senator is correct in that. It is not impossible. The railroad company know just as well when they are laying out their road what they will need as they will know twenty years afterwards. They know that they will need 10 acres for depot purposes and that they will need certain ground for gravel pits just as well when they are making up the plans of their road as they will know it at any time afterwards. Let the law stand, so that whenever a railroad company wants to pass through an Indian reservation either the Indians will be in consultation with the Government or participate in the plan or treaty, if you may call it such, so that they will be present and know what is being done, and not have them coming to us after their rights have been fixed at some trifling and insignificant figure and saying, "Well, upon what terms is this railroad company building through our lands?"

You must remember that the Indians of to-day are not the Indians of fifty years ago. Our Indians are educated, intelligent, and property-owning Indians. They plow with sulky plows; they have pianos in their homes; they ride in carriages; they speak the English language; and there is no reason on earth why those Indians should not be taken into the council that is to determine their property rights. The old idea that an Indian is an animal roaming up and down the land with a blanket on him must be given up.

Mr. CLAPP. Will the Senator pardon me a moment?

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

Mr. HEYBURN. Yes, sir.

Mr. CLAPP. My only desire is to put this in general form, so that we shall not have to deal with special acts, and I suggest that this amendment might be amended so that the Secretary shall be authorized to negotiate. Congress, acting on the Lone Wolf decision, has proceeded for some years to dispose of Indian lands without treaty. I have no objection at all to the Senator's position. If this provision is not correct, then it should be amended.

Mr. HEYBURN. Mr. President, I am perfectly willing that amendment should cure these things of which I complain. I have had call on me during the last two weeks a large number of Indians from different sections of the United States. Only a few days since I received the card of an Indian, and went into the Marble Room and met him. He is an Indian who keeps as good an automobile as anybody in this Senate Chamber, who speaks as good English as anybody here, and who is, in taxable property and wealth, almost the equal of the average Senator in this body. The idea of taking his property through the agency of department clerks is ridiculous. We must stop and consider this change.

Mr. CARTER. Mr. President——

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

Mr. HEYBURN. Certainly.

Mr. CARTER. I believe, Mr. President, this amendment is a very important one and will avoid very much detailed legislation. I suggest, however, in view of the observations of the Senator from Idaho [Mr. HEYBURN], that the amendment be passed over for the time being, and that other amendments may be proceeded with.

Mr. HEYBURN. Very well. We will see if we can make the amendment satisfactory.

Mr. CLAPP. That is entirely agreeable to me.

The VICE-PRESIDENT. Without objection, the amendment will be passed over.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 5, after line 2, to insert:

That, to facilitate cooperative work between the Office of Indian Affairs and other bureaus and offices of the Government, the Secretary of the Treasury be, and he is hereby, authorized and directed, upon requisition by the Secretary of the Interior, to advance to disbursing officers of such other bureaus and offices, from any funds in the Treasury which are at the time available and applicable, such sums as in the discretion of the Secretary of the Interior may be necessary to meet the current and contingent expenses of the work: *Provided*, That the disbursing officers to whom the funds are advanced shall be responsible therefor under their bonds, and account therefor in the same manner and under the same regulations as for other moneys usually received by them for disbursement. Said accounts shall be examined by the administrative bureau or office under which the disbursing officer is employed, and settled by the auditor for the department of which said bureau or office is a part.

The amendment was agreed to.

The next amendment was, on page 5, after line 19, to insert:

That the Secretary of the Interior be, and he hereby is, authorized, under the direction of the President, to allot any Indian on the public domain who has not heretofore received an allotment, in such areas as he may deem proper, not to exceed, however, 80 acres of agricultural or

160 acres of grazing land to any one Indian, such allotment to be made and patent therefor issued in accordance with the provisions of the act of February 8, 1887 (24 Stat. L., 388). When any such lands are irrigable the Secretary of the Interior is authorized to set apart from the public domain for each allotment so made not to exceed 5 acres, and each allotment shall be reduced 5 acres in area, which said 5 acres may be leased or sold on such terms as in the opinion of the Secretary of the Interior will be subserve the purpose, and the proceeds thereof may be used in procuring water, constructing ditches and dikes, or otherwise preparing allotments of the Indians for irrigation; and when any lands subject to irrigation have been or may be hereafter allotted on any Indian reservation the Secretary of the Interior is authorized, with the consent of the Indian allottee, to set aside from each allotment not to exceed 10 acres, which lands so set aside may be leased or sold in such manner as the Secretary of the Interior may determine, and the proceeds used in procuring water, constructing ditches and dikes, or otherwise preparing the allotment of the Indian for irrigation.

Mr. HEYBURN. I move to amend the amendment on page 5, line 23, by striking out the word "such," and then striking out all after the word "areas" down to and including the word "or," in line 24.

The VICE-PRESIDENT. The Senator from Idaho proposes an amendment to the committee amendment, which will be stated.

The SECRETARY. On page 5, line 23, before the word "areas," it is proposed to strike out the word "such," and after the word "areas" to strike out "as he may deem proper, not to exceed, however, 80 acres of agricultural or."

Mr. CLAPP. I have no objection to that amendment.

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

The amendment to the amendment was agreed to.

Mr. HEYBURN. In the amendment of the committee I move to strike out the word "grazing," in line 1, page 6.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. On page 6, line 1, before the word "land," it is proposed to strike out the word "grazing."

The amendment to the amendment was agreed to.

Mr. HEYBURN. I move to further amend the amendment of the committee by striking out on page 6 all after the word "eighty-eight" down to the end of the clause.

Mr. CLAPP. In what line?

Mr. HEYBURN. Commencing in line 5, I move to strike out all of the clause after that.

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

The SECRETARY. On page 6, after the word "eighty-eight," in the parentheses in line 5, it is proposed to strike out the remainder of the committee amendment.

Mr. CLAPP. Mr. President, if the Senator from Idaho will pardon me, this is an amendment asked for by the department, and as to which they have made a statement, found on page 10 of the committee's report on this bill. So far as I am concerned, while I should prefer to have the amendment stand, I am not going to contest it here. I know the point can be properly made against it.

Mr. HEYBURN. We struck out the same thing last year.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment moved by the Senator from Idaho [Mr. HEYBURN].

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 Indian Affairs was, under the subhead "Commissioner," on page 7, line 3, before the word "lands," to strike out "irrigated" and insert "irrigable;" in line 6, before the word "hundred," to strike out "two" and insert "five;" in line 7, after the word "dollars," to strike out "of which $25,000 shall" and insert "to;" and in line 8, after the word "available," to insert "and to remain available until expended," so as to read:

For construction of ditches and reservoirs, purchase and use of irrigating tools and appliances, and water rights, including lands necessary for canals, pipe lines, and reservoirs, for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, in the discretion of the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior and subject to his control, $500,000, to be immediately available and to remain available until expended.

The amendment was agreed to.

The next amendment was, on page 7, after line 14, to insert:

That all patents issued for allotments to the Indians on the Stockbridge and Munsee Reservation, Wis., shall expressly declare that no sale of the lands described therein shall be made under any decree of any court or otherwise for or on account of any claim, judgment, execution, order, or for taxes, or voluntarily by the patentee or his or her heirs, unless such sale is approved by the Commissioner of Indian Affairs, and any such sale or conveyance made without such approval shall be absolutely void.

Mr. LA FOLLETTE. I ask that that amendment be passed over for the present.

The VICE-PRESIDENT. Without objection, the amendment will be passed over at the request of the Senator from Wisconsin.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 8, line 5, after the word "Interior," to strike out "to take action;" and in line 6, after the word "traffic," to strike out "of" and insert "in," so as to make the clause read:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to suppress the traffic in intoxicating liquors among Indians, $50,000.

The amendment was agreed to.

The next amendment was, on page 8, line 9, after the word "purposes," to insert "not herein provided for," so as to make the clause read:

For support of Indian day and industrial schools, and for educational purposes not herein provided for, $1,425,000.

The amendment was agreed to.

The next amendment was, on page 8, line 15, before the word "thousand," to insert "and twenty-five," so as to make the clause read:

In all, $1,725,000.

The amendment was agreed to.

The next amendment was, on page 10, line 14, after the word "available," to insert:

Provided, That this section shall not apply to the Menominee Indian Reservation in Wisconsin.

So as to make the clause read:

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: *Provided*, That this section shall not apply to the Menominee Indian Reservation in Wisconsin.

The amendment was agreed to.

The next amendment was, on page 10, after line 15, to insert:

That hereafter the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may designate an employee of the Indian Office to sign letters and other papers of that office requiring the signature of the commissioner or assistant commissioner, and all signatures of such employee while acting under such designation shall have the same force and effect as if made by said commissioner or assistant commissioner.

Mr. HEYBURN. I should like to have that amendment passed over.

Mr. CLAPP. What is the request?

The VICE-PRESIDENT. The Senator from Idaho asks that the amendment just read be passed over.

Mr. HEYBURN. I will withdraw that request if the Senator in charge of the bill is ready to consider the amendment. I object to it. It is a most extraordinary proposition. There is no such legislation made applicable to any other department of the Government, so far as I know.

Mr. LODGE. Mr. President, for years there has been a clerk authorized to sign the President's name to land patents.

Mr. HEYBURN. This is a different proposition.

Mr. CURTIS. Mr. President——

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

Mr. HEYBURN. In a moment. The language here is very broad, and I know of no similar case. The amendment provides—

That hereafter the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may designate an employee of the Indian Office to sign letters and other papers.

Could he sign a treaty? The provision is too broad, and I object to it.

Mr. CLAPP. Strike out the words "and other papers," if the Senator desires.

Mr. HEYBURN. I have no objection to the amendment, if you cut out the words "and other papers."

Mr. CLAPP. I move that amendment.

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

The SECRETARY. It is proposed to amend the amendment of the committee, on page 10, line 18, after the word "letters," by striking out "and other papers," so as to make the clause read:

That hereafter the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may designate an employee of the Indian Office to sign letters of that office requiring the signature of the commissioner or assistant commissioner, and all signatures of such employee while acting under such designation shall have the same force and effect as if made by said commissioner or assistant commissioner.

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 Indian Affairs was, under the subhead "Miscellaneous," on page 12, line 4, after the word "successor," to insert "and he shall report annually to the Commissioner of Indian Affairs all material on hand and not required for his use," so as to read:

That section 10 of the act of March 3, 1875 (18 Stat. L., 451), be amended so as to read as follows: "Each Indian agent shall keep a book of itemized expenditures of every kind, with a record of all contracts, together with the receipts of moneys from all sources, and the books thus kept shall always be open to inspection; and the said books shall remain in the office at the respective reservations, not to be removed from said reservation by said agent, but shall be safely kept and handed over to his successor, and he shall report annually to the Commissioner of Indian Affairs all material on hand and not required for his use."

The amendment was agreed to.

The next amendment was, under the subhead "Police," on page 14, line 23, before the word "dollars," to strike out "twenty-five" and insert "not exceeding fifty;" and on page 15, line 4, before the word "thousand," to insert "and ten," so as to make the clause read:

For pay of officers at not exceeding $50 per month each, and privates at $20 per month each, of Indian police, to be employed in maintaining order and prohibiting illegal traffic in liquor on the several Indian reservations and within the Territory of Alaska, in the discretion of the Secretary of the Interior, for the purchase of equipments, and for the purchase of rations for policemen at nonration agencies, $210,000.

The amendment was agreed to.

The next amendment was, under the subhead "Contingencies," on page 16, line 19, before the word "from," to strike out "going," so as to read:

For contingencies of the Indian Service, including traveling and incidental expenses of Indian agents and of their offices, and of the Commissioner of Indian Affairs; also traveling and incidental expenses of special agents, 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, and expenses of going to and from the seat of government, etc.

The amendment was agreed to.

The next amendment was, at the top of page 17, to insert:

And the Secretary of the Treasury is hereby authorized to pay from the appropriation for contingencies of the Indian Service, 1909, for expenses incurred under the orders of the Secretary of the Interior, to Joseph W. Howell $135 and to Joseph R. Webster $210.

The amendment was agreed to.

The next amendment was, under the head of "Arizona," on page 17, line 13, after the word "dollars," to strike out ": *Provided*, That," and insert "and the commissioner is authorized to use;" and in line 15, before the word "is," to insert "which," so as to make the clause read:

For support and civilization of the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in Arizona and New Mexico, $300,000; and the commissioner is authorized to use the unexpended balance for the fiscal year 1909, which is hereby appropriated and made available for 1910.

The amendment was agreed to.

The next amendment was, under the subhead "Truxton Canyon School," at the top of page 19, to insert:

To enable the Secretary of the Interior to purchase lands and water rights for the use of Navajo Indians who have lost title to their homes on the public domain in Arizona the sum of $40,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was, on page 20, line 2, before the word "dollars," to strike out "fifty," and insert "fifty-nine," so as to make the clause read:

In all, $104,359.

The amendment was agreed to.

The next amendment was, under the head of "Colorado," on page 20, after line 13, to strike out:

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 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, but 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 realty, buildings, and fixtures.

The amendment was agreed to.

The next amendment was, at the top of page 21, to insert:

FORT LEWIS SCHOOL.

There is hereby granted to the State of Colorado, upon the terms and conditions hereinafter named, the following described property, known as the "Fort Lewis School," including the lands, buildings, and fixtures pertaining to said school: *Provided*, That said lands and buildings shall be held and maintained by the State of Colorado as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils: *Provided further*, That this grant shall be effective at any time before July 1, 1910, if before that date the governor of the State of Colorado files an acceptance thereof with the Secretary of the Interior accepting for said State said property, upon the terms and conditions herein prescribed.

For support and education of 200 Indian pupils at the Indian school at Fort Lewis, Colo., $35,000, and for pay of superintendent, $1,600.
Repairs to and extension of sidewalks, $1,000.
Renewal of driveways, $800.
Coping along driveways, $1,000.
General repairs to buildings and water system, $5,000.
In all, $44,400.
Provided, That if said 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. CLAPP. Perhaps the language of that amendment may be improved by striking out the words "the following described," in lines 3 and 4, page 21. The amendment is suggested by the Senator from Utah [Mr. SUTHERLAND].

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. In the amendment of the committee, on page 21, line 3, after the word "named," it is proposed to strike out "following described," so as to read:

FORT LEWIS SCHOOL.

There is hereby granted to the State of Colorado, upon the terms and conditions hereinafter named, the property known as the Fort Lewis School, including the lands, buildings, and fixtures pertaining to said school, etc.

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 Indian Affairs was, on page 22, after line 6, to insert:

GRAND JUNCTION SCHOOL.

There is hereby granted to the State of Colorado, upon the terms and conditions hereinafter named, the following-described property, known as the Grand Junction School, including the lands, buildings, and fixtures pertaining to said school: *Provided*, That said lands and buildings shall be held and maintained by the State of Colorado as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils: *Provided further*, That this grant shall be effective at any time before July 1, 1910, if before that date the governor of the State of Colorado files an acceptance thereof with the Secretary of the Interior accepting for said State said property, upon the terms and conditions herein prescribed.

For support and education of 200 Indian pupils at the Indian school at Grand Junction, Colo., $33,400, and pay of superintendent, $1,600.
Repairs to and extension of sidewalks, $800.
Renewal of driveways, $600.
Coping along driveways, $1,000.
General repairs to buildings and water system, $5,000.
In all, $42,400.
Provided, That if said 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. SUTHERLAND. The same amendment should be made in this provision that was made in the prior provision. The words "following described," in lines 9 and 10, on page 22, should be stricken out.

Mr. CLAPP. That is right.

Mr. SUTHERLAND. I suggest that the clerk may do that in all cases.

Mr. CLAPP. I suggest that permission be granted to correct it in all instances.

The VICE-PRESIDENT. Without objection, it will be so ordered.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 23, after line 13, to insert:

That the Secretary of the Interior is hereby authorized to expend from the funds of the Southern Ute Indians in the Treasury of the United States sufficient moneys to purchase a perpetual water right for the purpose of irrigating not less than 10,000 acres of land in the Southern Ute Indian Reservation in Colorado.

The amendment was agreed to.

The next amendment was, on page 23, after line 19, to insert:

That to carry into effect the agreement between the Confederated Bands of Ute Indians of Colorado and the United States, ratified by the act of Congress approved June 15, 1880, being "An act to accept and ratify the agreement submitted by the Confederated Bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same (21 Stats., p. 199), jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render final judgment, with right of appeal as in other cases, on the claims and rights of said Indians under said agreement, including the value of all lands ceded by the said Indians which have been set apart and reserved from the public lands as public reservations or for other public uses under existing laws and proclamations of the President, as if disposed of under the public-land laws of the United States, as provided by said agreement, and the money due therefor; and the court shall set off against any sum found due said Indians the amount paid to them under the fifth section of said act of June 15, 1880, being $50,000 per annum up to the date of rendition of final judgment in this cause, also any other sum or sums that shall be found to be properly chargeable under the terms of said agreement; and the credit of $1,250,000 set apart in the Treasury by the terms of said agreement, upon which said annuity has been esti-

mated, shall, upon the rendition of final judgment in this cause, cease to exist as a trust fund, and from and after the date of said judgment no annuity shall be estimated or paid therefrom; and the action herein authorized shall be consolidated with cause congressional No. 11248, now pending in said court, for the purpose of using at the trial thereof all evidence which has been adduced in said pending cause, and shall be commenced by petition under the title of said pending cause and shall be conducted by the attorney of record now appearing therein, or by any attorney by him specifically authorized to appear; and the Attorney-General shall continue to appear and represent the United States; and in rendering judgment herein the court shall fix upon a quantum meruit and set apart just and reasonable compensation to the attorneys on behalf of plaintiffs who have rendered actual services in prosecuting said claim before the committees of Congress and in conducting the said cause before the courts in the name of the attorney of record in said pending cause, or any attorney by him specifically authorized, and said compensation shall be paid to such attorney by the Secretary of the Treasury out of any money in the Treasury arising from the sale of said ceded lands or from the proceeds of said judgment, or out of any money in the Treasury not otherwise appropriated, which sum is hereby appropriated, to be reimbursed to the United States from the funds of the Confederated Bands of Ute Indians, and the balance of said judgment shall be held in the Treasury for the benefit of said Indians as a trust fund, and the interest thereon shall be distributed annually to them in accordance with the terms of said act of June 15, 1880; and the said cause shall be advanced in hearing by the Court of Claims, and by the Supreme Court of the United States if the same shall be appealed: *Provided*, That after final judgment rendered in this cause, as herein authorized, the court may from time to time further consider and render judgments for the value of any lands whereof disposition shall be made subsequent to June 30, 1909.

Mr. CURTIS. In order to save time, I ask that the amendment be passed over.

The VICE-PRESIDENT. Without objection, the amendment will be passed over at the request of the Senator from Kansas.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, on page 26, after line 11, to insert:

FLORIDA.

For the purpose of enabling the Secretary of the Interior to investigate the needs and conditions of the Seminole Indians in Florida, especially with reference to the establishment of a school and reservation for said Indians, the sum of $5,000, and said Secretary is directed to report the result of such investigation at the next session of Congress.

The amendment was agreed to.

The next amendment was, on page 27, line 8, after the word "and," to strike out "four" and insert "twenty-four," and in line 14, after the word "dollars," to insert "reimbursable," so as to make the clause read:

For carrying out the provisions of the act of March 1, 1907 (34 Stat. L., 1024), authorizing the Secretary of the Interior to acquire lands and other property necessary in constructing a reservoir for storing water for the purpose of irrigating lands on the Fort Hall Reservation in Idaho and those ceded by the Indians of said reservation, and for construction of the system determined on, $100,000, reimbursable.

The amendment was agreed to.

The next amendment was, on page 27, after line 14, to insert:

That the Secretary of the Interior be, and he is hereby, authorized to investigate and settle the equitable claims of Neils Anderson, William Winchell, and others whose lands or improvements, held under possessory claims, have been or will be damaged by reason of the construction of said reservoir, for which purpose the sum of $25,000, or so much thereof as may be necessary, is hereby appropriated.

The amendment was agreed to.

The next amendment was, on page 31, after line 18, to insert:

For the purpose of carrying out the provisions of the treaty with the Pottawatomie Indians, proclaimed April 19, 1862, the Secretary of the Interior is authorized, upon application therefor, to sell the lands in Kansas allotted to those Indians styling themselves the Wah-quabas-kuk band, and purchase satisfactory lands for them in Wisconsin or elsewhere and locate them thereon. All expenses to be paid out of the receipts from the Kansas lands.

The amendment was agreed to.

The next amendment was, under the subhead "Morris School," on page 32, after line 21, to strike out:

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.

And to insert in lieu thereof:

That there is hereby granted to the State of Minnesota, upon the terms and conditions hereinafter named, the following-described property, known as "the Indian school" at Morris, Minn., and more particularly described as follows, to wit:

All those several tracts and parcels of land situate, lying, and being in the county of Stevens and State of Minnesota, and described as follows: The northeast quarter of the southwest quarter, the southwest quarter of the northwest quarter of the southwest quarter, the northeast quarter of the northwest quarter of the southwest quarter, the northwest quarter of the southwest quarter of the southwest quarter, the southeast quarter of the northwest quarter of the southwest quarter of section 36, township 125 north, range 42 west, containing 80 acres.

Beginning at the quarter post, being the southwest corner of the northwest quarter of section 31, township 125 north, range 41 west of the fifth principal meridian; running along the county road (Morris, Minn., to Glenwood, Minn.), or along the established line of the said county road, running from said quarter post north 63° 30′ east 1.56 chains; thence north 61° east 8.13 chains; thence north 87° 25′ east 7.07 chains; thence north 69° 30′ east 14.85 chains; thence north 77° east 27 chains; thence leaving the said county road and running north 25 chains to a point on the north boundary line of said section 31, township 125, range 41, 15 chains east of the northeast corner of the northwest quarter of said section 31, township 125, range 41; thence west along the said north boundary line of said section 31, township 125, range 41, to the northwest corner of the northwest quarter of section 31, township 125, range 41; thence south along the west boundary line of said section 31, township 125, range 41, to the place of beginning, except 12.9 acres of land owned by the Northern Pacific Railroad Company, being used for railroad right of way and special snow-fence purposes.

Also all that part of the east half of the southwest quarter of the southwest quarter section 36, township 125 north, range 42 west of the fifth principal meridian, in Stevens County, Minn., lying south of the county road from Morris to Cyrus, Minn., containing 15 acres.

And beginning at the northwest corner of the southeast quarter of section 36, township 125, range 42; thence south 11.05 chains, east 3.16 chains, south 2.57 chains, to the Cyrus and Morris public road; thence easterly along the north line of said road to a point on the east line of the northwest quarter of the southeast quarter of section 36, 7.25 chains south of the northeast corner of the northwest quarter of the southeast quarter of section 36; thence north 7.25 chains to said northeast corner; thence west to the place of beginning, containing 22½ acres.

And the south half of the south half of the northwest quarter of the northwest quarter of the southwest quarter of section 36, township 125, range 42, containing 2½ acres.

And lot No. 3 of county subdivision of unplatted part of east half of section 35, township 125, range 42, containing 8.75 acres, described as follows: Commencing at a point on the north side of the county road leading from Morris to Cyrus, Minn., 688 feet from the southeast corner of section 35, township 125 north, range 42 west; thence north 887 feet, west 440 feet, south 646 feet; thence southeast 391 feet to said county road; thence northeast along said county road 232 feet to the place of beginning.

Aggregating 290 acres, with buildings, improvements, and other appurtenances thereon.

Provided, That said lands and buildings shall be held and maintained by the State of Minnesota as an agricultural school, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils.

Provided further, That this grant shall be effective on July 1, 1910, if before that date the State of Minnesota, by its legislature, shall, by a bill or joint resolution, accept the terms of this grant, and in said event the said State of Minnesota shall file with the Secretary of the Interior a certified copy of said act or joint resolution, whereupon this grant shall take effect without further act; and the indorsement of the Secretary of the Interior upon a certified copy of said act or joint resolution of the legislature of the State of Minnesota, showing the date of the filing thereof with the said Secretary of the Interior, and showing said date to be prior to July 1, 1910, shall be competent proof in all courts of record of the filing of such certified copy of such act or joint resolution.

The amendment was agreed to.

The next amendment was, under the subhead "Pipestone School," on page 38, after line 7, to insert:

For removing obstructions at the falls and improving the highway to the cemetery, $4,000.

The amendment was agreed to.

The next amendment was, on page 38, before the word "thousand," to strike out "forty-one" and insert "forty-five," so as to make the clause read:

In all, $45,675.

The amendment was agreed to.

The next amendment was, on page 38, after line 11, to insert:

For the erection of a schoolhouse and improvements for the Bois Fort Indians on the Nett Lake Indian Reservation, $15,000.

The amendment was agreed to.

The next amendment was, on page 39, after line 17, to insert:

The Secretary of the Interior is hereby authorized to advance to the executive committee of the White Earth band of Chippewa Indians in Minnesota the sum of $1,000, or so much thereof as may be necessary, to be expended in the annual celebration of said band to be held June 14, 1909, out of the funds belonging to said band.

The amendment was agreed to.

The next amendment was, on page 40, after line 9, to insert:

That any moneys repaid by Indians to the United States under the provisions of the section of the Indian appropriation act approved April 30, 1908, appropriating the sum of $25,000 for the purchase of implements and other equipment for the Indians of the Fort Belknap Reservation in the State of Montana (35 Stat. L., p. 83), shall be available for reexpenditure for the same purposes and under the same conditions until June 1, 1915.

The amendment was agreed to.

The next amendment was, on page 41, line 12, after the word "dollars," to insert "reimbursable," so as to make the clause read:

For completion and extension of the Milk River Irrigation System on the Fort Belknap Reservation in Montana, $25,000, reimbursable.

The amendment was agreed to.

The next amendment was, on page 41, line 22, after the word "dollars," to insert "$100,000 thereof to be immediately available," so as to make the clause read:

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, $100,000 thereof to be immediately available, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within said reservation.

Mr. DIXON. I suggest to the chairman of the committee, that, after the word "lands," in line 24, on page 41, the words "and timber" be inserted.

Mr. CLAPP. That is agreeable.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, at the top of page 42, to insert:

That the act of April 23, 1904 (33 Stat. L., p. 302), entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by the act of June 21, 1906, and the act of May 29, 1908, be amended by adding thereto the following sections:

"SEC. 21. That the lands alloted, those retained or reserved, and the surplus lands sold or otherwise disposed of shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country, and that the Indian allottees, whether under the care of an Indian agent or not, shall for a like period be subject to all the laws of the United States prohibiting the sale or other disposition of intoxicants to Indians.

"SEC. 22. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to reserve from location, entry, sale, or other appropriation all lands within said Flathead Indian Reservation chiefly valuable for power sites or reservoir sites, and he shall report to Congress such reservations."

The amendment was agreed to.

The next amendment was, on page 42, after line 24, to insert:

That section 11 of the act of April 23, 1904 (33 Stat. L., p. 302), entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be amended to read as follows:

"SEC. 11. That all merchantable timber on said lands returned and classified by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior, for cash, under sealed bids or at public auction, as the Secretary of the Interior may determine, and under such regulations as he may prescribe: *Provided*, That after the sale and removal of the timber such of said lands as are valuable for agricultural purposes shall be sold and disposed of by the Secretary of the Interior in such manner and under such regulations as he may prescribe."

The amendment was agreed to.

The next amendment was, on page 43, after line 21, to strike out:

That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be appraised the south half of southwest quarter of northeast quarter and south half of south half of northwest quarter; the north half of southwest quarter of section 28; the south half of south half of northeast quarter and the north half of north half of southeast quarter of section 29, in township 27 north, range 44 east, Montana meridian, in the Fort Peck Indian Reservation, for the purpose of granting the same to the Great Northern Railway Company for a ballast pit for ballasting its railway, and upon appraising said land the Secretary of the Interior is authorized to convey the same to said railway upon such terms as he may deem advisable. If the sale of said land shall interfere with any improvements of an individual Indian, provision shall be made for the payment of damages, and the amount of damages awarded shall be paid to such Indian, subject to the control of the Secretary of the Interior as to the funds of incompetent Indians, and if the sale of said land interferes with any allotment, such allottee shall be entitled to reallotment.

And to insert in lieu thereof:

That the act of Congress 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," be, and it is hereby, amended by adding thereto section 17, as follows:

"SEC. 17. That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise disposed of shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country, and that the Indian allottees, whether under the care of an Indian agent or not, shall for a like period be subject to all the laws of the United States prohibiting the sale or other disposition of intoxicants to Indians."

The amendment was agreed to.

The next amendment was, under the subhead "Northern Cheyennes and Arapahoes (treaty)," on page 46, after line 5, to insert:

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.

The amendment was agreed to.

The next amendment was, on page 46, after line 15, to insert:

For the employment of "line riders" along the southern and eastern boundary of the Northern Cheyenne Indian Reservation in the State of Montana, $1,500 is hereby appropriated, to be expended under the direction of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, on page 46, after line 22, to strike out:

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 Genoa School, of Nebraska, 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 school, such property as is not covered by the transfer of the realty, buildings, and fixtures.

The amendment was agreed to.

The next amendment was, on page 47, after line 12, to insert:

To replace brick barn destroyed by fire, $7,000.
For residence of superintendent, $6,000.

The amendment was agreed to.

The next amendment was, on page 47, line 16, before the word "thousand," to strike out "fifty-three" and insert "sixty-six," so as to make the clause read:

In all, $66,100.

The amendment was agreed to.

The next amendment was, on page 47, after line 16, to strike out:

Provided, That if said school is disposed of as above authorized at any time during the fiscal year of 1910 that 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.

The amendment was agreed to.

The next amendment was, on page 48, line 22, after the word "cents," to insert "and such sum shall bear interest at the rate of 5 per cent per annum until withdrawn from the Treasury for payment to the Indians as hereinafter provided," so as to read:

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, and such sum shall bear interest at the rate of 5 per cent per annum until withdrawn from the Treasury for payment to the Indians as hereinafter provided, being the balance of the unappropriated amounts due said tribe under the fourth article of the treaty of November 1, 1837.

Mr. CLAPP. On page 49, after the word "fifty-five," in line 9, I desire, on behalf of the committee, to strike out down to and including line 14, and to insert what I send to the desk.

The VICE-PRESIDENT. The Senator from Minnesota proposes an amendment to the amendment, which will be stated.

The SECRETARY. On page 49, line 9, after the word "fifty-five," strike out the remainder of the paragraph and insert in lieu thereof the following:

The Secretary of the Interior is hereby authorized and directed to cause a new enrollment to be made of all Winnebago Indians entitled to share in said fund other than those enrolled at the Winnebago Agency in Nebraska, and until the completion of such enrollment no part of said sum shall be distributed. Upon the completion of such roll the Secretary of the Interior is authorized to pay per capita to the members of the tribe, except those resident in Wisconsin, their proportionate share of 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.) The proportionate share to the credit of the Winnebago Indians resident in Wisconsin shall be held in the Treasury of the United States pending further legislation.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was continued to the end of line 14 on page 49.

Mr. BURKETT. I am called away to attend a committee meeting, and the chairman of the Committee on Indian Affairs has consented that I may offer an amendment now. Right after the provision with reference to Nebraska I move to insert what I send to the desk. I will say it has already passed the Senate twice. If no one objects, it can be put on without being read.

Mr. CURTIS. I should like to know what it is.

Mr. BURKETT. It is in reference to the Omahas.

The SECRETARY. After line 14, on page 49, it is proposed to insert:

That all claims of whatsoever nature which the Omaha tribe of Indians may have or claim to have against the United States shall be submitted to the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, for determination of the amount, if any, due said Omaha tribe from the United States under the treaty between the United States and the said Omaha tribe of Indians ratified and affirmed March 16, 1854, or any other treaties or laws, or for the misappropriation of any funds of said Omaha tribe for purposes not for its material benefit, or for failure of the United States to pay said Omaha tribe any money due; and jurisdiction is hereby conferred upon the Court of Claims to hear and determine all legal or equitable claims, if any, of said Omaha tribe against the United States, and also any legal or equitable defense, set-off, or counterclaim which the United States may have against said Omaha tribe of Indians, and to enter judgment thereon. The Court of Claims shall advance said cause upon the docket. If any question is submitted to said court, it shall settle the right, both legal and equitable, of both the Omaha tribe of Indians and the United States, notwithstanding lapse of time or statutes of limitation, and final judgment and satisfaction thereof in said cause shall be deemed a final settlement of all claims of said Omaha Indians against the United States. Such action in the Court of Claims shall be presented by a single petition, subject, however, to amendment, to be filed within one year after the passage of this act; and such action shall make the Omaha tribe of Indians party plaintiff and the United States party defendant, and shall set forth all the facts on which the Omaha tribe of Indians bases its claim for recovery; and the said petition may be verified by the attorney employed by the said Omaha Indians under the contract filed in the Indian Office on the 4th

day of March, 1898, and reported upon to the Secretary of the Interior on the 1st day of May, 1901, upon information and belief as to the existence of such facts, and no other statements or verification shall be necessary.

The attorneys of record shall be furnished with official letters, papers, reports, documents, and public records or certified copies thereof, which may be used in evidence if competent under the rules of said Court of Claims: *Provided*, That upon the final determination of such suit the Court of Claims shall have jurisdiction to decree such reasonable fees as the court shall find shall be paid to the attorney or attorneys employed by the Omaha tribe of Indians, and the same shall be paid out of any sum or sums found due said Omaha tribe of Indians: *Provided further*, That the Otoe and Missouri Indians, of Oklahoma, are hereby authorized to intervene in the said action and set up and have determined any right or interest they or either of them may have or claim to have in said claim; and jurisdiction is hereby conferred upon said Court of Claims to hear and determine all legal and equitable claims, if any, of said Otoe and Missouri Indians, of whatsoever nature, which either or both of said tribes of Indians may have or claim to have against the United States, the right of appeal to the Supreme Court of the United States by either party, for the determination of the amount, if any, due either of said tribes from the United States under any treaties or laws of Congress, of the unexecuted stipulations of any treaties, or for the misappropriation of any of the funds of either of said tribes for purposes not for their material benefit, or for the failure of the United States to pay either of said tribes any money due.

Mr. CURTIS. I should like to reserve the point of order on the amendment and have it go over. I have no objection to the amendment; and I think those Indians should have the right to go to the Court of Claims, but I object to putting legislation of that kind on this bill. I asked to have an item passed over a few minutes ago because it referred a case to the Court of Claims. I should like to have them all treated alike.

The VICE-PRESIDENT. The amendment proposed by the Senator from Nebraska will be passed over for the present.

The next amendment was, under the subhead "Carson School,'" on page 50, line 18, after the word "thereto," to strike out "as said Secretary deems for the best interest of the Indians" and insert "with said allottees as may be necessary," and in line 22, before the word "lands," to strike out "reserved," so as to make the clause read:

That in carrying out any irrigation project which may be undertaken under the provisions of the act of June 17, 1902 (32 Stats., 388), known as the reclamation act, and which may make possible, and provide for in connection with the reclamation of other lands, the irrigation of all or any part of the irrigable lands heretofore included in allotments made to Indians under the fourth section of the general allotment act, the Secretary of the Interior be, and he hereby is, authorized to make such arrangement and agreement in reference thereto with said allottees as may be necessary: *Provided*, That no lien or charge for construction, operation, or maintenance shall thereby be created against any such lands: *Provided further*, That to meet the necessary cost of carrying out this legislation the Secretary of the Interior is authorized to expend, out of the sum appropriated in this act for irrigation, an amount not exceeding $13,000.

The amendment was agreed to.

The next amendment was, under the subhead "Santa Fe School," on page 52, after line 11, to insert:

For completion of the irrigation system on the Zuni Reservation in New Mexico, $25,000, to be immediately available.

The amendment was agreed to.

The next amendment was, under the subhead "Six Nations of New York. (Treaty)," on page 53, line 18, after the word "dollars," to insert "and such sum shall bear interest at the rate of 5 per cent per annum until withdrawn from the Treasury for payment to the Indians as hereinafter provided," so as to make the clause read:

That the Secretary of the Treasury is hereby authorized and directed to place on the books of the Treasury to the credit of the Seneca Indians of New York the sum of $118,050, and such sum shall bear interest at the rate of 5 per cent per annum until withdrawn from the Treasury for payment to the Indians as hereinafter provided, being the value of stocks held in trust for the Indians and taken by the United States, and canceled under authority of the act of June 27, 1846.

The amendment was agreed to.

The next amendment was, on page 54, after line 6, to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to place upon the books of the Treasury the sum of $70,000 to the credit of the Six Nations of New York Indians, excluding the Oneidas of Wisconsin, said sum being a capitalization, on a basis of 5 per cent, of the permanent annuity of $3,500 paid in merchandise through the New York Indian Agency, as provided by the treaty of November 11, 1794, Seventh Statutes at Large, page 44, to the members of the Six Nations residing in the State of New York; and the said sum of $70,000 shall be held as a tribal trust fund for the tribes entitled thereto, and draw interest at 5 per cent, and be subject to distribution under the direction of the Secretary of the Interior, in such manner and under such regulations as he may prescribe.

The Secretary resumed the reading of the bill under the heading "North Carolina."

Mr. CLAPP. The Senator from North Carolina [Mr. OVERMAN] brought me a suggestion a moment ago showing that a mistake had been made in the number of pupils at the Cherokee school. In his absence, I ask that the item be passed over for the present.

The reading of the bill was continued.

The next amendment was, under the subhead "North Dakota," on page 56, line 9, after the word "entitled," to strike out:

"An act to provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the United States to the Territories from the Indians, and for other purposes."

And insert:

"An act to provide for the allotment of lands in severalty to the Indians of the various reservations and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," and amendments thereto.

So as to make the clause read:

That the Secretary of the Interior be, and he is hereby, authorized, on the approval of any allotment or homestead made to an Indian of the Turtle Mountain band of Chippewa Indians under the act of April 21, 1904 (33 Stat. L., 189, 194), to cause patent to issue therefor in the name of the allottee in accordance with section 5 of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to the Indians of the various reservations and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," and amendments thereto.

The amendment was agreed to.

The next amendment was, under the subhead "Wahpeton School," on page 57, after line 7, to insert:

For improving the heating and lighting plant, $5,000.

The amendment was agreed to.

The next amendment was, on page 57, line 10, before the word "thousand," to strike out "twenty" and insert "twenty-five," so as to make the clause read:

In all, $25,200.

The amendment was agreed to.

The next amendment was, in the items for the Wahpeton School, on page 57, after line 11, to insert:

In addition to the above, the Commissioner of Indian Affairs is authorized to expend in behalf of said school any unexpended balance of the appropriations heretofore made for said school for improvements thereon.

The amendment was agreed to.

The next amendment was, under the head of "Oklahoma," on page 58, after line 9, to strike out:

For a monument to Cynthia Ann Parker, mother of Quanna Parker, chief of the Comanches, $1,000, to be expended under such regulations as the Secretary of the Interior may prescribe.

The amendment was agreed to.

The next amendment was, under the head of "Five Civilized Tribes," on page 62, after line 18, to strike out:

For clerical work and labor connected with the sale of inherited and other lands, Five Civilized Tribes, $10,000.

The amendment was agreed to.

The next amendment was, on page 62, after line 22, to insert:

For appraising, clerical work, and labor connected with the sale of restricted lands, Five Civilized Tribes, $25,000.

The amendment was agreed to.

The next amendment was, on page 63, line 10, before the word "thousand," to strike out "fifteen" and insert "twenty-five," so as to make the clause read:

To enable the Secretary of the Interior to carry out the provisions of the act approved April 21, 1904, and section 1 of the act of May 27, 1908, for the removal of restrictions upon the alienation of lands of allottees of the Five Civilized Tribes, $25,000.

The amendment was agreed to.

The next amendment was, under the subhead "District agents," on page 63, line 18, before the word "thousand," to strike out "ninety" and insert "one hundred," so as to read:

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 $100,000, to be immediately available 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, 1908.

The amendment was agreed to.

The next amendment was, under the subhead "Schools," on page 64, line 12, before the word "thousand," to strike out "one hundred and fifty" and insert "three hundred," so as to make the clause read:

For the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations, and making provision for the attendance of children of parents of other than Indian blood therein, and the establishment of new schools under the control of the Department of the Interior, the sum of $300,000, or so much thereof as may be necessary, to be placed in the hands of the Secretary of the Interior, and disbursed by him under such rules and regulations as he may prescribe.

The amendment was agreed to.

The next amendment was, under the subhead "Completion of the work," on page 64, after line 23, to insert:

Whatever of said work remains uncompleted on said date shall be turned over to the United States Indian agent at the Union Agency, Okla., to be by him completed.

The amendment was agreed to.

The next amendment was, under the subhead "Seminoles (treaty)," on page 67, line 9, after the word "dollars," to insert "said sum, or any part thereof, so long as it remains in the Treasury, to draw interest at the rate of 5 per cent per annum," and, in line 17, after the word "fifty-six," to strike out:

And the Secretary of the Interior is authorized to pay per capita to the members of the tribe entitled thereto 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., p. 201).

So as to make the clause read:

That the Secretary of the Treasury is hereby authorized and directed to place on the books of the Treasury to the credit of the Seminole tribe of Indians, the sum of $570,000, said sum, or any part thereof, so long as it remains in the Treasury, to draw interest at the rate of 5 per cent per annum, being the balance of the unappropriated amounts due said tribe under article 8 of the treaty of August 7, 1856 (11 Stat. L., p. 702), and article 3 of the treaty of March 21, 1866 (14 Stat. L., p. 756).

The amendment was agreed to.

The next amendment was, at the top of page 68, to insert:

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 use the same for the benefit of said Indians.

The amendment was agreed to.

The next amendment was, on page 68, after line 7, to insert:

That the Secretary of the Interior is hereby authorized, in case after investigation he deems it for the best interest of the tribe, to set aside 640 acres of Choctaw land for the benefit of old Goodland Indian Orphan Industrial School, and to convey the same to said school in conjunction with the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation.

The amendment was agreed to.

The next amendment was, on page 68, after line 14, to insert:

That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee to the Benedictine Fathers of Sacred Heart Abbey, Oklahoma, for the following-described lands, now and for many years reserved for and occupied by the Sacred Heart Mission, to wit, the south half of section 7 and the north half of section 18, in township 6 north, range 5 east, on the Pottawatomie Reservation, Okla., containing 640 acres more or less.

The amendment was agreed to.

The next amendment was, on page 68, after line 23, to insert:

The sum of $600,000 is hereby appropriated in full payment of the award of the United States Senate of February 16, 1903, in favor of the loyal Creek Indians, to be immediately available. Such funds shall be paid in proportion to the award as set out in the list of awards made by W. B. Hazen and F. A. Field, commissioners, on behalf of the United States: *Provided*, That amounts due decedents on such list shall be paid to their heirs or legal representatives: *Provided further*, That the Secretary of the Treasury is hereby authorized and directed to first withhold from the amount herein appropriated and pay to S. W. Peel, of Bentonville, Ark., the attorney of said loyal Creek and freedmen, a sum equal to 10 per cent of the amount herein appropriated, as provided by written contracts between said S. W. Peel and the claimants herein, the same to be payment in full for all legal and other services rendered by him or those employed by him and for all disbursements and other expenditures had by him or his associates in behalf of said claimants in pursuance to said contract.

The Secretary of the Treasury is further authorized and directed to pay to David M. Hodge, a Creek Indian, of Tulsa, Okla., in the Creek Nation, a sum equal to 5 per cent of the amount herein appropriated, which payment shall be in full for all claims of every kind made by said David M. Hodge, or those claiming under him, by reason of any engagement, agreement, or understanding had between him and said loyal Creek Indians.

Mr. CLAPP. In line 2, page 69, after the word "Indians," I move to insert the words "pursuant to the stipulations of the treaty of March 1, 1901."

Mr. CURTIS. I desire to make a point of order against this amendment.

The PRESIDING OFFICER (Mr. HEMENWAY in the chair). Without objection, the amendment to the amendment will be agreed to.

Mr. CURTIS. I have no objection to the amendment to the amendment, but it ought to read "agreement" instead of "treaty," because there was no treaty of that date.

Mr. McCUMBER. It is the same thing.

Mr. CURTIS. The courts hold not.

The PRESIDING OFFICER. Does the chairman of the committee accept the modification?

Mr. CURTIS. It should be "agreement" instead of "treaty," because there was no treaty.

Mr. CLAPP. I think that is correct, probably.

The PRESIDING OFFICER. It will be so modified. The question is on agreeing to the amendment to the amendment as modified.

The amendment to the amendment was agreed to.

Mr. CURTIS. I make a point of order against the amendment, commencing on line 24, page 68, and running over to line 2, page 70, on the ground that it is general legislation, and that it is a claim.

Mr. McCUMBER. Before the Chair passes upon it, I should like to be heard.

The VICE-PRESIDENT. Will the Senator from Kansas withdraw his point of order, that the Senator from North Dakota may be heard?

Mr. CURTIS. Certainly; I will reserve it, or withdraw it, if that is necessary.

Mr. McCUMBER. I wish the Senator would state his point of order, and then I wish to discuss it and present some views upon the point of order.

The VICE-PRESIDENT. The Senator from Kansas may make the point of order, without objection, and the Senator from North Dakota will be heard. Under the strict rule, after a point of order has been made, debate is not in order.

Mr. McCUMBER. I understand.

The VICE-PRESIDENT. By the permission of the Senate, the Senator from Kansas will state the point of order.

Mr. CURTIS. By the act of 1903 Congress appropriated the sum of $600,000 to settle this claim. The act provided that, if paid, the Indians should receipt in full settlement of the claim.

The VICE-PRESIDENT. The Senator from Kansas will kindly suspend while the Chair lays before the Senate the unfinished business, the hour of 2 o'clock having arrived. The unfinished business 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. NELSON. I ask that the unfinished business may be temporarily laid aside.

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

Mr. CURTIS. I have been requested by Senators to let this item be passed over, and I am perfectly willing that that course should be pursued.

The VICE-PRESIDENT. Without objection, the amendment will be passed over for the present, at the request of the Senator from Kansas. The Secretary will resume the reading of the bill.

The Secretary resumed the reading of the bill and read to line 20, on page 71.

Mr. SUTHERLAND. On page 71, line 20, after the word "school," I move to strike out the word "at" and to insert the word "of," so as to read, "at Indian school of Carlisle, Pa.," and so forth.

The amendment was agreed to.

The reading of the bill was continued.

The next amendment of the Committee on Indian Affairs was, in the items for the Carlisle school, Pennsylvania, on page 71, after line 23, to insert:

For improvement of heating system, $10,000, to be immediately available.

The next amendment was, on page 72, after line 15, to strike out:

The Secretary of the Interior is hereby authorized to dispose of and convey the real estate, including buildings and fixtures, of the Chamberlain School, South Dakota, for a price not less than $26,000 (unless it should be disposed of to the State of South Dakota, in which case the limitation as to price shall not apply), upon condition that the property shall continue to be maintained and operated as an educational institution and that children of Indian parents shall have the same privileges of education as white children, but with tuition free: *Provided*, That the Commissioner of Indian Affairs is authorized and directed to dispose by sale or transfer to other schools such property as is not covered by the transfer of the realty, buildings, and fixtures.

And in lieu thereof to insert:

There is hereby granted to the State of South Dakota upon the terms and conditions hereinafter named the following-described property, known as the Chamberlain School, including the lands, buildings, and fixtures pertaining to said school: *Provided*, That said lands and buildings shall be held and maintained by the State of South Dakota as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils: *Provided further*, That this grant shall be effective at any time before July 1, 1910, if before that date the governor of the State of South Dakota files an acceptance thereof with the Secretary of the Interior accepting for said State said property, upon the terms and conditions herein prescribed.

Mr. KITTREDGE. I present to the Senate, with a view of its acceptance by the committee, an amendment to be inserted at the end of the paragraph, in line 19, page 73, and if it is agreeable to the committee, I will be entirely satisfied to have the amendment adopted.

The VICE-PRESIDENT. The amendment to the amendment will be read by the Secretary.

The SECRETARY. Add at the end of the amendment the following:

If such property is not accepted by the State of South Dakota as hereinbefore provided, the Secretary of the Interior is hereby authorized to dispose of and convey the real estate, including buildings and fixtures of the Chamberlain School, South Dakota, for a price not less than $26,000, upon condition that the property shall continue to be maintained and operated as an educational institution, and that children of Indian parents shall have the same privilege of education as

white children, but 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 realty, buildings, and fixtures.

Mr. CLAPP. I see no objection to the amendment to the amendment.

Mr. GAMBLE. I should like to hear the first part of the amendment to the amendment read again, as to the time when it will become operative.

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

The Secretary read as follows:

If such property is not accepted by the State of South Dakota as hereinbefore provided, the Secretary of the Interior is hereby authorized to dispose of and convey the real estate, including buildings and fixtures, of the Chamberlain School, South Dakota, for a price not less than $26,000.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 78, line 22, after the word "acre," to insert the following proviso:

Provided, however, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization heretofore engaged in mission or school work on said reservations, for such lands thereon as have been heretofore set apart to such organization for mission or school purposes.

So as to make the clause read:

On the Lower Brule Reservation: On agency reserve in section 15, township 107 north, range 73 west of the fifth principal meridian, described as beginning at the corner to sections 10, 11, 14, 15; thence west 330 feet on the section line between sections 10 and 15; thence south 264 feet; thence east 330 feet; thence north 264 feet to the place of beginning, containing 2 acres: *Provided, however*, That the Secretary of the Interior is hereby authorized, etc.

The amendment was agreed to.

The next amendment was, under the subhead "Sioux of different tribes, including Santee Sioux of Nebraska (treaty)," on page 79, line 20, before the word "hundred," to strike out "five" and insert "three," so as to read:

For subsistence of the Sioux, and for purposes of their civilization, as per agreement ratified by act of Congress approved February 28, 1877, $300,000.

Mr. GAMBLE. I suggest that the amendment be disagreed to. This is a treaty stipulation, and no recommendation has come from the department for a reduction of the appropriation. I ask that the amendment be disagreed to for the reason that it is a treaty stipulation and no suggestion has come from the department in regard to it. It is a matter of importance to the Indians there. I suggest that if such a reduction is to be made, the matter had better be referred to the department. It comes with a recommendation from the department for the original amount.

Mr. DIXON. I wish to say that probably I was partially responsible for that amendment in committee. The old treaty of 1877 does provide for rations for these Sioux Indians until such time as they shall become self-supporting. It was then my judgment and belief that as long as you issue rations to an Indian he never will become self-supporting. I think it was at my suggestion that the amendment was made to cut the amount from $500,000 to $300,000.

The amendment was rejected.

The next amendment was, under the subhead "Sioux, Yankton tribe (treaty)," on page 81, after line 6, to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the Flandreau tribe of Indians, in the State of South Dakota, per capita the balance remaining in the Treasury to their credit, approximating $8,000, accruing to said Indians under the act of March 2, 1889.

The amendment was agreed to.

The next amendment was, on page 81, after line 12, to insert:

That the following-described tract of land situated in Boreman County, in the State of South Dakota, and described as follows, to wit: A strip of land 10 chains wide on the west side of lot 3, in sec. 26, of T. 20 N., of R. 25 E., of the Black Hills principal meridian, be, and the same hereby is, reserved for cemetery purposes for the perpetual use of the Indians of the Standing Rock Indian Reservation, and the same shall not be subject to taxation so long as the same may be used for cemetery purposes.

The amendment was agreed to.

The next amendment was, under the head of "Utah," on page 82, line 8, after the word "dollars," to insert "reimbursable," so as to make the clause read:

For constructing irrigation system, to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes in Utah, as provided by the act of June 21, 1906, $125,000, reimbursable.

The amendment was agreed to.

The next amendment was, on page 82, after line 8, to insert:

There is hereby granted to the State of Utah, upon the terms and conditions hereinafter named, the following-described property, known as the Panguitch School, including the lands, buildings, and fixtures pertaining to said school: *Provided*, That said lands and buildings shall be held and maintained by the State of Utah as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils: *Provided further*, That this grant shall be effective at any time before July 1, 1910, if before that date the governor of the State of Utah files an acceptance thereof with the Secretary of the Interior accepting for said State said property, upon the terms and conditions herein prescribed.

The amendment was agreed to.

The next amendment was, on page 82, after line 22, to insert:

To enable the Commissioner of Indian Affairs to perfect and protect the rights of the Uncompahgre, Uintah, and White River Utes in Utah in and to the waters appropriated under the laws of the State of Utah for the irrigation systems authorized by the act of June 21, 1906, $200,000, or so much thereof as may be necessary, the amount expended hereunder to be reimbursed from the proceeds of the sale of lands within the former Uintah Reservation: *Provided*, That said sum, or any part thereof, shall be used only in the event of failure to procure from the State of Utah or its officers an extension of time in which to make final proof for waters appropriated for the benefit of the Indians, and any sum expended hereunder shall be reimbursed from the proceeds of the sale of the lands within the former Uintah Reservation.

The amendment was agreed to.

The next amendment was, at the top of page 88, to insert:

To enable the Commissioner of Indian Affairs to pay the Oneida band of Indians of the Oneida Reservation, Wis., their proportionate share of the perpetual annuity accruing to the Six Nations of New York Indians, under the sixth article of the treaty of November 11, 1794 (7 Stat. L., p. 46), on the basis of a capitalization of the said annuity at 5 per cent, as provided in the agreement made with the said Oneida band January 4, 1909, said agreement having been made in pursuance with the act of Congress approved April 30, 1908 (35 Stat. L., p. 70), $20,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 89, after line 7, to insert:

That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board or other proper authority of any religious organization heretofore engaged in mission or school work on said reservations, for such lands thereon as have been heretofore set apart to such organization for mission or school purposes.

The reading of the bill was concluded.

Mr. CLAPP. On page 10, after line 23, I move to insert what I send to the desk.

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

The SECRETARY. On page 10, after line 23, it is proposed to insert:

That all lands allotted to Indians in severalty, except allotments made to members of the Five Civilized Tribes, may by said allottee be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior; and the Secretary of the Interior is hereby authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this paragraph into full force and effect.

The amendment was agreed to.

Mr. CLAPP. After the amendment just agreed to, I move to insert what I send to the desk.

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

The SECRETARY. After the amendment just agreed to it is proposed to insert:

That if any Indian tribe whose surplus lands have been or shall be ceded or open to disposal has received or shall receive an allotment embracing lands unsuitable for allotment purposes, such allotment may be canceled and other unappropriated, unoccupied, and unsurveyed land of equal area, within the ceded portions of the reservation upon which such Indian belongs, allotted to him upon the same terms and with the same restrictions as the original allotment, and lands described in such canceled allotment shall be disposed of as other ceded lands in such reservation. The Secretary of the Interior is authorized to prescribe rules and regulations to carry this law into effect.

The amendment was agreed to.

Mr. CLAPP. On page 32, after line 7, I offer the amendment which I send to the desk.

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

The SECRETARY. On page 32, after line 7, it is proposed to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John K. Heyl, from the funds of the Kaw Indians in his possession, which have been set aside for the payment of certain claims, now in his possession, the sum of $750, the same being in payment of a scrip of the said Kaw Indians issued to Robert S. Stevens or bearer, the said payment to be made on the basis of the liquidation of other like scrip of the Kaw Indians.

Mr. CURTIS. If the chairman of the Committee on Indian Affairs will consent to strike out the last clause of the amendment and insert the words "without interest," personally I shall not object to this amendment.

Mr. CLAPP. That should be done. The Senator from Kansas previously called my attention to that, but I overlooked it.

Mr. CURTIS. After the word "dollars" in the amendment, I move to insert "without interest," and then to strike out the last words of the amendment, "the said payment to be made on

the basis of the liquidation of other like scrip of the Kaw Indians."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CLAPP. Mr. President, I desire to offer an amendment, to which I call the attention of the Senator from Kansas [Mr. CURTIS]. All amendments relating to sending matters to the Court of Claims have been passed over. Last year we adopted an amendment authorizing certain matters in Wisconsin to go to the Court of Claims. In doing that we named the parties who might bring the suits. It appears that one of those parties had died prior to the passage of that act. The object now is to allow his heirs to bring suit, and also to make provision for what was then omitted in the matter of taking depositions; so it will hardly be in line with the matters the Senator has in view.

Mr. CURTIS. May I ask the Senator from Minnesota a question?

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

Mr. CLAPP. I do.

Mr. CURTIS. The object of this amendment is simply to perfect what was before in the bill?

Mr. CLAPP. Simply to perfect what was in the bill before.

Mr. CURTIS. I have no objection to that.

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

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

The SECRETARY. On page 89, after line 14, it is proposed to insert:

That the provisions of section 2 of the act approved May 29, 1908, conferring jurisdiction upon the Court of Claims in certain cases against the Menominee Indians be, and the same hereby are, extended to the heirs and legal representatives of William H. Stacey, formerly a trader upon the Menominee Reservation in Wisconsin, and to all other persons having claims against the Menominee tribe of Indians and against certain members of said tribe of the character described in said act, and the Secretary of the Treasury is authorized and directed to pay to Henry S. Comstock, attorney of record for said Indians in the Court of Claims, the sum of $2,000 out of any funds in the Treasury to the credit of said tribe for the purpose of taking depositions, payment of witness fees, and other expenses necessarily incident to the preparation of the defense of said Indians against all actions brought or to be brought under the provisions of section 2 of the act above mentioned, the said amount to be accounted for in final settlement of fees and expenses with said court and to be deducted from the allowance made.

The amendment was agreed to.

Mr. CLAPP. Mr. President, the first item passed over was on page 4, relating to gravel pits and reservoirs.

The VICE-PRESIDENT. The first amendment passed over, as the Chair understands, begins in the middle of page 3 and embraces page 4 and two lines of page 5.

Mr. HEYBURN. It commences on page 2; and against that amendment I raise the point of order.

The VICE-PRESIDENT. That amendment has been agreed to. The Chair understands that the first amendment passed over begins in line 13, page 3, and ends at line 2, on page 5.

Mr. HEYBURN. I suggested at the time that the action on the amendments was so rapid that I was unable to interpose my objection to the first committee amendment. I requested that it should be open to the suggestion of the rule.

Mr. CLAPP. It may just as well be regarded as still open.

The VICE-PRESIDENT. Without objection, the amendment which was agreed to, on page 2, will be regarded as still open.

Mr. HEYBURN. I object to the amendment commencing in line 14, page 2, and extending down to line 11, on page 3, as being general legislation.

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

Mr. HEYBURN. Now, I make the same objection to the second amendment, commencing in line 13, on page 3, and continuing down to and including line 2, on page 5.

Mr. CLAPP. Mr. President——

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

Mr. HEYBURN. Certainly.

Mr. CLAPP. I call the Senator's attention to the suggestion I am about to make, that on page 4, line 2, after the word "shall," the words "ascertain and fix the value of" be stricken out, and the words "negotiate with the Indians for" be inserted; and in line 3, after the word "so," the word "fixed" be stricken out, and the words "agreed upon" be inserted, so as to read:

The said Secretary shall negotiate with the Indians for said land, and upon the payment of the price so agreed upon, the said Secretary, etc.

Mr. HEYBURN. That will be entirely agreeable to me.

Mr. CLAPP. Very well. I move that amendment to the amendment.

Mr. HEYBURN. With that modification I should not object to the amendment.

The VICE-PRESIDENT. Does the Senator from Idaho withdraw his point of order?

Mr. HEYBURN. I do, in view of the amendment to the amendment.

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

The SECRETARY. In the amendment of the committee, on page 4, line 2, after the word "shall," it is proposed to strike out "ascertain and fix" and insert "negotiate with the Indians for;" and in line 3, after the word "so," to strike out "fixed" and insert "agreed upon," so as to read:

That when any railway company desiring to secure the benefits of this act shall file with the Secretary of the Interior an application describing the lands which it desires to purchase, the said Secretary shall negotiate with the Indians for said land, and upon the payment of the price so agreed upon the said Secretary shall cause such lands to be conveyed to the railway company applying therefor upon such terms and conditions as he may deem proper.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment passed over was, on page 7, after line 14, to insert:

That all patents issued for allotments to the Indians on the Stockbridge and Munsee Reservation, Wis., shall expressly declare that no sale of the lands described therein shall be made under any decree of any court or otherwise for or on account of any claim, judgment, execution, order, or for taxes, or voluntarily by the patentee or his or her heirs, unless such sale is approved by the Commissioner of Indian Affairs, and any such sale or conveyance made without such approval shall be absolutely void.

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

Mr. LA FOLLETTE. I asked to have that amendment passed over. There is no reason why the restriction should be imposed upon the property belonging to these Indians. They are certainly as intelligent, as highly civilized, and as well advanced as any Indians in the United States, whether in New York or elsewhere. In the report for 1905 it is said:

The Stockbridge and Munsee Indians are fully equipped for citizenship and the management of their lands and moneys, and an early settlement of these affairs is earnestly desired.

And yet this amendment proposes to so encumber their property or to place such restrictions with respect to the improvement of their property that it will be impossible for them to build homes or borrow money or contract debts for opening up and making their farms.

Mr. CLAPP. Mr. President——

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

Mr. LA FOLLETTE. Certainly.

Mr. CLAPP. The Senator suggested that the amendment ought to be passed over and that later we might take it up. If the Senator feels that the position he has taken should be sustained, the amendment could be reached by a point of order and disposed of at this time.

Mr. LA FOLLETTE. I purposed to follow this brief statement with a point of order that the amendment is general legislation on an appropriation bill and ought to go out. I wanted to assign some reason for making the point of order; that was all.

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

The next amendment passed over was, on page 23, after line 19, to insert:

That to carry into effect the agreement between the Confederated Bands of Ute Indians of Colorado and the United States, ratified by the act of Congress approved June 15, 1880, being "An act to accept and ratify the agreement submitted by the Confederated Bands of Ute Indians in Colorado for the sale of their reservation in said States, and for other purposes, and to make the necessary appropriations for carrying out the same" (21 Stats., p. 199), jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render final judgment, with right of appeal as in other cases, on the claims and rights of said Indians under said agreement, including the value of all lands ceded by the said Indians which have been set apart and reserved from the public lands as public reservations or for other public uses under existing laws and proclamations of the President, as if disposed of under the public-land laws of the United States, as provided by said agreement, and the money due therefor; and the court shall set off against any sum found due said Indians the amount paid to them under the fifth section of said act of June 15, 1880, being $50,000 per annum up to the date of rendition of final judgment in this cause, also any other sum or sums that shall be found to be properly chargeable under the terms of said agreement; and the credit of $1,250,000 set apart in the Treasury by the terms of said agreement, upon which said annuity has been estimated, shall, upon the rendition of final judgment in this cause, cease to exist as a trust fund, and from and after the date of said judgment no annuity shall be estimated or paid therefrom; and the action herein authorized shall be consolidated with cause Congressional No. 11248, now pending in said court, for the purpose of using at the trial thereof all evidence which has been adduced in said pending cause,

and shall be commenced by petition under the title of said pending cause and shall be conducted by the attorney of record now appearing therein, or by any attorney by him specifically authorized to appear; and the Attorney-General shall continue to appear and represent the United States; and in rendering judgment herein the court shall fix upon a quantum meruit and set apart just and reasonable compensation to the attorneys on behalf of plaintiffs who have rendered actual services in prosecuting said claim before the committees of Congress and in conducting the said cause before the courts in the name of the attorney of record in said pending cause, or any attorney by him specifically authorized, and said compensation shall be paid to such attorney by the Secretary of the Treasury out of any money in the Treasury arising from the sale of said ceded lands or from the proceeds of said judgment, or out of any money in the Treasury not otherwise appropriated, which sum is hereby appropriated, to be reimbursed to the United States from the funds of the Confederated Bands of Ute Indians, and the balance of said judgment shall be held in the Treasury for the benefit of said Indians as a trust fund, and the interest thereon shall be distributed annually to them in accordance with the terms of said act of June 15, 1880; and the said cause shall be advanced in hearing by the Court of Claims, and by the Supreme Court of the United States if the same shall be appealed: *Provided*, That after final judgment rendered in this cause, as herein authorized, the court may from time to time further consider and render judgments for the value of any lands whereof disposition shall be made subsequent to June 30, 1909.

Mr. TELLER. I want to say a few words about that amendment. It is in exactly the language of a bill which has heretofore passed the Senate, but has not passed the House. In 1879 we had some trouble with the Ute Indians in Colorado. They murdered their agent and did some other very bad things. On the 15th day of June, 1880, we made a treaty with them, and this provision is to carry out that treaty. We speak of it here now as an agreement, but originally such agreements were called "treaties." I have the treaty before me and if any Senator desires to have me go into the details of it, I can do so. I merely wish, however, to make a very brief statement, as we have not much time to spend on these matters.

Mr. CURTIS. Mr. President——

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

Mr. TELLER. Certainly.

Mr. CURTIS. I should like to know whether the amendment is a new and original proposition or simply one to correct an error that was made in a former appropriation bill?

Mr. TELLER. It is not to correct anything. It is really to send this case to the Court of Claims and let the court settle the controversy between the Government and the Indians. That is all.

Mr. CURTIS. As I understand, this claim was heretofore sent to the Court of Claims.

Mr. TELLER. It was sent under the Tucker Act, but the Court of Claims have very strongly indicated that they did not think they had jurisdiction. That is how it stands, and that is what we are afraid of—that the court will hold that they have not jurisdiction. A good deal of time has already been wasted.

I want to say that the controversy between the Indians and the Government is simply this: The Government say that prior to the treaty of 1880 they had advanced to these Indians a good deal of money, which is true. I participated in the discussion of that treaty twenty-nine years ago, and I know that it was accepted by the Indians and understood by the department itself to be a final settlement. There was no suggestion that any former advances should be considered in connection with the treaty. Now the Government say that they had made some advances before that time that ought to be charged up.

The Indians ceded to the Government of the United States a very large tract of land at a dollar and a quarter an acre. It included some of the most valuable land in the State of Colorado, property that to-day is worth four or five hundred dollars an acre. It included also a large tract of coal land, which is worth, according to the present estimate of the department, anywhere from $50 to $500 an acre. These Indians have been paid a stipulated sum yearly, I believe, although there is some dispute about that. The Indians claim otherwise, but I think they have.

The question is now, Shall the Government pay them for the land they have sold at a dollar and a quarter an acre and land that has been withdrawn from entry at a dollar and a quarter an acre? A large portion of this area has been withdrawn from settlement and is now in three great forest reserves, upon which no man can acquire any title whatever to property. The stipulation in the agreement of the Indians was that the Government should sell these lands and deposit the money in the Treasury. We want to get an opportunity to show to the court what the facts are and have it determined whether the Indians are to be charged for matters that occurred long before the treaty was made.

Then, we should like to have the court pass upon the question whether the Government ought to be paid for the land which has been segregated from the public lands and put into forest reserves. The stipulation was that whatever was sold should sell at a dollar and a quarter an acre and that that should be paid to the Indians.

Mr. President, I do not see why anyone should object to the amendment. It provides that the Attorney-General shall look after the case and see that the Government is not wronged. It is the only way that the Indians can settle this controversy. They can not sue the Government unless we authorize them to do so.

Mr. CURTIS. I withdraw the point of order, Mr. President.

The VICE-PRESIDENT. The Senator from Kansas withdraws his point of order. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS. Mr. President, in this connection I desire to say that I withdraw the point of order I made against the amendment offered by the Senator from Nebraska [Mr. BURKETT] on page 49.

The VICE-PRESIDENT. The Senator from Kansas withdraws the point of order made against the amendment offered by the Senator from Nebraska. The amendment will be stated.

The SECRETARY. On page 49, after line 14, it is proposed to insert:

That all claims of whatsoever nature which the Omaha tribe of Indians may have or claim to have against the United States shall be submitted to the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, for determination of the amount, if any, due said Omaha tribe from the United States under the treaty between the United States and the said Omaha tribe of Indians, ratified and affirmed March 16, 1854, or any other treaties or laws, or for the misappropriation of any funds of said Omaha tribe for purposes not for its material benefit, or for failure of the United States to pay said Omaha tribe any money due; and jurisdiction is hereby conferred upon the Court of Claims to hear and determine all legal or equitable claims, if any, of said Omaha tribe against the United States, and also any legal or equitable defense, set-off, or counterclaim which the United States may have against said Omaha tribe of Indians, and to enter judgment thereon. The Court of Claims shall advance said cause upon the docket. If any question is submitted to said court, it shall settle the right, both legal and equitable, of both the Omaha tribe of Indians and the United States, notwithstanding lapse of time or statutes of limitation, and final judgment and satisfaction thereof in said cause shall be deemed a final settlement of all claims of said Omaha Indians against the United States. Such action in the Court of Claims shall be presented by a single petition, subject, however, to amendment, to be filed within one year after the passage of this act; and such action shall make the Omaha tribe of Indians party plaintiff and the United States party defendant, and shall set forth all the facts on which the Omaha tribe of Indians bases its claim for recovery; and the said petition may be verified by the attorney employed by the said Omaha Indians under the contract filed in the Indian Office on the 4th day of March, 1898, and reported upon to the Secretary of the Interior on the 1st day of May, 1901, upon information and belief as to the existence of such facts, and no other statements or verification shall be necessary.

The attorneys of record shall be furnished with official letters, papers, reports, documents, and public records or certified copies thereof, which may be used in evidence if competent under the rules of said Court of Claims: *Provided*, That upon the final determination of such suit the Court of Claims shall have jurisdiction to decree such reasonable fees as the court shall find shall be paid to the attorney or attorneys employed by the Omaha tribe of Indians, and the same shall be paid out of any sum or sums found due said Omaha tribe of Indians: *Provided further*, That the Otoe and Missouri Indians, of Oklahoma, are hereby authorized to intervene in the said action and set up and have determined any right or interest they or either of them may have or claim to have in said claim; and jurisdiction is hereby conferred upon said Court of Claims to hear and determine all legal and equitable claims, if any, of said Otoe and Missouri Indians, of whatsoever nature, which either or both of said tribes of Indians may have or claim to have against the United States, the right of appeal to the Supreme Court of the United States by either party, for the determination of the amount, if any, due either of said tribes from the United States under any treaties or laws of Congress of the unexecuted stipulations of any treaties, or for the misappropriation of any of the funds of either of said tribes for purposes not for their material benefit, or for the failure of the United States to pay either of said tribes any money due.

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

The amendment was agreed to.

Mr. CLAPP. The next item passed over is on page 54. I am advised that the Senator from North Carolina [Mr. OVERMAN] desires to offer an amendment in the provision for the Cherokee school in North Carolina.

Mr. OVERMAN. Mr. President, I have a copy of an amendment prepared by the gentleman who represents in the other House the district where that school is located.

Mr. CLAPP. Does the Senator desire to offer it now?

Mr. OVERMAN. Yes. I offer the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 54, line 25, after the words "education of," it is proposed to strike out "one hundred and sixty" and insert "two hundred;" and on page 55, line 1, before the word "thousand," to strike out "twenty-eight" and insert "thirty-four," so as to read:

For support and education of 200 pupils at the Indian school at Cherokee, N. C., and for pay of superintendent, $34,220.

Mr. OVERMAN. I wish to say that the reason I offer the amendment is that the supreme court of North Carolina in a recent case, found in a late volume of the North Carolina Reports, decided that the Cherokee children are amenable to the laws of North Carolina, which require every man to send his children to school. There are 227 in the school now.

The amendment was agreed to.

Mr. CLAPP. I will ask permission at this time to correct the totals. There have been some changes made.

The VICE-PRESIDENT. Without objection, permission is granted.

Mr. CLAPP. On page 10, after the amendment which has been adopted there, I desire to submit another amendment. I want to say that the Senate has been very indulgent with these amendments. This is something the department is very anxious to have done. A bill for this purpose passed the Senate some time ago. I offer the amendment.

The SECRETARY. On page 10, after line 3, and after the amendments already agreed to at that point, it is proposed to insert:

That any adult Indian of any reservation to whom an allotment has been or hereafter shall be made and a trust or other patent containing restrictions on alienation issued, or hereafter shall be issued therefor, is, with the consent of the Secretary of the Interior and under such regulations as he may prescribe, hereby authorized to sell the timber on his allotment.

Timber on the allotments of minors may, upon the approval of the Secretary of the Interior, likewise be sold by the father, mother, or Indian agent, or other officer in charge, in the order named, and the Secretary of the Interior shall make such regulations for the disposition of the proceeds of said sales as may be necessary to protect the interest of said Indians, including such minors.

Mr. TELLER. I should like to have the word "guardian" included there somewhere—the guardian, under the direction of the Secretary of the Interior.

The VICE-PRESIDENT. The amendment reads:

By the father, mother, or Indian agent, or other officer in charge, in the order named.

Mr. TELLER. Perhaps that will cover it.

Mr. LA FOLLETTE. I ask to have the amendment read again.

The VICE-PRESIDENT. The Secretary will again read the amendment, at the request of the Senator from Wisconsin.

The Secretary again read the amendment.

Mr. LA FOLLETTE. I am constrained to make the point of order against the amendment that it is general legislation upon an appropriation bill.

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

Mr. TELLER. I wish to offer an amendment, and I desire to say a word or two about it. I send up the amendment to be read.

The SECRETARY. On page 2, after line 13, it is proposed to insert:

To provide for the protection of Indian property and the prosecution of crimes and offenses committed against Indians and Indian property, the sum of $25,000, to be expended at the discretion of the President, the same to be immediately available.

Mr. TELLER. Mr. President, I find there is a small appropriation—I think twenty-five hundred dollars—provided in the pending bill for this purpose, and perhaps for some other purposes.

I have some personal knowledge of the conditions of Indian property. I have gone on two committees into the Indian country—down into Oklahoma. I have some knowledge of the condition of the Indians in the western country, as well as in the Southwest. I know that there have been committed against the Indians a great many frauds of recent date. There are a large number of prosecutions now on hand by the General Government, I understand, and I want to have a reasonable amount of money provided for their prosecution. I do not know—it might have been put into the hands of the Secretary; but on consultation with some people who know about those matters, I thought it better to put it in the name of the President. Of course, the work will be done under the Secretary of the Interior, whoever he may be.

I think this ought to be done. I think common justice to the Indians requires that we should furnish some means to protect their property, and to protect their persons in some cases. The Senator from Kansas, I think, accompanied me on one of those expeditions, and he will sustain me in the statement that we ought to have some help from the General Government in these cases.

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

The amendment was agreed to.

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

The SECRETARY. On page 18, after line 19, it is proposed to insert:

For payment to James H. Owen, of Los Angeles, Cal., of the amount found to be due him by the Secretary of the Interior under contract of May 31, 1906, for the erection of buildings and irrigation works at the Truxton Canyon Indian School, Arizona, $930.

The amendment was agreed to.

Mr. GORE. I desire to offer an amendment to the pending bill, to be inserted after line 9, on page 58.

The SECRETARY. On page 58, after line 9, it is proposed to insert:

That the Secretary of the Interior is hereby authorized and directed to turn over to the proper officers, respectively, of the counties now forming a part of the area covered by the counties of Caddo, Kiowa, and Comanche, State of Oklahoma, upon such equitable basis as may be satisfactory to and approved by the Secretary of the Interior, the respective unexpended balances of the funds derived from the sale of town lots in the towns of Anadarko, Hobart, and Lawton, Okla., under the act of March 3, 1901, and by that act and the acts of June 30, 1902, and March 14, 1906, set apart for the construction of public improvements in the said counties, as a trust fund to be by them, or under their supervision, expended solely for the construction and completion of public improvements in the counties aforesaid, as provided by the enactments of Congress creating and regulating the disposition of said funds, and for expenses necessary in connection with the construction and completion of such improvements.

Mr. GORE. I ask that the letter accompanying the amendment be printed in the RECORD.

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

Mr. CURTIS. I make the point of order against the amendment, unless some explanation is made showing the necessity for it.

Mr. GORE. I will make an explanation, which I hope will be satisfactory.

A measure for this purpose has already passed the Senate, but the condition of affairs in the other House makes it impossible to pass it there at this session. It is urgently desired by the department, and I sent to the desk with the amendment a letter from the Secretary of the Interior urging its passage. It is a matter the department is very anxious to be rid of.

Mr. CURTIS. I should like to ask the Senator if he can explain what change it makes in existing law?

Mr. GORE. There is a remaining balance from the sales of those town lots, which arose seven years ago, still in the hands of the department, and they desire to turn this money over to the local authorities in those counties in order to get rid of the further distribution of the fund.

Mr. CURTIS. As I understand, the law required these improvements to be made by the Secretary of the Interior or under his direction.

Mr. GORE. That was the law, and a good many have been made, but a portion of the fund still remains, and the Secretary desires that it be turned over to the counties. I will ask that the letter I sent to the desk be read.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

FEBRUARY 3, 1909.

Hon. J. S. SHERMAN,
Committee on Indian Affairs, House of Representatives.

SIR: By your reference of January 30, 1909, for report, I have the honor to acknowledge receipt of copy of H. R. 11342, entitled "A bill providing for the disposition of the balance of the funds derived from the sale of town lots in the county seats of Caddo, Kiowa, and Comanche counties, Okla."

The bill authorizes and directs the Secretary of the Interior to turn over to the proper officers, respectively, of the counties of Caddo, Kiowa, and Comanche, and the towns of Anadarko, Hobart, and Lawton, in the State of Oklahoma, the unexpended balances derived from the sale of the town lots under the act of March 3, 1901.

By section 30 of the act of May 29, 1908 (35 Stat., 458), the Secretary of the Interior was authorized and directed to turn over the unexpended balances due the towns of Lawton, Hobart, and Anadarko, so that there is only remaining in the custody of the United States the balances due the counties of Caddo, Kiowa, and Comanche. The areas covered by the original counties have since been subdivided, and there are several additional counties covering the same territory.

It is therefore respectfully recommended that clause "and the towns of Anadarko, Hobart, and Lawton," lines 5 and 6, page 1, and the words "and the towns," in line 13, page 1, and line 3, page 2, of the bill be stricken out. Also, that there be inserted after the word "counties," in line 5, page 1, the following: "Now forming a part of the area covered by the counties," and after the word "Comanche," in the same line, the words "on March, 1891."

The balances due the respective counties now lie in the Treasury. It appears that the various commissioners of the various counties of the original Comanche County have agreed among themselves as to how the balance remaining for that county may be satisfactorily divided between them. There has apparently been no subdivision of Kiowa County. Grady County covers a portion of the original Caddo County, but this department has not been advised of any agreement for partition between these counties. As Oklahoma has now become a State, there is no reason why the expenditures should be now supervised by this department, nor why the fund should not be divided among the counties upon such equitable basis as may be satisfactory and approved by the Secretary of the Interior.

This department would, therefore, recommend the passage of the bill amended, so as to provide for the distribution suggested.

Very respectfully,

(Signed) FRANK PIERCE,
Acting Secretary.

Mr. CURTIS. I withdraw the point of order.

The VICE-PRESIDENT. The point of order is withdrawn. The question is on agreeing to the amendment proposed by the Senator from Oklahoma.

The amendment was agreed to.

Mr. GORE. I offer another amendment, to follow the one just agreed to.

The SECRETARY. After the amendment just adopted, on page 58, after line 9, it is proposed to insert:

The Secretary of the Interior is authorized to allot to the children born to members of the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma since June 5, 1906, such allotments to be made out of the remaining unallotted lands belonging to said tribes, and to be as nearly equal in value as practicable.

Mr. CURTIS. I make the point of order against the amendment.

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

Mr. CURTIS. That it proposes general legislation and changes existing law.

The VICE-PRESIDENT. The Chair sustains the point of order that it is general legislation.

Mr. GORE. I ask the Senator from Kansas to withhold the point of order for just a moment.

Mr. CURTIS. I do not see how I can. I feel that the bill is being loaded down with a lot of matters that ought to go through as independent measures, and I insist on the point of order.

The VICE-PRESIDENT. The Senator from Kansas insists upon the point of order.

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

The SECRETARY. After line 2, on page 70, it is proposed to insert:

That the Attorney-General of the United States is hereby authorized and directed to move the advancement upon the docket of the Supreme Court of the United States of the case of J. E. Fleming et al. *v.* Green, McCurtain et al., Docket No. 535, to the earliest practicable hearing.

The amendment was agreed to.

Mr. GORE. I desire to submit an amendment to be inserted after line 17, on page 67.

The SECRETARY. On page 67, after line 17, it is proposed to insert:

SEC. —. The Secretary of the Interior is authorized and directed to cause to be paved that portion of the streets adjacent to the Creek national capitol at Okmulgee, Okla., which said portion would be chargeable to the property if it were private property, and the expense of such paving shall be defrayed out of the fund belonging to the Creek tribe of Indians.

Mr. CURTIS. I make the point of order against the amendment.

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

Mr. CURTIS. That it is general legislation.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. OWEN. I have several small amendments which are offered in accordance with the wish of the Interior Department, who have reported on the matter, and I have the report of the Secretary of the Interior which I should like to have appear in the RECORD without being read, unless some one would like to hear it.

The VICE-PRESIDENT. Without objection, the report will be inserted in the RECORD without being read.

The report is as follows:

SECRETARY'S OFFICE,
DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 10, 1909.

MY DEAR SENATOR CLAPP: I am sending you herewith the formal report on Senate bill 8776, relative to the winding up of the affairs of the Five Civilized Tribes.

I have found it quite impossible to formulate any statement which would fairly show the conditions which have been complained of regarding persons who claim to have been omitted from the tribal rolls. It seems to me almost impossible to classify the various complainants in such fashion as to give a clear idea of either the reason for the classification or the number of persons who might come within any special class.

It seems to me that if we attempt to open the rolls for any class of claimants, more harm than good will be the result.

I am, however, still considering this question, and will advise you further; but send this report on, as I understand your committee desires to consider the Senate bill 8776 to-morrow morning.

Very truly yours,

JAMES RUDOLPH GARFIELD,
Secretary.

Hon. MOSES E. CLAPP,
United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1909.

Hon. MOSES E. CLAPP,
Chairman Committee on Indian Affairs,
United States Senate.

DEAR SIR: I have, by your reference of January 28, Senate bill 8776, "To enable the Secretary of the Interior to dispose of the affairs of the Five Civilized Tribes, and for other purposes."

The underlying purpose of this bill is very proper and necessary. For years Congress has been providing in the Indian appropriation acts that the Commissioner to the Five Civilized Tribes shall wind up the affairs of those tribes on or before the end of the following fiscal year. The intricacy of the work of that commission, the multitudinous questions which have arisen, the extreme importance of doing full justice to the Indians, have all combined to make it impossible to close the affairs as the various acts direct. In addition to the ordinary difficulties of administration, the department has been confronted with a large number of suits, some of them involving the enrollment and property rights of thousands of persons.

The Goldsby and Allison suits, recently decided by the Supreme Court, have established the status of about 300 citizens of the tribes who, previous to that decision, had been treated as legally stricken from the rolls. While these cases were pending, most of their selected allotments have been applied for by other enrolled members. It will now be necessary to allow the three hundred to perfect their rights and to see that others who had tentatively applied for their allotments get allotments elsewhere.

Other suits are now being filed in what may prove to be more than 1,000 cases, in which—although the essential point on which the Goldsby case was decided is lacking—there are other features of considerable similarity.

"The Muskrat" case, recently decided by the Court of Claims, established (unless the Supreme Court should overrule the decision) the right of hundreds of Cherokees to be upon the rolls and share in the tribal land and money. This suit has been appealed, and action under the decision must be delayed until the Supreme Court has rendered final judgment.

The so-called "Fleming suit" is supposed to affect the rights of more than 13,000 claimants. It is now in the Supreme Court for consideration.

There are other suits pending and likely to be brought. Under the circumstances, and without some definite provision of law providing for the manner in which the affairs of the Five Civilized Tribes shall be closed, it may be years before the Commissioner to the Five Civilized Tribes can actually complete his work.

I am convinced that the method of procedure set forth in the various sections is necessary and equitable, and that they would accomplish a final and proper adjustment of the matter in question. I am not certain, however—and I draw particular attention to my hesitancy—that the length of time allowed before final action is sufficient to insure opportunity for a full and reasonable return to the tribes from their property, or that those determined by the courts to be entitled to enrollment will be identified by final judgment of the courts before December 1, 1911, the date fixed in S. 8776 for completion of the distribution of the funds belonging to the tribes.

I ask, therefore, that the committee consider whether the date, "May 1, 1910," found in lines 24 and 25 of the third page of the bill, should not be made at least as late as December 1, 1910; and whether the date "July 1, 1911," found in lines 10 and 11 of the fourth page of the bill, should not be extended to as late as December 1, 1911; and whether the date "December 1, 1911," found in line 5, and again in line 9, on page 7 of the bill, should not be as late as July 1, 1912.

This extension of the time seems necessary for two reasons: First, in order that there may be better opportunity for final court judgments, since the Supreme Court could advance and consider the cases during the winter of 1911–12 which might not reach that body in time for judgment prior to December 1, 1911; and, second, because there should be the fullest reasonable opportunity to secure for the tribes an adequate return from the sale of their residue land. The property involved consists of millions of acres, of which about 300,000 acres contain valuable deposits of coal, and nearly a million acres are covered with timber of considerable value.

The purpose of the bill is to divide the landed property of the Indians into three classes: (1) The surface of the Choctaw and Chickasaw coal and asphalt lands, (2) the coal and asphalt contained in that land, and (3) all the other land left after final allotments have been made.

The plan involves as speedy a classification and appraisement of these lands as possible, in order that there may be one or more offers for all of it to the public under sealed bids, at not less than the appraised value, prior to May 1, 1910, as the bill now provides, or December 1, 1910, as I suggest; and that after such date, but before July 1, 1911, as the bill provides, or December 1, 1911, as I suggest, this land shall be offered one or more times in such way that before the final date it shall have been offered with no restriction as to area or upset price, in order that if the land then remaining has any value whatever it may be disposed of to the person or persons offering to purchase it.

I also understand that, by section 4, the bill proposes to protect the tribes and the members thereof from any contracts they may have entered into which might consume part of the proceeds from the proposed sales; also, that the bill provides that those who are lawfully on the rolls and do not obtain an allotment of land shall receive, in full satisfaction for allotment right, an amount twice the average value of the land subject to allotment; also, that the funds of the tribes shall be distributed before December 1, 1911, as the bill provides, or before July 1, 1912, as I suggest, such distribution being unrestricted, except that allottees of more than three-quarters Indian blood whose restrictions have not been entirely removed shall receive half of their distributive shares without restrictions, the other half being held by the Secretary of the Interior and expended later for the benefit of such restricted Indians; also, that the councils of the tribes shall not meet except with the approval of the Secretary of the Interior, in order that they may not consume the funds of the tribes in useless and prolonged meetings.

By the arrangements suggested above, the duties of the Commissioner to the Five Civilized Tribes would be surely at an end July 1, 1912, and as soon before that time as the court and contest proceedings and sales of land could be brought into such shape that the Indian agent would be able to handle the matter, with the help of the district agents, in the way that the affairs of tribes other than the Five Civilized Tribes are now handled.

Section 7 is necessary, because the tribal funds of the Creek Nation are not sufficient to equalize their allotments, as now provided by law.

The reason for this is that a large number of minors were added to the rolls with the consent of the nation, and for that reason there will be practically no residue of land to be sold. Since there is not sufficient money to equalize these allotments, the only reasonable and logical method would seem to be to pro rate the money available among them, saving out only enough to be sure to meet the current expenses of the tribe until such time as their tribal rolls may be finally closed.

Section 8 provides a remedy for a situation which in many respects would bring about complications and inequities. There are many payments on town lots in default. The defaulting purchasers own the improvements on the lots, and would strenuously oppose the taking of these improvements by a subsequent purchaser. The defaults of payment are largely due to the recent financial stringency and to uncertainty about the outcome of the town-lot fraud cases. There would seem to be no objection from the standpoint of the tribes that an opportunity for making defaulted payments should be given to and including a specific date.

Section 9 is necessary if the affairs of the Choctaw and Chickasaw nations are to be closed out. The law now permits freedmen who received less than 40 acres of land in their allotments to purchase at the appraised value enough land to bring their holding up to said 40 acres. Many or most of these freedmen will never exercise this right, and for that reason it is necessary to fix a limitation whereby their right will become automatically and equitably extinguished. If the bill passes at this session of Congress, the time allowed—to December 1, 1909—would seem to be equitable.

In addition to the sections contained in the bill I suggest the following:

"SEC. 10. That the Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to take charge of and lease, for terms not exceeding those provided by law for the various classes of leases for restricted allotments of the Five Civilized Tribes, all restricted lands allotted to members of any of the Five Civilized Tribes having three-quarters or more Indian blood when such allottees fail or refuse to accept or take possession of their allotments: *Provided*, That leases made hereunder which could have been legally made by the allottee without the approval of the Secretary of the Interior shall be delivered to him for administration at any time when he shall accept them: *And provided*, That until said allottees accept the administration of said leases the expense of making leases which the allottee could have legally made for himself without the approval of the Secretary of the Interior shall be reimbursed to the fund for the expenses of district agents provided for in the Indian appropriation act, the net proceeds thereof, together with all the proceeds of leases which require the approval of the Secretary of the Interior, to be held by the Indian agent, Union Agency, and paid to the respective allottees as soon as they will accept said payments."

The propriety of such a provision of law is based upon the fact that a large number of full-blood Cherokees, Creeks, and Choctaws have refused to accept their allotments. Their allotment certificates and deeds sent to them by registered mail have been returned to the Indian agent. Most of these allottees do not know where their allotments are situated and are obtaining no return from them. Under the proposed section the district agents, without very great loss of the time which they are using to so much advantage in the protection of minors and in the removal of restrictions, could let it be known that they will make leases for such allotments, and the Indian agent, who is under a $400,000 bond, could hold the proceeds until the recalcitrant allottee can be found. There is no case on record where an allottee has refused to accept money, and I believe that as soon as any such allottee finds that there is money available for him and that his allotment will bring him an income for the future, he will take over the lease from the department, accept his allotment certificate and deed, and become interested in the use of the land allotted to him. In this way it is hoped that the Night Hawk and Snake bands, who are refusing to accept their allotments, will be induced to follow the lead of the majority of the members of the Five Civilized Tribes. In this way also it will be possible for the district agents to get in touch with this class of Indians and obtain their consent for selling part of their allotments in order that the proceeds may be used in improving the remaining portion. This will certainly be to the advantage of the Indian and will rapidly increase the area of taxable land in eastern Oklahoma.

I urge upon the attention of the committee that a large area of timber land in the Choctaw Nation, something over a million acres, is situated at the headwaters of rivers very liable to floods, and is the only stretch of forest land in a very large region. I am convinced that it would be constitutional for the Government to purchase this land from the Indians for a reasonable price and hold it as a national forest. All the land in this region which, because of being situated along creek and river bottoms, is capable of agricultural use has been allotted. The unallotted portion is rough, broken land which can not be utilized for home making. Unless Congress makes some provision for the retention of this area as a national forest, it will, either under the provisions of this bill as introduced or by operation of existing law as soon as allotments are completed, be disposed of by the Secretary of the Interior and pass forever beyond the reach of government conservation. As I said above, the acquisition of the land by the Government would seem to be constitutional for the purpose of protecting navigable streams. It would be at least a paying investment for the Government, because the sale of timber under wise forest management would amply repay the purchase price. It would be fair to the Indians, because, if the land is exposed to sale, the cream of it will be bought in to begin with, and the remainder will be left as a drug upon the market. Choctaw and Chickasaw delegates have expressed to me informally their feeling that if the present appraised value of this land should be given to the Indians by the Government, the compensation would be fair, since the good and bad land would have to be taken in one lump. The Indians themselves would profit both practically and sentimentally by the maintenance of this public forest. Those who are not willing to adopt the ways of civilization would have a stretch of wild land, within which they could live and fish and hunt so long as they abide by the federal and state laws, whereas those who have allotments along the rivers and in the proximity of this forest land would have the protection of stream flow and the opportunity to purchase timber and wood at better prices, not only to-day, but for generations to come.

If the committee should deem it wise to adopt the above suggestions they can do so by amending section 3 as follows:

1. In line 15, page 3, after the words "Five Civilized Tribes," insert "except not to exceed 1,200,000 acres of timber land in the Choctaw Nation in a compact body to be designated by the Secretary of the Interior."

2. Add a new section between sections 3 and 4, on page 6, which shall read:

"SEC. 3a. That the compact body of timber land in the Choctaw Nation not to exceed 1,200,000 acres, as it may be designated by the Secretary of the Interior, is hereby set aside as a national forest, to be known as the "Choctaw National Forest," and to be protected, administered, and improved according to the laws, rules, and regulations applicable to national forests in general; and there is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $1,800,000, or so much thereof as may be necessary, to pay to the Choctaw and Chickasaw tribes of Indians for the body of timber land, not to exceed 1,200,000 acres, designated for said national forest by the Secretary of the Interior, at the rate of $1.50 per acre, and the amount to be paid when definitely determined shall be transferred in the Treasury Department to the funds of said Choctaw and Chickasaw nations, to be disbursed as part of said funds."

I find that the following further changes should be made in the bill:

1. In line 6, page 1, the words "such enrolled persons" should be stricken out and in their place there should be inserted the following words: "any enrolled persons of the Cherokee, Choctaw, or Chickasaw nations have not completed their allotments, and." The reason for this is that those enrolled with the Creek and Seminole nations have no remnant allotments to select, and unless the above words are inserted, there might be some confusion.

2. At the end of section 2, on page 3, there should be inserted the following:

"*Provided*, That this section shall not apply to those who have made allotment selections for which certificates of allotment have issued."

The reason for this is that the courts have held that the issuance of allotment certificate passes the title, and beyond that consideration it does not seem wise to allow those who have already obtained their allotments to cause confusion and delay by attempting to surrender them and take money instead.

3. In line 20, page 3, after the word "coal," insert the words "separate from the surface;" and in the same line, after the word "asphalt," insert the words "together with the surface;" also after the word "coal," in line 6, page 4, insert the words "separate from the surface;" and after the word "asphalt," in line 7, page 4, insert "together with the surface." The reasons for these insertions is the fact that the asphalt lies practically on the surface and is worked in open quarries. Consequently a sale of asphalt without a sale of the surface would be unreasonable. By inserting the words indicated above, I am confident this section without further change will provide for sale of asphalt, together with the surface and of the coal, separate from the surface.

In line 1, at the top of page 5, after the words "may elect," there should be inserted the words "but in no case later than February 1, 1912." The necessity for this insertion is to prevent delay in payments to such an extent that the provision for distributing the funds would be necessarily defeated. On page 7 strike out the word "before," both in line 5 and line 9, and in each instance substitute for it the words "payments to begin not later than." The reason for this is that the difficulty of making 100,000 payments is so great that practically a year will be consumed in their completion. This is because of the difficulty in finding the whereabouts of the Indians and the physical work required in making sure that each payment goes to the entitled payee. This provision would not delay final distribution one day longer than practically necessary, and would not require the continuation of the Commission to the Five Civilized Tribes, since the Indians are always paid by the Indian agent or by special agents of the department.

Commissioner J. George Wright has made a careful study of the expense necessary for appraising land and mineral under section 3 of the bill. He reports that in the Creek Nation there are approximately 70,000 acres unallotted. This is distributed over about 120 townships, for which reasons it would take 10 men about five months to make the appraisements, at a cost of practically $7,000.

In the Cherokee Nation there are approximately 40,000 acres of unallotted lands in small tracts distributed over 150 townships. This would require 4 men four months, at a cost of $4,000.

The Choctaw and Chickasaw unallotted land, approximately 3,245,000 acres, is distributed over 612 townships. In about 106 of these townships there is more or less pine timber of a commercial value. To appraise this land and timber would require about 35 men for six or seven months, at an aggregate cost of about $25,000.

The total cost, therefore, would be approximately $36,000. I therefore suggest it would be impossible with the force already provided for the Commissioner to the Five Civilized Tribes and the Indian agent to make these appraisals, and I further suggest that the following section be added to the bill:

"SEC. 11. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $36,000, or so much thereof as may be necessary, to be expended by the Secretary of the Interior in making the classifications and appraisements provided for in section 3 hereof."

In connection with the disposal of land of the Five Civilized Tribes, I call your attention to the fact that section 10 of the act of May 29, 1908, provides for the sale of 2 acres for school purposes in each district. There are two mistakes in that provision. One is that the 2 acres should have been 2½ acres, for the reason that 2 acres can not be described in terms of government surveys, for which reason the cost of surveying and deeding the land for school purposes is very much increased. The provision that there may be but one school site for each school district falls short of covering the ground, since in Oklahoma each district where there are colored children must maintain two separate schools. I therefore suggest the addition of still another section to the bill, as follows:

"SEC. 12. Section 10 of the act of May 29, 1908 (35 Stat., 444), is hereby amended to read as follows: 'Sec. 10. That the Secretary of the Interior is hereby authorized to sell for use for school purposes to school districts of the State of Oklahoma from the unallotted lands of the Five Civilized Tribes land not to exceed two tracts of 2½ acres each in any one school district, at prices and under regulations to be prescribed by him, and proper conveyances of such land shall be executed in accordance with existing laws requiring the conveyance of tribal property; and the Secretary of the Interior also shall have authority to remove the restrictions on the sale of such lands, not to exceed two tracts of 2½ acres each for each school district, as allottees of the Five Civilized Tribes, including full bloods and minors, may desire to sell for school purposes.'"

Very respectfully, JAMES RUDOLPH GARFIELD,
Secretary.

The VICE-PRESIDENT. The first amendment proposed by the Senator from Oklahoma [Mr. OWEN] will be stated.

The SECRETARY. On page 64, in line 26, it is proposed to insert:

Provided, That allottees of the Cherokee, Choctaw, and Chickasaw nations having remnant allotments due them of not exceeding $50 in value shall be paid twice the value thereof in lieu of such allotment by check from the tribal funds of their respective tribes.

Mr. CURTIS. Is it limited to the tribal funds? Is the payment to be made out of the funds?

Mr. OWEN. Yes, sir.

Mr. CURTIS. Instead of giving them land that is worth less than $50?

Mr. OWEN. It is out of the tribal funds.

Mr. CURTIS. In lieu of land they have of a value of less than $50? I have no objection to it.

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

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment proposed by the Senator from Oklahoma [Mr. OWEN] will be stated.

The SECRETARY. On page 64, after line 26, it is proposed to insert:

The Secretary of the Interior is directed, after July 1, 1909, and prior to December 1, 1909, to pay allottees out of the Creek funds the amounts severally due for the equalization of their allotments: *Provided*, That in making such payment for the equalization of the Creek allotments $800 shall be taken as the standard value of an allotment.

Mr. CURTIS. I dislike very much to make the point of order against the amendment, for I really think it ought to be enacted into law. But I think it should be taken up by the committee in a proper way; and so I make the point of order against it.

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

Mr. CURTIS. That it is general legislation.

The VICE-PRESIDENT. The Chair is of the opinion that it proposes general legislation, and therefore sustains the point of order. The next amendment proposed by the Senator from Oklahoma [Mr. OWEN] will be stated.

The SECRETARY. It is proposed to insert at the same place the following:

The tribal councils when meeting shall receive compensation only for the length of time authorized by the Secretary of the Interior.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment proposed by the Senator from Oklahoma [Mr. OWEN] will be stated.

The SECRETARY. After the amendment just agreed to it is proposed to insert:

The town-lot payments in default shall not work forfeiture if payment with 10 per cent interest from date of such default is made before July 1, 1909. All right to acquire land for allotment by Choctaw and Chickasaw freedmen shall cease December 1, 1909.

Mr. CURTIS. I think the junior Senator from Oklahoma should explain the necessity of those two amendments.

Mr. KEAN. Or let them go out on points of order.

Mr. OWEN. The necessity for the amendment is this: The Secretary of the Interior has laid out a very large number of towns in Oklahoma in the lands which formerly comprised the land of the Five Civilized Tribes. The town lots go into the thousands, and in many of those cases transfers have been made, and parties to whom transfers have been made were not notified of these pending balances. The law provided forfeiture if they were not paid. In some cases notices were sent to the houses, and they were not delivered. I have a report from the department in regard to it, and it can be read if the Senate desires. I think there should be no objection on the part of anyone to the amendment.

Mr. CURTIS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Kansas?

Mr. OWEN. Certainly.

Mr. CURTIS. Does the department ask for this legislation?

Mr. OWEN. I understand the department wishes it. I have here the report from the department. A similar provision is also in the bill which was reported—the Five Tribes bill—which the Senator will probably remember.

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

The amendment was agreed to.

Mr. OWEN. I have another amendment, providing for the payment of the Eastern Cherokee council. Congress two years ago appropriated approximately $4,000 out of their funds to pay them for their attendance at the Eastern Cherokee council, and going to and from. They have not been paid because of a technicality, and this is intended to confirm what Congress previously intended to do. I should like to have it read.

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

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

The Court of Claims is hereby authorized to allow, and, upon such allowance, the Secretary of the Treasury is hereby directed to pay out of the sum awarded to the Eastern Cherokees, under the judgment of the Supreme Court of the United States, October term, 1905, to the several members of the council of the Eastern Cherokees the sum of $5 per diem each for the period they severally rendered service in going to and from and attending the councils of the Eastern Cherokees, as shall be certified to the Court of claims by the president and secretary of the council, and otherwise established to the satisfaction of said court.

The amendment was agreed to.

Mr. OWEN. I offer an amendment in regard to suits which have been brought in eastern Oklahoma relative to land titles. I should like to have the amendment read, and I desire to offer a brief explanation.

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

The SECRETARY. At the end of page 64 it is proposed to insert:

Provided, The Attorney-General is hereby authorized and directed to immediately dismiss the suits brought by the United States to set aside land titles in the eastern district of Oklahoma where the consideration was not inequitable and where there is no actual fraud involved.

Mr. KEAN. I shall have to make the point of order against the amendment.

Mr. OWEN. I ask the Senator to withhold the point of order until I can have an opportunity to explain the purpose of this item.

Mr. KEAN. Certainly.

Mr. OWEN. Mr. President, last year in the Indian appropriation act we provided the sum of $50,000 to be used in protecting the Indians of the Five Tribes against fraudulent transactions. The purpose of that was manifest on its face—that these suits were to be brought at the request of the allottees. The language of the bill was "at the request of the allottee," and it was presumed that the money would be used in protecting the Indians there against actual fraud, or where some palpable wrong had been committed against them. But instead of the suits being brought in pursuance of law, they were brought under a general plan, bringing a cloud upon the title of every piece of land where there was any transaction whatever prior to the time when the restrictions were removed. It made no matter whether the parties were perfectly satisfied, whether the consideration was equitable and fair, whether they were now content with it; but it was brought for the purpose of requiring those who had been charged with fraud to prove their innocence. It was a general plan which embraced everyone who might be in anywise interested.

The effect of it has been to make titles in eastern Oklahoma regarded with extreme doubt all over the country. It has stopped immigration to our country and has lowered the value of land, and since the original purpose was merely to protect against fraud, and since this bill provides $100,000 to be used by the representatives of the Secretary of the Interior, known as "district representatives," who are charged with the duty of advising the uninformed members of the late Five Tribes, it does seem to me the State ought to have its peace against suits brought where there is no fraud, and where the consideration was not inequitable. I should like to have the amendment read once more.

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

The Secretary again read the amendment.

Mr. CLAPP. Will the Senator from Oklahoma pardon me?

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

Mr. OWEN. Certainly.

Mr. CLAPP. Undoubtedly a condition prevails down there where suits have been brought perhaps with less care to ascertain the facts than ought to have been exercised.

For one I would join in legislation which would enable a defendant to bring up an issue somewhat similar to the right ordinarily given to the plaintiff to strike out an answer on the ground that it was a sham and frivolous, but I can not see any force or effect in this amendment to direct the Attorney-General to dismiss a case when it is brought without due cause, because it is simply to commit to the Attorney-General the determination of the question whether there was due cause or sufficent ground.

Mr. OWEN. I shall be quite content to do that, Mr. President.

Mr. CLAPP. I do not think we ought to pass that kind of legislation. Will the Senator prepare such an amendment? I recognize the difficulty of getting legislation. The Senate has been very patient with the committee. It has been embarrassing to me as chairman of the committee to sit here without objecting on a point of order to so much legislation, but I recognize

the condition which surrounds us. I am willing to join with the Senate in their leniency upon the matter of allowing legislation on the bill.

If the Senator will prepare an amendment which will enable any defendant immediately to bring to the court the issue and the court then be required to pass upon the question, I would gladly join the Senator in that kind of legislation. It would be somewhat similar to the right which a plaintiff always has to attack a defense as a sham or as frivolous. But I must object to directing the Attorney-General to dismiss a suit when it is in the end left entirely in his discretion. We would simply throw out, it seems to me, beyond the real purview of legislation, a challenge to the Attorney-General, and it would accomplish nothing. If it would accomplish anything——

Mr. OWEN. With the consent of the Senate I will withdraw the amendment and offer it in the form suggested by the chairman of the committee.

The VICE-PRESIDENT. The Senator from Oklahoma withdraws his proposed amendment.

Mr. CURTIS. When will it be in order to take up the point of order made on the amendment on page 68?

Mr. CLAPP. If the Senator from Kansas will pardon a suggestion, the Senator from Georgia [Mr. BACON] has been waiting to offer an amendment. The amendment to which the Senator from Kansas refers will lead to debate.

Mr. CURTIS. Very well.

Mr. BACON. I wish to offer an amendment. The point at which it is to be placed in the bill is indicated at the margin at the top.

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

The SECRETARY. On page 6, line 5, after the words in brackets, it is proposed to insert:

The Secretary of the Interior is hereby authorized and directed to place on the roll of the Cherokee Nation the names of the following persons: Emily C. Howell, mother; Emily C. Howell, jr., daughter; Ellen E. Howell, daughter; Robert E. Lee Howell, son; Thomas C. Howell, son; Frank R. Howell, son; Evan C. Howell, son; James C. Howell, son; Stephen E. Howell, son; Lettie P. Howell, daughter; Eston E. Howell, son; William T. Howell, son; Julia B. Howell, daughter; Charles C. Howell, son; Mary D. Howell, daughter; all the above being the children of Catherine E. and Emily C. Howell, the first and second wives of Archibald Howell, deceased.

Mr. CLAY. I did not catch the names clearly. Is the name of R. E. L. Howell in the amendment? I did not hear that name read, and thought perhaps it was left out.

Mr. KEAN. Is there a report accompanying those names, or will the Senator from Georgia kindly tell us where he got the list of names from?

Mr. BACON. They are, as stated, the names of the children of Archibald Howell, by his two wives, each of whom was a descendant of a Cherokee Indian.

Mr. KEAN. What evidence have we that they should go on the roll?

Mr. BACON. I will state to the Senator.

Mr. CLAY. Mr. President——

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

Mr. BACON. I have the information here in print, if the Senator wants it. I yield to my colleague.

Mr. CLAY. I desire the attention of the Senator from New Jersey just one minute. He seemed to ask how many Howells there were. I want to tell him that I knew the father, and I helped bury him, and I know every one of those children. Some of them reside in my town and some of them in Chattanooga, Tenn.

Mr. KEAN. I believe they were Cherokee Indians. Were they not?

Mr. CLAY. Yes, sir.

Mr. KEAN. How much Cherokee?

Mr. CLAY. I do not know about that. The proof shows clearly——

Mr. BACON. I will state the fact. They made formal application to the Cherokee national council, at Tahlequah, Ind. T., October, 1887, to become citizens of the Cherokee Nation, and were all duly admitted by the then committee on citizenship as Cherokee Indians by blood, pursuant to an act of the national council of December 8, 1886, to all the rights and privileges of Cherokee citizens as enumerated under section 2, article 1, of the constitution of the Cherokee Nation.

Mr. KEAN. Now, let me ask the Senator from Georgia why were they left off the roll?

Mr. BACON. I was going on to state it for the information of the Senator.

Mr. KEAN. All right; that is what I want to know.

Mr. BACON. They were severally given certificates to that effect, signed by the officers of the commission. Some time later, when they were ready to remove to the Territory, the Commission to the Five Civilized Tribes struck their names off the Cherokee roll because of their failure to remove to the Indian Territory within a certain specified limit of time, which failure the parties herein claim arose from circumstances beyond their control, resulting from the illness and subsequent death of their father.

I will state that the matter has been before the Committee on Indian Affairs, and has been considered carefully by a subcommittee, and while it has not been formally acted upon by the full committee, the members of it with whom I have had the opportunity to confer have approved of it.

Mr. KEAN. I am content, Mr. President.

The VICE-PRESIDENT. Answering the inquiry of the junior Senator from Georgia, who asked whether the name of Robert E. Lee Howell appears in the amendment, the Chair informs him that it does.

The amendment was agreed to.

Mr. McCUMBER. Mr. President, is it in order to take up the point of order raised by the Senator from Kansas [Mr. CURTIS] on the amendment upon page 68?

The VICE-PRESIDENT. It is in order.

Mr. McCUMBER. I would be gratified if the Senator from Kansas would restate his point of order, and also state what particular subdivision of Rule XVI the provision is out of harmony with.

Mr. CURTIS. Mr. President, the amendment changes an existing general law, and is therefore general legislation. Second, it is a claim.

I think perhaps it would be well to make a brief statement of the facts, because this is a very important question. It has been passed upon by Congress several times.

Mr. McCUMBER. I wish the Senator to state the point, and then I expect to go over the case anyway.

Mr. CURTIS. I state that the amendment is general legislation, and also it is a claim. I do not know under what clause of the rule it comes.

The VICE-PRESIDENT. Will the Senator from Kansas state to what amendment his point of order is now addressed?

Mr. CURTIS. The amendment on page 68, beginning with line 24 and ending on line 2, page 70.

Mr. McCUMBER. Rule XVI provides that—

No amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, etc.

I suppose that is enough of the provision of the rule to make the matter clear.

Now, what I want to know of the Senator——

Mr. CURTIS. The point I make is that it changes existing law and is not an appropriation to carry out existing law. It amends the law of 1903. If the Senator will allow me——

Mr. McCUMBER. I will take up that proposition.

Mr. CURTIS. If I am going to make a statement, I do not desire to make it piecemeal, and after I have made my statement then I would be very glad to yield to the Senator.

Mr. McCUMBER. I simply asked the Senator to give me a statement of the particular clause of the rule upon which his objection is based. He has given that to me. That is eminently satisfactory, and that is all the information I am calling for from the Senator at the present time. I can go on myself and state why I think it does not come within the provisions of the rule, and I desire to do so.

Mr. CURTIS. Mr. President——

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

Mr. McCUMBER. I will ask the Senator to wait until I complete my statement.

The VICE-PRESIDENT. The Senator from North Dakota declines to yield.

Mr. CURTIS. Mr. President, I should like to know the parliamentary situation. I made the point of order. I was recognized by the Chair.

The VICE-PRESIDENT. That is correct.

Mr. CURTIS. Then, at the request of Senators, I yielded the floor and consented that the point of order might be passed over. After various amendments had been considered, I was again recognized by the Chair and had begun a statement. Can I be taken off the floor?

The VICE-PRESIDENT. The Chair understood the Senator from Kansas to yield to the Senator from North Dakota.

Mr. CURTIS. I yielded to him simply that he might ask me what point of order I was making.

Mr. McCUMBER. There was considerable intervening business after the Senator had been recognized, and then afterwards I was recognized upon the point of order.

Mr. CURTIS. I would just as soon make my statement afterwards, if the Senator prefers.

The VICE-PRESIDENT. Both Senators will have an opportunity to be heard. The point of order, of course, is not debatable, except by consent. The Senator from Kansas will have a chance to be heard.

Mr. McCUMBER. I asked consent that I might debate this particular point of order, and I had read the rule upon which I understood the objection was based. The exception to that rule is as follows:

> Unless it be to carry out the provisions of some existing law or treaty stipulation, etc.

The only question, I suppose, here, Mr. President, is whether this is carrying out a treaty stipulation. If it is carrying out a treaty stipulation, I understand that all agree it is appropriate legislation upon a bill of this character.

Now, I want to go into the facts very briefly and demonstrate to the Senate and to the Chair that it absolutely is a treaty stipulation and that this is a provision carrying out that stipulation.

In 1866 the United States entered into an agreement to investigate and determine the losses sustained by the loyal Creeks and freedmen during the civil war and to further pay the amount found due. This was a treaty. It was called a "treaty" at that time. We have since called the agreements we have made with the Indian tribes "agreements" and not "treaties."

That was the first step; a treaty entered into between the United States and these Cherokee people, which agreed that we should ascertain the amount of their losses and agreed that we should pay their losses. That was a stipulation in what was then called a "treaty" and what we since call an "agreement."

In accordance with the treaty stipulation of 1866 there were appointed General Hazen and Captain Field as commissioners to determine the amount of the claim. That was the second step under the treaty.

The third step was that these commissioners ascertained the claims, and they awarded under the stipulations of that agreement, or, as it was then called, a "treaty," losses to the amount of $1,836,430.41. Of this amount, $100,000 was paid by the Government.

I now come to the next step. Nothing further was done to make payment of that agreement and that stipulation, but March 1, 1901, we entered into another and further agreement with the Creek Indians.

You call the next agreement an agreement and not a treaty, but it was exactly the same as the former and is as much a treaty as the former was. I suppose the Chair will consider all of those agreements as treaties, and that where we use the word "treaty"—a treaty to pay money—the Chair will consider that the use of the word "agreement" will not change the spirit or the letter of that particular rule.

It was agreed then that the claim arising under the treaty of 1866, which was the foundation of the Creek claims, should be submitted to the Senate of the United States as arbitrators; that the Senate of the United States should pass upon the subject, and that whatever the Senate of the United States found due the Creek Nation should be paid to them by the Congress. By whatever name you may call it, whether an agreement or a treaty, that was both a treaty and an agreement entered into between the United States and the Creek Nation.

They further determined that the Senate should make final determination thereof, and that in the event any sum was awarded provision should be immediately made for the payment. That meant that just as soon as the Senate acted upon that proposition an agreement should be made to pay it.

Now, I want to show that we did act as arbitrators upon that proposition, and that we did immediately make provision for its payment; but we paid only in part.

The next step, on account of the Senate not taking immediate action, was on June 23, 1902. Then a memorial was presented by the Creek Nation to the United States, in substance asking the Senate to take cognizance of their agreement and to proceed to make the award.

Then the next step was that the Senate referred, on motion, that petition, or memorial as it is called, to the Senate Committee on Indian Affairs for their action and report.

Following this, the Senate Committee on Indian Affairs took cognizance of the matter for the Senate of the United States, and on February 16, 1903, within the time prescribed by the treaty or agreement, and after a full hearing, the committee reported in favor of allowing them in full for their claims the sum of $1,200,000.

When the Senate Committee on Indian Affairs acted upon it—and I want to call the Chair's attention particularly to that—the committee called attention to the fact that it was acting upon the provision of the old treaty asking the Senate to act as a board of arbitration, and that the action of the Senate upon it would be the act of arbitrators. They reported it, however, not as a separate bill; they reported it as an amendment to the Indian appropriation bill; but though it was an amendment it was explained at every feature that it was in accordance with the award or the agreement to act as arbitrators and make an award.

Now, I want to call attention to the report of the Committee on Indian Affairs. The report sets forth the following:

> In pursuance of provisions of section 26 of an act to ratify and confirm an agreement with the Muskogee or Creek tribe of Indians * * * approved March 1, 1904, there is hereby awarded as a final determination thereof on the so-called "loyal Creek claims" named in said section 25 the sum of $1,200,000.

So the Chair will see that the Senate committee reported it back and asked the Senate to adopt their report as an award.

We did not even stop there. When the matter came up before the Senate, to show that the action was understood by all to be an award therefor and as binding as an obligation could be made against the Government, and to make the matter absolutely certain, in addition to this report, which perhaps few of the Senators may have read, Senator Quarles then specially called the attention of the Senate to the fact in the following words. This is what was stated by Senator Quarles at that time:

> It has occurred to me, sir, that the Senate ought to be advised as to the nature of this amendment, and that it ought not to be passed, coming, as it does, solely from the committee, leaving the Senate entirely in ignorance of the fact that in regard to this amendment it is sitting as a court of arbitration and is not engaged in the ordinary method of legislation.
>
> Now I rise to lay the facts before the Senate. This is a provision which arises out of the agreement made with the Creek Nation in 1891, whereby it is provided that the Senate shall, within two years, sit in the capacity of a court of arbitration and decide upon this claim, which arises from several treaties made by this Government with the Creek Nation.

When he declared that this claim arose out of several of these treaties, he stated what was absolutely correct:

> The determination of the Senate upon this proposition will amount to an award, upon which an action will lie quite independent of the fact of this provision in the other House of Congress.

So you will see, Mr. President, that there was no possible misunderstanding on the part of the Senate that their action created under the provisions of the previous agreement as binding an obligation upon the Government as could possibly be created.

The Senate thereupon awarded the sum of $1,200,000 by voting favorably upon the bill. The bill then went to conference. The House disagreed to the Senate amendment, and the conferees fixed the matter up in this way: They cut the amount in two, and then added a provision that the Creeks should accept the sum of $600,000, in full payment of this award, and then should sign, in each instance where they received the money, a receipt in full of all claims against the Government of the United States. The question arises, Are they estopped from coming before Congress now and asking for the full payment of their award? Or, placing it in another position, By the act of the arbitration of the Senate, is the Government estopped from denying its legal obligation to pay the full amount that was awarded to the Creek Nation?

Mr. President, if this contract had been made between two private individuals upon an exact equality, and one should acknowledge a debt to the other and then compel him to sign a receipt in full for a half payment, without any other consideration entering into the agreement, there is not a court upon the face of the earth that would enforce it, and there is not a court but would say that this would be no bar to a suit for the balance of the amount due, because there was absolutely no consideration given excepting a less amount than was actually due for a binding obligation. If that is a rule of law that should be applied between persons having the same political and social liabilities and rights, by a far greater reason it should be applied when the relation is a fiduciary relation as between guardian and ward. The great Government of the United States is the guardian of those Indians. That Government entered into an agreement with those Indians that it would take their claim and that the Senate would act as arbitrator upon that claim. The Senate has acted as arbitrator upon that claim. The Senate, as a board of arbitration, awarded them the sum of $1,200,000, and then, as an independent proposition, Congress came in and said: "You, the ward of the Government of the United States, shall accept $600,000;

you can get no more, and before we will pay you, the ward, even the $600,000 you must sign a receipt in full."

Such a transaction as that, Mr. President, would be a disgrace to the Government of the United States; it would be criminal as between a trustee and a cestui que trust, and it would be even more so, in my opinion, if a criminal statute could be enforced against the Government.

That is the condition we are met with to-day. I insist that there can be nothing more clear than that this is a payment to be made in pursuance of a treaty obligation. The only difference between a treaty directly stating that the payment shall be made and this case is that the treaty or agreement provided that the Senate should act as an arbitrator and then, after they had arbitrated, that the amount so found due should be paid.

I know it has been urged, as I have understood, before the Senate Committee on Indian Affairs that the subsequent action of the Senate, in conjunction with that of the other House, which constitute the Congress, in cutting this down to $600,000 was in effect a change of their attitude and a change of their award in the first instance; but, Mr. President, the legal obligation ensued the moment the vote was announced upon that proposition. After that legal obligation was incurred nothing that could be done either by the Senate alone or by the other House, or by both combined, could change the legal and moral effect of the award made by the Senate. If I understand correctly, the action of the Senate being an award, and the award being made in pursuance of a treaty obligation, therefore this amendment would come clearly within that rule.

Mr. BRANDEGEE. Mr. President——

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

Mr. McCUMBER. With pleasure.

Mr. BRANDEGEE. When the Senate had ascertained the amount due, according to the terms of the treaty, was it not, in the opinion of the Senator from North Dakota, just as though in law that amount had originally been inserted in the treaty?

Mr. McCUMBER. There is no question about it at all.

I think that is all I have to say in reference to the proposition at this time.

Mr. LODGE. Mr. President, I merely desire very briefly to call the attention of the Chair to a point of order in regard to this amendment, which I do not think has been raised. This is a provision for a private claim, which can only be received to a general appropriation bill when it carries out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment. There is no treaty stipulation cited on the face of this amendment.

Mr. McCUMBER. I want to call the Senator's attention to the fact that the amendment, as it is now before the Senate, does so provide.

Mr. LODGE. Not unless it has been changed.

Mr. McCUMBER. It has been changed. I asked that that should be inserted in this provision, so that it would show upon its face, for it was the intention of the committee to have it so show.

The VICE-PRESIDENT. In the amendment, in line 2, on page 69, after the word "Indians," there have been inserted the words "pursuant to the stipulations of the agreement of March 1, 1901."

Mr. LODGE. The rule requires it to be set forth; but the stipulation in that treaty does not provide for the payment of $600,000 or $1,200,000——

Mr. GALLINGER. Or any other amount.

Mr. LODGE. Or any other amount. It provides for the decision of that claim by the award of the Senate. This provision is not to carry out a treaty stipulation. I make the point of order that the amendment does not come within the rule.

Mr. McCUMBER. I can not see how the Senator can say that this amendment is not to carry out a treaty stipulation, when the stipulation of the treaty is that the award shall be made by the Senate. The Senate made the award, and this is to pay that award. If that is not carrying out the stipulations of a treaty, then I can not clearly understand the English language.

Mr. LODGE. Mr. President, that the amendment comes within the inhibition of the rule is clear from the provision for the payment of the attorney. I think the Senator is right as to the treaty, but there is no stipulation in the treaty for paying any money. The stipulation in the treaty is for the Senate to make the award.

Mr. McCUMBER. I beg the Senator's pardon. The stipulation is to pay such money as should be awarded.

Mr. LODGE. Unquestionably.

Mr. TELLER. Mr. President——

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

Mr. LODGE. I should like to finish the sentence.

Mr. TELLER. Very well.

Mr. LODGE. I was merely going to say, without looking at the law, that the first provision in article 12 of the treaty of 1832 reads:

> Shall be submitted to the Senate of the United States for determination; and within two years from the ratification of this agreement the Senate shall make final determination thereof.

In 1903 the law appears, and it says:

> There is hereby awarded as a final determination thereof—

Using the precise language of the treaty. Then it goes on, as the Senator from North Dakota [Mr. McCUMBER] has cited, that it should be a full release of the Government.

Mr. McCUMBER. Let me interrupt the Senator from Massachusetts merely to say that the provision concerning the release could not appear in the award. That was in the act that was subsequently passed after the award by the Senate.

Mr. LODGE. No; but it is stated in the statute that this is "a final determination thereof" under section 26, which carried out the provision of the treaty, and with the treaty stipulations stated on its face.

Mr. President, it seems to me impossible for us to go back of the statute and say what the Senate did. What the Senate did was to assent to the statement that the $600,000 was their "final determination thereof." That is what the Senate ultimately did; but whatever intervening steps may have been taken——

Mr. McCUMBER. Let me ask the Senator——

Mr. LODGE (continuing). The treaty stipulation was fulfilled by that act, for the treaty stipulation was merely that the Senate should make an award.

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

Mr. LODGE. I am through, Mr. President.

Mr. McCUMBER. I simply call the attention of the Senator from Massachusetts to the fact that the Senate's act as an arbitration board was completed when it first passed upon that subject in the form in which it passed upon it. The subsequent act of the Senate and of the House of Representatives combined, refers to the payment, and no matter what the declarations were they could not change the act that the Senate had already performed; and when the Senate had performed that act it created a legal obligation against the Government.

Mr. LODGE. Mr. President, if, under a treaty, we are bound by an award of a board of arbitration, that award is paid, and paid by the action of both Houses, unless we are willing to dishonor the Nation in not doing it, and that award is binding on both Houses, but this award, made by the Senate on its preliminary vote, was obviously not binding on both Houses, for both Houses, including the Senate, subsequently said that $600,000 was "the final determination thereof," using the exact language of the treaty.

Mr. CLAPP. I should like to ask the Senator from Massachusetts a question.

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

Mr. LODGE. I do.

Mr. CLAPP. After the Senate made the award and completed its work by inserting that award in the bill, as it did, how many times and how long after that was it in the power of the Senate—I mean, acting fairly within the law that binds others than governments—to modify that award which it had once solemnly made?

Mr. LODGE. It could modify the award, it seems to me, until it put it in the form of a statute, and it had no binding force until it did.

Mr. CLAPP. It could not, Mr. President. The treaty did not provide any such thing. The treaty provided that the Senate should make an award; and when that award was once made the function of the Senate as an arbitrator ceased. It could not be continuously modifying an award which it had made any more than an arbitrator who has made an award, has closed his service, and performed his function can go back and reopen it.

Mr. LODGE. I do not think the award could have been final until it was put into a statute.

Mr. CLAPP. It could have been made final by a mere resolution of the Senate.

Mr. LODGE. Ah, but it never was put into a resolution by the Senate; it was put into a statute.

Mr. CLAPP. I beg the Senator's pardon; it was put into a bill——

Mr. LODGE. Well, a bill.

Mr. CLAPP (continuing). Reciting that it was the action of the Senate making an award, and, within a fair interpretation of the law, by which anybody but the Government would be bound, it passed beyond the power of the Senate to modify that award.

Mr. ALDRICH. Mr. President——

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

Mr. CLAPP. I do.

Mr. ALDRICH. Has the Senator from Minnesota the form of bill that was passed by the Senate in this case? I should like to see it. It seems to me it is quite important.

Mr. McCUMBER. We have the form of the award that was passed by the Senate.

Mr. ALDRICH. Well, whatever you may call it.

Mr. McCUMBER. It is not a bill; it is not a law; it is simply an award.

Mr. ALDRICH. I should like to see it. I think the Senate ought to see it.

Mr. CLAPP. This is the language——

Mr. CURTIS. Mr. President——

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

Mr. CLAPP. Certainly.

Mr. CURTIS. I think, in justice to myself, I should state that the position taken by the House conferees was that there was no legal award, and that this claim had never been properly submitted to the Committee on Indian Affairs so as to give them jurisdiction. I should like to make that point clear.

Mr. ALDRICH. Mr. President——

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

Mr. CLAPP. Certainly.

Mr. ALDRICH. I should like to have the provision read, so that the Senate may know what form this so-called "award" took.

Mr. OWEN. With the permission of the Senator from Minnesota, I will read it.

The VICE-PRESIDENT. The Senator from Oklahoma.

Mr. OWEN. The original treaty under which this amount is proposed to be paid was the treaty of 1866, article 4 of which reads as follows:

> Immediately after ratification of this treaty the United States agree to ascertain the amount due the respective soldiers who enlisted in the Federal Army, loyal refugee Indians and freedmen, in proportion to their several losses, and to pay the amount awarded each—

That was the language of the treaty. The amount was ascertained immediately afterwards in the way proposed by the treaty by a commission, consisting of Gen. W. B. Hazen and Capt. F. A. Field, of the Regular Army, who were designated, under the terms of the treaty, to make this ascertainment. They found that out of $5,800,000, or some such amount of claims, there was proven by positive, reliable proof $1,800,000. They designated by name the individuals, allowed to each the amount by an award, and reported it. The United States paid $100,000 to these people, which was distributed pro rata, and thereafter failed to pay.

When the Government desired the Creek Indians to allot their lands, to give up their tribal government and become a part of a new State, it was stipulated that the Senate of the United States should determine what amount should be paid them. The claim, although an award in the first case, under the treaty of 1866, had become by neglect of long years weakened in public esteem, but it was none the less an award under the treaty of 1866, and ought to have been paid, in common conscience, in pursuance of the pledge of the United States to these people to pay them the amount ascertained. The amount was ascertained, as agreed by the treaty of 1866, and it ought to have been paid to them. Then they patiently but humbly waited upon the pleasure of the United States, the sovereign power, and finally their petition, under the agreement of 1891, came to the Senate upon a memorial of Isparhecher, their ex-principal chief, and himself a loyal Creek. That memorial, as shown by the RECORD, was transmitted to the Indian Committee, which, after consideration, reported back an item on the Indian appropriation bill, making in form an award of $1,200,000 to these people. Before referring to the action of the Senate upon this item on the Indian appropriation bill I should like to call attention to the form of this item. It reads as follows:

> In pursuance of the provisions of section 26 of an act to ratify and confirm an agreement with the Muskogee (or Creek) tribe of Indians, and for other purposes, approved March 1, 1901, there is hereby awarded, as a final determination thereof—

Before the Senate passed upon that item, which was presented to the Senate, Senator Quarles of Wisconsin rose in his place and said, speaking to the Senate:

> It has occurred to me, sir, that the Senate ought to be advised as to the nature of this amendment, and that it ought not to be passed, coming, as it does, solely from the committee, leaving the Senate entirely in ignorance of the fact that in regard to this amendment it is sitting as a court of arbitration and is not engaged in the ordinary method of legislation.
>
> Now, I rise to lay the facts before the Senate. This is a provision which arises out of the agreement made with the Creek Nation in 1891, whereby it is provided that the Senate shall, within two years, sit in the capacity of a court of arbitration and decide upon this claim, which arises from several treaties made by this Government with the Creek Nation.
>
> The determination of the Senate upon this proposition will amount to an award, upon which an action will lie quite independent of the fact of this provision in the other House of Congress.

Mr. President, I do not think it judicious to enlarge upon the arguments already made. I call attention, however, to the fact that this payment is in pursuance of article 4 of the treaty of 1866, which is not an agreement, but comes within the dignity of a treaty under the law of the United States. Therefore the amendment is not subject to the point of order, because it is in pursuance of a treaty.

I further call attention, before taking my seat, to the fact that the Senate of the United States—not the House of Representatives—was the board of arbitration; that the Senate was not acting through a law, but was acting by expressing its will, understanding that it was sitting as a board of arbitration. It expressed that will, and put the sum of money due these people at $1,200,000; and they are forever barred from demanding anything in excess of that.

I do not agree, and I can not be silent when such a suggestion is made, that the Senate, sitting as a court of arbitration, may at any subsequent time after the declaration of its judgment modify that judgment and change it. If that be true, then no decision of a court or of this body would have any finality. There would be no repose in a judgment, but the plaintiffs might at any time come and attack the judgment of the court, or of the Senate sitting as a court, and there would be no peace. The rule of law is that there shall be repose, and when a competent tribunal passes upon a question definitely and precisely, understanding that it is sitting as a court of arbitration, the decision is final.

Mr. LODGE. I agree with what the Senator says about the finality of the judgment. My point, however, was that a preliminary vote was not a final judgment. The final judgment is the provision of the statute.

Mr. OWEN. I ask to have printed as a part of my remarks the report submitted by me from the Committee on Indian Affairs on February 11, 1909, on the bill (S. 3423) to pay the balance due the loyal Creek Indians on the award made them by the Senate on the 16th day of February, 1903.

The VICE-PRESIDENT. In the absence of objection, permission is granted.

The report referred to is as follows:

> Mr. OWEN, from the Committee on Indian Affairs, submitted the following report, to accompany S. 3423:
>
> The Committee on Indian Affairs, to whom was referred the bill (S. 3423) to pay the balance due the loyal Creek Indians on the award made them by the Senate on the 16th day of February, 1903, report the same back without amendment and recommend its passage.
>
> By the treaty of 1866 the United States agreed to investigate and determine the losses sustained by the loyal Creek Indians and freedmen during the civil war and to pay the amount or amounts found due.
>
> Article 4 of said treaty provides as follows:
>
> "Immediately after ratification of this treaty the United States agree to ascertain the amount due the respective soldiers who enlisted in the Federal Army, loyal refugee Indians and freedmen, in proportion to their several losses, and to pay the amount awarded each, in the following manner, to wit: A census of the Creeks shall be taken by the agent of the United States for said nation, under the direction of the Secretary of the Interior, and a roll of the names of all soldiers that enlisted in the Federal Army, loyal refugee Indians and freedmen, be made by him. The superintendent of Indian affairs for the southern superintendency and the agent of the United States for the Creek Nation shall proceed to investigate and determine from said roll the amounts due the respective refugee Indians, and shall transmit to the Commissioner of Indian Affairs for his approval, and that of the Secretary of the Interior, their awards, together with the reasons therefor." (14 Stat., 787.)
>
> In accordance with this treaty agreement, Gen. W. B. Hazen and Capt. F. A. Field, of the Regular Army, the latter having been detailed as union agent for the Five Civilized Tribes, were designated as commissioners to ascertain and determine the amount of such leases. This report was made with exhaustive care and will be found in detail in Exhibit 1 hereto. (S. Doc. No. 420, 57th Cong., 1st sess., p. 18.)
>
> These awards amounted to $1,836,430.41. Prior to this award the Government made advance payment of $100,000 (16 Stats., 341), but no further payments were made, and on March 1, 1901, the United States entered into the following agreement with the Creek Indians.
>
> Section 26 of that agreement reads as follows:
>
> "All claims of whatsoever nature, including the 'loyal Creek claim,' under article 4 of the treaty of 1866, and the 'self-emigration claim,' under article 12 of the treaty of 1832, which the tribe or any individual thereof may have against the United States, or any other claim arising under the treaty of 1866, or any claim which the United States may have against said tribe, shall be submitted to the Senate of the United States for determination; and within two years from the ratification of this agreement the Senate shall make final determination thereof; and in the event that any sums are awarded the said tribe, or any citizen thereof, provision shall be made for immediate payment of same.
>
> "Of these claims, the 'loyal Creek claim,' for what they suffered because of their loyalty to the United States Government during the civil war, long delayed, is so urgent in its character that the parties to this

agreement express the hope that it may receive consideration and be determined at the earliest practicable moment." (31 Stat., 869.)

Thus, as will be observed, the Senate was authorized to investigate and pass upon said claims, "or, in other words, to act as a board of arbitration."

The Senate of the United States on June 23, 1902 (Exhibit 1, S. Doc. No. 420, 57th Cong., 1st sess.), referred to the Committee on Indian Affairs the memorial of Isparhecher, ex-chief Muskogee (Creek) Nation, for himself as loyal Creek claimant, and as attorney in fact for others.

Testimony was taken, arguments heard (Exhibit 1), and on February 16, 1903, the Indian Committee made the following report:

"In compliance with the requirements of section 26 of an act entitled 'An act to ratify and confirm an agreement with the Muskogee or Creek tribe of Indians, and for other purposes,' approved March 1, 1901 (31 Stat. L., 869), and in conformity with the prayer of the memorial of Isparhecher, referred to this committee by the Senate, the Committee on Indian Affairs herewith submits the following report and recommendation:"

Then follows the statement of the case, and attention is called to the fact that the agreement of 1901 provides: "That within two years from the ratification of said agreement the Senate shall make full determination of said claims."

In 1902 Isparhechar, ex-chief of the Creek Nation, on behalf of himself and other loyal Creek claimants, had submitted his memorial to the Senate, asking that it should proceed as soon as practicable, as provided by said act, to examine said claims and to award the amount alleged to be due. Said memorial was referred to the subcommittee. The committee recommended to the Senate the payment of $1,200,000 by its report of February 16, 1903, aforesaid, to be passed on by the Senate in an award. (S. Doc. 3088, 57th Cong., 2d sess.)

The committee submitted to the Senate an amendment to the Indian appropriation bill, in connection with this report, on page 33, after line 22, as follows:

"In pursuance to the provisions of section 26 of an act to ratifiy and confirm on agreement with the Muskogee (or Creek) tribe of Indians, and for other purposes, approved March 1, 1901, there is hereby awarded, as a final determination thereof, on the so-called "loyal Creek claims" named in said section 25, the sum of $1,200,000, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and made immediately available, etc., and providing in the proposed item for attorney's fees."

This item will be found on page 2252 of the CONGRESSIONAL RECORD, February 16, 1903. It was quite thoroughly discussed on the floor of the Senate, and it was pointed out by a member of the Indian Committee [Mr. Quarels] that the action of the Senate would be an award of the United States in the following language.

Speaking to the Senate, Mr. Quarles said:

"It has occurred to me, sir, that the Senate ought to be advised as to the nature of this amendment, and that it ought not to be passed, coming as it does solely from the committee, leaving the Senate entirely in ignorance of the fact that in regard to this amendment, it is sitting as a court of arbitration, and is not engaged in the ordinary method of legislation.

"Now I rise to lay the facts before the Senate. This is a provision which arises out of the agreement made with the Creek Nation in 1891, whereby it is provided that the Senate shall, within two years, sit in the capacity of a court of arbitration, and decide upon this claim, which arises from several treaties made by this Government with the Creek Nation.

"The determination of the Senate upon this proposition will amount to an award, upon which an action will lie quite independent of the fact of this provision in the other House of Congress" (p. 2253).

The Senate thereupon agreed to the item without objection (p. 2254).

Thereafter, when the matter went into conference it was cut down to $600,000, and it was provided that the claimants should execute an acquittance to the Government in full for their claims upon receipt of the $600,000, which, after deducting the attorneys' fees, was distributed among them.

The loyal Creeks' claim was again considered by the Committee on Indian Affairs, and in its report of January 30, 1907 (S. Rept. 5689, 59th Cong., 2d sess.), made the following report:

LOYAL CREEK CLAIMS.

"In 1901 Congress enacted into the statute an agreement made by the Dawes Commission with the loyal Creek Indians whereby their claim was to be 'submitted to the Senate of the United States for determination,' the Senate acting as a court of arbitration. The act provided that whatever sum was awarded 'provision shall be made for immediate payment of the same.' (31 Stat. L., 869, sec. 26.)

"In pursuance of the act the claim of the loyal Creeks was duly submitted to the Senate and sent to the Committee on Indian Affairs for investigation. The committee examined treaties and records, heard testimony from the claimants, both oral and by depositions, heard counsel, who submitted briefs, and finally reported its findings to the Senate as an item on the Indian appropriation bill, which read as follows:

"'In pursuance of the provisions of section 26 of an act to ratify and confirm an agreement with the Muskogee or Creek tribe of Indians, and for other purposes, approved March 1, 1901, there is hereby awarded, as a final determination thereof, on the so-called "loyal Creek claims," named in said section 26, the sum of $1,200,000, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and made immediately available. And the Secretary of the Treasury is hereby authorized to pay, under the direction of the Secretary of the Interior, to the loyal Creek Indians and freedmen named in articles 3 and 4 of the treaty with the Creek Nation of Indians of June 14, 1866, the said sum of $1,200,000, to be paid to such Indians and freedmen only whose names appear on the list of awards made in their behalf by W. B. Hazen and F. A. Field, as commissioners on behalf of the United States to ascertain the losses of said Indians and freedmen, as provided in said articles 3 and 4; and such payments shall be made in proportion of the awards as set out in said lists, and shall be in full settlement and satisfaction of all claims under said articles 3 and 4: *Provided, however,* That if any of said loyal Creek Indians or freedmen whose names are on said list of awards shall have died, then the amount or amounts due such deceased person or persons, respectively, shall be paid to their heirs or legal representatives: *And provided further,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to first withhold from the amount herein appropriated and pay to S. W. Peel, of Bentonville, Ark., the attorney of said loyal Creeks and freedmen, a sum equal to 10 per cent of the amount herein appropriated, as provided by written contracts between the said S. W. Peel and the claimants herein, the same to be payment in full for all legal and other services rendered by him, or those employed by him, and for all disbursements and other expenditures had by him in behalf of said claimants in pursuance of said contract. And further, said Secretary is authorized and directed to pay to David M. Hodge, a Creek Indian, of Tulsa, in the Creek Nation, a sum equal to 5 per cent of the amount herein appropriated, which payment shall be in full for all claims of every kind made by said David M. Hodge, or by those claiming under him, by reason of any engagement, agreement, or understanding had between him and said loyal Creek Indians.'" (Cong. Rec., vol. 36, pt. 3, 57th Cong., 2d sess., p. 252.)

A discussion followed in which the attention of the Senate was specifically called to the fact that by the adoption of that item the Senate announced its award under the law. In the language of Senator Quarles, who was a member of the Committee on Indian Affairs and was opposed to the award:

"The determination of the Senate upon this proposition will amount to an award upon which an action will lie, quite independently of the fate of this provision in the other House of Congress."

In a word, the Senate was fully apprised of the whole matter, and then passed the item without any dissenting votes. (See pages 2252, 2253, and 2254 of the RECORD above cited.)

The House disagreed generally to the amendment made by the Senate to the Indian bill, and the measure went to conference. When the conferees made their final report the item carrying the award had been modified by reducing the amount found by the Senate from $1,200,000 to $600,000, and provided that the Indians should accept the same as full satisfaction of all claim and demand growing out of said loyal Creek claims, and that the payment should be a full release of the Government. (32 Stat. L., 995.)

The money thus appropriated, being only one-half of the amount awarded, was accordingly paid to the Indians. But in spite of the fact that they accepted, under compulsion, that amount under the terms of the act rather than lose all payment for their losses, yet they feel that the amount awarded them under the conditions of a solemn agreement between themselves and the Government has been only one-half paid, and they are now entitled to the balance. They respectfully submit the following reasons for their present claim:

I. The losses they sustained were the direct result of their loyalty to the Government. For this loyalty they were not only driven from their homes, but many of them—men, women, and children—in their flight from the Indian Territory to Kansas during the winter of 1861–62 lost their lives by attacks made upon them by other Indians and by organized whites, and all of them suffered untold hardships. More than 1,500 of the men entered the Union Army. The Commissioner of Indian Affairs, in his report for the year 1865, says:

"The Creeks were nearly divided in sentiment at the opening of the war, about 6,500 having gone with the rebellion, while the remainder, under the lead of the brave old chief, Opothleyoholo, resisted all temptations of the rebel agents and of leading men, like John Ross, among the Indians, and fought their way out of the country northward, in the winter, tracked by their bloody feet upon the frozen ground. They lost everything—house, homes, stock, everything they possessed. Many joined the United States Army." (Commissioner's Report, 1865, p. 39.)

II. The Government promised them that they should be reimbursed for their losses. During the negotiations with the Five Civilized Tribes, preceding the reconstruction treaty of 1865, the commissioners, on the part of the United States, assured the Indians, loyal and disloyal, that "those who have been loyal, although their nation may have gone over to the enemy, will be liberally provided for and dealt with." Again the Indians were assured that above all other considerations it was the determination of the Government "to recognize in a signal manner the loyalty of those who had fought upon the side of the Government and endured great sufferings on its behalf." (Commissioner's report, 1865, pp. 34 and 299.)

And article 4 of the treaty of 1866 (14 Stat. L., 787) undertook to ascertain their losses and see that the same were paid. This ascertainment was subsequently made by two officers of the army—Gen. W. B. Hazen and Capt. F. A. Field. The Indians filed claims with this commission amounting, in the aggregate, to $5,090,808.50. The two commissioners, in keeping with their military training, insisted on having every item proven by witnesses presented before them. The impoverished Indians scattered over a territory twice as large as the State of Massachusetts, without property—not even a pony left them—and with many of their witnesses dead or left back in Kansas, could only comply in part. But they did prove the loss, before this exact and exacting court, of property found to be worth $1,836,830.41. This amount was awarded by General Hazen and Captain Field and approved by the Commissioner of Indian Affairs, and a qualified approval affixed by the Secretary of the Interior.

III. The accuracy of the findings of Hazen and Field was never challenged by the Government. Using them as a basis, the sum of $100,000 was paid to the claimants. The Indians refused to take any portion of this latter amount until assured by General Williamson, the government agent authorized to make the payments, that the balance would be paid. Thus, when the matter came before the Senate as arbitrator, the Indians claimed the full amount of their losses as found ($1,836,830.41), less the $100,000 which had been paid, making $1,736,830.41. They also claimed interest for the thirty-six years that the claims had remained unpaid. This based on the fact that the Government usually paid interest on Indian funds.

The Indian Committee representing the Senate in making the investigation determined, upon some theory unknown to the claimant, to reduce the amount to $1,200,000. The loyal Indians of the Choctaws and Chickasaws had been paid the full amount of their losses as found, and their claims had not been cut by the commissioners who passed upon them.

The claims of the loyal Seminoles were submitted to the arbitration of the Senate by the same act that provided for the submission of the loyal Creek claims. The Senate reduced by 45 per cent the amount which the commissioners had allowed for losses, and then added interest at the rate of 5 per cent for some thirty-three years. The reduction of the principal was based on the fact that the Indians had been allowed all they claimed. But the reduced principal and the interest brought the award to $186,000, while the original allowance was $213,888.95.

The Choctaws and Chickasaws were thus paid the full amount of losses as they claimed them, and paid promptly after the date of the reconstruction treaty; and the Seminoles were generously dealt with by the Senate, a large amount of interest having been added to their claim. Yet when the Senate came to deal with the loyal Creek claims, which had been already cut by Commissioners Hazen and Field about 62 per cent, it further reduced the principal something more than 33 per cent (from $1,836,830.41 to $1,200,000), and refused to allow

any interest. The claimants would have been glad to have accepted this award and been allowed, after the thirty-six years of waiting, to go in peace.

IV. A fourth reason why the balance of the award should now be paid is the fact that the Indians submitted the whole matter to the Senate, trusting with the simplicity of children in its honor and justice. They were heard, the award was announced, and they returned to their homes with the feeling of perfect security that at least that much was safe and the $1,200,000 would be paid them and the long controversy ended.

They had no knowledge of what was transpiring in the conference room. They were neither notified nor heard, yet provision was made for paying only one-half of their judgment, and conditioned that they should receive this as payment in full. The award between private parties would have been final and binding. (Wright *v.* Tebbitts, 1 Otto, 252.)

V. Congress in its legislative capacity could not legally alter the award. The Senate, in pursuance of an agreement and a law, was the sole arbitrator. It formally announced its award. It never again opened the case. It never again sat as an arbitration board. Its sole connection with the matter thereafter was as a branch of Congress in its political capacity. Its function as a court was terminated. The question of finding what was due these loyal Creeks, who, in the language of the act providing for the arbitration, "had suffered because of their loyalty to the United States Government during the civil war," was fully closed.

VI. To coerce the Indians to sign receipts in full for a part of their award, and refuse to pay the balance, would, if done by an individual, be immoral. These untutored wards of the Nation, who have been trained for generations to depend upon agents and other officers of the Government in all business transactions, and to do whatever they are told to do are presented with a sum of money and a receipt and told to sign the latter in order to secure the payment. Will such a receipt be held as a bar against the individual Indian? Is there not such a sense of injustice growing from the facts of this case as will compel the payment of the whole award? The Indians depend more upon such considerations than upon legal rights, which might be asserted as to the frailty of receipts in general as evidence of payment, and especially as to receipts procured by coercion or duress.

VII. There must be no misunderstanding as to who these claimants are. They are simply and solely individual Indians. Their names, the property lost, and the amount due each for his particular loss, are all set out in the findings of Commissioners Hazen and Field. The Creek tribe has no jurisdiction over the matter. On these claims the United States owed nothing to the tribe, and the latter never had any legal relation to them. The relinquishment of the tribe in its capacity as an organization can not have and should not have any effect on the pending claim.

Your committee recommends that the bill S. 3423 do pass, or that an item be placed upon the Indian appropriation bill to provide for the payment of the balance of this award.

Mr. CLAPP. Mr. President, there was no agreement upon the part of these Indians that they would submit their claim to the joint action of the Senate and the House of Representatives. Their agreement was that they would submit it to arbitration at the hands of the Senate. While Congress has the power to ignore that, still the Senate ought not to repudiate its obligation.

Mr. TELLER. Mr. President, this is not a new question; it has been before the Senate and the country at various times. Of course, it is a long time since this obligation arose; but it was not the fault of the people who are interested in it that it was not long ago settled.

The Creek Nation was divided into two parts. Some were loyal and some were disloyal. After the war they made a claim, which was settled, as the Senator from North Dakota [Mr. McCUMBER] has said, by the treaty of 1866. I do not care whether you call it a treaty or whether you call it an agreement, the fact is that the Government entered into a solemn obligation to dispose of this meritorious claim, a claim that ought to appeal to every man in the Senate.

These people lost their property and rendered to this Government a signal service. They rendered that service under most trying conditions. We talk about the patriotism of those who went into the Union Army. These men went into the Union Army in a community that was very nearly equally divided between the two opposing forces. They were loyal to the Government. They suffered intensely in person, in property, and in feeling. In 1866 we determined that they should be compensated for what they had lost, and we fixed the tribunal to determine what they had lost. This has been a most scandalous proceeding. There has been, perhaps, more criticism of it than of any other action of the Government during the last fifty years.

Proceeding according to our own stipulation, the claim was submitted to the body that we selected. We found—whether the finding can or can not be technically called an award—that this amount was due to those people, and we said in the treaty when we found it was due we should pay it. Was it necessary to provide that we would pay the award after it was made? It became a solemn award, as Senator Quarles said, upon which an action would lie if it had been between two individuals.

We have the power, we have the strength to say we will pay the award or we will not pay it. As the chairman of the committee has said, the Indians did not agree to leave it to the Congress of the United States. They agreed to leave it to the Senate. The Senate determined it. If it was possible to make an award by this body, we made an award; we called it an award, and by all the rules of common law and justice it was an award. In the first place, we said that it was an award. This body said:

This is a just debt which the Government ought to pay and that it is under obligations to pay.

When the House of Representatives would not agree to appropriate the amount the Senate had fixed, the Senate consented—and it ought never to have done so—that that amount should be cut down by one-half. Did anybody give any reason why it should be cut down? Not at all. It was cut down simply because the House said they would not agree to the amount determined upon by the Senate.

The VICE-PRESIDENT. May the Chair, for his information, ask the Senator from Colorado a question? Was the award reduced from $1,200,000 to $600,000 by the action of Congress?

Mr. TELLER. Mr. President, the committee of conference, in order to get an agreement, decided that instead of appropriating $1,200,000 we should appropriate $600,000.

Mr. LODGE. That was the action of both Houses.

Mr. TELLER. It was the action of both Houses. We agreed to it, and it became a law. I do not mean to say that we could not by law set aside that award. I know, Mr. President, if it had been an award in favor of Great Britain we would not have dared to have set it aside. I know if such action had been taken by individuals it would have been regarded as criminal.

Mr. BRANDEGEE. Mr. President——

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

Mr. TELLER. I yield.

Mr. BRANDEGEE. If the award had been set aside, it would have been a breach of the treaty, would it not?

Mr. TELLER. Certainly; it would have been a breach of the treaty and a breach of common decency, I may say. Through a technicality you may get rid of it; you may say that we have provided for the payment of $600,000; but, Mr. President, justice will not be done if we repudiate the treaty.

I do not believe the point of order ought to be raised against the amendment; but, if it is, it will not be creditable to the Senate to declare that we may escape the payment of a just debt by a technicality.

Mr. ALDRICH. Mr. President——

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

Mr. TELLER. Certainly.

Mr. ALDRICH. The Senator I think will see the distinction between the question whether the claim is meritorious, equitable, and just, and the question whether it is proper upon an appropriation bill. It is a question of the interpretation of the rule and not with respect to the merits of the claim.

Mr. TELLER. Very well. Some people at least have been trying for several years to have this injustice righted. There has been complaint from those people. I was down in that country a few years ago, and the presiding officer of that nation spoke to me about the injustice of it. I do not believe any man who has ever looked at it will not say it is unjust, and I do say it would be rather remarkable if we should hold these people strictly to the rule.

As the Senator from North Dakota says, these were our wards. If these people had standing in court as an individual would have under these circumstances, there is not a court on the continent having jurisdiction which would not right that wrong—not one. A guardian can not hold a pistol at the head of his ward——

Mr. McCUMBER. Will the Senator yield to me for a moment, as I wish to make a suggestion in answer to the question that was put by the Chair himself as to what effect the subsequent action of Congress would have.

Mr. TELLER. Very well.

Mr. McCUMBER. The point we are making here is that the Senate, no matter in what form its action took effect, was a court of arbitration; and when it acted as a court of arbitration, any subsequent act as lawgivers would not change its previous award.

To make it clear, I want to put it in this light: Suppose the arbitrators agreed upon had been the Secretary of War, the Secretary of the Interior, and the Attorney-General, instead of the Senate of the United States, and they had made an arbitration and had decided that the payment should be $1,200,000; and then the Senate should pass a bill for $1,200,000, the House should cut it down to $600,000, and the Senate agree to that, with any stipulation it saw fit. Would that in the slightest degree affect or set aside the previous award made by these parties? And if it would not set aside an award made by par-

ties entirely outside of the Senate, neither could it set aside an award that was made in the Senate. They could refuse to pay, but they could not change a fact that was once established and came into existence any more than they could say that the 25th day of last December was not a certain holiday.

Mr. TELLER. No, Mr. President; the award will ever stand. We may refuse to pay it, but, as I have said, it will not be to our credit if we do. There is no more just debt that the Government ever owed than this.

There are two phases of it. We deliberately provided the tribunal to determine it. That tribunal determined it. It was our duty as the guardian of the ward to have paid it. We refused; and we stipulated with them that "You shall not have any of this money unless you receipt for the whole." As the Senator said, that could not have been done between individuals if the debt was just.

Mr. President, this is a good deal of money; it is quite a large sum. We are not paying any interest on it. I suppose the real beneficiaries, those who were entitled to it years ago, are dead. That has been the trouble with many of our transactions. We wait until it is too late for the people who ought to be benefited by our acts of justice to take part in or to have any advantage from them. But the obligation rests upon us the same, and the heirs of these dead men are entitled to it as much as their parents were.

I believe it would be to the credit of the Government of the United States to pay this debt. I believe it would save it from criticism in the future such as it has incurred in the past, in a transaction not of magnitude enough to justify dishonor on our part, if any such thing could be conceived of. I believe it ought to be paid. I think the point which the Senator from North Dakota has made with respect to the point of order is well taken, and I do not think the point of order is well taken. The amendment is not out of order, in my judgment.

Mr. CURTIS. Mr. President, in the first place, in my judgment, if the finding of the Committee on Indian Affairs giving to the loyal Creeks $1,200,000 was a legal award, then the point of order is not well taken. But, in my judgment, there was no legal award, and before taking up that question I desire to make a very brief statement in reference to the claim.

The Senator from North Dakota [Mr. McCUMBER] and the Senator from Oklahoma [Mr. OWEN] say the original proposition is based upon articles 3 and 4 of the treaty of 1866, which is true. Those articles were never passed upon by the Supreme Court, but they were passed upon by the Court of Claims, and that court, in passing upon the question, says:

> The court decided as a conclusion of law that "all claims which the petitioners had against the United States for damages and losses growing out of the late rebellion were adjusted, settled, and released by the treaty of 1866 (14 Stat. L., 785), and the payment thereunder of $100,000, as provided in article 3, and that the claimants, having received that sum, are not entitled to be paid any further amount."

That was the finding of the only court that ever passed upon the articles of the treaty of 1866.

In 1901, when the agreement was made with the Creek Indians, a provision was placed in the agreement that the loyal Creeks' claims should be referred to the Senate of the United States as a board of arbitration. There was but one way for the Senate Committee on Indian Affairs to get jurisdiction of the claim, and that was for the Senate to refer it to the Committee on Indian Affairs and give that committee authority to act for this body. That was never done. A memorial was presented to the Senate which, in the regular course of business and under the rules of the Senate, would of necessity go to the Committee on Indian Affairs. It was not a reference of the claim to that committee for settlement. The Senate never authorized that committee to act in its stead. It took jurisdiction without any direction upon the part of the Senate.

Now, when it took jurisdiction of the claim it selected a bill that could not originate in this body, and it placed its finding upon that measure. When it selected that measure to put the item upon it was bound by the action of the House and the Senate on that measure, because it placed it upon a bill that could not become a law until it had been agreed upon by both the Senate and House and was approved by the President of the United States.

Mr. CLAPP. Mr. President——

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

Mr. CURTIS. Certainly.

Mr. CLAPP. I should like to ask the Senator from Kansas what materiality there is, when we are considering the rights of one party to an arbitration, as to how far the other party must go, in being bound, acting jointly with some other party?

Mr. CURTIS. The position I take now is the same as the one taken by me when the case was before the conferees, that had the claim been referred to the Senate committee with authority to act, there would have been a hearing, both sides would have been represented, and, as was contended in the conference, if both sides had been heard—and that was the judgment of the House conferees—no allowance would have been made; that the committee would have followed the decision of the Court of Claims.

Mr. SUTHERLAND. Mr. President——

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

Mr. CURTIS. Certainly.

Mr. SUTHERLAND. The Senator from Kansas says that this matter was not referred to the Committee on Indian Affairs, but that the Committee on Indian Affairs took the papers, considered the matter, and reported their finding to the Senate, which the Senate confirmed. Was not the action of the Senate in doing that a ratification of what the Senate committee had done, and is not the ratification equivalent to an original authorization?

Mr. CURTIS. It is not so in this case, because it was placed in an appropriation bill that was subject to amendment on the floor of the Senate, was subject to amendment in the House of Representatives, and if the House bill was amended in the Senate, it was subject to change in conference; and therefore they were bound by whatever changes were made, and the award did not become final until the bill was finally acted upon and was signed by the President of the United States.

Mr. President, in that bill in conference the conferees agreed to it amended as follows: To reduce the amount to $600,000, and they put in this proviso:

> That said sum shall be accepted by said Indians in full payment and satisfaction of all claim and demand growing out of said loyal Creek claims, and the payment thereof shall be a full release of the Government from any such claim or claims.

Amended in that way the Indian appropriation bill, including this item, became a law.

Mr. CLAPP. Will the Senator pardon me for a question?

Mr. CURTIS. Certainly.

Mr. CLAPP. I understand the Senator to say that if the action of the committee amounted to an award, the point of order would not lie. Am I correct?

Mr. CURTIS. In my judgment, if the finding of the committee as reported was a legal award, the point of order would not lie, but, in my judgment, it is not a legal award, because both sides were not given a chance to be heard, and the committee had no jurisdiction over the item, and the only award made was the provision for the payment of $600,000 in full.

Mr. ALDRICH. Of the Senate?

Mr. CURTIS. I mean of the Senate.

Mr. CLAPP. But if it was an award, the point of order would not lie?

Mr. CURTIS. I mean of the Senate.

Mr. CLAPP. Yes; I supposed so.

Mr. CURTIS. In carrying out the provisions of the appropriation act the Secretary of the Interior made the payments, and a receipt was taken, which is as follows:

> We acknowledge to have received from J. Blair Shoenfelt ———, and the same is hereby accepted as a full and complete settlement of our claim against the United States for property taken or destroyed during the civil war, as provided by the act of Congress approved March 31, 1903, and the act of the Creek council, May 3, 1903.

Mr. CLAPP. Mr. President——

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

Mr. CURTIS. Certainly.

Mr. CLAPP. I should like to ask the Senator another question. If the action of the Senate amounted to an award, would the Senator contend as a legal proposition that these loyal Creeks would be bound by the subsequent proceedings unless there was a new and additional consideration for the acceptance of this in lieu of the award?

Mr. CURTIS. The position I take is that it was not a legal award, and that it did not become an award until it was finally acted upon.

Mr. CLAPP. But if the Senator will pardon me, I should like to get his view as to that situation.

Mr. CURTIS. I will say very frankly to the Senator that if it was a legal award, then I do not believe the point of order is well taken.

Mr. CLAPP. No; I am not talking about that now. I am asking the Senator to give me his view upon this question: If that was a legal award, would the subsequent proceedings, unless they involved a new and additional consideration, be binding in the acceptance of the $600,000 in lieu of the award?

Mr. CURTIS. I think if the claimant accepted the money in full payment, and it was acted upon by the tribe, as it was, they would be bound by their receipt in full.

Mr. CLAPP. Without any additional consideration?

Mr. CURTIS. Yes, sir; I do.

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

Mr. CURTIS. Certainly.

Mr. HEYBURN. The Senator has just used the term "if it was acted upon by the tribe." Was there any tribal existence in 1903?

Mr. CURTIS. There was; and I want to read what the tribe did.

Mr. HEYBURN. Had they not taken their lands in severalty prior to that time?

Mr. CURTIS. The land had not been fully allotted.

Mr. HEYBURN. The allotments had not been fully approved?

Mr. CURTIS. No, sir. It appears that the national council of the Muskogee (Creek) Nation, approved by the principal chief on May 23, 1903, accepted the $600,000, appropriated by said act of Congress, in full payment and satisfaction of all claims and demands growing out of the "loyal Creek claims," said payment to be a "final release of the Government from all such claim or claims." Said resolution was approved by the President on June 6, 1903.

Mr. HEYBURN. If the tribal relation existed, it would be valid; otherwise not.

Mr. OWEN. I wish to call the attention of the Senator from Kansas to the important fact that this award was due to private individuals, and not to the members of the Creek tribe; that the Creek tribe as such had no function in regard to this award to private persons; and answering the Senator from Idaho further in the purpose of his question a few moments ago, I call his attention to the fact that these persons had been made citizens of the United States March 3, 1901.

Mr. HEYBURN. I so understood.

Mr. LODGE. I understood the Senator to say that these are not tribal, but private and individual claims.

Mr. OWEN. It is an award in bulk to the individuals on the list made by General Hazen under the fourth article of the treaty of 1866.

Mr. McCUMBER. If the Senator will permit me for a moment, it was to be paid to the loyal Creek Indians and freedmen named in articles 3 and 4 of the treaty with the Creek Nation of Indians of June 14, 1866; the said sum of $1,200,000 to be paid to such Indians and freedmen only whose names appear on the list of awards made in their behalf by W. B. Hazen and F. A. Field as commissioners on behalf of the United States.

Mr. ALDRICH. Who made this agreement originally? Was it the Creek Nation or these individuals?

Mr. CURTIS. The council or the representatives of the tribe, and it was agreed to by the members of the tribe.

Mr. McCUMBER. It does not make any difference. It was made for the benefit of the Indians.

Mr. ALDRICH. Was there any authority given by these individuals to anybody to make this agreement? Was it a treaty or simply an agreement?

Mr. DIXON. Mr. President——

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

Mr. CURTIS. Certainly.

Mr. DIXON. The Senator from Kansas knows that I was very much in doubt in committee about the same point, and there was not a great deal of testimony adduced there which really gave much light on the subject. I should now like to ask the Senator from Kansas, what, approximately, was the number of loyal Creek Indians during the war?

Mr. CURTIS. I think the commission found there were 1,523; that is, Indians and freedmen.

Mr. DIXON. Adult male persons?

Mr. CURTIS. Indians and freedmen.

Mr. DIXON. Did that include women and children?

Mr. CURTIS. I should judge not, unless they were property owners.

Mr. DIXON. They have already been paid $700,000 by the Government, have they not?

Mr. CURTIS. Yes; $700,000.

Mr. DIXON. What did those Indians at that time own which could have been destroyed amounting to $1,200,000 in personal property?

Mr. CURTIS. Horses, cattle, hogs, sheep, forage, and property of various kinds. They presented claims to the amount of $5,000,000, and the two officers appointed to look into the claim found that property had been destroyed to the amount of $1,836,000——

Mr. DIXON. What kind of property was it that was destroyed?

Mr. CURTIS. As I say, horses, cattle, hogs, sheep, and other property taken and destroyed.

Mr. DIXON. That would be a thousand dollars to an Indian.

Mr. CURTIS. And their houses were destroyed and forage was taken, and everything of that kind. All the property they had was destroyed.

Mr. OWEN. To the family, not to the individual.

Mr. DIXON. To an Indian. There were only 1,500 Indians on the list, and an award of $1,200,000 (and $100,000 had already been paid) would amount to nearly a thousand dollars to each Indian. Unless they are different from any Indians I have ever known——

Mr. OWEN. The Senator has never known as good Indians as these.

Mr. DIXON (continuing). It would require a wild stretch of the imagination to think that there was a thousand dollars' worth of cayuses to each individual Indian on the reservation.

Mr. OWEN. I should like to suggest to the Senator from Montana that these people were civilized people for a long period of time. Back four or five generations they were civilized, and they had very extensive property. They went out into this western country in 1832.

Mr. DIXON. These were the Georgia Creeks?

Mr. OWEN. The Georgia Creeks, of the Mobile basin. They went out there, and it takes no stretch of the imagination to see how a very small number of cattle would increase in so long a period of time—thirty-odd years. Those people were quite well off. They put in claims for over $5,000,000 worth of property, and they offered evidence so far as they could. But they were scattered all over the country.

What I rose to point out was that while there were only a certain number of these individuals, they obviously must have been heads of families, because the children were not the owners of property, and the head of a family would naturally for himself and as the head of the family make the claim.

Mr. DIXON. How many disloyal Creeks were there at that time?

Mr. OWEN. I do not know what was the number of disloyal Creeks. There were some disloyal Creeks. But this does not turn on the matter of disloyalty or loyalty. It turns on the question of the pledge of the Government to ascertain this money and to pay it; and the fourth article of the treaty of 1866 said that the Government would pay it when ascertained in a fixed manner, and therefore it becomes an obligation of the United States not to be treated lightly nor to be set aside on the theory that these people could not have had what the chosen agents of the United States determined, upon proof, they did have.

Mr. DIXON. Was the treaty of 1866 ratified by the Senate?

Mr. OWEN. It was ratified by the Senate of the United States.

Mr. DIXON. In what year?

Mr. OWEN. In 1866.

Mr. LODGE. The Senator from Montana asked the number of disloyal Creeks. I see it stated in the report which the Senator from Oklahoma was kind enough to hand me:

> The Creeks were nearly divided in sentiment at the opening of the war, about 6,500 having gone with the rebellion, while the remainder, under the lead of the brave old chief, Opothleyoholo, resisted all temptations of the rebel agents and of leading men, like John Ross, among the Indians, and fought their way out of the country.

Mr. CURTIS. Mr. President, I do not desire to take up any further time, except to make this statement: I believe this item is subject to the point of order, because it is general legislation. It provides the manner of paying this claim, and it of necessity amends the general appropriation act of 1903. I submit, further, if this had been a legal award the committee would have reported the award to the Senate, the Senate would have approved of the award and said that it approved the award of the committee, amounting to $1,200,000, in settlement of this claim; and if the Senate had acted in that way you would have had a legal award; but the item was added to an appropriation bill, and as it finally became a law the item was for $600,000 in full payment, and this is binding upon the Senate.

Mr. HEYBURN. I beg to ask the Senator from Kansas a question.

Mr. CURTIS. Certainly.

Mr. HEYBURN. Was any attempt made to divide this award, appropriating it to the families or individuals?

Mr. CURTIS. No.

Mr. HEYBURN. To whom did the benefit run?

Mr. CURTIS. The benefit ran to all of the loyal Creeks whose names appeared in the list that had been filed with the Commissioner of Indian Affairs or the Secretary of the Interior—I would not be sure which—one or the other; not to the tribe, but to the individual members whose names appeared in that list.

Mr. HEYBURN. And the tribal organization to be the trustee for the purpose of apportioning it?

Mr. CURTIS. Paying it.

Mr. HEYBURN. The tribal organization had ceased to exist then, had it not?

Mr. CURTIS. No.

Mr. HEYBURN. Why not?

Mr. CURTIS. No; the tribal authority had not ceased.

Mr. HEYBURN. If they became citizens of the United States in 1901, would not that terminate the tribal existence?

Mr. CURTIS. By act of Congress the tribal existence was continued, and there is a tribe there to-day.

Mr. HEYBURN. Does not the Senator think that the act of Congress is open to question, in view of the decision of the United States Supreme Court in the Nez Percé case?

Mr. CURTIS. In view of the decision of the Supreme Court in the Cherokee case, I do not, because there they held that the Government and Congress had jurisdiction over the property notwithstanding the act declaring the Indians to be citizens of the United States.

Mr. HEYBURN. Over the property, but how about the citizens?

Mr. OWEN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Kansas yield to the Senator from Oklahoma?

Mr. CURTIS. Certainly, but further——

Mr. HEYBURN. I will yield, too. I join in yielding.

Mr. OWEN. I wish to point out the fact that the "Cherokee case," so called, which related to the right of the United States, through the Secretary of the Interior, to lease Cherokee lands for oil, was under the act of 1898, prior to the grant of citizenship, and therefore the conclusion of the Senator from Kansas, I think, is not very well taken.

Mr. CURTIS. Ah, but the decision came up after the act and after the Indians had been made citizens of the United States by the act of Congress, and after individuals had been given the right to make oil and gas leases, and after the treaty or agreement had provided that the certificate of allotment should be the evidence of their title. The decision was made after that; and notwithstanding the provisions of the treaty and the act of 1898, the Supreme Court held that Congress still had jurisdiction over the property.

Mr. HEYBURN. Mr. President——

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

Mr. CURTIS. Certainly.

Mr. HEYBURN. A later decision than the one referred to by the Senator from Oklahoma deals directly with the question of the quality of citizenship. The Supreme Court of the United States has said that there can be but one quality of American citizenship; that no citizen can have any rights that another citizen has not. It applied that in the Nez Percé case, and they hold there that these limitations or attempts to limit or qualify citizenship are futile; that they accomplish nothing.

I merely wanted to call attention to it because it seems to me that while the original act doubtless anticipated some one capable of taking at the time, yet there has been a failure of parties by reason of the citizenship which had been conferred upon these Indians.

Mr. CURTIS. Well, Mr. President, at any rate the general council of the Creek Nation acted upon it, and the money was paid to the individual members, and they receipted in full.

I have nothing further to submit upon the point of order.

Mr. McCUMBER. The Senator from Kansas has just stated that if the Senate Committee on Indian Affairs had reported this as an award, and the Senate itself had acted upon it as an award, it would be binding as an award.

Mr. CURTIS. May I correct the statement of the Senator? Providing the Committee on Indian Affairs had jurisdiction of it and had gotten possession of the papers in a proper way, which I deny.

Mr. McCUMBER. In either event the whole question turns upon the point whether the Senate acted as a court of arbitration and whether it understood that it was acting as a court of arbitration in fixing an award or whether it was acting in conjunction with the other House in making a law for an appropriation. I know of nothing that will be more important in determining that matter than the law itself. I will not call it a law, but the award itself, the word that was used by the Senate in its action. Here are the words. This is what the Senate of the United States said:

In pursuance of the provisions of section 26 of an act to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and for other purposes, approved March 1, 1901—

Showing that it was considering that treaty and not the mere making of an appropriation—

there is hereby awarded—

Not that "we hereby appropriate" a certain sum of money, but "there is hereby awarded"—

as a final determination thereof, on the so-called "Loyal Creek claims," named in said section 26, the sum of $1,200,000, and the same is hereby appropriated.

Now, there are two provisions. There is a provision awarding, and there is a provision appropriating. They are clearly separable. The provision awarding is the provision that we say fixes the right of the Creek Indians, and I can not understand how anyone can claim under any provision that it is not an award.

As has been suggested time and again, the agreement was not that the Creek Indians should submit to the Congress of the United States the determination of the question, but that they should submit it to the Senate of the United States. They submitted it, and the Senate declared that it awarded $1,200,000, and then they said they appropriated that sum.

The House then changed the sum of the appropriation, and all that it could do would be to change the sum appropriated, $1,200,000. The House had no jurisdiction to interfere in the slightest degree with the award that was made by the Senate of the United States.

Let me put this proposition: As suggested to me by the Senator on my left [Mr. BRANDEGEE], suppose Congress had refused to appropriate anything, and nothing more had been done with it, and then suppose the Indians had made application before the Court of Claims, for instance, giving jurisdiction thereto, for $200,000,000. Could not the defense interpose this award of the Senate of the United States as a complete bar to recovering more than $1,200,000? I do not believe there is a lawyer here who for a single moment will doubt the proposition that that would be a complete bar; and if it would be a complete bar on the part of the United States, it would be as complete a bar on the part of the Government to claim that it is not an award.

Mr. President, I can not possibly see that it makes any difference how this got before the Senate, but in my opening remarks I showed step by step how it got before the Senate. Every one of those steps recited that previous step, and every one of them recited that it was for the purpose of securing an award. When finally we got it before the Senate it was declared openly that it was to be an award, and not only by a Member of the Senate, but the provision which we passed declared that it was an award to pay according to the terms of a certain treaty.

Mr. ALDRICH. Mr. President, there are a good many difficulties about this question, both in reference to the equitable side of it and the legal side. While it is true that the Senate, as a part of the lawmaking power, passed the provision the Senator has read, it did not pass it in the form of an award, with notice to the parties interested that they had made an award. The only notice which went to the parties interested was the act of Congress, and it reads in this wise:

In pursuance of the provisions of section 26 of an act to ratify and confirm an agreement with the Muskogee or Creek tribe of Indians, and for other purposes, approved March 1, 1901, there is hereby awarded, as a final determination thereof, on the so-called "loyal Creek claims," named in said section 26, the sum of $600,000, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, and made immediately available.

That was not only the action of the Senate, but the action of the House of Representatives, and it was approved by the President. It is the only official record in existence as to what the award was.

Mr. CLAPP. Will the Senator pardon a question?

Mr. ALDRICH. Certainly.

Mr. CLAPP. Does the Senator contend that under an agreement to let the Senate make an award the other party is bound by the declaration of the House at the other end of this building?

Mr. ALDRICH. I say this is the only record that the award was made. If you were asked to furnish a certificate of the action of the Senate, you could not furnish it. There is no legal record in existence, so far as I know, that there has been an award made except this.

It is barely possible that this claim appeals to the equitable sense of Senators, and it does to mine. It looks to me as though we ought to pay these people. But whether we ought to pay them on an appropriation bill, with a limited time for discussion, I have some doubt.

There is another question involved. These claims arose forty-two years ago. Who is going to get the money that is to be paid under this appropriation if you pay this $600,000. Can anybody tell what part of it will be paid to attorneys and what part to the original claimants or the survivors? I have seen statements in the newspapers about great amounts to be paid to attorneys in this award.

Mr. GALLINGER. Sixty thousand dollars are provided in the amendment.

Mr. ALDRICH. Sixty thousand dollars are to be paid on the face of the amendment, but how many of the claims of these fifteen hundred claimants or their representatives have been

assigned to other people? These questions are perhaps not before us in one sense, but they may be in another sense.

Mr. CLAPP. If the Senator will allow me to answer——

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

Mr. ALDRICH. Certainly.

Mr. CLAPP. My answer to the question as to who would get this money is that there is nothing in the treaty requiring either the Creeks or their representatives to designate who may get it after it has been delayed by Congress for a term of years.

Now, Mr. President——

Mr. ALDRICH. I am not quite through with my statement. It may be that there is nothing in this provision in the form in which it is as to whom the money is to be paid, but I was asking as a matter of curiosity if any member of the committee knew to whom the money was to be paid. These claims arose forty-two years ago. Most of the original claimants must be dead. It does not, you may say, affect the equity of this case or the legality of these claims; but if we are going to stretch the rules of the Senate and put this claim on the bill, the precedent may be very troublesome to us in the future. I think we ought to get all the information that is possible with reference to the claim before we pay it.

Mr. OWEN. Mr. President, I want to call the attention of the Senator from Rhode Island to the RECORD in regard to this matter. On page 2252 of the CONGRESSIONAL RECORD of February 16, 1903, there is set forth the report of the Committee on Indian Affairs relative to this matter, pointing out precisely the action of the Senate. The report points out what the action of the Senate was; that it was considering this matter, knowing that it was acting as a board of arbitration, and that it did act as a board of arbitration, and in manner and form accepted this proposition as an award.

The argument of the Senator from Rhode Island in effect is that after the Senate has made an award, then the House of Representatives can come into this Chamber through the conferees and take the judge by the throat and compel him to retract. Is that an element of justice that should be pursued as a precedent? When the Senate acts as a board of arbitration, shall any power have the right to come in and say that the Senate shall recede from its position under the penalty of not passing the appropriation bill?

Mr. CURTIS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Kansas?

Mr. OWEN. Certainly.

Mr. CURTIS. If the Senate considered this as a final award, why did they put it on an Indian appropriation bill and send it back to the House?

Mr. OWEN. Because it was the most convenient way in which to pay the award when made. The crux of the matter is that the Senate, acting as a board of arbitration, declared this sum to be due, when they were charged with the knowledge of the fact that they were sitting as a board of arbitration and having made the award coincidently with it they provided payment. They might have made the award and not provided payment, but the subsequent proceedings looking to the payment by the Senate, and then the Senate having been coerced by the House of Representatives, it does not in anywise diminish the force of the adjustment through this board of arbitration.

Mr. CURTIS. They knew, did they not, Mr. President, when they put the provision in this bill that it would be subject to amendment in the other House?

Mr. OWEN. That related only to the payment of the award, not to the award itself.

Mr. CURTIS. And unless the Senate had agreed to it, it could not have become a law in that appropriation bill.

Mr. OWEN. I say that related to the payment of the award and not to the award itself. The award is one thing; the payment of the award is another thing.

The VICE-PRESIDENT. The Senator from Kansas makes the point of order that the amendment is obnoxious to paragraph 3 of Rule XVI, in that it proposes general legislation. The Senator from Massachusetts interposes an additional point of order to the effect that the item is not for the purpose of carrying out the provisions of some existing law or treaty stipulation.

The Chair has been greatly impressed by the strength of the argument of the friends of the amendment as to the equitable character of the claim. But in deciding the point of order the Chair is, of course, precluded from considering either the equitable nature of the claim or the supposed merit of the claim that is involved in the amendment.

The Chair is of the opinion that in determining the parliamentary question which is raised, it is impossible for him to go back of the act of Congress of 1903 and consider any agreements, awards, or settlements which may have been made prior thereto. The Congress has spoken upon the question, and it is not within the province of the Senate to set aside, nor is it within the province of the Chair to ignore, its deliberate, conclusive action. It is provided in the act as follows:

> In pursuance of the provisions of section 26 of an act to ratify and confirm an agreement with the Muskogee or Creek tribe of Indians, and for other purposes, approved March 1, 1901, there is hereby awarded, as a final determination thereof on the so-called "loyal Creek claims" named in said section 26, the sum of $600,000, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated and made immediately available.

Congress, in order, apparently, to leave no doubt as to its purpose and the effect of the act, provided:

> That said sum shall be accepted by said Indians in full payment and satisfaction of all claim and demand growing out of said loyal Creek claims, and the payment thereof shall be a full release of the Government from any such claim or claims.

Unless this act has been very materially modified or repealed by a subsequent act it stands as the supreme law, and standing as it does, it negatives the suggestion that the pending amendment is to carry out an existing law or treaty stipulation.

The Chair is also clearly of opinion that the amendment can not be entertained under the third paragraph of Rule XVI. It proposes to change a general law. Therefore, it is in the nature of general legislation, and is in contravention of the rule.

In view of the foregoing considerations, the Chair sustains the point of order made by the Senator from Kansas and the point of order interposed by the Senator from Massachusetts.

Mr. OWEN. Mr. President, I have now drawn the amendment objected to in such form as to meet the objection. I should like to have it read.

The VICE-PRESIDENT. At what point does the Senator wish to have the amendment inserted?

Mr. OWEN. At the bottom of page 64.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. At the bottom of page 64, after line 26, insert the following proviso:

> *Provided*, That the Attorney-General is hereby authorized to dismiss the suits brought by the United States to set aside land titles in the eastern district of Oklahoma in cases where the consideration was not inequitable, and where there is no actual fraud involved.

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

The amendment was agreed to.

Mr. GORE. I desire to submit an amendment to come in at the close of the admendment just adopted.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. Following the amendment just agreed to, it is proposed to insert:

> All suits pending or hereafter brought in the eastern district of the United States district court of Oklahoma to cancel conveyances of Indian allotments shall be given precedence over all other actions, civil and criminal, excepting where the defendant is confined without bail and on petition for the writ of habeas corpus.

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

Mr. KEAN. I think it very well to adopt the amendment of one Senator from Oklahoma, but I think this is going a little too far. I make a point of order on the amendment that it is general legislation.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. GORE. Mr. President, I request the Senator to withhold the point of order for a moment, that I may make a statement with reference to the amendment.

Mr. KEAN. The Chair has already ruled on it.

The VICE-PRESIDENT. Does the Senator from New Jersey withhold his point of order?

Mr. KEAN. I withhold it for a moment.

The VICE-PRESIDENT. The Senator from Oklahoma will proceed.

Mr. GORE. I would merely like to say that more than 30,000 suits have been brought in the State of Oklahoma during the last eight months with respect to the transfer of Indian allotments, and it has operated as a stroke of paralysis to the eastern section of our State. It, of course, casts a cloud on every piece of land involved in the suits, and casts suspicion on every other transfer and every other title falling within this description. If one case could be tried every day it would require ten years for the trial of these suits. If ten cases were tried every day it would occupy one entire year in the trial of these actions.

This statement ought to be sufficient to impress the Senate with the importance of this disposition of the matter to the people of the State of Oklahoma. I submit that the suits were brought indiscriminately, without investigation. The records were consulted where transfers had been made and suits were instituted and investigations were made afterwards. Some of them have already been dismissed as being entirely without foundation; but it requires too much time, if they are allowed to take the ordinary course of litigation.

I am informed that suits of this kind have been brought to cancel conveyances where the Secretary of the Interior had himself expressly and formally removed the restrictions from the land involved. I cite one particular case where a piece of land was sold by an Indian to a white man. The deed was executed and delivered, and a mortgage was made for the purchase money. Suit has been brought to cancel the mortgage to secure the payment of the debt. So far no suit has been brought to cancel the deed itself.

There is another story told illustrative of this litigation. Land was allotted to a Cherokee woman who was unmarried. Subsequently she married. She leased the land in her married name, and suit has been brought against her for defrauding herself out of her own land. That illustrates the character of the litigation.

Something ought to be done to facilitate, to expedite, and to force a settlement of these suits. The amendment merely gives them precedence over other cases, excepting criminal actions, where the defendant is confined without bail, and in cases brought on petition for a writ of habeas corpus.

Mr. KEAN. Mr. President, I insist upon my point of order. We have already given the Attorney-General power to dismiss a certain class of cases, and I think that is sufficient.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. CLAPP. I move to reconsider the vote by which the Senate adopted the amendment on page 54, inserting the matter from line 7 to line 22.

The motion to reconsider was agreed to.

Mr. CLAPP. I ask that the amendment be rejected.

The amendment was rejected.

Mr. OWEN. I offer an amendment in behalf of the Chickasaw chief, Douglas H. Johnson, asking a larger compensation for his services.

The VICE-PRESIDENT. The amendment will be stated.

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

That the Secretary of the Interior is hereby authorized and directed to pay out of the Chickasaw fund to D. H. Johnson, governor of the Chickasaw Nation, compensation for his services as such governor, at the rate of $3,000 per annum, from March 4, 1906, so long as he shall legally serve as such governor.

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

The amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, I had called the attention of the chairman of the committee to the amendment on page 88, from line 1 to line 13, inclusive, and understood that he was to withdraw it. Upon information which has come to me very recently with respect to the matter embodied in the amendment, I am compelled to make the point of order against it on the ground that it is general legislation upon an appropriation bill.

I should like to say the reason I do that is that I am informed by representatives of the Oneida Indians, who have just arrived in the city, learning that this legislation was likely to be proposed, that there was an entire misunderstanding upon their part in agreeing to the distribution of this money upon the basis provided for in the amendment.

Mr. CLAPP. The Senator is correct. I had intended to withdraw the amendment.

The VICE-PRESIDENT. In the absence of objection, the amendment will be regarded as open. The question recurs on the amendment reported by the committee, which will be stated.

The SECRETARY. At the top of page 88 it is proposed to insert:

To enable the Commissioner of Indian Affairs to pay to the Oneida band of Indians of the Oneida Reservation, Wis., their proportionate share of the perpetual annuity accruing to the Six Nations of New York Indians, under the sixth article of the treaty of November 11, 1794 (7 Stat. L., p. 46), on the basis of a capitalization of the said annuity at 5 per cent, as provided in the agreement made with the said Oneida band January 4, 1909, said agreement having been made in pursuance with the act of Congress approved April 30, 1908 (35 Stat. L., p. 70), $20,000, to be immediately available.

The amendment was rejected.

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

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

The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 26203) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1910, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEIFER, Mr. GARDNER of Michigan, and Mr. BOWERS managers at the conference on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

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

H. R. 2635. An act for the relief of Herman Lehmann;

H. R. 3760. An act for the relief of the creditors of the Deposit Savings Association of Mobile, Ala.;

H. R. 13777. An act for the relief of the estate of Samuel Beatty, deceased;

H. R. 15442. An act to amend an act entitled "An act to establish a court of private land claims and to provide for the settlement of private land claims in certain States and Territories," approved March 3, 1891, and the acts amendatory thereto, approved February 21, 1893, and June 27, 1898;

H. R. 17276. An act for the relief of S. R. Hurley;

H. R. 17960. An act for the relief of Marcellus Butler;

H. R. 18600. An act for the relief of John M. Hill;

H. R. 22340. An act relating to injured employees on the Isthmian Canal;

H. R. 23707. An act to incorporate the Imperial Palace, Dramatic Order Knights of Khorassan;

H. R. 24833. An act to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States;"

H. R. 25155. An act 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;"

H. R. 26466. An act to amend an act authorizing the construction of a bridge across the Mississippi River at Burlington, Iowa;

H. R. 26482. An act to authorize the construction of two bridges across Rock River, State of Illinois;

H. R. 26829. An act to amend an act entitled "An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County," approved April 23, 1906;

H. R. 27864. An act granting a right of way over a strip of land along the eastern boundary of the Fort McPherson Military Reservation to the commissioners of Fulton County, Ga., for road purposes; and

H. J. Res. 241. Joint resolution to authorize the Secretary of War to furnish one condemned bronze cannon and cannon balls to the city of Robinson, Ill.

BOSTON AND MAINE RAILROAD.

Mr. LODGE. I ask unanimous consent for the present consideration of the bill (S. 7752) for the relief of the Boston and Maine Railroad.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to pay to the Boston and Maine Railroad $2,840.83, for railway mail service furnished between Fitchburg, Mass., and South Ashburnham, Mass., from July 1, 1897, to June 7, 1908.

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

EXECUTIVE SESSION.

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

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until Monday, February 22, 1909, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 20, 1909.

CONSUL-GENERAL.

Edward L. Adams, of New York, now consul-general of class 6 at Stockholm, to be consul of the United States of class 5 at Dublin, Ireland, vice Alfred K. Moe, nominated to be consul of class 5 at Bordeaux.

POSTMASTERS.

CONNECTICUT.

William A. Smith to be postmaster at Hazardville, Conn. Office became presidential January 1, 1909.

FLORIDA.

John B. Leffingwell to be postmaster at Bradentown, Fla., in place of John B. Leffingwell. Incumbent's commission expired February 1, 1909.

James A. Zipperer to be postmaster at Madison, Fla., in place of Alexander Zipperer. Incumbent's commission expired January 27, 1909.

INDIANA.

William L. Walters to be postmaster at Fort Branch, Ind. Office became presidential January 1, 1909.

IOWA.

William C. Snyder to be postmaster at Lake City, Iowa, in place of William C. Snyder. Incumbent's commission expired January 14, 1909.

KANSAS.

Edwin J. Bookwalter to be postmaster at Halstead, Kans., in place of Edwin J. Bookwalter. Incumbent's commission expired December 13, 1908.

MICHIGAN.

William C. Mertz to be postmaster at St. Charles, Mich., in place of William C. Mertz. Incumbent's commission expired December 12, 1908.

MINNESOTA.

Stephen E. Fay to be postmaster at Raymond, Minn. Office became presidential January 1, 1909.

Charles M. Nelson to be postmaster at Elbow Lake, Minn., in place of Charles M. Nelson. Incumbent's commission expires February 23, 1909.

NEBRASKA.

Frank C. Evans to be postmaster at Wisner, Nebr., in place of Frank C. Evans. Incumbent's commission expires March 3, 1909.

NEVADA.

Idessa G. Moody to be postmaster at Mina, Nev. Office became presidential October 1, 1908.

NEW YORK.

Thomas B. Lowerre to be postmaster at Flushing, N. Y., in place of Thomas B. Lowerre. Incumbent's commission expires March 1, 1909.

NORTH CAROLINA.

Charles M. Hoover to be postmaster at Thomasville, N. C., in place of Charles M. Hoover. Incumbent's commission expires March 1, 1909.

Charles A. Reynolds to be postmaster at Winston Salem, N. C., in place of Charles A. Reynolds. Incumbent's commission expired January 30, 1909.

NORTH DAKOTA.

David C. Boyd to be postmaster at White Earth, N. Dak., in place of David C. Boyd. Incumbent's commission expired December 14, 1908.

OKLAHOMA.

George W. Mellish to be postmaster at Comanche, Okla., in place of George W. Mellish. Incumbent's commission expires March 1, 1909.

PENNSYLVANIA.

John W. Zerbe to be postmaster at Shamokin, Pa., in place of John W. Zerbe. Incumbent's commission expired November 19, 1907.

SOUTH CAROLINA.

Alfred G. Pinckney to be postmaster at Williamston, S. C. Office became presidential January 1, 1908.

SOUTH DAKOTA.

Arthur B. Chubbuck to be postmaster at Ipswich, S. Dak., in place of Arthur B. Chubbuck. Incumbent's commission expired January 20, 1909.

Alexander B. Coutts to be postmaster at Hudson, S. Dak. Office became presidential January 1, 1909.

Orator H. La Craft to be postmaster at Clark, S. Dak., in place of Orator H. La Craft. Incumbent's commission expired December 19, 1907.

TEXAS.

Emily I. Ellis to be postmaster at Toyah, Tex. Office became presidential October 1, 1908.

T. W. Fields to be postmaster at Greenville, Tex., in place of Joseph M. Gurley. Incumbent's commission expired February 13, 1907.

William B. Kirby to be postmaster at Wellington, Tex. Office became presidential January 1, 1909.

John C. McBride to be postmaster at Woodville, Tex., in place of John C. McBride. Incumbent's commission expired February 4, 1909.

H. W. Mullis to be postmaster at McLean, Tex. Office became presidential January 1, 1909.

Lafayette Sharp to be postmaster at San Augustine, Tex., in place of Lafayette Sharp. Incumbent's commission expired February 4, 1909.

Jasper C. Williamson to be postmaster at Kirbyville, Tex., in place of Moses J. Lee, resigned.

VERMONT.

Alma H. Ayer to be postmaster at Richford, Vt., in place of Harlow C. Ayer, deceased.

VIRGINIA.

Warner J. Kenderine to be postmaster at Radford, Va., in place of Warner J. Kenderine. Incumbent's commission expires February 23, 1909.

Joseph E. Rangeley to be postmaster at Stuart, Va. Office became presidential January 1, 1909.

Richard B. Wilson to be postmaster at Crewe, Va., in place of Stanley E. Moore. Incumbent's commission expires March 1, 1909.

WISCONSIN.

William W. Clarke to be postmaster at Milton, Wis., in place of William W. Clarke. Incumbent's commission expires March 1, 1909.

Fred P. Harmon to be postmaster at Belleville, Wis. Office became presidential January 1, 1909.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 20, 1909.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Passed Asst. Surg. James A. Nydegger to be surgeon in the Public Health and Marine-Hospital Service.

CONSULS.

William C. Magelssen, of Minnesota, to be consul of the United States of class 7 at Colombo, Ceylon.

William C. Teichmann, of Missouri, to be consul of the United States of class 8 at Stettin, Germany.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

Second Lieut. Sanderford Jarman, Coast Artillery Corps, to be first lieutenant.

Second Lieut. Clair W. Baird, Coast Artillery Corps, to be first lieutenant.

Second Lieut. Edward W. Putney, Coast Artillery Corps, to be first lieutenant.

Second Lieut. Gilbert Marshall, Coast Artillery Corps, to be first lieutenant.

CHAPLAINS.

Rev. William Reese Scott, of Pennsylvania, to be chaplain with the rank of first lieutenant.

Rev. Franz Joseph Feinler, of South Dakota, to be chaplain with the rank of first lieutenant.

PROMOTION IN THE NAVY.

Commander Walter McLean to be a captain in the navy.

SECRETARY OF PUBLIC INSTRUCTION, PHILIPPINE ISLANDS.

Newton W. Gilbert, of Indiana.

POSTMASTERS.

ALABAMA.

Lemuel A. Carroll, at Slocomb, Ala.
Edgar A. McFerrin, at Opp, Ala.
Henry C. Willis, at Alexander City, Ala.

CALIFORNIA.

Robert R. Allen, at King City, Cal.
George B. Hannahs, at San Jacinto, Cal.
Otto C. Heck, at Oilcenter, Cal.
John J. West, at Willow, Cal.

GEORGIA.

Isaac T. Sellers, at Cornelia, Ga.

ILLINOIS.

Frederick H. Ballinger, at Chenoa, Ill.
Charles J. Ferguson, at East Alton, Ill.
H. F. Mette, at Flanagan, Ill.
William W. Waters, at Clyde, Ill.
John W. White, at Cullom, Ill.

IOWA.

Harry C. Chapple, at Independence, Iowa.
John C. Felts, at Jesup, Iowa.
John C. Roberts, at Hiteman, Iowa.
Thomas R. Shaw, at Coin, Iowa.
W. A. Simpkins, at Britt, Iowa.
Herman Ternes, at Dubuque, Iowa.

KANSAS.

Gertrude Stevens, at Goodland, Kans.

KENTUCKY.

Isaac N. Bryant, at Corbin, Ky.
Lee B. McHargue, at London, Ky.

MISSOURI.

John H. Fisher, at Sullivan, Mo.
Philip A. Thompson, at Craig, Mo.

MONTANA.

Walter E. Williamson, at Wibaux, Mont.

NEW JERSEY.

William H. Bannard, at Asbury Park, N. J.

NEW YORK.

Melvin D. Herriman, at Sandy Creek, N. Y.

NORTH DAKOTA.

H. B. Allen, at Steele, N. Dak.
Anna Callahan, at Casselton, N. Dak.
William T. Cameron, at Aneta, N. Dak.
Ole I. Ronning, at Columbus, N. Dak.

OKLAHOMA.

William O. Allison, at Hollis, Okla.
Benjamin G. Baker, at Chattanooga, Okla.
Don A. Fraser, at Wewoka, Okla.

PENNSYLVANIA.

Walter M. Bray, at Palmerton, Pa.
Jennings U. Kurtz, at Berwick, Pa.
Thomas Pickrell, at Old Forge, Pa.

SOUTH DAKOTA.

James Erickson, at Bryant, S. Dak.

VIRGINIA.

John W. Field, at Chincoteague Island, Va.
E. T. Kiser, at Wise, Va.

WASHINGTON.

Alonzo W. Carner, at Castlerock, Wash.
Charles McKinnon, at Black Diamond, Wash.
George B. Stocking, at Republic, Wash.

INJUNCTION OF SECRECY REMOVED.

On February 18, 1909, the Senate removed the injunction of secrecy from a special agreement between the United States and Great Britain for the submission to the Permanent Court of Arbitration at The Hague of questions relating to fisheries on the North Atlantic coast. (Ex. U, 60th, 2d.)

HOUSE OF REPRESENTATIVES.

SATURDAY, *February 20, 1909.*

[*Continuation of legislative day of Monday, February 15, 1909.*]

The recess having expired at 11 o'clock a. m., the House was called to order by the Speaker.

PUBLIC BUILDINGS.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 28167.

The SPEAKER. The gentleman from Missouri asks unanimous consent to discharge the Committee of the Whole House from the further consideration of the following bill and to consider the same in the House. The Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 28167) to grant additional authority to the Secretary of the Treasury to carry out certain provisions of public buildings acts, and for other purposes.

Mr. FITZGERALD. Let us have the bill read.

Mr. PAYNE. The bill ought to be read.

The SPEAKER. The Chair will say to the gentleman from Missouri that he is notified by the gentleman from Iowa that he desires to call up the diplomatic and consular appropriation bill. This bill is three or four pages long, and the Chair will furnish an opportunity——

Mr. BARTHOLDT. Mr. Speaker, I suggest this bill will take only a few minutes. It carries no new appropriation, it merely makes certain changes made necessary by changed conditions in respect to public buildings acts passed in the last two Congresses, and I hope the gentleman will yield.

Mr. COUSINS. I think the gentleman should come in after this. This bill is desired at the other side, and it must go over there or we will be running amuck with the appropriations. There are four appropriation bills—

Mr. BARTHOLDT. I appeal to the gentleman to give way for a few minutes for this purpose. This bill must go over to the Senate in order to pass this session.

Mr. COUSINS. How long?

Mr. BARTHOLDT. For a few minutes.

Mr. COUSINS. Mr. Speaker, if I am recognized I will yield the gentleman five minutes.

The SPEAKER. It will take five minutes to read the bill, but the Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That in every instance in which the act of May 30, 1908, included the cost of the site in the extension of the limit of cost fixed for a public building previously authorized to be constructed upon land owned by the United States, such limit of cost be, and the same is hereby, amended and fixed at the amount named in said act for each of such buildings, but exclusive of the cost of the sites thereof, respectively.

SEC. 2. That so much of the amount heretofore authorized for the construction of a suitable building for the accommodation of the United States post-office, United States courts, and other governmental offices at Muskogee, Okla., as may be necessary shall be available for the acquisition of a suitable site, and the Secretary of the Treasury is hereby authorized and directed to acquire such site by purchase, condemnation, or otherwise: *Provided*, That the limit of cost heretofore fixed shall not be exceeded in the acquisition of such site and the erection of a suitable building thereon.

SEC. 3. That of the amount heretofore authorized for the enlargement of the post-office building at Rock Island, Ill., the sum of $5,000, or so much thereof as may be necessary, shall be available for the acquisition of additional land.

SEC. 4. That the amount heretofore authorized for the enlargement, extension, and repair of the United States post-office at Portland, Me., shall be available for the United States court-house at Portland, Me.

SEC. 5. That the Secretary of the Treasury be, and he is hereby, authorized and directed, in his discretion, to reduce the open space for fire protection at Du Quoin, Ill., to 15 feet, to insure the acquisition of a suitable site within the limit of cost heretofore fixed.

SEC. 6. That the Secretary of the Treasury may, in his discretion, disregard the provision requiring sites to be bounded upon at least two sides by streets in so far as same shall apply to the town of Plymouth, Mass.

SEC. 7. That the Secretary of the Treasury be, and he is hereby, authorized and directed, in his discretion, to apply not to exceed $7,000, or so much thereof as may be necessary, of the amount heretofore authorized for the erection of a suitable building for the accommodation of the United States post-office at West Point, Miss., for the acquisition of a suitable site, in addition to the $5,000 heretofore authorized for the acquisition of a site.

SEC. 8. That the Secretary of the Treasury may, in his discretion, disregard the provision requiring sites to be bounded upon at least two sides by streets in so far as same shall apply to the city of Westerly, R. I.

SEC. 9. That the Secretary of the Treasury be, and he is hereby, authorized and directed, in his discretion, to reduce the open space for fire protection at Beatrice, Nebr., to 10 feet, to insure the completion of the proposed addition to the present federal building within the limit of cost heretofore authorized.

SEC. 10. That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be constructed a temporary addition to the United States post-office and court-house at Detroit, Mich., at a limit of cost not to exceed $7,500, to be paid from the appropriation heretofore authorized for the extension and remodeling of the United States court-house and post-office at Detroit, Mich.

SEC. 11. That so much of section 5 of the act of Congress entitled "An act to increase the limit of cost of certain public buildings, to