SENATE.

MONDAY, *April 22, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of the proceedings of Saturday last was read and approved.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. CURTIS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19212) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1913, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 4, 5, 6, 7, 11, 17, 26, 27, 28, and 31.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 9, 10, 14, 16, 18, 19, 20, 21, 22, 23, 24, 25, 29, and 30, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment, as follows: In lieu of the sum proposed insert: "forty-five thousand dollars"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum proposed insert: "five hundred and fifty-five thousand five hundred dollars"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert: "three hundred and fifty-five thousand dollars"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$35,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: ", together with the unexpended balance of the appropriation made for this object for the fiscal year 1912, which is hereby reappropriated and made available for this purpose"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$340,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$450,000"; and the Senate agree to the same.

CHARLES CURTIS,
F. E. WARREN,
B. R. TILLMAN,
Managers on the part of the Senate.

WM. SULZER,
H. D. FLOOD,
W. B. MCKINLEY,
Managers on the part of the House.

The report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 18336) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House had passed the bill (H. R. 23349) providing for publicity of contributions and expenditures for the purpose of influencing or securing the nomination of candidates for the offices of President and Vice President of the United States, in which it requested the concurrence of the Senate.

The message further transmitted to the Senate resolutions on the life, character, and public services of the Hon. ALEXANDER C. MITCHELL, late a Representative from the State of Kansas.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 16101) providing for patents to homesteads on the ceded portion of the Wind River Reservation in Wyoming; and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the Federation of Women's Clubs of Seattle, Wash., praying that an appropriation be made to enforce the provisions of the white-slave law, which was referred to the Committee on Appropriations.

He also presented a petition of sundry citizens of La Crosse, Wis., praying for the passage of the so-called eight-hour bill, which was referred to the Committee on Education and Labor.

He also presented petitions of the congregations of Bethel Church, of Montgomery, Ala., and of the Court Street Methodist Church, of Montgomery, Ala.; of the Woman's Christian Temperance Union, of Montgomery, Ala.; of the congregations of the First Cumberland Presbyterian Church of Montgomery, Ala., and of the Church of Christ, of Ludlow, Ill., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which were referred to the Committee on the Judiciary.

Mr. MARTINE of New Jersey presented a petition of the District Society for the Prevention of Cruelty to Animals, of Passaic County, N. J., praying for the enactment of legislation to prevent interstate traffic in immature calves, which was referred to the Committee on Interstate Commerce.

He also presented a petition of Phoenix Lodge, No. 315, International Association of Machinists, of Elizabeth, N. J., praying for the passage of the so-called eight-hour bill, which was referred to the Committee on Education and Labor.

He also presented a memorial of Phoenix Lodge, No. 315, International Association of Machinists, of Elizabeth, N. J., remonstrating against the enforcement of the so-called Taylor system of shop management in navy yards, which was referred to the Committee on Naval Affairs.

Mr. WATSON presented petitions of sundry lodges, Brotherhood of Locomotive Engineers, of Grafton, Martinsburg, Weston, and Parkersburg; of sundry lodges, Brotherhood of Railroad Trainmen, of Grafton and Pratt; and of Local Division, Order of Railway Conductors of America, of Parkersburg, all in the State of West Virginia, praying for the enactment of legislation to provide an exclusive remedy and compensation for accidental injuries, etc., which were ordered to lie on the table.

He also presented a petition of the congregation of the Methodist Episcopal Church South, of North Parkersburg, W. Va., praying for the enactment of an interstate-liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

He also presented a memorial of Hoffman Post, No. 62, Department of West Virginia, Grand Army of the Republic, of Morgantown, W. Va., remonstrating against the incorporation of the Grand Army of the Republic, which was referred to the Committee on the District of Columbia.

Mr. CULLOM presented a petition of the Woman's Christian Temperance Union of Gridley, Ill., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. ASHURST presented a petition of the Graham County Chamber of Commerce, of Safford, Ariz., praying that an appropriation be made for the improvement of the roads throughout the country, which was referred to the Committee on Agriculture and Forestry.

Mr. LODGE presented resolutions adopted by the Presbytery of Boston, of the Presbyterian Church in the United States of America, in convention at Roxbury, Mass., favoring unlimited arbitration and remonstrating against any intervention by the United States in Mexico, which were referred to the Committee on Foreign Relations.

Mr. BRANDEGEE presented a petition of sundry business men of New Haven, Conn., praying that an appropriation be made for the continuance of the Tariff Board, which was referred to the Committee on Finance.

He also presented a petition of the Woman's Christian Temperance Union of Waterbury, Conn., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

He also presented a petition of the Business Men's Association of Waterbury, Conn., praying for the adoption of 1-cent letter postage, which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Indian Affairs, to which was referred the joint resolution (H. J. Res. 142) to de-

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clare and make certain the authority of the Attorney General to begin and maintain, and of any court of competent jurisdiction to entertain and decide, a suit or suits for the purpose of having judicially declared a forfeiture of the rights granted by the act entitled "An act granting to the Washington Improvement & Development Co. a right of way through the Colville Indian Reservation, in the State of Washington," approved June 4, 1898, reported it with an amendment and submitted a report (No. 649) thereon.

He also, from the Committee on Pensions, to which was referred the bill (H. R. 18955) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments and submitted a report (No. 650) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WATSON:

A bill (S. 6454) to provide for the erection of a public building at Beckley, W. Va.; to the Committee on Public Buildings and Grounds.

By Mr. LODGE:

A bill (S. 6455) granting an increase of pension to Winfield S. Flint (with accompanying paper); and

A bill (S. 6456) granting an increase of pension to Edwin Roswell (with accompanying papers); to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 6457) to remove the charge of desertion from the military record of Calvin Stebbins; to the Committee on Military Affairs.

By Mr. BRANDEGEE:

A bill (S. 6458) granting an increase of pension to Eldred Mitchell; to the Committee on Pensions.

By Mr. OVERMAN:

A bill (S. 6459) for the erection of a public building at Waynesville, N. C.; and

A bill (S. 6460) for the purchase of a suitable site and the erection of a Federal building for the United States post office at Mount Olive, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. JOHNSON of Maine:

A bill (S. 6461) granting an increase of pension to Benjamin F. Philbrick (with accompanying paper); to the Committee on Pensions.

By Mr. GORE:

A bill (S. 6462) providing for the sale of timbered and other lands belonging to the Chickasaw and Choctaw Indians, and for other purposes; to the Committee on Indian Affairs.

Mr. GALLINGER. On the 11th day of April I introduced a bill (S. 6265) to amend an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899, which was referred to the Committee on Naval Affairs. I ask that that committee be discharged from the further consideration of the bill, and that it be postponed indefinitely.

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

Mr. GALLINGER. I introduce another bill of the same title, which I ask may be read twice and referred to the Committee on Naval Affairs.

The bill (S. 6453) to amend an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899, was read twice by its title and referred to the Committee on Naval Affairs.

FISH-CULTURAL STATION IN IDAHO.

Mr. HEYBURN submitted an amendment proposing to appropriate $25,000 for the establishment of a fish-cultural station in the State of Idaho, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Fisheries and ordered to be printed.

AMENDMENT TO RIVER AND HARBOR BILL.

Mr. OLIVER submitted an amendment proposing to appropriate $250,000 for reconstruction or repair of Lock and Dam No. 6 on the Monongahela River, Pa., etc., intended to be proposed by him to the river and harbor appropriation bill (H. R. 21477), which was referred to the Committee on Commerce and ordered to be printed.

LOSS OF STEAMER TITANIC.

Mr. MARTINE of New Jersey. Mr. President, I desire to present a resolution. Prefacing it, permit me to say that from the press this morning we learn that 68 bodies from the ill-fated steamer *Titanic* have been picked up around where that craft found her grave. This information prompts the belief that there may be bodies which will yet appear on the surface. Therefore I propose that the President of the United States shall be requested to dispatch as many of the revenue cutters as may be necessary to that spot as early as possible, and to remain there or thereabouts for at least one month in order to search for and recover the bodies of such unfortunates as may have been brought to the surface.

The VICE PRESIDENT. The Senator from New Jersey offers a resolution, and asks for its present consideration. It will be read.

The Secretary read the resolution (S. Res. 287), as follows:

Resolved, That the President of the United States be requested to dispatch to the vicinity of the recent disaster to the steamer *Titanic* as many of the revenue cutter vessels as he deems necessary, with instructions to there remain for at least one month in order to search for the bodies of such unfortunate victims of such disaster as may come to the surface of the ocean.

Mr. SUTHERLAND. I ask that the resolution may go to the Committee on Commerce.

Mr. MARTINE of New Jersey. I am perfectly willing to have it referred to that committee.

The VICE PRESIDENT. Without objection, the resolution will be referred to the Committee on Commerce.

INTERNATIONAL HARVESTER CO.

Mr. OVERMAN submitted the following resolution (S. Res. 288), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Attorney General be, and he is hereby, instructed to lay before the Senate all correspondence and information now in possession of the Department of Justice in relation to the proposed settlement between the United States and the International Harvester Co. by which the so-called Harvester Trust may be permitted to reorganize and bring its organization and business within the provision of the Sherman antitrust law as construed by the Supreme Court, together with any and all correspondence, information, and reports of the Bureau of Corporations relating thereto from January 1, 1904, to the present time.

FLOODS IN THE MISSISSIPPI RIVER.

Mr. NELSON. I ask for a reprint of Senate Report No. 1433, Fifty-fifth Congress, third session, on floods in the Mississippi River, the supply being exhausted.

The VICE PRESIDENT. Without objection, an order therefor will be entered.

The order as agreed to was reduced to writing, as follows:

Ordered, That Senate Report No. 1433, third session Fifty-fifth Congress, "On floods in the Mississippi River," be printed for the use of the Senate document room, the supply being exhausted.

IMPROVEMENT OF THE MISSISSIPPI RIVER (S. DOC. NO. 600).

Mr. PERCY. I ask that the statement of Capt. C. H. West, a member of the Mississippi River Commission, before the Committee on Commerce of the Senate on April 18, 1912, relative to improvements of the Mississippi River and the flooded conditions prevailing in the river, be printed as a Senate document.

The VICE PRESIDENT. Without objection, an order therefor will be entered.

The order as agreed to was reduced to writing, as follows:

Ordered, That the testimony of C. H. West, a member of the Mississippi River Commission, given before the Committee on Commerce of the Senate on April 18, 1912, be printed as a Senate document.

PROPOSED CITIZENSHIP FOR PORTO RICANS (S. DOC. NO. 599).

Mr. BORAH. Mr. President, I have a statement here prepared by people of Porto Rico upon the question of the right of the Porto Rican people to be admitted to citizenship. I am going to ask that it be printed as a Senate document, but in doing so, Mr. President, I desire to say that I do not commit myself to the theory which is advanced in the statement. In other words, I am not prepared to say that I am in favor of the admission of those people to citizenship. However, I think they are entitled to be heard, and I therefore ask that the statement be printed as a Senate document.

The VICE PRESIDENT. Without objection, an order therefor will be entered.

HOUSE BILL REFERRED.

H. R. 23349. An act providing for publicity of contributions and expenditures for the purpose of influencing or securing the nomination of candidates for the offices of President and Vice President of the United States was read twice by its title and referred to the Committee on the Judiciary.

THE UNITED STATES V. THE AMERICAN TOBACCO CO.

The VICE PRESIDENT. The morning business is closed. The Chair lays before the Senate Senate bill 3607, under the unanimous-consent agreement heretofore entered into.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3607) to give the right of appeal to the Supreme Court of the United States to certain organiza-

tions or persons in the suit of the United States against American Tobacco Co. and others.

The VICE PRESIDENT. The pending amendment is that offered by the Senator from Ohio [Mr. POMERENE].

Mr. CUMMINS. Mr. President, I have already discussed this subject very fully upon two occasions, and I do not intend this morning to reiterate what I have heretofore said. I am very much concerned with respect to the subject, and I am deeply solicitous that some way shall be provided for the review of the decree of the circuit court by the Supreme Court of the United States.

Naturally, I have been more or less in communication with those who favor the general end which I seek to accomplish. I have discovered that the bill will receive more strength if it be so modified that the direction goes to the Attorney General to take, on behalf of the United States, the appeal which he might have taken within 60 days after the decree was rendered, together with a provision that counsel for those who sought to intervene in the circuit court for the purpose of objecting to the decree may file arguments and be heard orally in the Supreme Court.

Personally I have no doubt whatever of the power of Congress to confer the right of intervention; but I am so anxious that we shall muster here the utmost strength for the general proposition that I have concluded to offer an amendment by way of a substitute for the entire bill, and I now propose the following amendment by way of a substitute for the bill.

The VICE PRESIDENT. The Senator from Iowa offers a substitute for the bill, which will be read.

Mr. SHIVELY. The substitute has not been printed?

Mr. CUMMINS. It has not.

Mr. SHIVELY. It seems to me that we should have a larger attendance here when the substitute is read. I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Indiana suggests the absence of a quorum. The Secretary will call the roll.

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

Ashurst	Culberson	Kern	Root
Bacon	Cullom	Lippitt	Shively
Borah	Cummins	McCumber	Smith, Ariz.
Brandegee	Curtis	McLean	Smith, Ga.
Bristow	Davis	Martine, N. J.	Smith, S. C.
Brown	Dillingham	O'Gorman	Smoot
Burnham	Fall	Oliver	Stephenson
Catron	Foster	Overman	Stone
Chilton	Gallinger	Page	Sutherland
Clark, Wyo.	Gronna	Paynter	Tillman
Clarke, Ark.	Heyburn	Percy	Watson
Crane	Johnston, Ala.	Pomerene	Wetmore
Crawford	Jones	Rayner	

Mr. JONES. My colleague [Mr. POINDEXTER] is unavoidably absent from the Chamber.

The VICE PRESIDENT. Fifty-one Senators have answered to the roll call. A quorum of the Senate is present. The Secretary will read the substitute offered by the Senator from Iowa [Mr. CUMMINS].

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

The Attorney General of the United States is hereby directed to appeal for, and on behalf of, the complainant, the United States, from the decree entered in the Circuit Court of the United States in and for the Southern District of New York on the 16th day of November, 1911, in a suit wherein the United States is the complainant and the American Tobacco Co. and others are the defendants, to the Supreme Court of the United States, giving such notice or notices and taking such proceedings as are required by the law and the practice in such cases to effect such appeal. To enable such appeal to be taken and perfected, the time therefor, and for all notices and proceedings provided in the law or the practice to be given or taken, is hereby extended until the expiration of the period of 60 days from and after the date upon which this act takes effect.

SEC. 2. When the aforesaid cause comes on for argument in the Supreme Court of the United States, counsel for the States, organizations, and associations, which sought to intervene in the said suit in the said Circuit Court of the United States for the Southern District of New York, in order to object to said decree, shall have the right to file printed arguments and be heard orally on behalf of the United States, subject to such order or orders respecting the number of printed arguments and the number and length of oral arguments as the court may prescribe.

SEC. 3. This act shall take effect immediately upon its passage and approval.

The VICE PRESIDENT. The question is on agreeing to the amendment to the original bill, offered by the Senator from Ohio [Mr. POMERENE].

Mr. CUMMINS. Do I understand the Chair to say that the amendment was offered by the Senator from Ohio?

The VICE PRESIDENT. The question now is upon the amendment offered by the Senator from Ohio to the original bill. The original bill must be perfected before the motion is acted upon to strike it out.

Mr. CUMMINS. I understand. I supposed the question would first be upon the substitute, but I readily see my error.

Mr. POMERENE. Mr. President, the substitute proposed by the Senator from Iowa [Mr. CUMMINS] covers substantially the matter contained in the amendment which I offered the other day. In view of the presentation of the substitute bill, I now withdraw the amendment I had proposed, with the understanding that I may a little later on offer an amendment to the substitute, in so far as the phraseology is concerned.

The VICE PRESIDENT. The Senator from Ohio withdraws his amendment, so that the question now is upon the substitute offered by the Senator from Iowa.

Mr. CLARK of Wyoming. Mr. President, before a vote is taken upon this or on any subsequent motion, I desire to have inserted in the RECORD, as bearing upon the subject, the report of the Committee on the Judiciary, Report No. 545, which was made on April 2, to accompany the return of Senate bill 3607 to the Senate.

The VICE PRESIDENT. Without objection, permission to do so is granted.

The report referred to is as follows:

Mr. CLARK of Wyoming, from the Committee on the Judiciary, submitted the following adverse report, to accompany S. 3607.

The Committee on the Judiciary, to whom was referred Senate bill 3607, entitled "A bill to give the right of appeal to the Supreme Court of the United States to certain organizations or persons in the suit of the United States against the American Tobacco Co. and others," after full consideration thereof report the same adversely, with a recommendation that it be not passed.

This bill relates to a suit brought by the United States through the district attorney, acting under the direction of the Attorney General, against the American Tobacco Co. and others in the Circuit Court of the United States for the Southern District of New York to prevent and restrain violations of the act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890.

Upon final hearing judgment was rendered for the complainant, and upon appeal to the Supreme Court of the United States this judgment was reversed May 29, 1911. The case was remanded to the circuit court to proceed in conformity with the opinion and mandate of the Supreme Court. The decision of the Supreme Court held the American Tobacco Co. to be an illegal combination in violation of the statute, and declared:

"Second. That the court below, in order to give effective force to our decree in this regard, be directed to hear the parties by evidence or otherwise, as it may be deemed proper, for the purpose of ascertaining and determining upon some plan or method of dissolving the combination and of re-creating, out of the elements now composing it, a new condition which shall be honestly in harmony with and not repugnant to the law.

"Third. That for the accomplishment of these purposes, taking into view the difficulty of the situation, a period of six months is allowed from the receipt of our mandate, with leave, however, in the event, in the judgment of the court below, the necessities of the situation require, to extend such period to a further time, not to exceed 60 days.

"Fourth. That in the event, before the expiration of the period thus fixed, a condition of disintegration in harmony with the law is not brought about, either as the consequence of the action of the court in determining an issue on the subject or in accepting a plan agreed upon, it shall be the duty of the court, either by way of an injunction restraining the movement of the products of the combination in the channels of interstate or foreign commerce or by the appointment of a receiver to give effect to the requirements of the statute.

"Pending the bringing about of the result just stated each and all of the defendants, individuals as well as corporations, should be restrained from doing any act which might further extend or enlarge the power of the combination by any means or device whatsoever. In view of the considerations we have stated we leave the matter to the court below to work out a compliance with the law without unnecessary injury to the public or the rights of private property." (221 U. S., 187-189.)

On the 16th of November, 1911, the circuit court, after hearing the parties as directed by the Supreme Court, rendered a final judgment decreeing that a plan of disintegration of the defendant company which had been presented, discussed, and modified was a plan which, taken with the injunctive provisions included in the decree, would dissolve the illegal combination and would re-create out of the elements composing it a new condition honestly in harmony with and not repugnant to the law, and without unnecessary injury to the public or the rights of private property. The decree then proceeded with a long series of injunctions adapted to the prevention of monopoly or restraint of trade under the new conditions which would be created by the approved plan. This decree was concurred in by all four judges of the circuit court. A copy is appended hereto. Upon the hearing under the mandate of the Supreme Court certain associations interested in the tobacco business and the attorneys general of certain States applied for leave to intervene in the suit. Their application was denied by the circuit court, but leave to be heard without being parties to the suit was granted and availed of. The applicants for leave to intervene then applied to the Supreme Court of the United States for a mandamus to require the circuit court to permit their intervention, and this application was denied by the Supreme Court.

The Attorney General, considering that the decree of the circuit court was in accordance with the mandate and was effective to accomplish the object of dissolving the corporation and creating a new condition which would be honestly in harmony with and not repugnant to the law, determined not to appeal, and no appeal was taken from the decree. The time to appeal expired January 15, 1912.

The pending bill proposes to give to the same parties who applied to the courts to be allowed to intervene—

"The right to intervene and appeal from the said decree of the Circuit Court of the United States for the Southern District of New York approving the said plan of reorganization or re-creation to the Supreme Court of the United States, with the same force and effect as though they or those of them who seek to exercise the right hereby given had been parties to said suit."

In the opinion of your committee this is not within the power of Congress.

(1) So far as any rights which existed at the time of the final decree of November 16, 1911, or which have existed at any time

heretofore are concerned, it is not competent for Congress to reverse the action of the courts and direct them to enter an order allowing an intervention which they had already denied.

(2) So far as the assertion of any such existing rights is concerned, such a direction from Congress would be an attempt also to reverse previous decisions of the Supreme Court holding that State attorneys general and private persons could not be parties to such a suit under the antitrust act. (Minnesota *v.* Northern Securities Co., 194 U. S., 48, 70-72.) The applicants for intervention thus not only were not parties to the suit, but they could not lawfully be parties. The judgment was not a judgment for or against them; it did not bind them or affect any rights of theirs, except, of course, as every citizen of the United States has a political interest as a citizen represented by the Government of his country in whatever litigation that Government may engage.

The sole legal rights of individuals under the antitrust act are contained in the seventh section of the act, which provides:

"Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and the costs of suit, including a reasonable attorney's fee."

This individual right under the antitrust act was not in any way affected by the judgment of the circuit court.

(3) The only way in which the proposed bill could be effective would then be by conferring a new right, a right which did not exist before. What is the right which the bill proposes to confer upon these applicants? It is the right to invoke the action of the Supreme Court of the United States to set aside, change, modify, add to, or take away from a judgment between third parties, a judgment to which the applicants were not parties, rendered in a suit to which they were not and could not have been parties, which did not bind them or determine any legal right of theirs. This would be the creation of a new right of action which did not exist before.

(4) The proceeding upon this right would present a different case or controversy from that which was before the circuit court. Chief Justice Marshall said in the case of Osborne *v.* Bank of the United States (9 Wheaton, 819), speaking of the judicial power of the United States:

"That power is capable of acting only when the subject is submitted to it by a party who asserts his rights in the form prescribed by law. It then becomes a case, and the Constitution declares that the judicial power shall extend to all cases arising under the Constitution, laws, and treaties of the United States."

And, in Muskrat *v.* United States (219 U. S., 346), the Supreme Court said:

"Judicial power, as we have seen, is the right to determine actual controversy arising between adverse litigants duly instituted in courts of proper jurisdiction."

The case or controversy which would be presented to the Supreme Court by the applicants under the authority of this bill would be a case or controversy in which they assert their rights against the parties to the former suit, or some of the parties to the former suit, and assert rights which had no legal existence at the time the former suit was decided.

(5) Under the bill this assertion of right by the applicants would be addressed in the first instance to the Supreme Court of the United States. It is the action of that court which is to be invoked. The proceeding would not be in any sense an appeal from the judgment, no matter what the bill may call it. An appeal is an application for a review of a judgment by some party to the judgment, some one whose legal rights were in controversy or are determined by the judgment. An application by a stranger to a judgment to have it set aside in whole or in part is not an appeal. It is an independent proceeding.

It follows that the proceeding which this bill proposes to authorize, and under which these applicants would invoke the action of the Supreme Court to set aside the judgment to which they were strangers, would clearly call for the exercise not of appellate but of original jurisdiction by the Supreme Court.

(6) It is well settled that Congress can not confer original jurisdiction upon the Supreme Court. The Supreme Court of the United States says, in Baltimore & Ohio Railroad Co. *v.* Interstate Commerce Commission (215 U. S., 216, 224):

"It has long been the established doctrine and we believe now assented to by all who have examined the subject that the original jurisdiction of this court is confined to the cases specified in the Constitution and that Congress can not enlarge it."

(7) As the decree of the circuit court of November 16, 1911, fixed February 28, 1912, as the limit of time within which the defendants were required to comply with the plain of disintegration, it appears that the defendants in the suit had no option but to proceed to execute the decree by disposing of what seems to have been the greater part of the property of the combination. On the 22d of January the Attorney General, by the invitation of your committee, appeared before the committee and furnished a statement of what had been done up to that time. A copy of this statement is annexed to this report. It is to be presumed that before the time expired the process of divesting the defendant corporations of their property in accordance with the decree was completed. There can be no doubt that this disposition of the property was effective. Even if there had been no decree the defendants in the suit were at liberty to dispose of their property at any time and a conveyance would have given good title. The grantees would have been subject to the provisions of the antitrust law, but the question whether they were complying with those provisions could have been raised only in a suit to which they were parties. The same consequence ensues upon the conveyance of property by the defendants under the decree. No proceedings in the case of the United States against the American Tobacco Co. et al. could reach or affect the new corporation or new parties in interest who have come into possession of the property of the old American Tobacco Co., except as they can be reached by new proceedings under the antitrust law or by proceedings under the very broad and drastic injunctive provisions of the existing decree, based upon the validity of the decree.

It would seem, therefore, that even if Congress had power to enact such a law as is proposed, its action would be ineffective as applied to an executed decree.

In the Circuit Court of the United States for the Southern District of New York. The United States of America, plaintiff, *v.* The American Tobacco Co. and others, defendants.

DECREE.

Appeals having been taken by the plaintiff and certain defendants in this cause from the decree entered by this court on the 15th day of December, 1908, the Supreme Court of the United States reversed said decree and issued its mandate filed herein on the 30th day of June, 1911, by which the said cause was remanded to this court with directions to enter a decree in conformity with the opinion of the Supreme Court of the United States and to take such further steps as might be necessary to fully carry out said directions. By the said opinion of the Supreme Court of the United States this court was directed to "hear the parties by evidence or otherwise as it may deem proper, for the purpose of ascertaining and determining upon some plan or method of dissolving the combination and of re-creating out of the elements now composing it a new condition which shall be honestly in harmony with and not repugnant to the law, but without unnecessary injury to the public or the rights of private property." And this cause having come on to be finally heard, pursuant to the order or decree of this court, made and entered herein on August 3, 1911, on the mandate of the Supreme Court of the United States as aforesaid, the American Tobacco Co. and the other defendants herein (except United Cigar Stores Co., the Imperial Tobacco Co. of Great Britain and Ireland (Ltd.), and R. P. Richardson, jr., & Co. (Inc.), filed in this court on October 16, 1911, a petition proposing and embodying a plan or method of dissolving the combination and of re-creating out of the elements now composing it a new condition in harmony with and not repugnant to the law. Due notice was given to the parties hereto that the hearing on the said petition would be had on October 30, 1911, in room 124 of the Federal Building, in New York City, and thereafter, to wit: On the 19th day of October, 1911, the Imperial Tobacco Co. of Great Britain and Ireland (Ltd.) filed a petition.

At the time and place aforesaid the plaintiff filed answers to the said petitions, embodying proposed modifications of and additions to the plan proposed in said petition of the American Tobacco Co. and other defendants. The parties having been heard by counsel, and certain of the modifications of said plan included in the answer of the plaintiff not being opposed by the proponents of said plan, and others of said modifications included in said answer having been disposed of by this court in its opinions delivered after said hearing:

Now, it is ordered, adjudged, and decreed that all the defendants—except Welford C. Reed, who died before the final hearing—heretofore became parties to and engaged in the combination assailed in the pleadings, which "in and of itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately," is "in restraint of trade and an attempt to monopolize, and a monopolization within the first and second sections of the antitrust act," and which should be dissolved and a new condition brought about in harmony with and not repugnant to the law, either as a consequence of the action of this court in determining an issue or in accepting a plan agreed upon.

And it is further ordered, adjudged, and decreed that said plan as modified by the consent of the parties, or through the action of this court as aforesaid, is as follows, to wit:

A.

DISSOLUTION OF AMSTERDAM SUPPLY CO.

Amsterdam Supply Co. is a company engaged in the business of purchasing, for a commission or brokerage, supplies other than leaf tobacco, its principal customers being defendant corporations herein. It has $235,000 at par of stock, all held in varying amounts by certain corporation defendants, one or the other of your petitioners, and a surplus of $127,058.74.

It is proposed that Amsterdam Supply Co. be dissolved, converting its assets into cash and distributing them to its stockholders.

B.

ABROGATION OF FOREIGN RESTRICTIVE COVENANTS.

Under the contracts of September 27, 1902, the Imperial Tobacco Co., of Great Britain and Ireland (Ltd.), and certain of its directors agreed not to engage in the business of manufacturing or selling tobacco in the United States; the American Tobacco Co. and American Cigar Co. and certain of their directors agreed not to engage in the business of manufacturing or selling tobacco in Great Britain and Ireland; and the American Tobacco Co., American Cigar Co., and the Imperial Tobacco Co. agreed not to engage in the business of manufacturing or selling tobacco in countries other than Great Britain and Ireland and the United States. Under the provisions of these contracts British-American Tobacco Co. (Ltd.) was organized and took over the export businesses of the American Tobacco Co. and the Imperial Tobacco Co., with factories, materials, and supplies.

It is proposed that the covenants herein just described, as well as all covenants restricting the right of any company or individual in the combination to buy, manufacture, or sell tobacco or its products, be rescinded by the affirmative action of the respective parties thereto who are parties to this suit, except such of said covenants, whether or not contained in the contracts of September 27, 1902, as (*a*) relate wholly to business in foreign countries and are covenants the benefit whereof has been assigned or transferred to other parties; or (*b*) are covenants exclusively between foreign corporations and relating wholly to business in or between foreign countries; and that the said contracts of September 27, 1902, be altogether terminated so far as they impose any obligations upon any of the parties thereto to furnish or to refrain from furnishing manufactured tobaccos to any party, each company to treat as its own, but only to the extent provided for in said contracts, all brands and trade-marks which by said contracts it was given the right to manufacture and sell, the said rights having been perpetual and constituting in effect a conveyance of the brands and trade-marks used for the countries in which they were so used by each of said companies as aforesaid.

C.

ABROGATION OF DOMESTIC RESTRICTIVE COVENANTS.

It is proposed that covenants given by vendor corporations, partnerships, or individuals, or by stockholders of vendor corporations, to vendee corporations defendants herein, not to engage in the tobacco business or any other business in any way embraced in the combination, be terminated so that all such convenantors shall be at liberty to engage in the business of buying, manufacturing, and dealing in tobacco and its products just as if such covenants had not been made.

D.

DISINTEGRATION OF ACCESSORY COMPANIES.

(1) The Conley Foil Co.: The Conley Foil Co. has a capital stock of $825,000 at par, all of one class, of which the American Tobacco Co. owns $495,000 at par, the balance being held by persons not defendants nor connected with defendants. It is engaged in the business of manufacturing tin foil, a product used largely by tobacco manufacturers, but having other uses as well. The Conley Foil Co. has a plant in New York City, and it owns all the stock and bonds of the Johnston Tin Foil & Metal Co., which has a plant in St. Louis. The value of the output

for the year 1910 of the Conley Foil Co. was $1,780,526.85, with a net profit of $273,299.82, and the Johnston Tin Foil & Metal Co. had an output for the year 1910 of the value of $676,520.05, and net profits of $66,255.16. On December 31, 1910, the Conley Foil Co. had tangible assets (excluding its securities of the Johnston Tin Foil & Metal Co.) of $1,215,321, and the Johnston Tin Foil & Metal Co. had assets of the value of $379,802.11. The Conley Foil Co. has a surplus exceeding the value of the securities of the Johnston Tin Foil & Metal Co.

It is proposed that the Conley Foil Co. cancel the bonds of the Johnston Tin Foil & Metal Co., held by it, to wit, $100,000 par value, and distribute to its stockholders its holdings of stock of the Johnston Tin Foil & Metal Co., to wit, 3,000 shares, all of one class.

The American Tobacco Co., being a stockholder of the Conley Foil Co., will participate in this distribution, and will in turn distribute its dividend, as well as its stock in the Conley Foil Co., to its common-stock holders as hereinafter set forth.

(2) MacAndrews & Forbes Co.: MacAndrews & Forbes Co. is a company having a common capital stock of $3,000,000 at par, of which the American Tobacco Co. owns $2,112,900 at par, the balance being held by persons not defendants nor connected with defendants (except less than 3½ per cent of the common stock held by R. J. Reynolds Tobacco Co.), and $3,758,300 at par of 6 per cent nonvoting preferred stock, of which the American Tobacco Co. holds $750,000 at par, the balance being held by persons not defendants nor connected with defendants. It is engaged in the production of licorice paste, with two plants, one at Camden, N. J., and the other at Baltimore, Md. It had tangible assets, December 31, 1910, of the value of $5,683,824.89 (including $2,118,448.36, licorice root, with plants for its collection in foreign countries), and its sales for the year 1910 were of the value of $4,427,023.44. MacAndrews & Forbes Co. succeeded to the business MacAndrews & Forbes, a partnership, who were pioneers in this country in the production of licorice paste, and who had, for many years before any acquisitions of other business, and before they had any connection with the other defendants herein, more than 50 per cent of all the licorice-paste business of the United States.

It is proposed that a new corporation be organized called the J. S. Young Co., and that it shall acquire the Baltimore plant of MacAndrews & Forbes Co., with the assets used therein and in connection therewith, of a total value of $1,000,000, and the brands of licorice paste manufactured in said Baltimore plant; that it issue in payment therefor, with the good will connected therewith, $1,000,000 at par of 7 per cent preferred nonvoting stock, and $1,000,000 at par of common stock; that MacAndrews & Forbes Co. distribute the common stock of the J. S. Young Co. as a dividend to its common-stock holders, charging the amount thereof to its surplus account; that MacAndrews & Forbes Co. offer to its preferred-stock holders proportionately to exchange the 7 per cent preferred stock of the J. S. Young Co. at par for their preferred stock of MacAndrews & Forbes Co.; that so far as the preferred stock of MacAndrews & Forbes Co. is thus exchanged, it be retired; that so far as this preferred stock of the J. S. Young Co. is not forthwith thus exchanged, MacAndrews & Forbes Co. be enjoined from using it to exercise, or otherwise exercising or attempting to exercise, influence or control over the J. S. Young Co.; and with the further provision that on or before January 1, 1915, the whole of this preferred stock of the J. S. Young Co., not theretofore taken out of the treasury of MacAndrews & Forbes Co. by exchange as aforesaid, be disposed of by MacAndrews & Forbes Co.

This would give to MacAndrews & Forbes Co. a licorice business, including Spanish licorice and powdered goods, of the net selling value, based upon the year 1910, of $2,514,184.64, of which $2,214,127.51 arise from sales of one brand, to wit, the old "Ship" brand. The J. S. Young Co., upon the basis of the business for the year 1910, would have an output of the net selling value of $1,201,109.86.

The American Tobacco Co., being a holder of the common stock of MacAndrews & Forbes Co., will participate in the distribution above provided and will in turn distribute its dividend, as well as its stock in MacAndrews & Forbes Co., to its common-stock holders as hereinafter set forth.

(3) American Snuff Co.: American Snuff Co. is a manufacturer of snuff. It holds all of the stock of De Voe Snuff Co., to wit, $50,000 at par; and one-half, to wit, $26,000 at par, of the stock of National Snuff Co. It owns no other interest in any company manufacturing or selling snuff.

It is proposed that there be organized two new snuff companies, one to be called the George W. Helme Co. and the other Weyman-Bruton Co., and that American Snuff Co. convey to these two companies, respectively, factories, with the brands manufactured in them, as follows: To the George W. Helme Co. the factories at Helmetta, N. J., and Yorklyn, Del., except factory No. 5; to Weyman-Bruton Co. the factories at Chicago and Nashville, also all the stock of De Voe Snuff Co., and the one-half of the stock of National Snuff Co. held by American Snuff Co. Based upon the business for the year 1910 and the assets at the end of the year, with proper provision for leaf, materials, cash and book accounts for the two vendee companies, this would leave the three companies equipped as follows:

Manufacturing tangible assets:	
American Snuff Co. (American Snuff Co. holds securities not connected with the snuff business, to wit: Stock and bonds of the American Tobacco Co., preferred stock of American Cigar Co., aggregating in book value $2,530,216.69, upon which American Snuff Co. received in interest and dividends during the year 1910 $176,680. It is proposed that American Snuff Co. sell or otherwise dispose of these securities within three years, and that in the meantime they be held under an injunction as is provided in this paragraph with respect to securities of the George W. Helme Co. and Weyman-Bruton Co. to be temporarily held by it. It also owns all, to wit, $100,000 at par, of the stock of Garrett Real Estate Co., which will be dissolved and liquidated)	$5,075,969.72
George W. Helme Co	4,909,000.40
Weyman-Bruton Co	3,691,588.20
Sales value during 1910:	
American Snuff Co	5,520,422.15
George W. Helme Co	4,494,556.66
Weyman-Bruton Co	4,297,486.71
Net income:	
American Snuff Co	1,591,280.49
George W. Helme Co	1,259,280.98
Weyman-Bruton Co	1,293,759.39

Each of these vendee corporations will pay for the property and business conveyed to it by the issue of $4,000,000 at par of 7 per cent voting preferred stock and $4,000,000 at par of common stock. American Snuff Co. will thus receive the $16,000,000 at par of these stocks into its treasury and will distribute to its common stockholders, as a dividend, the common stock aggregating $8,000,000 to be charged to its surplus account. American Snuff Co. will offer to its preferred stockholders proportionately to exchange these 7 per cent preferred stocks of the George W. Helme Co. and the Weyman-Bruton Co. for their preferred stock of American Snuff Co. at par. So much of the preferred stock of American Snuff Co. as is thus exchanged will be retired. As to so much of the preferred stocks of the George W. Helme Co. and the Weyman-Bruton Co. as is not forthwith thus exchanged, American Snuff Co. to be enjoined from voting it, or using it to exercise, or otherwise exercising, or attempting to exercise, influence, or control over the George W. Helme Co., or the Weyman-Bruton Co.; and on or before January 1, 1915, all of these preferred stocks of the George W. Helme Co. and the Weyman-Bruton Co. not theretofore taken out of the treasury of American Snuff Co. by exchange as aforesaid to be disposed of by American Snuff Co.

The American Tobacco Co., being a holder of the common stock of American Snuff Co., will participate in the distribution above provided, and will, in turn, distribute its dividend, as well as its stock in American Snuff Co., including that to be acquired from P. Lorillard Co., to its common stockholders as hereinafter set forth.

(4) American Stogie Co.: American Stogie Co. is a corporation whose only asset is all of the issued stock of Union-American Cigar Co., which latter company has cigar factories located at Pittsburgh, Allegheny, Lancaster, and Newark. Its total production, based upon business for the year 1910, is only 1.58 per cent of the entire production of cigars in the United States in volume, and, as these petitioners believe, about the same percentage in value. American Stogie Co. has $976,000 at par of 7 per cent cumulative preferred stock, of which American Cigar Co. owns $40,000 at par and none of the other defendants own any; it has $10,879,000 at par of common stock, of which American Cigar Co. owns $7,303,775 at par and none of the other defendants own any. There are accumulated and unpaid dividends on the preferred stock to the amount of $399,000 as of December 31, 1910.

It is proposed that American Stogie Co. dissolve, with leave granted to the trustees in dissolution to either convert the assets into cash, and distribute them among the stockholders according to their rights, or to effect such reorganization as they may be able to effect, provided that in either event there shall be a separation into at least two different ownerships of the factories and businesses now owned and operated by Union-American Cigar Co. If the dissolution is followed by a conversion of the assets of American Stogie Co. into cash, American Cigar Co. will take such cash as it may receive into its treasury; if it receives upon such dissolution securities of cigar-manufacturing concerns, it will distribute such as a dividend to its common stockholders, to be charged to its surplus as hereinafter set forth.

(5) American Cigar Co.: American Cigar Co. is a manufacturer of cigars. It has various factories of its own, and it owns all or a part of the stock of several companies engaged in the manufacture of cigars, all of which companies have been organized by it and which have received from it conveyances of part of its business, operating in this way as separate corporations for trade purposes. Among these companies is Federal Cigar Co.

American Cigar Co. also owns a part of the stock of Havana Tobacco Co., which controls factories manufacturing cigars in Habana; and a part of the stock of Porto Rican-American Tobacco Co., engaged in the manufacture of cigars and cigarettes in Porto Rico; and half of the stock of Porto Rican Leaf Tobacco Co., engaged in growing tobacco in Porto Rico. American Cigar Co. itself uses large quantities of Porto Rican grown leaf. Neither American Cigar Co. nor any of the companies in which it is interested, except Havana Tobacco Co. and Porto Rican-American Tobacco Co., is engaged in the manufacture of cigars outside of the United States.

American Cigar Co., including with its production the production of companies of which it owns in whole or in part the stock, has, in volume, based on the business for the year 1910, 13.36 per cent of the cigar business of the United States, and in value, as your petitioners believe, substantially the same percentage. Havana Tobacco Co. has, directly or indirectly, control of 24.06 per cent of the total production of cigars in Cuba; 46 per cent of the total exportation of cigars from Cuba to all countries of the world, including the United States; and 38.15 per cent of the total exportation of cigars from Cuba to the United States.

It is proposed that American Cigar Co. dispose of properties belonging to it and thus disintegrate its business as follows:

(a) That it sell to the American Tobacco Co. for cash its stock, being all thereof of Federal Cigar Co., at a fair price, to wit, $3,965,616.05.

(b) That it sell to the American Tobacco Co. for cash the stock it owns of Porto Rican-American Tobacco Co., to wit, $657,600 at par, at a fair price, to wit, $350 per share, or $2,301,600.

(c) That American Cigar Co. dispose of any interest in American Stogie Co. by receiving cash proceeds of its stock in dissolution thereof, if American Stogie Co. upon dissolution converts its assets into cash; or by distributing as a dividend to its common stockholders out of its surplus the securities which it receives upon the dissolution of American Stogie Co., if it receives such.

All stocks thus to be acquired by the American Tobacco Co. from American Cigar Co. are to be disposed of by the American Tobacco Co. as hereinafter set out.

E.

DISTRIBUTION BY THE AMERICAN TOBACCO CO. OF STOCKS OWNED OR TO BE ACQUIRED BY IT.

(1) Immediate distribution of stocks: The American Tobacco Co. will buy from P. Lorillard Co. for cash at par the 11,247 shares of the preferred stock of American Snuff Co. held by P. Lorillard Co., and will receive, as the sole common-stock holder of P. Lorillard Co. and, by way of dividends, 34,594 shares of the common stock of American Snuff Co. held by P. Lorillard Co.

The American Tobacco Co. will distribute among its common-stock holders, by way of dividends and to be charged to its surplus, all of its securities of the following-described classes, whether now owned by it or bought by it from American Cigar Co. as hereinbefore set forth or bought by it from P. Lorillard Co. as just hereinbefore set forth or received by it by way of dividends from any of the accessory companies defendant as hereinbefore set forth, to wit:

American Snuff Co. common stock.

American Snuff Co., preferred stock.

George W. Helme Co. common stock.
Weyman-Bruton Co. common stock.
MacAndrews & Forbes Co. common stock.
J. S. Young Co. common stock.
The Conley Foil Co. stock.
The Johnston Tin Foil & Metal Co. stock.
R. J. Reynolds Tobacco Co. stock.
Corporation of United Cigar Stores stock.
British-American Tobacco Co. (Ltd.) ordinary shares.
Porto Rican-American Tobacco Co. stock.
American Stogie Co. stock (or what is received by way of dividends from American Cigar Co. upon dissolution of American Stogie Co.).

Including the amount to be paid to American Cigar Co. and P. Lorillard Co. for such of these securities as are to be acquired by the American Tobacco Co. from them, respectively, and excluding those to be acquired by way of dividends, and which, therefore, do not affect the surplus of the American Tobacco Co., never having been set up on its books, these securities had a book value as of December 31, 1910, of $35,011,865.03. The earning capacity of all the above securities thus to be distributed, based upon the results of the year 1910, is $9,860,410.76, though not all thereof was distributed as dividends.

(2) Deferred disposition of stocks: The American Tobacco Co. will sell or otherwise dispose of or distribute by way of dividends to its common-stock holders out of its surplus at the time existing, before January 1, 1915, all of its holdings of the following securities:

British-American Tobacco Co. (Ltd.) nonvoting preference shares.
The Imperial Tobacco Co. of Great Britain and Ireland (Ltd.) ordinary shares.
Corporation of United Cigar Stores bonds.
MacAndrews & Forbes Co. nonvoting preferred stock.

During the time these securities are left in the treasury of the American Tobacco Co. the American Tobacco Co. to be enjoined from voting any thereof that under the terms thereof might be voted, or using any thereof to exercise or otherwise exercising or attempting to exercise influence or control over the said companies which issued the said securities, respectively, and from gaining possession of any of the said companies by buying in at a foreclosure had under any of the securities for any default with respect thereto or otherwise.

F.

SALE BY THE AMERICAN TOBACCO CO. OF MANUFACTURING ASSETS AND BUSINESS TO COMPANIES TO BE FORMED.

(1) There will be organized a new corporation called Liggett & Myers Tobacco Co. and a new corporation called P. Lorillard Co., and the American Tobacco Co. will sell, assign, and convey to these two companies factories, plants, brands, and businesses, and capital stocks of tobacco-manufacturing corporations, as follows:

To Liggett & Myers Tobacco Co.:

Liggett & Myers' branch of the American Tobacco Co., engaged in the manufacture of plug tobacco at St. Louis, with the brands connected therewith.

Spaulding & Merrick, a company of which the American Tobacco Co. owns, and has always owned, all the stock, engaged in Chicago in the manufacture of fine-cut tobacco and smoking tobacco.

Allen & Ginter branch of the American Tobacco Co., engaged in the manufacture of cigarettes at Richmond, Va., and the brands connected therewith (this does not include the brand "Sweet Caporal," made partly there and partly at New York).

Chicago branch of the American Tobacco Co., a factory at Chicago engaged in the manufacture of smoking tobacco, with the brands connected therewith.

Catlin branch of the American Tobacco Co., a factory at St. Louis, engaged in the manufacture of smoking tobacco, with the brands connected therewith.

Nall & Williams Tobacco Co., a company of which the American Tobacco Co owns all the stock, engaged in the manufacture of plug and smoking tobacco at Louisville, Ky.

The John Bollman Co., a company engaged in the manufacture of cigarettes at San Francisco; of this corporation the American Tobacco Co. owns 90 per cent of the stock, which it is proposed to turn over to the Liggett & Myers Tobacco Co.

Pinkerton Tobacco Co., a corporation engaged in the manufacture of scrap tobacco (a kind of smoking tobacco) at Toledo, Ohio; of this corporation the American Tobacco Co. owns 77½ per cent of the stock, which it is proposed to turn over to the Liggett & Myers Tobacco Co.

W. R. Irby branch of the American Tobacco Co. at New Orleans, engaged in the manufacture of cigarettes and smoking tobacco, the principal brands being "Home Run" and "King Bee."

The Duke-Durham branch of the American Tobacco Co., engaged in the manufacture of cigarettes and smoking tobacco at Durham, N. C.; principal cigarette brands "Piedmont" and "American Beauty"; principal smoking tobacco brand "Duke's Mixture."

Two little cigar factories located, the one at Philadelphia and the other at Baltimore, branches of the American Tobacco Co.; principal brand "Recruits."

To P. Lorillard Co.:

All the rights of the American Tobacco Co. in the present P. Lorillard Co., to wit: All the common stock and $1,596,100 at par out of a total issue of $2,000,000 of 8 per cent preferred stock; it is contemplated that as a part of these reorganizations the Lorillard Co., as at present constituted, be wound up and the new company be organized, taking over assets of the P. Lorillard Co.

S. Anargyros, a company engaged in the manufacture of cigarettes, in which the American Tobacco Co. owns all the stock, and of which it has always owned all the stock.

Luhrman & Wilbern Tobacco Co., a company engaged in the manufacture of scrap tobacco (a kind of smoking tobacco), of which the American Tobacco Co. owns, and has for many years owned, all the stock.

Philadelphia branch B at Philadelphia, Wilmington branch B at Wilmington, Penn Street branch at Brooklyn, Danville branch B at Danville, and Ellis branch B at Baltimore, branches of the American Tobacco Co., manufacturing little cigars, the principal brand being "Between the Acts."

Federal Cigar Co., a company all of whose stock is and has always been owned by American Cigar Co., but which, as hereinbefore provided, is to be purchased for cash by the American Tobacco Co.

Each of these conveyances to include proper and adequate storage houses, leaf tobacco, and other materials and supplies, provision for book accounts, including in each case a ratable proportion of the cash held by the American Tobacco Co. on December 31, 1910, so that each of the new corporations will be fully equipped for the conduct of the business of manufacturing and dealing in tobacco.

(2) Resources and capitalization of companies and provisions for exchanging and retiring securities of American Tobacco Co.: The American Tobacco Co. has securities issued and outstanding as follows:

6 per cent bonds	$52,882,650
4 per cent bonds (including outstanding 4 per cent bonds of Consolidated Tobacco Co.)	51,354,100
6 per cent preferred stock	78,689,100
Common stock	40,242,400

The American Tobacco Co., in October, 1904, immediately after the merger, had an outstanding issue of its own 4 per cent bonds and the Consolidated Tobacco Co. 4 per cent bonds which it assumed, amounting to $78,689,100, but it has purchased on the market and retired $27,335,000 at par of these 4 per cent bonds, charging the amount thus expended to surplus.

The 6 per cent bonds and 4 per cent bonds aforesaid are what are ordinarily known as debenture bonds, and are issued under a trust indenture which imposes a general charge on the property, income, and earnings of the company in favor, first, of the 6 per cent bonds, and, second, of the 4 per cent bonds. The American Tobacco Co., after the reduction of surplus through the acquisition by it of 4 per cent bonds as aforesaid, had on December 31, 1910, a surplus of $61,119,991.63, which will be increased by the surplus earnings of the current year. The distribution of securities herein provided for to be forthwith made would diminish the said surplus by $35,011,865.03, the book value of securities to be so distributed. This book value is less than actual value, but in view of the fact that none of the assets of the American Tobacco Co. are overvalued, the advance of the book value of the securities to be distributed, as hereinbefore set forth, to their actual value, would operate at the same time to increase the surplus of the company, and so its surplus, after such distribution, would remain just the same as though the advance to actual value had not been made on the books of the company.

The properties to be conveyed to the Liggett & Myers Tobacco Co. and P. Lorillard Co., based upon conditions as of December 31, 1910, the last completed year, including in such conveyances the proper and proportionate storage houses, leaf tobacco, supplies and materials, and cash, but without anything for value of brands, trade-marks, formulæ, recipes, and good will, but including stocks of companies, are of the value of $30,607,261.96 to Liggett & Myers Tobacco Co., and $28,091,748.86 to P. Lorillard Co. So far as these conditions shall be changed before the day of the conveyance, any deficiency is to be made good in cash, so that these two companies will have said amounts in tangible assets, as aforesaid, useful, and such as have been used, in the manufacture of the brands to be conveyed to them, respectively, and cash. The American Tobacco Co. will be left with tangible assets, including stocks of companies employed in manufacturing tobacco and its products, cash and bills and accounts receivable, of the value of $53,408,498.94 as of December 31, 1910. The profits earned during the year 1910 on the brands and businesses to be conveyed by the American Tobacco Co. to Liggett & Myers Tobacco Co. amounted to $7,468,172.02, and the profits on the brands and businesses to be conveyed by the American Tobacco Co. to P. Lorillard Co. amounted to $5,264,729.38.

It is proposed that the value of the brands, trade-marks, recipes, formulæ, and good will to be sold to each of these companies, be determined by their earning capacity, based upon the results for the year 1910, so that each shall have an earning capacity of 11.02 per cent per annum upon its total property, including both tangible property and brand value and good will. Upon this basis the consideration to be paid by the Liggett & Myers Tobacco Co. will be $30,607,261.96, value of tangible assets as above stated, and $36,840,237.04, value of brands, trade-marks, recipes, formulæ, and good will, making a total of $67,447,499; and the consideration to be paid by the P. Lorillard Co. will be $28,091,748.86, value of tangible assets as above stated, and $19,460,752.14, value of brands, trade-marks, recipes, formulæ, and good will, making a total of $47,552,501. The brands, trade-marks, recipes, formulæ, and good will of the American Tobacco Co., on December 31, 1910, were of the book value of $101,324,964.07. The payments for brand value, etc., to the American Tobacco Co., to be made by Liggett & Myers Tobacco Co. and P. Lorillard Co. as aforesaid, makes an aggregate of $56,300,989.18, and would thus leave the book value of brands, trade-marks, recipes, formulæ, and good will retained by the American Tobacco Co. at $45,023,974.89, which, added to the $53,408,498.94 of tangible manufacturing assets to be retained by the American Tobacco Co., will make the total book value of manufacturing property to be retained by that company $98,432,473.83, upon which its earnings, based upon the results for the year 1910, would be $11,369,809.82, or 11.55 per cent.

The Liggett & Myers Tobacco Co. and the P. Lorillard Co. would pay for these conveyances, therefore, the aggregate as aforesaid, to wit:

Liggett & Myers Tobacco Co	$67,447,499
P. Lorillard Co	47,552,501
Aggregating	115,000,000

or each with its earnings on the business for the year 1910 so capitalized that said earnings represent 11.02 per cent upon the capital.

Liggett & Myers Tobacco Co. and P. Lorillard Co. will issue securities to cover such capitalization in the aggregate as follows: To an amount equal to one-half of the outstanding 6 per cent bonds of the American Tobacco Co.; that is, $26,441,325 at par in 7 per cent bonds; to an amount equal to one-half of the outstanding 4 per cent bonds of the American Tobacco Co.; that is, $25,677,050 at par in 5 per cent bonds; to an amount equal to one-third of the outstanding preferred stock of the American Tobacco Co.; that is $26,229,700 at par in 7 per cent cumulative voting preferred stock; which, upon liquidation of the company, shall be paid at par with accrued unpaid dividends, before any amount shall be paid to common stock, with balance of assets distributable ratably to the common stock; and the balance of said $115,000,000, that is, $36,651,925 in common stock; the 7 per cent bonds and the 5 per cent bonds to mature at the time fixed, respectively, for the maturity of the 6 per cent bonds and the 4 per cent bonds of the American Tobacco Co. now outstanding, and to be issued under an indenture of substantially like tenor and terms with the present indenture of the American Tobacco Co. under which its 6 per cent bonds and 4 per cent bonds were issued, the 7 per cent bonds to have priority in charge over the 5 per cent bonds in the same way that the 6 per cent bonds of the American Tobacco Co. have priority of charge over the 4

per cent bonds. Thus the capitalization of the Liggett & Myers Tobacco Co. and P. Lorillard Co. will be as follows:

	Liggett & Myers.	Lorillard.	Total.
7 per cent bonds	$15,507,837	$10,933,488	$26,441,325
5 per cent bonds	15,059,589	10,617,461	25,677,050
7 per cent preferred stock	15,383,719	10,845,981	26,229,700
Common stock	21,496,354	15,155,571	36,651,925
	67,447,499	47,552,501	115,000,000

All of these securities of the Liggett & Myers Tobacco Co. and the P. Lorillard Co. to be turned over to the American Tobacco Co. in payment of the purchase price for the factories, plants, brands, and businesses and capital stock of tobacco manufacturing corporations so to be conveyed to Liggett & Myers Tobacco Co. and P. Lorillard Co., respectively, as hereinbefore set out.

These securities will be disposed of by the American Tobacco Co., as follows:

The common stock will be offered for cash at par to the holders of the common stock of the American Tobacco Co. in proportion to their holdings, and any not purchased by the person thus entitled thereto shall be sold to persons other than the individual defendants, to the end that such offer of common stock of the two new companies to the common stockholders of the American Tobacco Co. shall not be used by the individual defendants to increase their ownership therein beyond the proportion of their holdings of the common stock of the American Tobacco Co.

To each holder of the 6 per cent bonds of the American Tobacco Co. an offer shall be made to acquire his bonds for cancellation and to give in exchange therefor as to one-half thereof new 7 per cent bonds of Liggett & Myers Tobacco Co. and P. Lorillard Co. at par, and in payment for the other half thereof cash at the rate of $120 and accrued interest for each $100 face value of the bonds.

To each holder of the 4 per cent bonds of the American Tobacco Co. an offer shall be made to acquire his bonds for cancellation and to give in exchange therefor as to one-half thereof new 5 per cent bonds of Liggett & Myers Tobacco Co. and P. Lorillard Co. at par, and in payment for the other half thereof cash at the rate of $96 and accrued interest for each $100 face value of the bonds.

To each holder of the preferred stock of the American Tobacco Co. an offer shall be made to acquire one-third of his stock for cancellation in exchange for an equal amount at par of Liggett & Myers Tobacco Co. and P. Lorillard Co.

On account of the larger capitalization of the Liggett & Myers Tobacco Co. as compared with the P. Lorillard Co., each class of the new securities will issue in the proportion of 58.65 per cent thereof of Liggett & Myers Tobacco Co. securities and 41.35 per cent thereof of P. Lorillard Co. securities. The stocks will be issued in shares of $100 and coupon bonds in denominations of $1,000 and registered bonds in larger denominations and in denominations of $100 and $50, and in actual issue fractions will be eliminated.

The common stocks of the two companies aforesaid are to be sold as above set out prior to March 1, 1912, with three years to be allowed for the retirement of the bonds and preferred stock of the American Tobacco Co., as above set out. Pending such the said 7 per cent bonds, 5 per cent bonds, and 7 per cent preferred stocks of the Liggett & Myers Tobacco Co. and the P. Lorillard Co., together with an amount in cash or in securities owned by the American Tobacco Co. at their book value, or partly in cash and partly in such securities equal to the amounts required if all such sales and exchanges are made, will be deposited with the Guaranty Trust Co. of New York, the trustee in the indenture under which the 6 per cent bonds and the 4 per cent bonds of the American Tobacco Co. are issued as the agency to effect the purchase and exchange. Such deposit will be made, not to secure nor create a trust fund for the bonds, but for the purpose of sequestrating and taking from the control of the American Tobacco Co. the securities and cash so deposited. During the time of such deposit the securities shall be in the name of as well as in the custody of said trust company, with any voting rights attaching thereto, but the American Tobacco Co. shall receive from the trust company all dividends and interest collected by it on account of such securities; and the American Tobacco Co. shall have the right at any time and from time to time to sell at such price as it may determine and direct the delivery of any of such securities (except the securities of Liggett & Myers Tobacco Co. and P. Lorillard Co.), the consideration therefor to go into the hands of said trust company; or to withdraw any of such securities (except the securities of Liggett & Myers Tobacco Co. and P. Lorillard Co.) for the purpose of distribution among its common stockholders, if its surplus at the time permits; or to substitute other securities of like book value for the securities so deposited (except as to the securities of Liggett & Myers Tobacco Co. and P. Lorillard Co.); or to alter the relative proportion of cash and securities, it being the intent of this provision that there shall be sequestrated from the control of the American Tobacco Co. all the securities of the Liggett & Myers Tobacco Co. and P. Lorillard Co., and an additional amount of cash or other securities equal, upon the purchase basis aforesaid, to the value of the 4 per cent bonds and the 6 per cent bonds of the American Tobacco Co. at the time outstanding. At the end of the three years, if there are any such securities of the Liggett & Myers Tobacco Co. or P. Lorillard Co. in the hands of such trust company undisposed of by such exchange as aforesaid, then the American Tobacco Co. shall apply to this court for an order as to the disposition thereof. Nothing contained in this provision, and nothing done under this provision shall be construed as providing for the creation of, or as creating, any lien or security on anything deposited with the trust company in favor of the 6 per cent bonds or the 4 per cent bonds of the American Tobacco Co. outstanding or otherwise.

G.

VOTING RIGHTS TO PREFERRED STOCK.

By proper amendment of the certificate of incorporation of the American Tobacco Co., the preferred stock will be given full voting rights.

H.

CERTAIN INCIDENTAL PROVISIONS.

(1) P. Lorillard Co. is a New Jersey company with $3,000,000 of common stock, all of which is owned by the American Tobacco Co., and $2,000,000 of 8 per cent preferred stock. Of this preferred stock the American Tobacco Co. holds $1,596,100 at par, and there is held by others $403,900 at par. Under the laws of New Jersey the present P. Lorillard Co. may be dissolved by the holders of two-thirds of the outstanding stock, and upon such dissolution the preferred stock is entitled to be paid at par, the balance of the assets going to the common stock. In view of the fact, however, that the preferred stock of the present P. Lorillard Co. is an 8 per cent preferred stock, with abundant assets and earnings to make the principal and income secure, it is deemed fair to the holders of this outstanding $403,900 of preferred stock that they be given an opportunity to take, at their option, either cash at par, which they are legally entitled to, or the 7 per cent preferred stock of the proposed new P. Lorillard Co. As the preferred stock of the new P. Lorillard Co. is to be a 7 per cent preferred stock the holders of said $403,900 of said present preferred stock will be offered stock of the new company at the rate of $114.25 for each share. It is therefore proposed that the new P. Lorillard Co. provide for an additional amount of preferred stock sufficient to take care of $403,900 preferred stock on that basis, to wit, $114.25 in new 7 per cent preferred stock for each $100 of said stock, amounting to $461,600 at par of preferred stock in addition to that set out hereinbefore. In view of the fact that in the statements hereinbefore made as to earnings of the P. Lorillard Co. there is included only such part of the earnings of the present P. Lorillard Co. as accrued to the proportion of its stock held by the American Tobacco Co., this increase of preferred stock would increase proportionately the profits of the P. Lorillard Co. and does not derange any of the figures hereinbefore given or given in any of the exhibits hereto and hereinafter referred to.

2. American Snuff Co. manufactures and sells a brand of snuff called "Garrett," which has a large sale in the southern and southwestern sections of the country. Originally this brand was manufactured at Yorklyn, Del., and in part packed in Philadelphia. Several years ago American Snuff Co. determined, on account of freight-rate conditions, to manufacture this brand at Clarksville, Tenn., and to pack it at Memphis, Tenn., and that the factories at Yorklyn, Del., should be given up to the manufacture of other brands. It has yet, though, been unable to produce in Clarksville, Tenn., goods similar to the goods heretofore and now made by it at Yorklyn, Del., although the experiment is still in progress and with hope of success. Under the plan hereinbefore outlined, the brand "Garrett" snuff is allotted to American Snuff Co., and the factories other than one factory at Yorklyn, Del., are allotted to George W. Helme Co. Your petitioners pray that, in the approval and adoption by this court of this plan, American Snuff Co. and George W. Helme Co. be permitted to manufacture brands, the one for the other, for a period not exceeding one year from March 1, 1912, each company paying to the other as consideration for such manufacture the cost thereof plus 5 per cent. The necessity of paying 5 per cent above cost is sufficient inducement to each company to manufacture its own goods as soon as American Snuff Co. is able to manufacture "Garrett" snuff of the requisite character and kind in its Clarksville factory, thus leaving the Yorklyn factories, other than No. 5, for the manufacture by the George W. Helme Co. of its own brands.

This court, having heard the parties as directed by the Supreme Court of the United States, it is further ascertained and determined, and—

Ordered, adjudged, and decreed that said plan hereinabove set forth is a plan or method which, taken with the injunctive provisions hereinafter set forth, will dissolve the combination heretofore adjudged to be illegal in this cause, and will re-create out of the elements now composing it a new condition which will be honestly in harmony with and not repugnant to the law, and without unnecessary injury to the public or the rights of private property.

It is further ordered, adjudged, and decreed that the said plan as hereinabove set forth be, and it is hereby, approved by this court, and the defendants herein are respectively directed to proceed forthwith to carry the same into effect.

The necessities of the situation in the judgment of this court requiring the extension of the period for carrying into execution said plan to a further time not to exceed 60 days from December 30, 1911.

It is further ordered, adjudged, and decreed that the defendants be allowed until February 28, 1912, to carry said plan into execution.

It is further ordered, adjudged, and decreed that the defendants, their officers, directors, servants, agents, and employees, be, and they are hereby, severally enjoined and restrained as follows:

From continuing or carrying into further effect the combination adjudged illegal in this cause, and from entering into or forming any like combination or conspiracy, the effect of which is or will be to restrain commerce in tobacco or its products or in articles used in connection with the manufacture and trade in tobacco and its products among the States or in the Territories or with foreign nations, or to prolong the unlawful monopoly of such commerce obtained and possessed by the defendants, as adjudged herein in violation of the act of Congress approved July 2, 1890, either:

1. By causing the conveyance of the factories, plants, brands, or business of any of the 14 corporations among which the properties and businesses now in the combination are to be distributed, to wit: The American Tobacco Co., Liggett & Myers Tobacco Co., P. Lorillard Co., American Snuff Co., George W. Helme Co., Weyman-Bruton Co., R. J. Reynolds Tobacco Co., British-American Tobacco Co. (Ltd.), Porto Rican-American Tobacco Co., MacAndrews & Forbes Co., J. S. Young Co., The Conley Foil Co., The Johnston Tin Foil & Metal Co., and United Cigar Stores Co., to any other of said corporations; by placing the stocks of any one or more of said corporations in the hands of voting trustees or controlling the voting power of such stocks by any similar device; or

2. By making any express or implied agreement or arrangement together or one with another like those adjudged illegal in this cause, relative to the control or management of any of said 14 corporations, or the price or terms of purchase, or of sale, of tobacco or any of its products, or the supplies or other products dealt with in connection with the tobacco business, or relative to the purchase, sale, transportation, or manufacture of tobacco, or its products or supplies or other products dealt with as aforesaid, by any of the parties hereto, which will have a like effect in restraint of commerce among the States, in the Territories, and with foreign nations to that of the combination, the operation of which is enjoined in this cause; or by making any agreement or arrangement of any kind with any other of such corporations under which trade or business is apportioned between such corporations, in respect either to customers or localities.

3. By any of said 14 corporations retaining or employing the same clerical organization or keeping the same office or offices as any other of said corporations.

4. By any of said 14 corporations retaining or holding capital stock in any other corporation any part of whose stock is also retained and held by any other of said corporations; provided, however, that this

prohibition shall not apply to the holding by the Porto Rican-American Tobacco Co. and American Cigar Co. of stock in Porto Rican Leaf Tobacco Co., nor shall it apply to the holding of stock of the National Snuff Co. (Ltd.) by Weyman-Bruton Co. and British-American Tobacco Co. (Ltd.).

5. By any of said 14 corporations doing business directly or indirectly under any other than its own corporate name or the name of a subsidiary corporation controlled by it; provided, however, that in case of a subsidiary corporation the controlling corporation shall cause the products of such subsidiary corporation which are sold in the United States and bear the name of the manufacturer, to bear also a statement indicating the fact of such control.

6. By any of said 14 corporations refusing to sell to any jobber any brand of any tobacco product manufactured by it except upon condition that such jobber shall purchase from the vendor some other brand or product also manufactured and sold by it; provided, however, that this prohibition shall not be construed to apply to what are known as "combination orders" under which some brand or product may be offered to a jobber or dealer at a reduced price on condition that he purchase a given quantity of some other brand or product.

It is further ordered, adjudged, and decreed that during a period of five years from the date hereof, each of said 14 corporations hereinbefore named, its officers, directors, agents, servants, and employees, are hereby enjoined and restrained as follows:

1. None of the said 14 corporations shall have any officer or director who is also an officer or director in any other of said corporations.

2. None of said 14 corporations shall retain or employ the same agent or agents for the purchase in the United States of tobacco leaf or other raw material, or for the sale in the United States of tobacco or other products, as that of any other of said corporations.

3. None of said 14 corporations shall directly or indirectly acquire any stock in any other of said corporations, or purchase or acquire any of the factories, plants, brands, or business of any other of said corporations, or make loans or otherwise extend financial aid to any other of said corporations.

The provisions of this decree shall apply only to trade and commerce in or between the several States and Territories and the District of Columbia, and trade and commerce between the United States and foreign nations.

It is further ordered, adjudged, and decreed that British-American Tobacco Co. (Ltd.) and the Imperial Tobacco Co. of Great Britain and Ireland (Ltd.) shall not act as agent for each other, nor employ a common agent, for the purchase of leaf tobacco in the United States, and neither of said two companies shall unite with any of the said 14 corporations among which the properties and businesses now in the combination are to be distributed in the employment of a common agent for the purchase of tobacco leaf in the United States.

It is further ordered, adjudged, and decreed that each of the 29 individual defendants in this suit be enjoined and restrained from at any time within three years from the date of this decree acquiring, owning, or holding, directly or indirectly, any stock or any legal or equitable interest in any stock in any one of said 14 corporations, except British-American Tobacco Co. (Ltd.), in excess of the amount to which he will be entitled under the provisions of the plan when the same shall have been carried out as proposed as the present owner of the amount of stocks in said several companies shown by the affidavits of said several defendants filed herein on the 16th day of November, 1911; provided, however, that any of said defendants may, notwithstanding this prohibition, acquire from any other or others of said defendants, or in case of death, from their estates, any of the stock held by such other defendant or defendants in any of said corporations.

It is further ordered, adjudged, and decreed that the new companies whose organization is provided for in the plan hereinabove set forth, to wit: Liggett & Myers Tobacco Co., P. Lorillard Co., George W. Helme & Co., Weyman-Bruton Co., and J. S. Young Co., shall, after their formation and by appropriate proceeding, be made parties defendant to this cause and subject to the provisions of this decree and bound by the injunctions herein granted.

It is further ordered, adjudged, and decreed that any party hereto may make application to the court for such orders and directions as may be necessary or proper in relation to the carrying out of said plan and the provisions of this decree.

It is further ordered, adjudged, and decreed that the costs of this action shall be paid by the defendants other than R. P. Richardson, Jr., & Co. (Inc.), as to whom the suit has heretofore been dismissed, and the payment by the defendant, the American Tobacco Co., of the reasonable costs and counsel fees of the committees organized for the protection of the 6 per cent bonds, 4 per cent bonds, and preferred stock of the American Tobacco Co. is hereby approved.

It is further ordered, adjudged, and decreed that the defendants, the American Tobacco Co., MacAndrews & Forbes Co., American Snuff Co., and each of them, and their and each of their officers, directors, servants, agents, and employees, be severally enjoined and restrained, as in said plan set forth, from voting stocks, exercising influence or control over other companies, or gaining possession of other companies through the use of securities temporarily held by them, respectively, under said plan in each and every case in which it is provided in said by the said plan that any of said three last-named defendants shall be so enjoined.

It is further ordered, adjudged, and decreed that such books and papers of the defendants, the American Tobacco Co. and S. Anargyros, or either of them, as relate to the suit of the Ludington Cigarette Machine Co. v. S. Anargyros and the American Tobacco Co., or the subject matter thereof or any part thereof, be preserved by the said defendants respectively until after the accounting, if any shall take place in said suit, and said suit be finally determined and ended.

It is further ordered, adjudged, and decreed that jurisdiction of this cause is retained by this court for the purpose of making such other and further orders and decrees, if any, as may become necessary for carrying out the mandate of the Supreme Court.

November 16, 1911.

E. HENRY LACOMBE, *Circuit Judge.*
ALFRED C. COXE, *Circuit Judge.*
H. G. WARD, *Circuit Judge.*
WALTER C. NOYES, *Circuit Judge.*

STATEMENT OF THE ATTORNEY GENERAL.

As soon as it was practicable after November 16, 1911, the date of the decree in the case of United States of America against the American Tobacco Co. and others, the defendants affected by the decree began, following the directions of the court, to put into operation the plan of disintegration provided for in the decree. The five new companies provided for in the said decree, to wit: Liggett & Myers Tobacco Co., P. Lorillard Co., George W. Helme Co., Weyman-Bruton Co., and J. S. Young Co., were duly chartered and organized and elected directors and officers. After the organization of these new companies each of them made offers to acquire businessses, properties, etc., as provided in said decree, and the offers were accepted. The offers made by Liggett & Myers Tobacco Co. and P. Lorillard Co. were to the American Tobacco Co.; the offers made by George W. Helme Co. and Weyman-Bruton Co. were to the American Snuff Co.; and the offer made by J. S. Young Co. was to MacAndrews & Forbes Co. Each of these offers and acceptances provided for issuing of securities of the vendee company, as provided in said decree, all to be as of December 1, 1911, the vendor company receiving the securities as of that date, so as to receive interest or dividends on the bonds or stock representing the purchase price from that date, and the vendee companies to take the businesses with the profits accruing from that date. All real estate conveyances were promptly made and recorded, assignments of trade-marks duly executed, division of leaf tobacco and other materials and supplies made, cash in large part turned over to the vendee companies, and since December 1, 1911, the vendee companies have been operating on their own account, Liggett & Myers with its offices in St. Louis, P. Lorillard Co. with its offices in Jersey City, J. S. Young Co. with its offices in Baltimore. American Snuff Co. is proceeding to open its main offices in Memphis, Tenn., but the actual removal of offices has not yet occurred.

Each of the vendee corporations, Liggett & Myers Tobacco Co. and P. Lorillard Co., by proper resolution authorized their transfer agents and the trustee under the trust indenture securing the bonds to deliver these to the treasurer of the American Tobacco Co., or his written nominees—the vendee companies at the time delivering to the transfer agent and trustee properly signed certificates of stock and bonds in blank—and the treasurer of the American Tobacco Co., under this power of nomination, directed the transfer agent and trustee to honor requisitions from time to time made by the Guaranty Trust Co. of New York, the agency for transfer and issuance of securities appointed by the decree. Under this method there had gone out, up to the close of business January 19, $21,438,000 of the common stock of Liggett & Myers Tobacco Co. out of a total issue of $21,496,400, and $15,116,000 of the common stock of P. Lorillard Co. out of a total issue of $15,155,600. All of the money received by the Guaranty Trust Co. of New York for this common stock, to wit, $36,554,000, has been used in the payment, under the said decree, for cancellation of the bonds of the American Tobacco Co., and additional money has been supplied by the American Tobacco Co. to said Guaranty Trust Co.

Under the said decree each holder of the 6 per cent bonds of the American Tobacco Co. may turn in his bonds to the Guaranty Trust Co. of New York, and thereupon receive cash at the rate of $120 for one half thereof and new 7 per cent bonds of Liggett & Myers Tobacco Co. and P. Lorillard Co. for the other half thereof. Each holder of the 4 per cent bonds of the American Tobacco Co. (including some outstanding 4 per cent bonds of Consolidated Tobacco Co.) may turn in his bonds to Guaranty Trust Co. of New York, receiving as to one half thereof cash at the rate of $96 and for the other half new 5 per cent bonds of Liggett & Myers Tobacco Co. and P. Lorillard Co. And each holder of the preferred stock of the American Tobacco Co. may turn in his stock, receiving for one third thereof new 7 per cent preferred stock of the Liggett & Myers Tobacco Co. and P. Lorillard Co., and as to the other two-thirds new certificates of stock of the American Tobacco Co., which show on their face that they are not entitled to participate in any further exchange and that the holders have voting rights.

The Guaranty Trust Co. had at the close of business January 19 taken in from the holders thereof, for cancellation in accordance with said decree, and either paid in cash or delivered new securities therefor, as follows: $41,561,000 of the 6 per cent bonds out of $52,882,650 theretofore outstanding; $38,823,650 of 4 per cent bonds (including outstanding 4 per cent bonds of Consolidated Tobacco Co.) out of $51,354,100 theretofore outstanding; $43,181,700 of 6 per cent preferred stock out of $78,689,100 theretofore outstanding. All of these new securities and cash have been delivered and paid to the many hundreds of individuals entitled thereto under the said decree, the common stock of Liggett & Myers Tobacco Co. and P. Lorillard Co. having been delivered as aforesaid to at least 1,200 different people, and presumably the bonds and preferred stock of an even larger number.

American Snuff Co. received the securities of George W. Helme Co. and Weyman-Bruton Co., to wit, $4,000,000 of 7 per cent preferred stock and $4,000,000 of common stock of each company, and MacAndrews & Forbes Co. received all of the securities of J. S. Young Co., to wit, $1,000,000 of preferred stock and $1,000,000 of common stock. Each of these companies, under the decree aforesaid, was to distribute the common stocks received by it to its own common-stock holders. All of this common stock has been actually distributed.

The Conley Foil Co. under the decree was to distribute the stock it held in the Johnston Tin Foil & Metal Co. among its stockholders, and it has done so. It has also canceled the bonds of the Johnston Co. which it held.

The American Tobacco Co. under the said decree was to distribute among its common-stock holders the stocks heretofore held by it in American Snuff Co., Corporation of United Cigar Stores, R. J. Reynolds Tobacco Co., British-American Tobacco Co. (Ltd.) ordinary shares, the Conley Foil Co., MacAndrews & Forbes Co., and Porto Rican-American Tobacco Co., and the stocks received by it as a common-stock holder of American Snuff Co. in Weyman-Bruton Co. and George W. Helme Co., the common stock received by it as a stockholder of MacAndrews & Forbes Co. in J. S. Young Co., and the stock received by it as a stockholder of the Conley Foil Co. in the Johnston Tin Foil & Metal Co. It has entirely completed this distribution among more than 1,200 stockholders of the American Tobacco Co., and many sales of the distributed stocks have been made on the market by those who received the same on distribution.

The certificate of incorporation of the American Tobacco Co. has been amended and full voting rights given to the holders of the preferred stock.

All domestic covenants referred to in the decree have been released by proper instruments and such instruments have been duly filed in the court.

All of the defendant companies, including the new companies, are in active business life and competition, each with its own buying and selling organizations, each with a license to do business in every State in which it is engaged in business, and each receiving orders and billing goods.

The only things that have not been wholly accomplished is the disintegration of the American Stogie Co., which is now in progress, the resolution of dissolution having been adopted by the stockholders and the business now being in the hands of trustees in liquidation; final adjustment between Liggett & Myers Tobacco Co., P. Lorillard Co., and the American Tobacco Co., with final checking of tentative invoices of leaf tobacco, materials and supplies, and cash to be furnished to them;

and making the exchange by American Snuff Co. of the preferred stocks received by it from Weyman-Bruton Co. and George W. Helme Co. in reduction of its own stock, and the exchange to be effected by MacAndrews & Forbes Co. of the preferred stock of J. S. Young Co. received by it, in reduction of its own stock. As to these exchanges of preferred stock, they have not been completed because of lack of time, but the offer to the holders of preferred stock of American Snuff Co. has been printed and is to be issued Monday. MacAndrews & Forbes Co. has only a few holders of its preferred stock, most of them resident in England, and letters have already been written them making the offer of exchange.

Among the properties turned over by the American Tobacco Co. to P. Lorillard Co. was all of the common stock and three-fourths of the preferred stock of the old P. Lorillard Co. The old P. Lorillard Co. has been dissolved in accordance with New Jersey law, and its physical properties turned over to the new P. Lorillard Co. formed in accordance with the decree.

As part of the process of dividing the manufacturing properties of the American Tobacco Co. between itself and Liggett & Myers Tobacco Co. and P. Lorillard Co., the holders of a majority of the 6 per cent bonds of the American Tobacco Co. and the holders of a majority of the 4 per cent bonds of that company have each executed and delivered instruments approving the plan of reorganization and modifying, as such majorities were authorized to do by the indenture securing said bonds, the rights of the bondholders in so far as they might be affected by the carrying out of said plan.

To sum up what has thus far been wholly accomplished:

(a) The entire distribution of stocks by the American Tobacco Co. as a dividend to its common-stock holders under the provision of the plan has been completed. This covers not only the stocks held in the treasury of the company at the time of the decree, but also the stocks which it has received into its treasury through the process of disintegration of accessory companies and the distribution of their stocks, in which the American Tobacco Co. participated.

The stocks thus distributed have been largely dealt in on the market in the city of New York, and very many transactions therein have been reported. Between the 11th of December and the 19th of January over 184,000 shares of stock of British-American Tobacco Co. (Ltd.) have been reported in the financial papers to have been sold. This stock was never dealt in. Between the date of the decree (Nov. 16) and January 19 between 17,000 and 18,000 shares of the stocks of Corporation United Cigar Stores have been reported by the financial papers as being sold on the market in New York City. Prior to this time dealings in this stock were so rare as to be almost unknown.

We are informed that the stock-transfer books of United Cigar Stores Co. show that prior to the distribution the total number of stockholders was 250, which has increased in consequence of the distribution so that on January 19, 1912, there were 1,170 stockholders. The number of shares distributed by the American company was 60,000 shares. Since the date of the decree 36,636 shares have been transferred of record by stockholders, including stockholders who received their stock upon the distribution by the American Tobacco Co. We are also credibly informed that a large number of the individual defendants have parted with their entire holdings of their stock of United Cigar Stores. The detailed statement upon which this information is based, received by us from officials of the corporation United Cigar Stores, is annexed hereto, marked "Exhibit A."

(b) Each of the accessory companies, with the exception of the stogie company, has actually been disintegrated, as provided in the the decree, new companies having been created, to which properties have been conveyed, in consideration of the issue of securities by the vendee companies, and the securities so issued by the vendee companies have, excepting only the preferred stocks of the snuff company and MacAndrews & Forbes Co., reached the hands of and are now held by their ultimate holders, to wit, the public.

(c) Liggett & Myers Tobacco Co. and P. Lorillard Co. have been organized, have acquired the properties conveyed to them by the American Co., and have been in separate operation since December 1. Properties conveyed to them were paid for by the issue by them of all the securities called for by the plan, which securities were taken unto the treasury of the American Tobacco Co. and thence placed with the Guaranty Trust Co., the agency for exchange.

The total authorized common stock of Liggett & Myers and Lorillard was	$36,652,000
Of this the common stockholders of the American Co. have purchased and paid for at par	36,554,000
Leaving still to be paid only	98,000

Many thousand shares of Liggett & Myers and Lorillard common stocks have been sold on the market since the date of the decree.

The preferred stocks of Liggett & Myers and Lorillard were turned over to the Guaranty Trust Co. as the agency for exchange, to be by it exchanged for one-third of the former preferred stock of the American Tobacco Co. More than one-half of these preferred stocks of the new companies have been exchanged at par for an equal amount of the preferred stock of the old company, which latter has been canceled.

The total amount of the preferred stock of the American Co. outstanding at the date of the decree was	$78,689,100
Of which there has been surrendered for the exchange above mentioned	43,181,700
Leaving now outstanding of old preferred stock only	35,507,400
The total amount of 6 per cent and 4 per cent bonds of the American Tobacco Co. outstanding at the date of the decree was	104,436,750
Of this there have been actually retired and canceled through payment of one-half in cash and exchange of the other half for new 7 per cent and 5 per cent bonds of the new companies	80,384,650
Leaving now outstanding only	24,052,100
The total amount of 5 per cent and 7 per cent bonds issued by the new companies, all of which were placed with Guaranty Trust Co. for purposes of exchange, was	52,218,375
Of this amount there have been actually delivered to the holders of old 4 per cent and 6 per cent bonds in exchange therefor	40,192,375
Leaving still in the hands of Guaranty Trust Co. still subject to further exchange only	12,026,000

The $40,000,000 of 5 per cent and 7 per cent bonds of the new companies so delivered to the holders of the 4 per cent and 6 per cent bonds of the American Co. have been largely dealt in on the market since the date of the decree. The transactions in these bonds have been constant and large, and the financial papers report sales in them since the decree of an aggregate amount of more than $18,000,000.

EXHIBIT A.

CORPORATION OF UNITED CIGAR STORES.

Number of stockholders prior to distribution by American Tobacco Co. of stock held by it in corporation of United Cigar Stores, Dec. 14, 1911	250
Number of stockholders of record Jan. 19, 1912	1,170
Number of shares of stock distributed by American Tobacco Co.	60,000
Number of shares of stock transferred of record by stockholders, including those who received stock on distribution by American Tobacco Co.	36,636

Of the 29 individual defendants named in the "bill," the records show that 12 have already disposed of their entire holdings of stock of corporation of United Cigar Stores, and that a large part of the stock held by the remainder of the individual defendants has already been transferred.

Mr. SUTHERLAND. Mr. President, the substitute now offered by the Senator from Iowa [Mr. CUMMINS] I think puts this matter in a more desirable position than it occupied under the original bill, but at the same time I think the substitute offered is open to the same serious objections as to its constitutionality as is the bill in its original form. I do not intend to delay a vote upon the substitute, but I have pretty firm convictions upon the question of the validity of this proposed legislation; and, as I intend to cast my vote against it, I desire briefly to put into the RECORD my reasons for doing so.

I think the proposed legislation is invalid, because it is an invasion of the executive power of the Government, and, in another aspect, because it is an invasion of the judicial power of the Government; and in both aspects it presents a case where the parties affected and other persons would be deprived of their property without due process of law.

I first desire briefly to discuss the question as to its being an invasion of the executive power. The framers of the Constitution provided that there should be three several coordinate and independent departments of the Government. In the legislative department there was vested the power to make laws; in the executive department the power to execute the laws made by the legislative department; and in the judicial department the power to interpret those laws.

When the Constitution confers definite powers upon one department it thereby denies the exercise of those same powers to any other department; in other words, the functions conferred upon these several departments are to be exercised exclusively by the department to which they are respectively committed.

There are only two exceptions, in the case of Congress, to this general proposition: Congress is authorized by certain express provisions of the Constitution to act judicially in impeachment matters and in questions affecting the right of its membership to seats in this body, and it may also act judicially, in a sense, wherever that action is necessary to enable it to carry out any specific authority conferred upon it by the Constitution. It therefore follows that neither the executive department nor the judicial department has any power to make laws; it follows that neither the executive nor the legislative departments may interpret the laws, and that neither the judicial nor the legislative department has any power to execute laws.

I need not stop to discuss the reasons which actuated the framers of the Constitution in making this tripartite division of powers. They recognized, as has been recognized by thoughtful people throughout the world, that the centralization of all forms of power in one person or in one class of persons would inevitably result in despotism, as it had resulted in despotism prior to the adoption of our Constitution. If the Legislature—if Congress alone—had the power to make laws, to administer laws, and to interpret laws, all of those various functions being vested in the one body, it would inevitably result in a despotic form of Government; it would result in private rights and personal liberty being at the absolute mercy of an oligarchy.

I want to call attention to a statement made by Prof. Pomeroy, in his work on Constitutional Law. At section 170 he says:

SEC. 170. A proposition which is thus historically true must have some firm foundation in the nature of things. The possession of power is one of the most dangerous gifts which can fall to the lot of humanity. The tendency is always to its abuse. Power grows upon itself. In a perfect state it is not enough that the rulers at any given time should be perfect men. There must be checks so contrived as to resist the encroachments of authority, which are to be apprehended even from the purest and most patriotic rulers. No other check has proved so effectual as the division of functions into legislative, executive, and judicial, and their assignment to classes of officials physically separate. If the legislature were also judges, their decisions would not be based upon the law as it is; but as it would be impossible for the same men to keep their two characters entirely distinct, their judgments would rather be arbitrary enactments, special measures of legislation for each particular case.

Let me pause, Mr. President, at this point to call attention to the significance of this language in connection with this proposed legislation. Here is a proposition not to make a general rule applicable to all cases, but a special rule applicable to this particular case. Because the general law which we have heretofore passed has not provided for this particular exigency, we are to supplement it by a special law directed to this one particular case and having no application to any other case which has arisen in the past or which may arise in the future.

Mr. BORAH. Mr. President——

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

Mr. SUTHERLAND. I do.

Mr. BORAH. So far as the power of Congress is concerned, what is the difference whether it is a special law or a general law?

Mr. SUTHERLAND. I will discuss that later along. I do not desire to be diverted from the point that I am now on at this time, but I intend to discuss this proposed legislation in its aspect as special legislation directed to particular parties—not even to particular classes of parties, Mr. President—but to particular persons. Now I continue, and let me repeat, in view of what I have said, this sentence again:

If the legislature were also judges, their decisions would not be based upon the law as it is; but, as it would be impossible for the same men to keep their two characters entirely distinct, their judgments would rather be arbitrary enactments, special measures of legislation for each particular case.

And the author continues:

Thus all certainty as to the law would be lost. If the same person or class of persons were to make and execute the laws, the results would be still more disastrous; for, in applying any particular statute, whatever deficiencies in its provisions had been left by the rulers in their legislative capacity could be easily supplied by them while acting in their executive capacity. Thus the laws, instead of being general commands enjoining the observance of general rules, would become special commands addressed to individual members of society. This uncertain and special nature of the law is the very essence of an arbitrary and tyrannical Government.

And again, at section 187, the author says:

SEC. 187. The evils which would result from a substantial concentration of all power in Congress can not be enumerated. Unless our forefathers were wholly wrong, unless the organic law is framed upon an entire misconception of the needs of a free people and of the objects of government, the three departments—legislative, executive, and judicial—must be kept separate, independent, coordinate. The question of the power to be wielded by the legislature was discussed and settled. If the tendencies of the present day are right, then all the framers of the Constitution and the people who adopted it were wrong. Should Congress, as now organized, practically draw all the attributes and functions of government to itself and reduce the executive and judiciary to a condition of substantial dependence upon itself, the next step would inevitably follow, and this would be the consolidation of the National Legislature into one body. The Senate would be pronounced an unnecessary and hurtful clog upon the free activity of the more popular branch. Even now such a step is publicly advocated. Should this result be accomplished, the liberties of the people would be gone, only to be regained by another revolution. Nothing could withstand a legislature consisting of one house, practically wielding all governmental power, restrained by no checks of organization or function. No tyranny could equal its tyranny.

Now, Mr. President, under the Constitution the President constitutes a coordinate and independent department. The power which the President wields under the Constitution comes from the same source as our power. His power, the executive power, is just as supreme as the power of the legislative department of the Government. By his exercise of executive power or his failure to exercise it in any particular instance, he does not become in any manner answerable to us any more than if we neglect the duty imposed or abuse the power conferred upon us by the Constitution we become answerable to him. Both the executive and the legislative branches of the Government are answerable alone to the sovereign people which created both and whose power we both exercise.

Now, in the exercise of the executive power by the President, of course it was never intended that he should exercise it alone. It was contemplated—and it arose from the very necessity of the thing—that he should have a multitude of subordinate agents to aid him in the discharge of his constitutional duties. But whenever one of those subordinate agents exercises an executive function he is exercising the power of the President. He is not exercising his own power. He is not exercising the legislative power, but he is exercising the executive power which is vested in the President of the United States.

I call attention to Mr. Pomeroy's statement with reference to that. Section 630 reads as follows:

The Constitution declares that the executive power shall be vested in a President of the United States. The meaning of this clause is that he is the head of that department; that all its powers and functions immediately or mediately center in him; and that he and he alone is ultimately responsible for their due execution. Certainly it was never contemplated by the Constitution that he alone was to perform unaided all the enormous detail of executive duties which fall to this department. There must of necessity be carried a vast retinue of subordinate officers of various grades and functions, but all these officers represent the Chief Magistrate. In fact, then, the executive department includes the President as its head, as the embodiment of executive power, and the inferior ministerial officers—the Cabinet, the foreign ministers, the revenue agents, the postal agents, the marshals, the law agents, and the like—who are but representatives of and answerable to the Chief Magistrate. He acts through them; they are his means and instruments for performing executive functions.

Occasionally the question has arisen with reference to the power of the courts to direct a particular officer in the executive department to do a particular thing. The Supreme Court of the United States has sustained in a number of cases the authority of the court by mandamus to direct the doing of something by one of the subordinate officers of the executive department, but in all the cases, so far as I am familiar with them, they have carefully distinguished between cases which involve the performance of a mere ministerial duty on the part of the agent and the exercise of what amounted to an Executive power. In the case of Marbury *v.* Madison the distinction is stated, and I desire to call attention to a paragraph or two from that case. Chief Justice Marshall said:

By the Constitution of the United States the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character and to his own conscience. To aid him in the performance of these duties he is authorized to appoint certain officers, who act by his authority and in conformity with his orders. In such cases their acts are his acts, and whatever opinion may be entertained of the manner in which Executive discretion may be used, still there exists, and can exist, no power to control that discretion.

Let me repeat that:

There exists, and can exist, no power to control that discretion.

The subjects are political; they respect the Nation, not individual rights, and being intrusted to the Executive, the decision of the Executive is conclusive. The application of this remark will be perceived by adverting to the act of Congress for establishing the Department of Foreign Affairs. This officer, as his duties were prescribed by that act, is to conform precisely to the will of the President; he is the mere organ by whom that will is communicated. The acts of such an officer as an officer can never be examinable by the courts. But when the legislature proceeds to impose on that officer other duties, when he is directed peremptorily to perform certain acts, when the rights of individuals are dependent on the performance of those acts, he is so far the officer of the law, is amenable to the laws for his conduct, and can not at his discretion sport away the vested rights of others.

The conclusion from this reasoning is that where the heads of departments are the political or confidential agents of the Executive merely to execute the will of the President, or rather to act in cases in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law and individual rights depend upon the performance of that duty it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.

Mr. BACON. Mr. President——

Mr. SUTHERLAND. Just one moment. In my opinion, whenever the power which the subordinate officer is to exercise is executive in its character in the sense that it requires him to exercise his judgment—whether he will take one action or another action—then he is beyond the power of either the courts or the legislative branch of the Government to direct him as to what he shall do, and it is only in cases where the authority to be exercised by the subordinate official has been clearly stated by the law, where he has no discretion whatsoever except to obey the precise mandate of the law, when either the courts should interfere or the legislative branch of the Government can interfere.

I now yield to the Senator from Georgia.

Mr. BACON. I think the extract which the Senator has read from Marbury against Madison is undoubtedly not only the law but is most clearly reasoned out by the Chief Justice, but I want to suggest to the Senator that it illustrates the very distinction which I endeavored to draw his attention to last week when the subject was up, that, so far as it concerns the exercise of power by virtue of the Constitution, or where the Constitution confers the power, undoubtedly this discretion can not be interfered with. In that particular case an injunction was sued out against the Secretary of State, if I remember correctly.

Mr. SUTHERLAND. It was a mandamus proceeding.

Mr. BACON. Yes, of course; but it was regarding a commission the former President of the United States issued and which was not delivered under the succeeding administration. That is a correct statement of the case. I speak only from memory, although I am quite familiar with the case. There the court pointed out the fact that the issuing of a commission was a function devolved upon the Executive by the Constitution of the United States, and that therefore the question to whom he should issue a commission or should not issue it was entirely within the discretion of the Executive, and being a constitutional power in which that discretion was a part, and a principal part, it could not be controlled by the courts.

The point to which I called the attention of the Senator and upon which I should be very glad to have his differentiation is this: That the Attorney General does not exercise any power which is granted to him by the Constitution; that he exercises

no power which is not conferred upon him by Congress; that he exercises no power which can not be taken away from him by Congress; and that these are the two extremes—the one to confer and the other to take away from—and between them, it seems to me, lies all the intermediate power of amendment of those powers.

Now, if it be true that the Attorney General exercises any power that he gets from the executive branch of the Government, if it be true that he exercises any powers delegated to him by the President of the United States, then I think the argument of the Senator is sound, because all of the power of the President of the United States is given to him by the Constitution. My judgment—I may be wrong in it; I have had occasion to express it in the Senate before—is that no departmental officer exercise any power derived through the Executive. If the contrary was true Congress could not add to it or take it away.

Mr. SUTHERLAND. I am afraid the Senator from Georgia did not listen to the quotation which I read from Mr. Pomeroy, in which he says very emphatically that the power which the law agents of the Government, as well as all other executive officers, exercise is the power of the President of the United States. They are his agents to carry out the powers conferred upon him by the Constitution.

Mr. BACON. Mr. President——

Mr. SUTHERLAND. Let me finish my answer, if the Senator will bear with me. The Constitution itself recognizes that the Attorney General of the United States is an executive officer, because the Constitution provides, among other things, in section 2, Article II, paragraph 1:

> The President * * * may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices.

So that the Constitution itself recognizes that the departments are "executive" departments, but the Constitution vests the executive power in the President; and in constituting the executive departments it must be that the Constitution contemplates not that they shall exercise their own power or the power of the legislative department or the judicial department, but that they shall exercise the powers of the Executive, because they are called by the Constitution "executive" departments.

Mr. BACON. Mr. President, the distinction to which I refer is this: In the case of Mr. Madison, he was Secretary of State, and in the issuing or the delivery of a commission he performed purely a ministerial act, in which he was doing what the President could have done with his own hand if he had seen fit to do so. In the other case there is a power that is created by act of Congress, which devolves upon this officer certain duties which are prescribed by Congress.

Now, to say that Congress can create an officer and prescribe his duties and can not add to those duties or take away from them seems to me to be utterly illogical. There is a very wide distinction between the case of the Secretary of State who, for the convenience of the President, does what the President himself could do——

Mr. SUTHERLAND. When Congress passes a law it does not confer any power upon the Attorney General, who is charged with the responsibility and duty of executing that law.

It confers no power whatever with reference to the law. The Constitution confers the power, because the Constitution declares that the President shall take care that all the laws be faithfully executed.

Mr. BORAH. Mr. President——

Mr. SUTHERLAND. In just a moment.

Now, what the law of Congress does is simply to create the occasion upon which the power of the Attorney General shall operate. His power is there, and when by a law Congress creates an occasion for the exercise of it, he looks to the Constitution for the power and not to the law. In other words, he looks to the law for the occasion of exercising his power, but to the Constitution for the power itself.

Mr. BACON. There is no such power prescribed in the Constitution. It is prescribed entirely by Congress and need not be prescribed by Congress, if Congress in its judgment did not see fit to do it. If the Senator will pardon me a moment to draw the distinction——

Mr. SUTHERLAND. Let me interrupt the Senator to suggest that I hope he will be brief, because I have a legal argumen to submit, and I should like to present it consecutively.

Mr. BACON. I will not interrupt the Senator unless he desires me to do so, and I appreciate the reasons he urges. I will be through in a minute. I just want to call attention to this distinction: The Constitution vests in the President of the United States the power to appoint an ambassador. The President can not appoint that ambassador until Congress authorizes the appointment of the ambassador, but when Congress does authorize the appointment of the ambassador, the President does not, in pursuance of any power granted by Congress, appoint that ambassador, but he appoints him by the constitutional power he has to determine who will be an ambassador, and to appoint him.

On the contrary, when the Attorney General is created, he is not an officer upon whom the Constitution has conferred any powers, and he has no single powers except those which are enumerated. He has no single power which can not be taken away from him by Congress. If it were an executive power; if, in other words, it were a power which he derived through the President, it could not be interfered with by Congress; it could neither be added to nor diminished.

Mr. SUTHERLAND. Mr. President, the Senator from Georgia furnishes me with an excellent illustration of what I have been stating. The Constitution vests in the President power to appoint ambassadors and other public ministers. When Congress passes a law providing for ambassadors at various places throughout the world, Congress confers no power by that upon the President. Congress creates the occasion for the exercise of the constitutional power by the President. So, in precisely the same way, when Congress passes any law it but creates an occasion for the exercise of the executive power which is vested in the President, just as much as the express power to appoint ambassadors is vested in him.

I come back to the point I was discussing when the Senator from Georgia interrupted me—as to the distinction between ministerial and executive duties, a ministerial duty being mandatory and an executive duty being discretionary. In this same connection I call attention to the case of Mississippi *v.* Johnson, a case with which all Senators are familiar. I will not stop to state what the case was about but simply to read a paragraph or two from the decision. In this case, in Fourth Wallace, page 498, the court says:

> It is assumed by the counsel for the State of Mississippi that the President, in the execution of the reconstruction acts, is required to perform a mere ministerial duty. In this assumption there is, we think, a confounding of the terms ministerial and executive, which are by no means equivalent in import.
>
> A ministerial duty, the performance of which may, in proper cases, be required of the head of a department, by judicial process, is one in respect to which nothing is left to discretion. It is a simple, definite duty, arising under conditions admitted or proved to exist and imposed by law.

Further on:

Very different—

I invite the attention of the Senator from Georgia to this language:

> Very different is the duty of the President in the exercise of the power to see that the laws are faithfully executed, and among these laws the acts named in the bill. By the first of these acts he is required to assign generals to command in the several military districts, and to detail sufficient military force to enable such officers to discharge their duties under the law. By the supplementary act other duties are imposed on the several commanding generals, and these duties must necessarily be performed under the supervision of the President as Commander in Chief. The duty thus imposed on the President is in no sense ministerial. It is purely executive and political.

They were executive whether the duty was enjoined on the President himself or upon some subordinate agent, as in the case of a general in the field.

Again, at section 641, Mr. Pomeroy says:

> It was never intended that the legislature should draw to itself the duty of administering the laws which it makes.

I call attention to still another case, the case of the United States *v.* San Jacinto Tin Co. (125 U. S., 279). In the course of that case, where the right of the Attorney General to maintain an action was challenged, the court said:

> There must, then, be an officer or officers of the Government to determine when the United States shall sue, to decide for what it shall sue, and to be responsible that such suits shall be brought in appropriate cases. The attorneys of the United States in every judicial district are officers of this character, and they are by statute under the immediate supervision and control of the Attorney General. How, then, can it be argued that if the United States has been deceived, entrapped, or defrauded into the making, under the forms of law, of an instrument which injuriously affects its rights of property, or other rights, it can not bring a suit to avoid the effect of such instrument, thus fraudulently obtained, without a special act of Congress in each case, or without some special authority applicable to this class of cases, while all other just grounds of suing in a court of justice concededly belong to the Department of Justice, and are in use every day? The judiciary act of 1789, in its third section, which first created the office of Attorney General, without any very accurate definition of his powers, in using the words that "there shall also be appointed a meet person, learned in the law, to act as Attorney General for the United States" (1 Stat. 93, c. 21, sec. 35), must have had reference to the similar office with the same designation existing under the English law. And though it has been said that there is no common law of the United States, it is still quite true that when acts of Congress use words which are familiar in the law of England, they are supposed to be used with reference to their meaning in that law.

Now, mark this concluding sentence:

In all this, however, the Attorney General acts as the head of one of the executive departments, representing the authority of the President in the class of subjects within the domain of that department and under his control.

I can conceive of no more emphatic language, Mr. President, to demonstrate that, in the opinion of the Supreme Court of the United States, when the Attorney General performs the duties of his office in investigating the facts of a transaction to determine whether or not a suit shall be brought, in determining what form the suit shall assume, in determining, after the suit has been concluded, whether or not further proceedings shall be had, whether a motion for a new trial shall be made or an appeal taken—in all those matters I can conceive of no language that could be made stronger to indicate that, in the opinion of the Supreme Court of the United States, in all those things he is exercising an executive authority and that authority the power of the President.

So, Mr. President, with reference to the first branch of my argument, as it seems to me, the attempt is made by this bill to direct the Attorney General to perform an executive function, which Congress has no power to direct, but which rests under the Constitution only in the President himself.

Now, again, in another aspect of this matter, I think it constitutes an attempt to exercise the judicial power. The proposition essentially involves a review of the action of the lower court in not allowing the intervention and a review of the action of the Supreme Court of the United States in denying the mandamus.

This case was sent to the circuit court for the purpose of passing upon a plan for the reconstruction of these various companies which would be in harmony with the antitrust law. Such a plan was approved by the circuit judges and certain parties undertook to intervene. They were denied the right. An action was brought in the Supreme Court of the United States, the purpose of which was to direct the lower court to allow this intervention and to allow an appeal.

The bill in its original form clearly contemplated, as it seems to me, an attempt on the part of Congress to investigate the facts and the law upon which the action of both courts was based, and then by a proposed act, which in substance and effect is not a law but an order or a decree, the legislative department undertook to review and to set aside the action taken by the courts.

The substitute as now presented by the Senator from Iowa undertakes to allow an appeal in a specific case named in the bill, after the time allowed by the general law to take the appeal has expired. In my opinion, that is not a law so much as it is a judicial order. It is not a general law applying to everybody, but a special act applying only to a particular case, with the determination of which case the Members of Congress happen to disagree.

Suppose that the case had not quite reached the stage which it has reached, but that it was newly pending in the circuit court; that a demurrer had been filed to the bill, and the circuit judge had held that the demurrer was well taken and that the bill did not state facts sufficient to constitute a cause of action, and Congress, learning of that action and being displeased with it, should undertake to enact a law directing the Attorney General to again present the demurrer to the trial court and directing the trial court to again hear it, can there be any doubt that in that case it would have been an attempt to invade the judicial power of the court? Or take a criminal prosecution. The attorney for a defendant indicted moves to quash the indictment. The motion is sustained. If we happen to be displeased with that action of the court, can we pass a bill specially applying to that one case and directing the court to entertain again or even authorize the court to entertain again that motion to quash the indictment? Can we direct the court below to grant a new trial in a specific case after the time has elapsed?

In that connection let me say that the Senate has had an elaborate statement from the Senator from Iowa [Mr. CUMMINS] of the facts surrounding this transaction, a statement of the law so far as it may be necessary to elucidate the facts, and the judgment of the Senate is challenged as to whether or not this is a case which ought to be again reviewed. It calls for the exercise of judgment in a judicial sense before we can determine whether or not this case ought to be appealed or not. When all these facts are presented to us some of us might think that the lower court had acted properly and others of us think the court had acted improperly; and in that case those who thought that the action of the court was right would vote against the bill and those who thought the court had acted wrongfully would vote in favor of it. It calls for the exercise of the judicial function before we can pass intelligently upon the bill. Now, briefly, I call attention to a few cases.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. Yes.

Mr. BORAH. Before the Senator goes to the other subject, is that call for the exercise of the judicial power any different from that under which we pass upon the numerous claims which come before the Senate and pass bills to pay them, and so forth?

Mr. SUTHERLAND. It is a very different matter when a claim is presented against the Government and when we are undertaking to deal with rights of private parties outside.

Mr. BORAH. We exercise our judgment, we hear evidence, we pass upon the question whether or not the claim ought to be paid, whether it is well founded or not, and we exercise all the functions of a judge.

Mr. SUTHERLAND. But we do not exercise the judicial function to determine whether or not a court which had full jurisdiction of the subject had acted properly or improperly. That is the distinction that I am undertaking to make.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. Certainly.

Mr. CUMMINS. I believe the Senator from Utah has given an impression that he did not intend to create. This bill does not involve a direction to any court with respect to the manner of its procedure or the character of its judgment. It only removes or seeks to remove a case which has been tried and in which a judgment has been entered to another judicial tribunal where, according to the law of the land, the judgment below can be reviewed. I am sure the Senator from Utah did not intend to be understood that the bill in any wise directs or orders a court to do anything whatsoever.

Mr. SUTHERLAND. No; it does not. If I gave that impression from what I said, I desire to correct it. The bill does not attempt to direct the court to do anything. The point I am making is that Congress undertakes to say as a basis for passing the bill that the action of the trial court was wrong. It is wholly based on that, or else there is no reason for passing this law; or at least we undertake to say there is fair ground for assuming that the court was wrong.

Mr. CUMMINS. May I suggest to the Senator from Utah that one of the propositions upon which this bill is based is that the question is so important and far-reaching—it is so intimately related to our legislative functions in amending or proposing to amend the antitrust law—that the Supreme Court of the United States ought to express finally its opinion upon this plan of reorganization. I can easily see how anyone who might believe the decree of the court below is well founded might nevertheless think it very wise that the Supreme Court, the final tribunal of the land, should pass upon the questions that are in the decree.

Mr. SUTHERLAND. In the case of Kilbourn *v.* Thompson (103 U. S., 168) the court held that the House of Representatives had no power to investigate the history and character of a certain real-estate pool then in litigation before a bankruptcy court on the ground that the subject matter was judicial and not legislative.

In McSurely *v.* McGrew, an Iowa case by the way (118 N. W., 415), the court held that an act providing that any action by any citizen of a county on the bond of the county treasurer shall be void and without jurisdiction was unconstitutional as applied to an action commenced before the passage of the law, because usurping the functions of the judiciary. The court said:

When action is once commenced, the question of jurisdiction is purely a judicial one, and the legislature should not attempt to usurp the functions of the judiciary by such an act as is now under consideration.

In Merrill *v.* Sherburne (1 N. H., 199; 8 Am. Dec., 52) it was held that an act of the legislature awarding a new trial in an action which had been decided in a court of law was an exercise of judicial power operating retrospectively and was void.

I call particular attention to the language of the court in that case. The court said:

A legal process had been instituted in a subordinate court, had been heard, and then they by appeal carried to a higher tribunal It had been reheard in that tribunal, and, after a motion for a new trial was overruled, a final judgment had been rendered, which by existing statutes closed the controversy forever.

Now that is precisely what had happened here. This case had been before the highest tribunal. It had been sent back to the circuit court. The judgment of the circuit court had been had, and by the law which exists now that controversy is closed forever. Nobody has any right under existing law to reopen it.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. Yes.

Mr. BORAH. I should like to understand precisely the position of the Senator from Utah. Does the Senator contend that because a judgment has become final, therefore Congress can not provide for an appeal?

Mr. SUTHERLAND. There are some circumstances under which it could be done; but I undertake to say, and I hope the Senator from Idaho will be patient until I finish, because I intend, I think, to discuss these various questions which the Senator would ask me——

Mr. BORAH. Mr. President, patience is one of my virtues.

Mr. SUTHERLAND. The Senator has many virtues, and patience is not the least of them.

Resuming the statement from the New Hampshire court, I read:

The legislature then undertake to revise these proceedings; they convene the parties, canvass the evidence, and afterwards reverse, in substance, the interlocutory judgment and materially alter the effect of the final judgment of this court. If these doings of the legislature are considered a mere continuation of the former doings of the courts, then as those former ones were judicial so are these. But if they are considered as disconnected with the former doings, they are still judicial, on account of their nature and effect. The grant of a new trial belongs to the courts of law from immemorial usage. The power to grant a new trial is incidental to their other powers. It is a judgment in relation to a private controversy, affects what has already happened, and results from a comparison of evidence and claims with existing laws. It will not be denied that the consideration and decision by the superior court of the motion for this same new trial was an exercise of judicial power. If so, a consideration and decision upon the same subject by the legislature must be an exercise of power of the same description, for what is in its nature judicial to-day must be judicial to-morrow and forever. The circumstance also that the legislature themselves did not proceed to make a final judgment on the merits of the controversy between these parties can not alter the character of the act granting a new trial. To award such a trial was one judicial act, and because they did not proceed to perform another by holding that trial before themselves the first act did not become any more or less a judicial one. * * *

It is clearly unwarrantable thus to take from any citizen a vested right, a right "to do certain actions or possess certain things," which he has already begun to exercise, or to the exercise of which no obstacle exists in the present laws of the land. (3 Dall., 294.) But previous to the passage of the act granting a new trial to this plaintiff, the defendants had become authorized by the laws of the land to possess all the estate of which Ward died seized. Every obstacle to the exercise of their rights had been removed or annulled, and whether their rights became vested by Ward's death or by the final judgment in November, 1814, is immaterial, because both these events had happened before the passage of this act. (7 Johns., 494; Dash v. Van Kleck, 5 Am. Dec., 291; 3 Burr., 2460.) The defendants being thus situated, the legislature interfered; not to enact what is in its nature and effect a law, but to pass a decree; not to prescribe a rule for future cases, but to regulate a case which had already occurred; not to make a private statute by the consent of all concerned, but at the request of one party to reverse and alter existing judgments; not to promulgate an ordinance for a whole class of rights in the community, but to make the action of a particular individual an exception to all standing laws on the subject in controversy. (11 Mass., 396; Holden v. James, 6 Am. Dec., 174; see also Young v. State Bank, 4 Ind., 301; 58 Am. Dec., 630.)

The Supreme Court of the United States, in James v. Appel (192 U. S., 129), in distinguishing a statute of Arizona enacting that motions for new trials are deemed to be overruled if not acted upon by the end of the term from a statute granting or refusing a new trial, said (p. 137):

The statute did not deal with the past or purport to grant or refuse a new trial in a case or cases then pending, but performed the proper legislative function of laying down a rule for the future in a matter as to which it had authority to lay down rules.

In the Sinking Fund cases (99 U. S., 700, 738), in a dissenting opinion, Mr. Justice Strong said:

A statute undertaking to take the property of A and transfer it to B is not legislation. It would not be a law. It would be a decree or sentence, the right to declare which, if it exists at all, is in the judicial department of the Government. The act of Congress is little, if any, more. It does not purport to be a general law. It does not apply to all corporations or to all debtors of the Government. It singles out two corporations, debtors of the Government, by name, and prescribes for them as debtors new duties toward their creditor. It thus attempts to perform the functions of a court. This I can not but think is outside of legislative action and power.

Mr. Justice Field in the same case (p. 761) said:

The distinction between a judicial and a legislative act is well defined. The one determines what the law is and what the rights of the parties are with reference to transactions already had, the other prescribes what the law shall be in future cases arising under it. Wherever an act undertakes to determine a question of right or obligation, or of property, as the foundation upon which it proceeds, such act is to that extent a judicial one, and not the proper exercise of legislative functions.

In Dorsey v. Dorsey (37 Md., 64; 11 Am. Rep., 528), the court held that the legislature could not authorize the court of appeals to reopen and rehear certain enumerated cases which had been previously decided by the court and upon the rehearing thereof to pass such judgment, orders, and decrees in the said cases as right and justice might require, as being an exercise of judicial power.

There they had the precise case that is here involved. The court said in that case:

Except for special causes, and upon equitable grounds well defined and understood in the law, and which do not exist in these cases, courts of justice have no power to interfere with or to disturb their own final judgments and decrees after the lapse of the term in which they have been rendered. The powers of the court in this respect are no greater than belong to every court of record.

Independently of the provisions of the act of assembly on which this motion is based, it is very clear that this court possesses no power or authority to interfere with its solemn and final judgments and decrees rendered at the April term, 1869, or to reopen and rehear the cases then decided, for the purpose of correcting supposed errors therein, or of altering or changing the judgments and decrees then rendered.

This court is not clothed with any such arbitrary authority. Its exercise would be simply to deprive parties of their vested rights after they had been adjudged and established by final judgment.

Can the legislature constitutionally confer such a power upon this court, or, in other words, Is the act of 1872, chapter 310, a valid exercise of the legislative power?

The court then reviewed the cases in which the question had been considered, and, referring to the act of 1872, said (p. 533):

It undertakes to confer on this court the power, at its discretion, to annul and set aside its final judgments and decrees, rendered several terms ago upon full hearing and after careful consideration. If such legislation were sustained, there would be no end to controversies.

By the organic law of the State it is declared "that the legislative, executive, and judicial powers of the Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other." (Declaration of Rights, art. 8.)

It requires no argument to show that such legislation as the act before us is contrary to the intent and meaning of this article, and is an exercise by the legislature of judicial powers. * * *

Under the act of assembly, if it be conceded to be constitutional and valid, the motion addresses itself to the discretion of the court, and we have seen no sufficient legal or equitable grounds for disturbing the judgments or decrees heretofore rendered.

In People ex rel. Butler et al. v. Board of Supervisors of Saginaw County (26 Mich., 22) the court held that the legislature may cure retrospectively defects caused by errors in similar proceedings within certain limits (see 20 Mich., 95; 17 Mich., 218); but it can not make valid, retrospectively, what it could not originally have authorized. The syllabus of that case reads:

The purpose of the statute seems to be to avoid the effect of certain decisions of the Circuit Court for Saginaw County, not by directly and in terms setting them aside, but by a direction to the board of supervisors, which, in its effect, is of equivalent import.

The opinion was rendered by Judge Cooley, author of the work on constitutional limitations, and one of the most profound constitutional lawyers, I think, that this country ever produced. That opinion was concurred in by all the justices. In the course of his opinion Judge Cooley said (p. 27):

It is well settled that the apportionment of legislative power to one department of the Government will not authorize it to exercise any portion of the judicial power which is apportioned to another department. The apportionment is of itself an implied prohibition upon its exercise by the legislature. That body, consequently, can not set aside a judgment or decree—

Mark this—

nor can it even require the judiciary *to give a new hearing in a case once passed upon.*

Mr. President, I shall speak very briefly upon the third point that I make, and then I will submit the matter. The third proposition which I announced in the beginning was that the effect of this proposed legislation would be to destroy or injuriously affect vested rights, and therefore and for other reasons it falls within the inhibition of the fifth amendment of the Federal Constitution, which forbids that any person shall be deprived of life, liberty, or property without due process of law.

Now, let us see briefly what the situation is. Here is not only a decree which has been rendered, but a decree which has been, at least in part, executed. The decree involved in this bill became final in January last. Was it not January, I ask the Senator from Iowa?

Mr. CUMMINS. The decree became final on the 15th of November.

Mr. SUTHERLAND. Yes; the decree became final in November, but the time to appeal expired in January.

Mr. CUMMINS. Expired in 60 days.

Mr. SUTHERLAND. Yes; in January; so that here is a case which has passed to final judgment. It is a case which is res adjudicata, a case which, under existing law, there is no power in any court to reopen or to deal with further. Rights which were affected by this decree have attached; property has passed. As I understand, not only stocks, which represent the property of these various corporations, but specific real estate and specific personal property have passed from one corporation to other corporations. The stock of these various corporations has been upon the market, and it has been sold to numberless people. The ownership of the stock and the title to specific property in reliance upon this decree, which is final, which has become res adjudicata, have attached. Can Congress under those circum-

stances legislate so as to divest those new rights which have attached in reliance upon that decree?

But this bill undertakes to go further than that. Here are new persons who have intervened, new persons who have acquired rights in reliance upon the finality of this decree, and this bill undertakes to confer upon the court and to direct the Attorney General to have a review of this matter affecting the rights of these new persons without even permitting them to be heard, without directing that they may be made parties.

The effect of it is to single out this one case from the whole multitude of litigation in the country, to single out this one set of persons interested in this case and to make a rule applying to them which does not apply to anybody else. It seems to me that such a law is of such an arbitrary character, is of such an unequal character in its operation that it comes within the inhibition of the due-process-of-law clause.

Now, I call attention to a few cases upon that subject.

Mr. Justice Brewer, in Cotting *v.* Kansas City Stock Yards Co., and so forth (183 U. S., 79), quotes, at page 109, from Cooley's Constitutional Limitations, fifth edition, pages 484, 486, as follows:

> Everyone has a right to demand that he be governed by general rules, and a special statute which, without his consent, singles his case out as one to be regulated by a different law from that which is applied in all similar cases would not be legitimate legislation but would be such an arbitrary mandate as is not within the province of free governments. Those who make the laws "are to govern by promulgated, established laws, not to be varied in particular cases, but to have one rule for rich and poor, for the favorite at court and the countryman at plow." This is a maxim in constitutional law, and by it we may test the authority and binding force of legislative enactments.

Again, in Caldwell *v.* Texas (137 U. S., 692), the court, at page 697, said:

> Law in its regular course of administration through courts of justice is due process, and when secured by the law of the State the constitutional requisition is satisfied (2 Kent Comm., 13); and due process is so secured by laws operating on all alike and not subjecting the individual to the arbitrary exercise of the powers of government unrestrained by the established principles of private right and distributive justice. (Bank of Columbia *v.* Okely, 4 Wheat., 235, 244.)

In the case to which the Senator from Iowa referred the other day, Stephens *v.* Cherokee Nation (174 U. S., 445)——

Mr. RAYNER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Maryland?

Mr. SUTHERLAND. Allow me first to finish the quotation. Mr. Chief Justice Fuller said:

> It is undoubtedly true that legislatures can not set aside the judgments of courts, compel them to grant new trials, order the discharge of offenders, or *direct what steps shall be taken in the progress of a judicial inquiry.*

I now yield to the Senator from Maryland.

Mr. RAYNER. Has the Senator any case in mind in which the Federal courts have ever held that Congress has not the power to pass a law to compel the courts to reopen a case in the Federal courts?

Mr. SUTHERLAND. That precise question? I have read a number of cases——

Mr. RAYNER. I refer to cases in the Federal courts bearing on the power of Congress, and not on the power of the legislatures in the States. In nearly every State constitution there is a provision that the legislature shall have no right to pass a special law, but there is no such provision affecting Congress; and I should like to know whether the Senator thinks that we could not pass such a law. Take the income-tax case, for instance, or the American Sugar Refining Co. case. Would we have a right to pass a law asking the Supreme Court to reopen and hear that case and direct the Attorney General to retry the case?

Mr. SUTHERLAND. I may be mistaken about it, but I have not the slightest doubt that it is quite beyond the province of Congress.

Mr. RAYNER. I have been looking over the Federal cases to see if I could find some inhibition upon the power of Congress which prohibits Congress from passing a law directing the Supreme Court to reopen a case——

Mr. CUMMINS. Mr. President, may I suggest to the Senator from Utah that it seems to me he is confusing in the citation just made from Justice Brewer two very distinct things—the right and the remedy. There is no vested right in remedies, and Congress has a perfect right to apply such remedies as it sees fit to work out or effectuate rights. Now, these parties, if the case ever reaches the Supreme Court of the United States, will be tried upon the law as it was then and as it is now, the law which constitutes a general rule for the government of all the people of the United States. I think the Senator has possibly not forgotten but confused the difference between rights and remedies.

Mr. SUTHERLAND. No, Mr. President, I have not forgotten it. The distinction is a very well-settled one. Any legislative body, Congress particularly, has a right to pass a law which changes the remedy. Congress has a right to make that law retrospective if it affects only the remedy, but this goes beyond the remedy. In form it affects the remedy, but in fact it affects substantial rights, because this decree is already passed; it has already become final. New persons not parties to the decree at all have intervened; they have acquired specific property; they have dealt with this whole subject upon the theory that under existing law this decree has become final, and that they could with perfect safety acquire property in reliance upon it.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. Let me first finish my answer. Now, allow me to call attention to a decision which I intended to refer to later—I had anticipated these questions—but I will do so now. The case of Pritchard *v.* Norton (106 U. S., p. 132), where the Supreme Court says:

> The principle that what is apparently mere matter of remedy in some circumstances, in others, where it touches the substance of the controversy, becomes matter of right, is familiar in our constitutional jurisprudence in the application of that provision of the Constitution which prohibits the passing by a State of any law impairing the obligation of contracts. For it has been uniformly held that "any law which in its operation amounts to a denial or obstruction—

Now, mark this—

> that "any law which in its operation amounts to a denial or obstruction of the rights accruing by a contract, though professing to act only on the remedy, is directly obnoxious to the prohibition of the Constitution."

And so, paraphrasing that language, I may say that any law which in its operation amounts to a denial or obstruction of rights accruing under a final judgment—final by existing law—though professing to act only on the remedy, is directly obnoxious to the prohibition of the Constitution.

> Hence it is that a vested right of action is property in the same sense in which tangible things are property and is equally protected against arbitrary interference. Whether it springs from contract or from the principles of the common law, it is not competent for the legislature to take it away. A vested right to an existing defense is equally protected, saving only those which are based on informalities not affecting substantial rights, which do not touch the substance of the contract and are not based on equity and justice.

Now I yield to the Senator from Idaho.

Mr. BORAH. Mr. President——

Mr. RAYNER. I would say to the Senator that those quotations refer to the States. Congress has a right to pass a retroactive law.

Mr. SUTHERLAND. I will say——

Mr. RAYNER. One moment. It has no right to pass an ex post facto law, but an ex post facto law is a different thing from a retroactive law.

Mr. SUTHERLAND. I understand all that quite well.

Mr. RAYNER. Of course the Senator understands it, otherwise I would not ask him. These inhibitions are against the States, and the decisions from which the Senator has read are State decisions; but where is there any decision that prohibits Congress from passing a retroactive law that is not an ex post facto law?

Mr. SUTHERLAND. Mr. President, Congress is not prohibited from passing a retroactive law as such, but it is prohibited under the fifth amendment from passing any retroactive law which has the effect of taking property from one person and handing it over to another.

Mr. RAYNER. The fifth amendment does not say anything at all about retroactive laws.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. I do.

Mr. BORAH. In order to make clear the principle which the Senator has stated, in what respect would this law take property from "A" and give it to "B"?

Mr. SUTHERLAND. I have been undertaking to state that for some time.

Mr. BORAH. I have been listening. I beg the Senator's pardon for my failure to understand.

Mr. SUTHERLAND. I know the Senator is acute of perception. Therefore it must be due to my dullness in imparting information. But I repeat that the effect of this proposed law is to disturb rights which have already attached to specific property under and in reliance upon a decree which at the time they vested was final according to the law of the land.

Mr. BORAH. It might be under some circumstances that the principle of estoppel would come in there where parties had purchased under an understanding that certain rights had vested, but certainly the principle of vested rights could arise

only under the supposition that in approving that specific plan there were vested rights which should not be disturbed.

Mr. SUTHERLAND. The due process of law clause of the Constitution is broader than the Senator from Idaho seems to think it is. I will call attention to that phase of it in a moment, and then I shall be through.

Let me complete my citation of these cases. In the case to which I was calling attention when I was interrupted, no vested right had been acquired which was disturbed by the act which provided for a review of the action of the Indian Commissioners by a transfer of their proceedings to judicial tribunals. In that case there was a "mere expectation of a share in the public lands and moneys of these tribes, if hereafter distributed, if the applicants are admitted to citizenship."

In the case at bar, on the other hand, the property rights above described have vested, many of them, since the time to appeal expired.

In Baggs's appeal (43 Pa. State Repts., 512) the Supreme Court of Pennsylvania held unconstitutional an act of the legislature which made it the duty of the court, on the petition of any party interested, to grant a review of the account of the administrator and of the decree of distribution entered on the account in a particular case, although the time to take action under the general statute had long expired. The legislature attempted to apply a special law to a named case. Chief Justice Lowrie said:

There can be no constitutional objection to the commands of the legislature, or of anyone else, to the courts to hear any motion or petition that any party may choose to present; but if the courts are the judicial authority of the land no one has any authority to direct them what disposition they shall make of any case or question that comes before them. And any commands about such matters, other than those contained in the general law of the land, are quite useless, for the courts are by the constitution open to everybody appearing in any regular way. And they hear everybody that comes, though in cases very plain or very absurd they may not hear them long and may dismiss their motion or petition without hearing the other side.

There ought to be no arbitrary governmental dealing with private rights; to prevent this is one of the principal purposes of the separation of legislative and judicial functions in the Government. It is in general guarded against by allotting to each department its appropriate functions and by the assurance of the constitution of open courts, where every man for every injury shall have remedy by due course of law. A man's rights are not decided by due course of law if the judgment of the courts upon them may be set aside or opened for further litigation by an act of assembly. That would be a plain violation of the due course of law, a departure from the functions of legislation, and an assumption of those of jurisdiction.

And further along he said:

Properly speaking, all laws are rules for classes of cases, and never for a particular case or instance. That can be only a rescript, judgment, or decree that decides a particular case, or any part of it, and it is naturally and essentially the result of judicial and not of legislative functions, and comes after and not before the case arises, and after and not before the hearing of the parties.

The case cited does not differ in principle from the case under consideration. There the court held unlawful a bill directing the court to grant a review of an account long passed upon by the court and after the time for taking such action had expired. In this case the act directs the circuit court to consent to the intervention of parties who have no interest and to allow an appeal.

In De Chastellux *v.* Fairchild (15 Pa. State Repts., 18) the court said:

If anything is self-evident in the structure of our Government, it is that the legislature has no power to order a new trial or to direct the court to order it, either before or after judgment. The power to order new trials is judicial; but the power of the legislature is not judicial. It is limited to the making of laws, not to the exposition or execution of them.

The pending bill proposes to do this thing *after* rights have been adjudicated; but suppose that we had put into this general antitrust statute *before* the rights in this case had attached under a decree a provision that in any case brought against the American Tobacco Co. there should be a longer time in which to appeal than in other cases—in other cases the right to appeal being limited to 60 days, but in the one specific instance of a prosecution of the American Tobacco Co., before any litigation whatever had arisen, the right of appeal being extended to 120 days—could there be any doubt that such a provision would be in violation of the fifth amendment? It would not be due process of law, if enacted before any case had arisen, but here we go further and provide after the rights have attached for an arbitrary rule affecting one litigant, from which all other litigants are free.

Here is a general statute which says that in all cases brought under this statute the right to appeal shall expire in 60 days. Now, after the decree is passed, after the rights have attached, we come in by a special law and say that with reference to this one case the right to appeal shall extend to 120 or 130 or 160 days, whatever it may be.

Let me call attention to a brief statement in McGehee on Due Process of Law, with which quotation I will close:

Purely arbitrary decrees or enactments of the legislature directed against individuals or classes are held not to be "the law of the land" or to conform to "due process of law." The conception comes clearly to the front in Mr. Webster's definition of "law of the land," which has been already quoted, and it has been frequently repeated by the courts. "Due process of law within the meaning of the (fourteenth) amendment," said the Federal Supreme Court, "is secured if the laws operate on all alike and do not subject the individual to an arbitrary exercise of the powers of government." "By the law of the land," said the Michigan court, "we understand laws that are general in their operation and that affect the rights of all alike and not a special act of the legislature, passed to affect the rights of an individual against his will and in a way in which the same rights of other persons are not affected by existing laws. Such an act, unless expressly authorized by the Constitution, or clearly coming within the general scope of legislative power, would be in conflict with this part of the Constitution, and for that reason, if no other, be void." "The clause, 'law of the land,'" said Mr. Justice Catron, when a member of the Supreme Court of Tennessee, "means a general and public law, equally binding upon every member of the community." In a later case the same court, in order to bring out the constitutionality of legislative classification, preferred to define the phrase as meaning a law "which embraces all persons who are or may come into like situation and circumstances."

Mr. President, I think that this proposed legislation is violative of these various constitutional provisions to which I have directed attention, and I find myself impelled to cast my vote against it.

The PRESIDING OFFICER. The question is on agreeing to the substitute proposed by the Senator from Iowa.

Mr. RAYNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Maryland suggests the absence of a quorum. The Secretary will call the roll.

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

Ashurst	Crane	Johnston, Ala.	Rayner
Bacon	Culberson	Jones	Root
Borah	Cullom	Kern	Shively
Brandegee	Cummins	Lippitt	Smith, Ga.
Briggs	Curtis	McCumber	Smith, Md.
Bristow	Davis	Myers	Smith, S. C.
Brown	Dillingham	Nixon	Stone
Bryan	Fall	O'Gorman	Sutherland
Burnham	Gallinger	Oliver	Thornton
Chamberlain	Gardner	Overman	Tillman
Chilton	Gronna	Page	Townsend
Clark, Wyo.	Guggenheim	Paynter	Watson
Clarke, Ark.	Johnson, Me.	Pomerene	Wetmore

Mr. THORNTON. I announce that my colleague [Mr. FOSTER] is necessarily absent on public business.

Mr. TOWNSEND. I desire to state that the senior Senator from Michigan [Mr. SMITH] is necessarily absent on the business of the Senate.

Mr. BRYAN. I desire to announce that my colleague [Mr. FLETCHER] is absent on business of the Senate.

Mr. JONES. I desire to announce that my colleague [Mr. POINDEXTER] is unavoidably detained from the Senate.

The PRESIDING OFFICER. Fifty-two Senators having answered to their names, a quorum of the Senate is present. The question is on agreeing to the substitute proposed by the Senator from Iowa.

Mr. BORAH. Mr. President, the understanding that we are to conclude the debate on this measure at an early hour admonishes me to be brief in the suggestions which I desire to make. It is difficult to submit such a question with so many legal propositions involved in a limited time, but I shall at least outline my views. No just criticism could be lodged against the manner in which this case was originally tried in the lower court or argued in the Supreme Court. The facts seem to have been presented with remarkable care and assiduity, and the briefs cover almost every conceivable question which could arise. Whatever differences of opinion there may be with reference to the final decree which was entered by the court below after the reversal by the Supreme Court, I think all who have studied this record will conclude that in the original presentation of this cause, both as to the gathering of the facts and as to the presentation of the law, no fair criticism could be lodged against the Department of Justice. It is entitled to commendation for the exceptional care and singular ability with which the cause was presented. I do not approach this discussion, therefore, in a spirit of criticism.

The case as it is found in the two hundred and twenty-first volume of Supreme Court Reports is also searching and conclusive upon altogether the most important phase of the antitrust law. It is known that the Tobacco case presented in a measure a new condition of affairs, and required a new application, as it were, or a different or a more extensive construction of the Sherman law than had theretofore at any time been made. The decision met these new facts and this new phase of monop-

olistic enterprise without hesitancy or circumlocution, and announced its conclusions in language all embracing and clear to the end that no one may doubt what the law has in waiting for such unlawful combines.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Will the Senator from Idaho kindly suspend for a minute while the Chair lays before the Senate the unfinished business, the hour of 1 o'clock having arrived? It will be stated.

The SECRETARY. A bill (H. R. 18642) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

Mr. SIMMONS. I ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. The Senator from North Carolina asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered. The Senator from Idaho will proceed.

Mr. BORAH. I will read a paragraph or two from this decision—from that portion of the decision wherein the facts are recited showing the unlawful combine. This briefly states the facts and sets forth the reasons of the court for holding this organization a monopoly:

Considering, then, the undisputed facts which we have previously stated, it remains only to determine whether they establish that the acts, contracts, agreements, combinations, etc., which were assailed were of such an unusual and wrongful character as to bring them within the prohibitions of the law. That they were, in our opinion, so overwhelmingly so results from the undisputed facts, and it seems only necessary to refer to the facts as we have stated them to demonstrate the correctness of this conclusion. Indeed, the history of the combination is so replete with the doing of acts which it was the obvious purpose of the statute to forbid, so demonstrative of the existence from the beginning of a purpose to acquire dominion and control of the tobacco trade, not by the mere exertion of the ordinary right to contract and to trade, but by methods devised in order to monopolize the trade by driving competitors out of business, which were ruthlessly carried out upon the assumption that to work upon the fears or play upon the cupidity of competitors would make success possible. We say these conclusions are inevitable, not because of the vast amount of property aggregated by the combination, not because alone of the many corporations which the proof shows were united by resort to one device or another. Again, not alone because of the dominion and control over the tobacco trade which actually exists, but because we think the conclusion of wrongful purpose and illegal combination is overwhelmingly established by the following considerations: (*a*) By the fact that the very first organization or combination was impelled by a previously existing fierce trade war, evidently inspired by one or more of the minds which brought about and became parties to that combination. (*b*) Because, immediately after that combination and the increase of capital which followed, the acts which ensued justify the inference that the intention existed to use the power of the combination as a vantage ground to further monopolize the trade in tobacco by means of trade conflicts designed to injure others, either by driving competitors out of the business or compelling them to become parties to a combination—a purpose whose execution was illustrated by the plug war which ensued and its results, by the snuff war which followed and its results, and by the conflict which immediately followed the entry of the combination in England and the division of the world's business by the two foreign contracts which ensued. (*c*) By the ever-present manifestation which is exhibited of a conscious wrongdoing by the form in which the various transactions were embodied from the beginning, ever changing, but ever in substance the same. Now the organization of a new company, now the control exerted by the taking of stock in one or another or in several, so as to obscure the result actually attained, nevertheless uniform, in their manifestations of the purpose to restrain others and to monopolize and retain power in the hands of the few who, it would seem, from the beginning contemplated the mastery of the trade which practically followed. (*d*) By the gradual absorption of control over all the elements essential to the successful manufacture of tobacco products, and placing such control in the hands of seemingly independent corporations serving as perpetual barriers to the entry of others into the tobacco trade. (*e*) By persistent expenditure of millions upon millions of dollars in buying out plants, not for the purpose of utilizing them, but in order to close them up and render them useless for the purposes of trade. (*f*) By the constantly recurring stipulations, whose legality, isolatedly viewed, we are not considering, by which numbers of persons, whether manufacturers, stockholders, or employees, were required to bind themselves, generally for long periods, not to compete in the future. Indeed, when the results of the undisputed proof which we have stated are fully apprehended, and the wrongful acts which they exhibit are considered, there comes inevitably to the mind the conviction that it was the danger which it was deemed would arise to individual liberty and the public well-being from acts like those which this record exhibits which led the legislative mind to conceive and to enact the antitrust act, considerations which also serve to clearly demonstrate that the combination here assailed is within the law as to leave no doubt that it is our plain duty to apply its prohibitions.

I now read the paragraph which precedes the language just read. While it precedes the language just read, I propose to read it after, as it seems more effective to the point to be made here:

Coming, then, to apply to the case before us the act as interpreted in the Standard Oil and previous cases, all the difficulties suggested by the mere form in which the assailed transactions are clothed become of no moment. This follows because, although it was held in the Standard Oil case that, giving to the statute a reasonable construction, the words "restraint of trade" did not embrace all those normal and usual contracts essential to individual freedom and the right to make which were necessary in order that the course of trade might be free, yet, as a result of the reasonable construction which was affixed to the statute, it was pointed out that the generic designation of the first and second sections of the law, when taken together, embraced every conceivable act which could possibly come within the spirit or purpose of the prohibitions of the law, without regard to the garb in which such acts were clothed. That is to say, it was held that in view of the general language of the statute and the public policy which it manifested there was no possibility of frustrating that policy by resorting to any disguise or subterfuge of form, since resort to reason rendered it impossible to escape by any indirection the prohibitions of the statute.

A great deal of criticism has been lodged against the decision of the Standard Oil case and the Tobacco case; but this much has been settled by those two decisions—that every form of monopoly, regardless of the form which it may take, and every attempt upon the part of individuals to form a monopoly, are prohibited under the antitrust law. It does not make any difference what scheme or combination or plan or device may have been worked out, if the power of monopoly is found within that scheme or device, if it constitutes an act leading to monopoly, it is prohibited under the Sherman antitrust law.

If we ever find a remedial process by which to put into effect the principle of law as announced by the Supreme Court in those two decisions we can eliminate from the industrial world every conceivable form of monopoly and every act leading up to a monopoly.

Whatever others may think, I look upon these decisions as epoch-making decisions, ranking with the great decisions of that court, profound in their learning and momentous in their beneficent effect upon the interests of the people if Congress will only provide a remedial or administrative method by which we can avail ourselves of the principles here announced.

I have read these opinions, or these excerpts, for the purpose of making the suggestion that in view of the principle which the Supreme Court announced and in view of the wide-reaching and searching propositions which are here found, one would like to know what kind of a decree that court would finally judge to be a dissolution of a monopoly.

However searching and far-reaching the general principles may be, it can avail us but very little if there is not found following such a form of decree as brings about that which the court desires to have brought about—the dissolution of the monopoly. Does not everyone feel that it would have been most wise to have this final arbiter say what constitutes a dissolution of such a combine, what constitutes a re-created condition in honest harmony with the law? In a matter of such vast moment, of such far-reaching effect for good or evil, why should we be content with less than the judgment of that tribunal which decided with such power and effect that this was an illegal combination—a criminal conspiracy?

Mr. President, if all other reasons were laid aside in this controversy, and if all other suggestions were put out of the way, the one proposition of the desire to have the final judgment of the Supreme Court as to what constitutes a dissolution of a monopoly ought to have suggested to the officers of the Department of Justice an appeal to the Supreme Court. The court having announced the principles which it did announce, sending the case back to have the monopoly dissolved in compliance with the mandate of the court, practically invited upon the face of the decision a return of that case for the final judgment of the court as to whether it was in honest harmony with the law or not. For that reason, for the purpose of making it final and conclusive and binding upon the judgment and upon the opinions of the people generally, this case ought to have gone again to the Supreme Court of the United States.

Mr. President, is it possible for us to send the case to that court again? I apprehend that there are very few Senators in this body but would like to see the decree below reviewed by the Supreme Court. We would feel better satisfied as to what we could do under the Sherman law. We would feel that we would have a stronger and more practical interpretation of the decision itself; and, most of all, the decree would become binding and as a guide for the dissolution of the monopolies which are to come under the inspection of the law hereafter.

Assuming that we are anxious to have the review if it can be had, I want to discuss briefly some of the objections which have been made to the bill. I do not say that this matter is without objection. It presents serious and unsettled propositions. But some of the objections we may reject as not valid.

In the first place, of course, the fact that the law is retroactive is not of itself any reason why it would not be binding. It does not render it invalid, and is contrary to no principle found in the Constitution. I am not going to stop to read the opinions generally upon that subject, but I want to call attention to a paragraph or two from opinions where decrees have been involved. I will read first an excerpt from the case of

Satterlee *v.* Matthewson (2 Peters, 413). Speaking of a statute which was involved and which was retrospective in its terms, the Supreme Court said:

It is said to be retrospective. Be it so, but retrospective laws which do not impair the obligation of contracts—

And there are no contracts impaired here—

or partake of the character of ex post facto laws—

This is not an ex post facto law—

are not condemned or forbidden by any part of that instrument.

To wit, the Constitution of the United States.

Mr. SUTHERLAND. May I ask the Senator from Idaho whether the case he has cited in the Supreme Court involved an act of the State legislature?

Mr. BORAH. My recollection is it did, but I will supplement it with a case in a few moments which did not.

Mr. SUTHERLAND. If the Senator will permit me, my suggestion is that at the time those cases were decided the fourteenth amendment was not adopted, therefore the due process of law clause could not apply, and the court simply held that there was nothing in the Constitution which operated against that.

Mr. BORAH. Again the court said in the case of Freedland *v.* Williams, 131 United States:

Many cases might be cited in which it was held that restrospective statutes when not of a criminal character though affecting the rights of parties in existence are not forbidden by the Constitution of the United States. (Freedland *v.* Williams, 131 U. S., 420.)

That was a case which involved the validity of a judgment in the State of West Virginia.

In 174 United States, Stephens *v.* Cherokee Nation, the court said:

By its terms the act was to operate retrospectively, and as to that it may be observed that while the general rule is that statutes should be so construed as to give them only prospective operation yet where the language employed expresses a contrary intention in unequivocal terms, the mere fact that the legislation is retroactive does not necessarily render it void.

That was a statute passed by Congress and involved the question of the review of a judgment.

But I understand it is generally conceded that the mere fact that the law is retrospective in form and retroactive in effect would not render it invalid, and therefore I shall not longer discuss that proposition.

Are there any vested rights here which will be disturbed by this review? If so, what are they? To what vested rights can we point, on which we can place our finger, which will be disturbed by the Supreme Court passing upon the question as to whether the decree below is in accordance with its mandate and in harmony with the antitrust law? Was any right given to the defendants in the court below, which became permanent and fixed and final, not subject to disturbance or review at this time?

The decree entered was to the effect that a certain plan or scheme for dissolution was in compliance with the statute and the mandate of the court. Did the defendants secure from the entering of that decree a right to have the decree stand as against an appeal at this time? Was it a vested right which would not be disturbed by a review, in view of the fact that a law, being retroactive, will not of itself render it invalid?

The Senator who has just spoken upon this subject says that the parties who purchased rights or purchased property under that decree would have a right to rely upon the fact that it would be carried out. Certainly the parties who made the purchase could not have any greater right than the original parties to the decree. Parties who are privies to a judgment can secure no greater rights than the original parties to a judgment. Therefore we may leave out of question entirely the proposition that some people purchased property and relied upon this decree, because it is inconceivable that they could have any greater right than the original parties to the decree. If the original parties to the decree have any right in that particular scheme, which, after the time of the appeal had gone by, could not be disturbed, let us find what the right is and see how invulnerable it may be.

What is a vested right? It may be said in a general way to be the power to do certain actions or possess certain things according to the law of the land; but this is too general to be of much benefit here. Like the phrase "due process of law" or the "police power" and other phrases of the law it is more difficult to tell what it is than what it is not; but one can not have a vested right to contravene public policy or to violate the statutes or laws of the country to do a wrong or an immoral thing. One can not, under a decree of court, secure a vested right to do an immoral act. If a court should decree that a man entering the house by a window instead of a chimney was not burglary he would not acquire a vested right to thus enter the house.

In the case of Baugher *v.* Nelson (9 Gill) it is said:

When vested rights are spoken of by the courts as being guarded against legislative interference, they mean those to which a party may adhere and upon which he may insist without violating any principles of sound morality.

In the case of State *v.* Newark (27 N. J. L.) it is said:

Courts do not regard rights as vested contrary to the justice and equity of the case.

In the case of the United States Mortgage Co. *v.* Gross (93 Ill.) it is said:

A person can not have a vested right contrary to equity and justice.

The Senator who has just preceded me seemed to argue that when a judgment or decree had become final according to the laws and rules of practice at the time there was a vested right in the very fact that it was final; that a party had a right to claim that as it had become final it could not be disturbed because of its finality, upon which he had a right to rely. Standing alone, this is not a correct proposition of law. There must be other conditions. Take the case of Samperyac *v.* United States. Congress had created a tribunal to determine the rights of claimants to property within the Louisiana purchase under the treaty of 1803. Samperyac had laid claim to 400 acres. The district attorney appeared for the United States and contended that the claim was fraudulent and without foundation in law. A decree was finally entered in favor of Samperyac. The statute creating this tribunal especially provided that unless an appeal was taken the decree of the lower court should be final and conclusive. Afterwards it was claimed that the land had been transferred by Samperyac to Bowie. Bowie afterwards transferred it to Stewart. After the time had gone by for an appeal under the original act Congress extended the time for an appeal or review and gave the lower court jurisdiction to open the decree. Stewart interpleaded and claimed to be an innocent purchaser. Now the decree had become final. The litigation was at an end. Without the act of Congress the court would have been without power to exercise the jurisdiction which it did exercise in setting aside the decree. True there was fraud in this decree. But that would have amounted to nothing unless there had been some court with jurisdiction to hear it. And the jurisdiction was given by an act of Congress after the judgment had become final. It is well to remember, too, that here was real estate which had been decreed, and here was a party claiming to be an innocent purchaser of this real estate. Notwithstanding this fact the act of Congress was held valid and the decree was set aside. Among other things the court said in regard to Stewart, as we may say in regard to anyone who purchased property under this decree, that Stewart could have no right that Samperyac did not have.

Among other things, the court said:

It has been repeatedly decided in this court that the retrospective operation of such a law forms no objection to it. Almost every law providing for a new remedy affects and operates upon causes of action existing at the time the law was passed. The law of 1830 is in no respect the exercise of judicial power; it only organizes a tribunal with power to entertain such a judicial procedure.

I now call attention to the case of Freeborn *v.* Smith, in the Second Wallace. Smith had obtained a judgment against Freeborn in the Supreme Court of Nevada at the time Nevada was a Territory. When the Territory was admitted as a State, the admission act failed to provide for keeping alive appeals or to provide a method by which to perfect appeals in those cases where judgments had been rendered. The result was, of course, that an appeal that was attempted to be taken was of no force and effect. The judgment, in other words, became binding, final, and conclusive. No court had jurisdiction to review this judgment and no method or means was at hand by which to perfect an appeal. The Supreme Court of the United States was without power to entertain the appeal. The plaintiff below was entitled to his execution and entitled to realize upon his judgment. If there was anything in the finality of a judgment that gives a vested right, this party had a vested right to be undisturbed and to enjoy the fruits of his judgment.

What did Congress do? Long after the judgment had become final and after it had been determined that the court was without jurisdiction to hear the appeal Congress passed an act conferring upon the Supreme Court power to entertain this appeal. It not being validated, an appeal otherwise was of no force or validity. I read a part of the language of the statute:

That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the Supreme Court of the Territory of Nevada may be heard and determined by the Supreme Court of the United States.

By reason of this act the court's jurisdiction was admitted, which had before been denied. The court assumed to review the judgment which it could not before review, to entertain an appeal which it could not before entertain, and to overturn and destroy rights which Mr. Smith had by reason of this judgment. The precise questions which are raised here by the able Senator from Utah were raised in that case. I read from counsel's brief:

As to jurisdiction, our position is that the act is a retrospective enactment interfering with vested rights. Certainly it attempts to confer on this court jurisdiction to review judgments which by law at the time of its passage were final and absolute. The necessary result of obtaining it would be to disturb and impair these judgments, unsettle what had been previously settled, and compel parties to litigate anew matters already definitely adjudicated. There is no higher evidence that rights have vested than a final judgment solemnly confirming them. Law is defined to be a rule of conduct, and to call an enactment which undertakes to deal with past transactions and subject them to new requirements and conditions as tests of their legality a rule of conduct is to confound all rational ideas on the subject.

Again the attorney says:

The court is here asked to review a judgment on which the law has already pronounced its final sentence. The act of Congress just obtained concedes that the judgment has become final, but declares that it shall not remain so, and deprives the parties of any benefit from it until the matters settled by it are again adjudicated.

This argument is quite in harmony with the argument now being advanced against the disturbance of this decree. The question of vested rights, of judicial action, of finality of the judgment are all raised by the able counsel in that case. But the court, in answer to all this, said:

It is objected to that the act of February 27 is ineffectual for the purpose intended by it; that it is a retrospective act interfering directly with vested rights; that the result of maintaining it would be to disturb and impair judgments which at the time of its passage were final and absolute; that the powers of Congress are strictly legislative, and this is an exercise of judicial power which Congress is not competent to exercise. But we are of the opinion that these objections are not well founded.

Now, is there any doubt that this judgment which the court is reviewing had become final and absolute? Is there any question that the Supreme Court had no power to review it without the act of Congress? Is there any question but that Smith had there something which he had a right to sell and transfer or to realize upon if he could find the property? Without this law which Congress passed a year afterwards could that judgment have been in any wise disturbed or interfered with? Yet the Supreme Court held that the act did not confer original jurisdiction; that it simply enabled the parties to perfect or have an appeal.

What is the difference between that judgment and this decree? Both of them had in a sense become final. In both cases the court was without power to review except by virtue of an act of Congress. In both cases the act of Congress would have to be retrospective. In both cases the lawsuit was at an end unless some additional power was given the court. Here I want to quote the principle announced by the court as controlling in such matters:

If the judgment below was erroneous, the plaintiff in error had a moral right at least to have it set aside, and the defendant is only claiming a vested right in a wrong judgment. "The truth is," said Chief Justice Parker, in Foster *v.* Bank, "there is no such thing as a vested right to do wrong, and the legislature which in its acts not expressly authorized by the Constitution limits itself to correcting mistakes and to providing remedies for the furtherance of justice can not be charged with violating its duty or exceeding its authority." Such acts are of a remedial character and are the peculiar subjects of legislation. They are not liable to the imputation of being assumptions of judicial power.

Now, what are the facts here? This decree was entered under the mandate of the Supreme Court that it should bring about a condition in harmony with the decision and in honest harmony with the law. Suppose the scheme or plan set forth in this decree still constitutes a monopoly. Suppose it is not an honest compliance with the statutes of the United States. Suppose the Supreme Court should be given the power to review this decree, should find that it still has in it the elements of a monopoly and is a criminal combination, as might well be inferred from the argument upon the facts by the Senator from Iowa. Will anyone contend that, that being true, these defendants have a vested right to pursue that plan and to enjoy the favors of that criminal combination to work in violation of a statute of the United States simply because the time for appeal has gone by? If they have a vested right, a right which can not be disturbed, a right which can not be reviewed in this particular plan; if this decree is indeed in harmony with the decision of the Supreme Court and an honest compliance with the law, no change will be made. If it is not in harmony with the law, if it is in violation of the statute, no possible vested right obtains to pursue it or enjoy it.

I think it ought not to be overlooked that the judgment in the case of Freeborn *v.* Smith was simply a judgment between private parties. But here is a lawsuit which involves peculiarly the public welfare, which involves a public suit having to do with the interests of the whole people, a judgment which was entered upon a mandate of the court that it should be in harmony with the law. I undertake to say without fear of successful contradiction that the mere fact that the time for appeal has gone by does not give rise to such rights as will not admit of a review.

A few words now in regard to the case of Stevens *v.* Cherokee Nation. It has been said that this decree or judgment in this case did not settle anything, that it dealt with mere expectancies. Here were parties who claimed to be members of a certain Indian nation. If they were citizens of that nation by reason of that citizenship, they would inherit certain property. The decree which had been rendered by the lower court fixed definitely the status of citizenship. Property rights flow as a matter of right from that citizenship. The statute which gave the lower court the power to pass upon the question of citizenship expressly provided that the judgment of the court below should be final and conclusive. But after the judgment had become final and conclusive, after the parties' citizenship had been established, Congress provided for an appeal. The same questions were raised in that case in the Supreme Court which are raised here, to wit, that Congress was exercising judicial functions, disturbing final judgments, interfering with vested rights. But the Supreme Court said in answer to all this:

While it is undoubtedly true that legislatures can not set aside the judgments of courts, compel them to grant new trials, order the discharge of offenders, or direct what steps shall be taken in the progress of a judicial inquiry, the grant of a new remedy by way of review has been often sustained under particular circumstances.

Are we not prepared to say, therefore, that there is nothing in the contention that this law is retrospective, that no vested rights will be disturbed by a review of this decree? That to enact this law is not to exercise judicial function; that it is not to confer original jurisdiction upon the Supreme Court? Now, what constitutional principle or provision is invaded? What provision of the Constitution are we contravening?

As to this being a special law or applying to special cases rather than a general law and applying to all cases, that relates to the wisdom of the law and not to the power to pass it. The same power exists for the passage of a special law that exists for the passage of a general law. It is a mere question of policy, of the wisdom of doing so.

I am now discussing this question from the standpoint of the substitute of the Senator from Iowa. This substitute eliminates third parties and directs the Attorney General to take the appeal. Mr. President, the time at my command does not permit me to go into a general discussion of the power of Congress to direct or control a departmental officer. I want to state frankly that I think it a very close question, one which, in my judgment, has by no means been settled by the decisions. But, Mr. President, we have been directing the Attorney General in matters of litigation ever since we have been a Congress. We have been directing him to act in particular matters. Within the last two years we have directed him to bring a particular action to recover particular property and we have exercised similar power many times. In view of the fact that we have heretofore assumed to exercise this power and the Attorney General has acted in accordance with our suggestion, and in view of the fact of what I believe to be the great importance of this appeal, I shall resolve any doubt I have in favor of this measure. If it were a new proposition or if it were a matter of no moment or consequence I should hesitate more upon this particular proposition than any other that has been suggested. But in view of our past history, of the many times we have exercised a similar prerogative, I am not willing to call a halt in this particular matter. I shall vote for the substitute.

Mr. TOWNSEND. Mr. President, I do not rise at this time for the purpose of entering into any extensive discussion of the bill before the Senate. I propose to vote for it, and because of that I desire briefly to state some of my reasons for doing so. In the first place, I have no criticism to make of the Department of Justice. I do not believe that the administrators of that department during any preceding term of our history have been more conscientious or more intelligent and effective in their work than have the present ones. I believe that the Attorney General acted in perfect good faith in the tobacco cases, and, as I have said, I have no criticism whatever to make on the course he took. He did what he believed was right and what would meet the order of the Supreme Court without greatly disturbing business conditions generally; but having in mind the fact that this case is of supreme importance at this time, when the Con-

gress is seriously considering amendments to the Sherman antitrust law, I have believed that in the interest of such proposed legislation, as well as respect for existing law, an appeal should be taken to the highest court and a final determination had by it. I had felt, and now feel, that inasmuch as the Supreme Court had said that this Tobacco Trust involved all the requisites necessary to an unlawful combination, and having decreed that it should be dissolved, that this court ought finally to pass upon the reorganization. Whether the judgment of the inferior court is wise or unwise, it seems to me that a matter of so much importance should be finally passed upon by the Supreme Court. Being satisfied in my own mind that Congress has power to deal with this question, I feel like voting for the bill, hoping that, through a decision of the Supreme Court, the administration of the Sherman antitrust law and the propositions to amend it, if amendment be needed, may be benefited or aided by such decision.

I realize that this is an unusual procedure and one that ought not to be adopted on every trivial occasion. I do not believe it will be employed again unless it shall be another case similar in importance to this one. The end to be accomplished, the necessity, in fact, of the situation, seems to me to demand that the highest tribunal of the land should decide whether the order of the inferior court is a proper compliance with the order of the Supreme Court. Therefore I shall vote for the substitute bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Iowa [Mr. CUMMINS].

Mr. CUMMINS. Mr. President, I rise to a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CUMMINS. I ask if the substitute now before the Senate is adopted will another vote be necessary as in Committee of the Whole?

The PRESIDING OFFICER. In the opinion of the Chair, the bill will be reported to the Senate from the Committee of the Whole with the amendment, and then it will be for the Senate to concur in the amendment adopted as in Committee of the Whole. Then the vote will be upon the passage of the bill as amended.

Mr. CUMMINS. And no other vote will be required in Committee of the Whole to pass the bill?

The PRESIDING OFFICER. In the opinion of the Chair there will not be.

Mr. POMERENE. Mr. President, I move to amend the proposed substitute by inserting after the word "hereby" the word "authorized," and after the word "directed" by inserting the words "and instructed," so as to read "is hereby authorized, directed, and instructed."

Mr. CUMMINS. Mr. President, in so far as I am able to do so, I accept the amendment proposed by the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Iowa modifies his proposed amendment as will be stated.

The SECRETARY. After the words "shall be," in the second line of the printed amendment, it is proposed to insert "authorized," and after the word "directed" to insert the words "and instructed."

The PRESIDING OFFICER. The modification proposed by the Senator from Ohio [Mr. POMERENE] has been accepted by the Senator from Iowa [Mr. CUMMINS].

Mr. NELSON. Mr. President, I should like to have the substitute read with the amendment, as suggested.

The PRESIDING OFFICER. The Secretary will now read the substitute proposed by the Senator from Iowa as modified on the suggestion of the Senator from Ohio.

The Secretary read as follows:

The Attorney General of the United States is hereby authorized, directed, and instructed to appeal for and on behalf of the complainant, the United States, from the decree entered in the Circuit Court of the United States in and for the Southern District of New York on the 16th day of November, 1911, in a suit wherein the United States is the complainant and the American Tobacco Co. and others are the defendants, to the Supreme Court of the United States, giving such notice or notices and taking such proceedings as are required by the law and the practice in such cases to effect such appeal.

To enable such appeal to be taken and perfected, the time therefor and for all notices and proceedings provided in the law or practice to be given or taken is hereby extended until the expiration of the period of 60 days from and after the date upon which this act takes effect.

SEC. 2. When the aforesaid cause comes on for argument in the Supreme Court of the United States, counsel for the States, organizations, and associations which sought to intervene in the said suit in the said Circuit Court of the United States for the Southern District of New York, in order to object to the said decree, shall have the right to file printed arguments and to be heard orally on behalf of the United States, subject to such order or orders respecting the number of printed arguments and the number and length of oral arguments as the court may prescribe.

SEC. 3. This act shall take effect immediately upon its passage and approval.

The PRESIDING OFFICER. As the Chair understands the situation, the proposed amendment just read by the Secretary is preceded by the proposition to strike out in Senate bill 3607 all after the enacting clause and to insert in lieu thereof what has just been read by the Secretary. The question is on that motion.

The amendment in the nature of a substitute proposed by Mr. CUMMINS was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was rejected.

On motion of Mr. CUMMINS the title was amended so as to read "A bill to direct the Attorney General to take an appeal to the Supreme Court of the United States from a decree entered by the Circuit Court of the United States in and for the Southern District of New York in the suit of the United States against the American Tobacco Co. and others, and extend the time for taking such appeal, and for other purposes."

PRESIDENTIAL PRIMARIES IN THE DISTRICT OF COLUMBIA.

Mr. BRISTOW. I ask that the Senate take up Senate bill 2234, in relation to presidential primaries in the District of Columbia.

The PRESIDING OFFICER. Does the Senator from Kansas ask unanimous consent for the consideration of the bill or does he move its consideration?

Mr. BRISTOW. I move that the bill be taken up.

The PRESIDING OFFICER. The Senator from Kansas moves that the Senate proceed to the consideration of the bill named by him.

Mr. HEYBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

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

Ashurst	Clarke, Ark.	Johnson, Me.	Page
Bacon	Crane	Johnston, Ala.	Pomerene
Borah	Culberson	Jones	Rayner
Brandegee	Cullom	Kern	Shively
Briggs	Cummins	Lippitt	Smith, Ariz.
Bristow	Curtis	McCumber	Smith, Ga.
Brown	Davis	Martine, N. J.	Stone
Bryan	Dillingham	Myers	Sutherland
Burnham	du Pont	Nelson	Thornton
Catron	Gallinger	Nixon	Townsend
Chamberlain	Gardner	O'Gorman	Watson
Chilton	Gronna	Oliver	Wetmore
Clark, Wyo.	Heyburn	Overman	Williams

Mr. THORNTON. My colleague [Mr. FOSTER] is necessarily absent on public business. I ask that this announcement stand for the remainder of the day.

Mr. TOWNSEND. I desire to again state that my colleague [Mr. SMITH of Michigan] is absent on business of the Senate. I should like to have this announcement stand for the day.

Mr. JONES. I again desire to announce that my colleague [Mr. POINDEXTER] is detained from the Senate Chamber by important business.

The PRESIDING OFFICER Fifty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. McCUMBER. Mr. President, I rise to a parliamentary inquiry. At the conclusion of the morning business the Senate had under consideration a subject; and I ask whether or not the unfinished business was then temporarily laid aside by unanimous consent? My understanding is that when the unfinished business is laid aside temporarily, the word "temporarily" means until the matter then before the Senate has been disposed of, and the question is, Whether immediately thereafter it does not come before the Senate without any further motion, or whether a motion made at this time to take up another subject will not in fact, if agreed to, make that subject the unfinished business? Therefore, presenting the matter as it now appears before the Senate, I ask, if the motion of the Senator from Kansas is carried, will not the subject matter as to which the motion is made become the unfinished business in place of the present unfinished business?

The PRESIDING OFFICER. In the opinion of the Chair it will not. In the opinion of the Chair, when the unfinished business is temporarily laid aside it loses its place for that day as unfinished business unless taken up on motion. A Senator can at any time move to proceed to the consideration of a bill.

Mr. BACON. Mr. President, of course I do not wish to unnecessarily differ from the Chair, but, as the Chair gave no opportunity for an expression before ruling, I hope I may be in-

dulged to say that I very gravely doubt if that would be a safe rule to pursue. I think the suggestion of the Senator from North Dakota [Mr. McCUMBER] correctly presents the rule, and that is, that when the unfinished business is temporarily laid aside, if it is done in the interest of another matter then pending, it would be immediately in order thereafter. At the very outside I should say that it would not go to the extent suggested by the Chair, but that on a call for the regular order it would certainly resume its place as the unfinished business; and temporarily laying it aside does not displace it. As I understand the ruling of the Chair, it was that being temporarily laid aside a measure lost its place.

I do not think it lost anything, Mr. President. It may be that the rule would not go to the extent suggested by the Senator from North Dakota, that the unfinished business would come up automatically upon the conclusion of any particular measure which might have engaged the attention of the Senate, but I have not the shadow of a doubt that it is the regular order at all times, even when temporarily laid aside, and that when temporarily laid aside the matter which shall then engage the attention of the Senate would be displaced by a call for the regular order at any time.

It would be a dangerous rule, Mr. President, that the unfinished business lost its place under such circumstances. It can not lose its place until it has been supplanted or displaced, and a call for the regular order at any time, I respectfully suggest for the consideration of the Chair, would restore it. Temporarily laying aside the unfinished business does not give the matter which has been temporarily taken up any right whatever except subject to the superior right of the regular order, which is the unfinished business.

The PRESIDING OFFICER. The regular order was not demanded, the Chair will say.

Mr. BACON. I understood that, but I was a little troubled, if the Chair will pardon the suggestion, by the ruling that the unfinished business was displaced for the day.

The PRESIDING OFFICER. In case the motion to proceed to the consideration of another bill is carried.

Mr. BACON. Well, I think, Mr. President——

The PRESIDING OFFICER. The Chair will submit the matter to the Senate. The Chair has no fixed views upon the subject that could not be changed by the citation of authorities.

Mr. BRISTOW. I understand the point of order is that if the motion which I made prevails it displaces the unfinished business. I do not understand that the Senator from Georgia contends that it does. The motion can carry and the unfinished business may still retain its right. So we can go ahead, as we did the other day, and dispose of this bill and take up something else, and the unfinished business is laid aside until it is called up; so that the motion I have made does not in any way interfere with the unfinished business, because it has been laid aside.

Mr. BACON. Mr. President, I think it extremely important that the regular proceedings of the Senate should be definitely known and understood and observed with care; and I would suggest to the Senator that it would be better if he made a motion to the effect that, in the absence of a call for the regular order, the Senate now consider such-and-such a bill.

Mr. BRISTOW. The reason I made the motion that I did was that it follows the exact precedent of a motion that was made, I think, on Friday last, when we took up a bill upon motion after the unfinished business had been laid aside, and proceeded to its consideration and the disposition of it. The motion is in exact accord with the ruling of the Chair at that time. I think it occurred in Friday's proceedings, as the Senator from Georgia doubtless remembers.

Mr. BACON. Well, Mr. President, as I was proceeding to say, if it appeared that there was no disposition to displace the unfinished business and the Senator had asked that the Senate devote the remainder of the day to such a matter, that would be all right; but a simple motion to proceed to the consideration of a certain bill always makes it the unfinished business. That is the general rule. Now, the question is, whether this comes under an exception.

Mr. McCUMBER. Mr. President, the particular point upon which I desired the ruling of the Chair was whether or not, automatically, after the disposition of the business which temporarily displaced the unfinished business, the latter would come up again before the Senate. If I understand the word "temporarily," as used in a request for unanimous consent that the unfinished business be temporarily laid aside, that word means until the matter that is being discussed is disposed of. Then the unfinished business comes up automatically and does not require a motion. I can see very easily that if some one follows it by another motion or another request for unanimous consent that some other matter may be considered, the Chair could well hold that the granting of unanimous consent in that respect would be equivalent to unanimous consent to further lay aside the unfinished business; but when we do not ask that the unfinished business be further temporarily laid aside, but proceed to the consideration of other business upon motion, and not by unanimous consent, it seems to me, logically, that it would displace the unfinished business.

Mr. BORAH. Mr. President, the motion of the Senator from Kansas, it seems to me, is proper, unless those who are opposing it desire to bring the unfinished business before the Senate, which they can do; but they have not done so. The unfinished business is not before the Senate unless somebody calls for the regular order.

The PRESIDING OFFICER. The Chair will state to the Senator from Idaho that, in the opinion of the Chair, the unfinished business, which has been temporarily laid aside by unanimous consent, would automatically come before the Senate provided a motion had not intervened. Now, the Senator from Kansas moves that the Senate proceed to the consideration of another matter, and the question is, of course, whether or not that motion is now in order. The Chair thinks it is; but if any Senator so desires, the Chair will submit it to the Senate so that the Senate may vote upon it. In the absence of such request, the Chair will rule that the motion of the Senator from Kansas is in order.

Mr. HEYBURN. Mr. President, I think the motion is in order; but I think the more serious question that Senators have in mind is as to what effect it will have on the unfinished business. It seems to me now, with the unfinished business the regular order, that if we take up by vote at this hour another matter, it will displace the unfinished business; and those who are interested in the unfinished business, which is the metal schedule bill, retaining its place, might well be on the alert.

The PRESIDING OFFICER. The Chair is of the opinion that, where the unfinished business is temporarily laid aside by unanimous consent and the Senate proceeds to take up another matter, the unfinished business is not displaced thereby, but the Chair will submit that question to the Senate, if any Senator desires the Chair to do so.

Mr. HEYBURN. Mr. President, I thought I had learned this lesson by practical experience. The former Vice President, Mr. Fairbanks, ruled upon this question in a controversy where I had supposed I was safe for the day. The unfinished business being temporarily laid aside, I had assumed that it would stand for the day, but I came into the Chamber after a very brief absence and found that the unfinished business had been resumed on the motion of some Senator. I then complained of the condition in which I found myself, but the then Presiding Officer, Mr. Fairbanks, ruled that when the unfinished business was temporarily laid aside it was subject at any time during that day to call and that it was not laid aside for the day. I have always understood since that time that the rule has been adhered to.

The PRESIDING OFFICER. If the motion of the Senator from Kansas prevails, it will be for the Senate to decide what the effect of it has been—whether or not the unfinished business has been thereby displaced.

Mr. GALLINGER. Mr. President, if I read correctly, on page 439 of the Precedents of the Senate, we have a ruling that would seem to settle this matter:

> The PRESIDING OFFICER (Mr. Chandler in the chair) announced that the hour of 1 o'clock had arrived, and laid before the Senate its unfinished business, viz, the bill (H. R. 3717) to make oleomargarine and other imitation dairy products subject to the laws of the State or Territory into which they are transported, and to change the tax on oleomargarine.
>
> When, Mr. Morgan raised a question of order, viz, that the bill having been displaced by a motion to consider other matter on the previous day prior to adjournment, therefore possessed no priority as unfinished business, and requested that the bill standing first on the order of special orders, viz, the bill (H. R. 2538) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans, be now laid before the Senate.

That was the unfinished business—

> The PRESIDENT pro tempore (Mr. Frye) having resumed the chair, sustained the question of order and laid the special order before the Senate as its unfinished business.

Manifestly, Mr. President, even if this matter were taken up by a vote, the unfinished business could be called up after that upon demand.

The PRESIDING OFFICER. That is as the Chair understands. The question is on the motion of the Senator from Kansas that the Senate proceed to the consideration of the bill named by him. [Putting the question.] By the sound the "noes" seem to have it.

Mr. BRISTOW. I ask for a division.

Mr. THORNTON. May I ask for information, if the vote is on the motion to proceed to consider the bill or on the bill itself?

The PRESIDING OFFICER. To proceed to the consideration of the bill, and then the Senate can take such action as it desires.

Mr. THORNTON. I am willing to have the bill considered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas, on which he asks for a division.

The question being put, there were, on a division—ayes 9, noes 16.

Mr. BRISTOW. Mr. President, I call for the yeas and nays.

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

Mr. GUGGENHEIM (when his name was called). Mr. President, I have a general pair with the senior Senator from Kentucky [Mr. PAYNTER], who is not in the Chamber. I therefore withhold my vote.

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA]. I transfer that pair to the junior Senator from Illinois [Mr. LORIMER], and will vote. I vote "nay."

Mr. GALLINGER (when the name of Mr. MARTIN of Virginia was called). The Senator from Virginia [Mr. MARTIN] is paired with the Senator from Washington [Mr. POINDEXTER]. If the Senator from Virginia were present, he would vote "nay" and the Senator from Washington would vote "yea."

Mr. NIXON (when his name was called). I have a general pair with the junior Senator from Virginia [Mr. SWANSON]. I do not know how he would vote, and therefore withhold my vote.

Mr. OVERMAN. I have a general pair with the senior Senator from California [Mr. PERKINS]. I understand that the senior Senator from California is absent on business of the Senate, and therefore I withhold my vote.

Mr. OVERMAN (when Mr. SIMMONS's name was called). I am requested to announce that my colleague [Mr. SIMMONS] is absent on business of the Senate.

Mr. CHAMBERLAIN (when the name of Mr. WILLIAMS was called). I am requested to state that the junior Senator from Mississippi [Mr. WILLIAMS] is paired with the senior Senator from Pennsylvania [Mr. PENROSE]. The junior Senator from Mississippi is temporarily absent on business of the Senate.

The roll call was concluded.

Mr. HEYBURN. I am advised that if the senior Senator from Alabama [Mr. BANKHEAD] were present, he would vote "nay." I am paired with that Senator, but inasmuch as that would be my vote I will take the liberty of voting. I vote "nay."

Mr. CLARK of Wyoming. I inquire if the senior Senator from Missouri [Mr. STONE] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. CLARK of Wyoming. Having a general pair with that Senator, I withhold my vote.

Mr. THORNTON. I wish to announce that my colleague [Mr. FOSTER] has a general pair with the Senator from Wyoming [Mr. WARREN].

The result was announced—yeas 25, nays 31, as follows:

YEAS—25.

Ashurst	Culberson	Kern	Smith, Ariz.
Borah	Cummins	Martine, N. J.	Thornton
Bristow	Curtis	Myers	Townsend
Brown	Fall	Newlands	Watson
Bryan	Gronna	O'Gorman	
Chamberlain	Johnson, Me.	Pomerene	
Chilton	Jones	Shively	

NAYS—31.

Bacon	Cullom	McCumber	Smith, Md.
Bradley	Davis	Nelson	Smith, S. C.
Brandegee	Dillingham	Oliver	Smoot
Briggs	du Pont	Page	Stephenson
Burnham	Gallinger	Rayner	Sutherland
Burton	Heyburn	Richardson	Tillman
Catron	Johnston, Ala.	Root	Wetmore
Crane	Lippitt	Smith, Ga.	

NOT VOTING—39.

Bailey	Gamble	McLean	Reed
Bankhead	Gardner	Martin, Va.	Sanders
Bourne	Gore	Nixon	Simmons
Clapp	Guggenheim	Overman	Smith, Mich.
Clark, Wyo.	Hitchcock	Owen	Stone
Clarke, Ark.	Kenyon	Paynter	Swanson
Crawford,	La Follette	Penrose	Warren
Dixon,	Lea	Percy	Williams
Fletcher	Lodge	Perkins	Works
Foster	Lorimer	Poindexter	

So Mr. BRISTOW's motion was rejected.

THE CALENDAR.

Mr. GALLINGER. Unless it is desirable to take up the unfinished business at this moment, I will move that the Senate proceed to the consideration of the calendar under Rule VIII.

The motion was agreed to.

The VICE PRESIDENT. The Secretary will state the first bill on the calendar.

The SECRETARY. A bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war.

The VICE PRESIDENT. The Chair is informed by the Secretary that this bill has been heretofore read in full and amended.

Mr. OVERMAN. Mr. President, the Senator from Georgia is very much interested in that bill. I do not see him in the Chamber, and will ask that the bill go over until he can be present.

Senate concurrent resolution 4, instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co., was announced as next in order.

Mr. GALLINGER. Let that go over.

The VICE PRESIDENT. It will go over.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as next in order.

Mr. HEYBURN. Let that go over.

The VICE PRESIDENT. It will go over.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. BRISTOW. I ask that the bill may go over.

The VICE PRESIDENT. The bill goes over.

Mr. SMITH of Maryland. I ask unanimous consent for the consideration of Senate bill 6177.

SEVERAL SENATORS. Regular order!

The VICE PRESIDENT. The regular order is demanded, which is equivalent to an objection.

LAND ENTRIES.

The bill (S. 3116) to amend section 1 of the act of Congress of June 22, 1910, entitled "An act to provide for agricultural entries on coal lands," so as to include State land selections, indemnity school and educational lands, was announced as next in order on the calendar, and the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Public Lands with amendments, on page 1, line 8, to insert "Section 1"; on page 2, line 6, before "States," to insert the word "several"; on the same page, line 7, after the word "States," to insert "within whose limits the lands are situate, under grants made by Congress"; and on page 3, after line 3, to insert the following as section 2:

SEC. 2. That any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section 4 of the act of August 18, 1894, known as the Carey Act, or of State indemnity school and educational lands, or by the several States within whose limits the lands are situate, under grants made by Congress, and State lands in lieu of lands relinquished by the States to the United States under authority of acts of Congress, and the Secretary of the Interior in withdrawing under the reclamation act lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this act.

So as to make the bill read:

Be it enacted etc., That section 1 of the act of Congress approved June 22, 1910 (36 Stat. L., p. 583), providing for agricultural entries on coal lands, be, and the same is hereby, amended so as to read as follows:

"SEC. 1. That from and after the passage of this act unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection under section 4 of the act approved August 18, 1894, known as the Carey Act, to selections by the several States within whose limits the lands are situate, under grants made by Congress, of State indemnity school and educational lands, and selections of State lands in lieu of lands relinquished by the States to the United States under authority of acts of Congress, and to withdrawal under the act approved June 17, 1902, known as the reclamation act, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title with a reservation to the United States of the coal in such lands, and of the right to prospect for, mine, and remove the same. But no desert entry made under the provisions of this act shall contain more than 160 acres, and all homestead entries made hereunder shall be subject to the conditions, as to residence and cultivation, of entries under the act approved February 19, 1909, entitled 'An act to provide for an enlarged homestead': *Provided*, That those who have initiated nonmineral entries, selections, or locations in good faith, prior to the passage of this act, on lands withdrawn or classified as coal lands may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this act."

"SEC. 2. That any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section 4 of the act of August 18, 1894, known as the Carey Act, or of State indemnity school and educational lands, or by the several States within whose limits the lands are situate, under grants made by Congress, and State lands in lieu of lands relinquished by the States to the United States under authority of acts of Congress, and the Secretary of the Interior in withdrawing under the reclamation act lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this act."

The amendments were agreed to.

Mr. HEYBURN. I move that the one word "unreserved," on line 9, page 1, of the bill be stricken out before the words "public lands."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend sections 1 and 2 of the act of Congress of June 22, 1910, entitled 'An act to provide for agricultural entries on coal lands,' so as to include State land selections, indemnity school and educational lands."

OUTSTANDING INTEREST-BEARING OBLIGATIONS.

The bill (S. 2151) to authorize the Secretary of the Treasury to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. HEYBURN. Let that go over.

Mr. SMOOT. I should like to ask the Senator from Idaho if he will not allow the bill to be discussed and disposed of to-day. There is not so much in the bill. In the past the Government has never lived up to the requirement of the law, and to-day there is no necessity for it. I believe that if the Senate understood just what the bill provides it would be in favor of the passage of the bill.

Mr. HEYBURN. Mr. President, the bill involves a very radical change in the financial system of the Government. The fact that the executive officers of the Government confessedly have been either ignoring or disobeying a law would not seem to me to recommend a hasty consideration of an attempt to make good their wrongful act.

I admit that what the Senator from Utah says in regard to the manner in which they have ignored this law is true. Unfortunately such acts are true in too many cases. They have willfully for a long time disobeyed the law that was enacted to govern their method of conducting the financial affairs of the Government. Now, they would like to have Congress come in and not only enable them to escape from at least criticism for their failure to execute the law in the past but to validate the unlawful act.

I would say to the Senator that, while the bill is short, this is not a question that can be passed over in a few minutes at all. It involves a large question—a part of the financial policy of the Government.

Mr. SHIVELY. Mr. President——

Mr. SMOOT. I yield to the Senator from Indiana.

Mr. SHIVELY. It is palpable from what has been stated here that the Secretary of the Treasury, or at least the officer who is responsible, has been ignoring the law with reference to the sinking fund. To that extent the Treasury Department has substituted its discretion for what is the law. It seems to me to be very doubtful policy to ratify that sort of procedure and increase the discretion of the Treasury Department by withdrawing the law in reference to the sinking fund.

Mr. SMOOT. In 1862, on February 25, when the law was passed, the Government of the United States was borrowing large sums of money, and in order to make the lender feel secure——

Mr. CULBERSON. Mr. President, I rise to a question of order.

The VICE PRESIDENT. The Senator will state it.

Mr. CULBERSON. Objection was made to the consideration of the bill.

The VICE PRESIDENT. The bill goes over. Any further discussion is only by unanimous consent.

Mr. SMOOT. I have not asked that——

Mr. HEYBURN. I insist on my objection.

The VICE PRESIDENT. The bill goes over, and the next bill on the calendar will be stated.

BILLS PASSED OVER.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order on the calendar.

Mr. SUTHERLAND. Let that go over.

The VICE PRESIDENT. The bill will go over.

The bill (S. 4762) to amend an act approved February 6, 1905, entitled "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,' and to amend an act approved March 8, 1902, entitled 'An act temporarily to provide revenue for the Philippine Islands, and for other purposes,' and to amend an act approved March 2, 1903, entitled 'An act to establish a standard of value and to provide for a coinage system in the Philippine Islands,' and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes," was announced as next in order.

Mr. McCUMBER. Let the bill go over.

The VICE PRESIDENT. It will go over.

The bill (S. 1337) authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act, was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The VICE PRESIDENT. It will go over.

The bill (S. 459) to adjust and settle the claims of the loyal Shawnee and loyal Absentee Shawnee Tribes of Indians was announced as next in order.

Mr. SMOOT. Let that go over.

The VICE PRESIDENT. It will go over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades, and industries and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. SMOOT. Let that go over.

The VICE PRESIDENT. It will go over.

JOEL J. PARKER.

The bill (S. 836) for the relief of Joel J. Parker was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, on page 1, line 6, before the word "dollars," to strike out "five thousand" and insert "four hundred," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joel J. Parker, or his legal representatives, the sum of $400, as full compensation for permanent injuries received by the said Parker on the 24th day of July, 1909, at Fort Lawton, Wash., while in the performance of his duties as an employee of the United States transport service.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LAWRENCE (MASS.) STRIKE.

The next business on the calendar was the resolution (S. Res. 231) for the investigation and report by the Secretary of Commerce and Labor regarding certain labor conditions in Lawrence, Mass.

Mr. GALLINGER. Let that go over.

The VICE PRESIDENT. The resolution will go over.

PROTECTION OF VALDEZ, ALASKA.

The bill (S. 5272) appropriating $75,000 for the protection of Valdez, Alaska, from glacial floods was announced as next in order.

Mr. SUTHERLAND. Let that go over.

The VICE PRESIDENT. It will go over.

CUSTOMS SERVICE AT LOS ANGELES, CAL.

The bill (S. 3625) for the purchase or construction of a launch for the customs service at and in the vicinity of Los Angeles, Cal., was announced as next in order.

Mr. SUTHERLAND. Let that go over.

The VICE PRESIDENT. The bill will go over.

RECORD OF SALES OF COTTON.

The next business on the calendar was Senate resolution 162, directing the Secretary of the Treasury to furnish information

relative to sales of cotton to the Confederate States Government.

Mr. HEYBURN. I ask that the resolution go over.

Mr. OVERMAN. I move that the resolution be taken up for consideration.

The VICE PRESIDENT. The Senator from North Carolina moves that the Senate proceed to the consideration of the resolution, the objection of the Senator from Idaho to the contrary notwithstanding. The question is on the motion of the Senator from North Carolina.

The question being put, there were, on a division—ayes 15, noes 5.

Mr. HEYBURN. I ask for the yeas and nays.

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

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In his absence I withhold my vote.

Mr. DILLINGHAM (when his name was called). I notice that the senior Senator from South Carolina [Mr. TILLMAN] is not in the Chamber. I am paired with him, and therefore withhold my vote.

Mr. THORNTON (when Mr. FOSTER's name was called). I announce the unavoidable absence of my colleague [Mr. FOSTER] on public business. He has a general pair with the Senator from Wyoming [Mr. WARREN].

Mr. NIXON (when his name was called). I have a general pair with the junior Senator from Virginia [Mr. SWANSON]. I do not know how he would vote if present, and therefore I withhold my vote.

Mr. PAYNTER (when his name was called). I have a general pair with the Senator from Colorado [Mr. GUGGENHEIM], and therefore withhold my vote.

Mr. CHAMBERLAIN (when the name of Mr. WILLIAMS was called). I again announce that the junior Senator from Mississippi [Mr. WILLIAMS] is paired with the senior Senator from Pennsylvania [Mr. PENROSE].

The roll call was concluded.

Mr. LIPPITT. I have a general pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the junior Senator from Illinois [Mr. LORIMER]. I vote "nay."

Mr. BRYAN. My colleague [Mr. FLETCHER] is absent on business of the Senate. I will let this announcement stand for the day.

Mr. SIMMONS. I am paired with the junior Senator from Minnesota [Mr. CLAPP]. I transfer that pair to the Senator from Florida [Mr. FLETCHER] and vote "yea."

The result was announced—yeas 32, nays 21, as follows:

YEAS—32.

Ashurst	Davis	O'Gorman	Smith, Ariz.
Bacon	Gronna	Oliver	Smith, Ga.
Bankhead	Johnston, Ala.	Overman	Smith, Md.
Bradley	Jones	Perkins	Smith, S. C.
Bryan	McCumber	Pomerene	Sutherland
Chamberlain	Martine, N. J.	Rayner	Thornton
Chilton	Myers	Shively	Tillman
Culberson	Newlands	Simmons	Watson

NAYS—21.

Brandegee	Catron	Heyburn	Sanders
Briggs	Cullom	Lippitt	Smoot
Bristow	Curtis	Lodge	Townsend
Brown	du Pont	Page	
Burnham	Fall	Richardson	
Burton	Gallinger	Root	

NOT VOTING—42.

Bailey	Fletcher	Lea	Reed
Borah	Foster	Lorimer	Smith, Mich.
Bourne	Gamble	McLean	Stephenson
Clapp	Gardner	Martin, Va.	Stone
Clark, Wyo.	Gore	Nelson	Swanson
Clarke, Ark.	Guggenheim	Nixon	Warren
Crane,	Hitchcock	Owen	Wetmore
Crawford	Johnson, Me.	Paynter	Williams
Cummins	Kenyon	Penrose	Works
Dillingham	Kern	Percy	
Dixon	La Follette	Poindexter	

The motion was agreed to; and the Senate proceeded to consider the resolution, which had been reported from the Committee on Claims, as follows:

Senate resolution 162.

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, and to transmit to the President of the Senate as soon as practicable a list of persons shown to have sold cotton to the Confederate States Government or to have entered into any agreement to sell cotton to said Government, such list to indicate whether there is shown to have been a completed sale or only an agreement to sell and the date of the transaction; to show when possible the residence of the person making such sale or agreement to sell, by county or parish and State, the amount of cotton covered by such sale or agreement, the price to be paid, and whether or not the payment of the agreed price is shown by such records.

Mr. OVERMAN. Mr. President, I am satisfied that when the resolution is understood no one, except perhaps one, and that on account of the title of the resolution, will vote against it.

Mr. BRISTOW. I see that the letter of the Secretary of the Treasury does not appear in the report.

Mr. OVERMAN. It is in the papers. I will explain that.

Mr. BRISTOW. I should like to have that letter read, so that the Senate may understand the view of the department.

Mr. OVERMAN. I wish to explain the resolution, and then I want to have that letter read.

In the eighties Mr. John Sherman, by resolution, had a list of names published of persons from whom certain cotton had been seized. It has been published as a public document time and time again, until the southern people have an idea that they have money up here in the Treasury Department to their credit under a certan decision of the Supreme Court which decided that the proceeds of certain property seized after a certain time, under the abandoned-property act, were trust funds held by the United States for these parties.

Last session we passed an act allowing these parties to go into the Court of Claims and bring suit on these claims, and loyalty was not to be considered. They have been bringing suits there in the court. Then the Government comes with some evidence which is found in the archives of the Treasury, showing that these parties have no claim.

For example, John Smith finds in the list of claims furnished under the resolution of Mr. Sherman that there was seized from him a certain number of bales of cotton worth so much. These lawyers here see this report, and they write to Mr. Smith that if he will put his claim in their hands he can recover $10,000 for it. It turns out in many cases that when they bring these suits they find in the records of the Secretary of the Treasury that before the cotton was seized it was placed in the hands of these parties by the Confederate Government. The Confederate Government had no warehouses and no place in which to store the cotton, and when they purchased the cotton from individuals they left the cotton with them. Therefore the title of this cotton was in the Confederate Government and not in Mr. Smith or Mr. Jones or Mr. Anybody else.

But that is not shown in the printed document. Therefore a great many of our people have come up here and brought their suit and paid the lawyers two or three hundred dolllars, and they find they have no suit at all. We can write to the people who live in the South, after we have this evidence, that they have no claim against the Government, and it would stop bringing these suits here if we had these records and they knew that fact.

I want to be candid with the Senate. I will state here that I thought the letter from the Secretary of the Treasury was in the report. I intended to have it read. He reports against the resolution, because he says it will give away the hand of the Government. We want them to give away the hand of the Government, so that our people will not be put to the expense of coming here and employing lawyers to bring suits against the Government for claims when, if they knew that they had no ground for a suit, they would not employ lawyers and spend any money in bringing the suit.

That is the case in a nutshell. Our people want to end it. I ask that the letter of the Secretary of the Treasury be read.

Mr. SMOOT. Mr. President, I merely want to ask the Senator a question. Does he know of any claimant giving an attorney any amount whatever for starting these suits? Is it not true that the attorneys here write and ask for the claims, stating that they will carry the case to a conclusion upon a certain percentage?

Mr. OVERMAN. They always take a contingent fee—$5, $10, or $20. One man paid $200 to these lawyers. They get all they can out of our people. If they can not get $10, they will take $5. Sometimes they get $5 for every Congress. We ought to be able to show the fact to a man when he has no claim against the Government. I ought to have the evidence to show one of my constituents that he has no claim.

Mr. JOHNSTON of Alabama. And if he has a just claim against the Government, it ought to be paid.

Mr. OVERMAN. If he has a good claim against the Government, it ought to be paid. The fact is already published if he has a claim; but if we can show that he has no claim, then we want to give him the information in order to stop these suits.

Mr. HEYBURN. Mr. President, I should like to ask the Senator from North Carolina if he can refer us directly to the measure which he says was enacted at the last session of Congress which provided for the payment of these claims without regard to the question of loyalty. I have no reference——

Mr. OVERMAN. Congress authorized suits to be brought, and in some of them the question of loyalty does not come in.

I do not know how that is; but whether it is so or not, the statute authorized the suits to be brought.

Mr. HEYBURN. I will understand, then, what the Senator means. Those of us who revised the law, or participated in the revision of the law, held that the question of loyalty was not dispensed with. I have had a large correspondence in the way of inquiry since that time.

Mr. OVERMAN. I think there was doubt on the subject.

Mr. HEYBURN. I did not know but that the Senator had reference to something we had overlooked, in which that provision was expressly stated.

Mr. OVERMAN. Not at all.

Mr. HEYBURN. Then it is only by implication.

Mr. OVERMAN. What I state is that the Senate authorized the suits to be brought.

Mr. HEYBURN. But the Senate did not commit itself on the question of loyalty.

Mr. OVERMAN. No; the question of loyalty is not in this at all. But documents have been sent all over this country by lawyers, and by Senators, too, showing that these men have this money here; and, of course, naturally they bring suit against the Government to recover it; and more than half of them have no claim, because the cotton was seized from parties who held it as trustees for the Confederate Government.

Mr. ROOT. Do not the claimants know it?

Mr. OVERMAN. How can they know it? It has been 50 years since the war. These are their descendants, and they have been misled. The attorneys write to them that they have these claims, and these are their descendants. These men were killed or wounded in the war or they are now dead, and it is their descendants who are imposed upon.

I should like to have the facts, and I know every Senator on this side of the Chamber would like to have the facts. Why should Senators on this side of the Chamber who live in the South be denied this record? It does not aid them in getting anything out of the Government. It is for the protection of their own constituents—to save them from coming here and employing lawyers and going into court. It will stop litigation.

Mr. SMITH of Georgia. Mr. President, is it not true that the real defense of the seizure is the fact that the cotton belonged to the Confederate Government?

Mr. OVERMAN. That is true.

Mr. SMITH of Georgia. Is it not true that in a large number of these cases it seems that the cotton really was the cotton of the Confederate Government, and we have the written record in the department to show that the cotton belonged to the Confederate Government, although in the pamphlet which has been published it appears to be the cotton of individuals?

Mr. OVERMAN. That is just what I have said.

Mr. SMITH of Georgia. The pamphlet contains the names of those from whom it was taken, but the records of the department show that the title was in the Confederate Government. I know of two or three cases that have come on for trial, and the department has produced written records showing that while the cotton was taken from the possession of these persons the title was in the Confederate Government, and therefore the parties could not recover. It would certainly be a relief to be able to write to the gentlemen who are asking us about it, "You need not waste any more thought about these claims; there is nothing in it; the Government has the written record which shows that the cotton did not belong to your ancestors; it belonged to the Confederate Government, and your ancestors were only made depositories thereby. The Confederate Government had bought the cotton and you have no interest in it." I think it would quiet litigation and relieve a good deal of trouble and anxiety.

Mr. OVERMAN. We have all been worried about these claims and would like to have these facts. The Senator from Georgia stated the case very clearly. I want the letter of the Secretary of the Treasury read at the desk. While he opposes the resolution the very reason he gives for objecting to it is the reason why we want it. I think the letter is in the papers.

The VICE PRESIDENT. The Secretary has not the papers at the desk. The letter to which the Senator referred is not in the printed report.

Mr. OVERMAN. The letter was sent forward by myself in a large yellow envelope with the report. Are the papers there?

The VICE PRESIDENT. That would not be at the desk. That would be filed somewhere in the files of the Senate.

Mr. OVERMAN. I sent it here with the bill.

Mr. BRISTOW. I think that the letter should be read before we proceed further with the resolution.

The VICE PRESIDENT. The Secretary will attempt to find the letter on the files of the Senate.

Mr. OVERMAN. I think the Senator from Kansas will bear me out, however, that that was the objection of the Secretary of the Treasury.

Mr. BRISTOW. Yes. The reason I opposed the passage of the resolution was the statement set forth in the letter by the Secretary of the Treasury. I did not feel like the Senate ought to take action which the department felt would be vital to the interests of the Government in the cases that were pending.

Mr. OVERMAN. That is the reason why I think we ought to do it. He says if he gives out this evidence he will give away his hand; that is, he will give us evidence that he has to defeat these suits. We want this evidence to defeat litigation. Then there will be no suits.

Mr. TILLMAN. It is to prevent suits.

Mr. OVERMAN. We want to prevent the suits. That is the difference.

Mr. SMOOT. Would not this be the result? I understand that the Senator has already had published——

Mr. OVERMAN. I have not had it published.

Mr. SMOOT. Well, the Senate has had published a long list of claimants, showing the amount of cotton in bales and the amount of dollars and cents.

Now, if this resolution was passed and the information is given, would it not have the effect of saying to all the people whose names were included in the original list, if their names are not included in the information asked for by the resolution, there is no evidence whatever against them in the department?

Mr. OVERMAN. That could not be so, because every name has been published, giving the amount of the cotton seized and all the money that has been deposited.

Mr. SMOOT. I am aware of that; but if this information is given to the Senate, then everyone whose name was upon the original list and not included in the information furnished, based upon this resolution, will be eliminated, and it will be saying to them, "The Government has no evidence at all against your claim; therefore you have a good claim."

Mr. OVERMAN. Perhaps by elimination that would be the result. I think most of these claims were received.

Mr. SMITH of Georgia. Is it not a fact that in that case they would have all good claims?

Mr. SMOOT. I did not ask the question as to whether the claims were good or not. I asked if that would not be the result.

Mr. SMITH of Georgia. I want to suggest to the Senator from Utah that the effect of the present report is an indication by the Government to all that each one has a good claim as it stands on its face. When I read it first I thought it meant that the Government was advising them that the money was due them; that their cotton had been taken; that the Government had gotten the money for it, and all they had to do was to get the statute of limitations removed in order to come and get their money.

Now, it turned out when they began to come here in great numbers, though the Government printed this pamphlet as if it was their cotton, the Government has the written records in a number of instances showing conclusively that the cotton was merely deposited with those people and belonged to the Confederate Government.

Mr. SMOOT. I understand the situation to be exactly as the Senator from Georgia stated it. My question was directed to the Senator from North Carolina for the very purpose of bringing out that fact.

Mr. PAYNTER. Mr. President——

Mr. OVERMAN. I yield to the Senator from Kentucky.

Mr. PAYNTER. I understand the Senator from Utah to suggest that if this report is made and the information is given as to what the records show as to the cotton which belonged to the Confederate Government, when they fail to state that in a particular instance there is no record showing that it belonged to the Confederate Government the department admits it has no defense to the claim. That does not necessarily follow. It simply follows that there is no record showing that the cotton belonged to the Confederate Government.

Mr. OVERMAN. The question of loyalty would come up just the same.

Mr. SMOOT. I did not bring up the question of loyalty. I simply suggested it to the Senator so that the Senate might know that the result would be just as the Senator from Kentucky has said.

Mr. PAYNTER. The Senator from Utah certainly does not understand me to agree to the doctrine which he has just announced—that it is an admission that the Government has no defense to the claim. I say that it is not an admission that the Government has not a defense to the claim, but it simply

states that there is no record there showing that the cotton belonged to the Confederate Government. There is a great difference between the two.

Mr. SMOOT. That may be true. I have not read the report closely.

Mr. BORAH. Mr. President——

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

Mr. BORAH. Mr. President, I did not vote on the question to take up this resolution, because I was in want of information. But as I understand now, the Senator from North Carolina desires some information which is in the possession of one of the departments here, which information may have some bearing one way or the other upon the claims of parties against the Government.

I do not know upon what theory we deny to the citizens of the country the information which may be in the bureau. The fact is another thing. That the Court of Claims or some other court will determine. But unless there is some reason other than that which has been stated here upon this floor these parties, whoever they are, ought to have the information which is in the keeping and possession of the Government. If the public interests are to be injured in any way or if it is detrimental to the public interests, that is one thing. That has not been suggested. The question simply bears upon private claims and private rights. I do not understand upon what theory we deny them this information.

Mr. OVERMAN. Has the Secretary the letter?

The VICE PRESIDENT. The Secretary has the letter and will read it.

Mr. OVERMAN. Let him read the letter. I should like to call the attention of the Senator from Idaho [Mr. BORAH], before he takes his seat, to the letter, so that he may see the reasons which the Secretary gives.

Mr. JOHNSTON of Alabama. I wish to ask one question of the Senator from Utah. He seemed to apprehend that the Government would give away its case and that some claimant would come lawfully into his own by reason thereof. I want to ask him if he thinks the Government of the United States had $1,000 that belonged to some man in Utah or Alabama it should withhold that information from him?

Mr. SMOOT. I had no apprehension at all. The Senator certainly misunderstood the intent of my question.

Mr. JOHNSTON of Alabama. That was the inference which the remarks of the Senator from Utah carried—that the Government ought not to inform one of its own citizens that it had money which honestly belonged to him.

Mr. SMOOT. Not at all.

Mr. JOHNSTON of Alabama. That is the most which can be said in the way of objection to this inquiry.

Mr. SMOOT. It was no objection. The Senator is absolutely mistaken——

Mr. JOHNSTON of Alabama. I beg the Senator's pardon.

Mr. SMOOT. I did not make an objection. I simply asked the question of the Senator from North Carolina to show exactly what the result of his resolution would be. It was not done in a spirit of faultfinding with the resolution at all.

Mr. BORAH. I ask for the reading of the letter.

The VICE PRESIDENT. The Secretary will read the letter.

The Secretary read the letter, as follows:

TREASURY DEPARTMENT,
Washington, January 6, 1912.

Hon. COE I. CRAWFORD,
Chairman Committee on Claims, United States Senate.

MY DEAR SENATOR: My attention has been called to Senate resolution 162, introduced by Mr. OVERMAN December 7, 1911, and referred to the Committee on Claims, directing the Secretary of the Treasury to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, a list of persons shown to have sold cotton to the Confederate States Government or to have entered into any agreement to sell cotton to said Government.

The said resolution has a direct bearing upon the cotton claims which, under section 162 of the Judicial Code, approved March 3, 1911 (36 Stat., 1139–1140), were referred to the Court of Claims for adjudication, and as this department is now actively employed in the work of collecting and arranging information for the use of the court in the trial of pending cases it would seem that neither the interests of the claimants nor of the Government would be subserved by diverting the limited available force of the department from the completion of the information desired by the court to engage in the preparation of the data specified in the resolution.

The magnitude of the task suggested by the call for the information specified in the resolution may be inferred from the fact that the records of such sales are very voluminous, and the task of preparing the proposed list probably would require several months' time for its completion, as an exhaustive examination of all related records would be necessary to comply with that part of the resolution which directs that the statement shall show whether the sale was a completed one or only an agreement to sell and whether the price agreed upon had actually been paid by the Confederate Government.

In explanation of this phase of the claims it may be stated that when the sales were consummated the Confederate Government, not having storage facilities for the concentration of the cotton at depots, caused the sellers to contract to store and care for the cotton on their plantations and to deliver it at designated shipping points on the order of the Confederate treasury department, and under such agreements the former owners have been regarded as bailees of the cotton.

Much cotton of this character was thus in the possession of the former owners at the time of the surrender of the military forces of the Confederacy and was subsequently collected by agents of the United States and sold and the proceeds placed in the Treasury.

As payments for cotton purchased by the Confederate Government were largely made in Confederate bonds, rendered valueless as a result of the war, those persons who sold their cotton to the Confederate Government have contended that the sale was incomplete in that they never parted with the possession of the cotton, and, moreover, that as the Confederate bonds received in payment were of no value the sale was void as being without consideration. As most of these sales occurred in the years from 1861 to 1864, it may be observed that the department has no information of how the bonds were disposed of by those who received them, but it is probable that many of them were sold while such securities still retained a marketable value.

Congress, by the act of March 3, 1911, supra, has committed the adjudication of the cotton claims to the Court of Claims and the fullest information as to sales of cotton by individuals to the Confederate Government will be furnished to the Court of Claims from the records possessed by the department as to present the facts pertaining to each individual case, and as section 164 of said act of March 3, 1911, authorizes the court to call upon the department for any information or papers necessary in the prosecution of its business, it would seem that the law sending the claims to the court for adjudication, to be there proceeded in as in other cases, contemplated that the procuring of all necessary evidence from departmental records should be conducted in the manner indicated in the law and under the rules of the court.

Evidence that the cotton for which a claim is filed was actually sold to the Confederate Government is matter of defense to be offered in court for the protection of the interests of the United States, as required by section 185 of the Judicial Code, and, in my opinion, compliance with the resolution, in advance of the filing of such claims in the Court of Claims, by disclosing the details of the Government's defense against the claims would be injurious to the public interests.

The many controverted questions of fact and law involved in the sales of cotton to the Confederate Government will be determined by the Court of Claims in the exercise of the full jurisdiction given to the court to adjudge said cotton claims, and full information from the records of the department relating to such sales will be furnished to the court in response to its calls made under said section 164 of the act of March 3, 1911.

As the provisions of the law for the submission of evidence from the records of this department direct to the Court of Claims appear to meet every requirement for the adjudication of the cotton claims, it is believed that the specific data when furnished in response to the calls of the court will supply all necessary information as to sales of cotton to the Confederate Government in such form and detail as to present the complete facts of each individual case.

I also have the honor to transmit herewith copy of a communication of this date addressed to the Speaker of the House of Representatives relative to resolutions of the same general character which are pending before committees of the House of Representatives, as follows:

House resolution 333, introduced by Mr. JACOWAY, December 9, 1911, and referred to the Committee on War Claims, and House resolution 349, introduced by Mr. CANDLER, December 19, 1911, referred to the Committee on Expenditures in the Treasury Department.

Very sincerely, yours,

FRANKLIN MACVEAGH, *Secretary.*

Mr. BORAH. Mr. President, it would seem that from listening to the reading of the letter—I gathered its import as it was read—that the two principal objections to the furnishing of this information are that it would be expensive and a little bit inconvenient to do so.

Mr. OVERMAN. Mr. President, right there I want to read from my report, as follows:

Besides, in the report of the Hon. Lot M. Morrill, Secretary of the Treasury, of August 7, 1876, Executive Document No. 189, first session, Forty-fourth Congress, volume 14, it appears that a list has been prepared of all the claims covered by this resolution.

Mr. BORAH. Mr. President, I am just a little bit sensitive myself as to any bureaus or departments of the Government withholding information to which a citizen is entitled in order to establish a right. We have had a good deal of experience of that kind out in our section of the country. For the last five or six years when a homesteader might be desirous of proving up upon his homestead they have been in the habit of sending a special agent, who would gather the facts, and upon those facts the department might see fit to refuse the issuance of a patent. When the homesteader called for the information which was within the keeping of the department, the department withheld the information, for the reason that it might not be to the public interest to supply it; in other words, a man, if he had an opportunity to meet the information, to know the facts, might be enabled to disprove them. Many a man has had his homestead entry refused him or canceled or patent refused without knowing upon what facts the action was taken.

This is only another method of withholding that form of information which a citizen is entitled to have, either to prove his claim or to substantiate his claim, and the mere fact that it might be inconvenient or expensive to furnish it is hardly a sufficient reason for not doing so.

I understand, further, that the Secretary is of the opinion that if the information was furnished it might undoubtedly enable them to establish some claim, although he says, in his concluding sentence, that he thinks the time will come when he can get a trial, and that all the evidence will be furnished that is

necessary. In view of the fact that the Secretary has apparently answered the second proposition by his last paragraph, I do not think that it is necessary to argue that feature of it; but certainly, if there is any information here which parties are entitled to have to prove or disprove a claim, the mere fact that it is inconvenient or expensive to furnish it is hardly a sufficient reason for refusing. If it disproves the claim, it does not injure the Government; and if it is legitimate evidence showing a valid claim the citizen is entitled to have it to substantiate his claim.

Mr. BACON. Mr. President, I merely want to suggest one view of this matter. Nobody will contend for a moment that any citizen has a right to recover any of the money realized from the sale of any of this cotton which had ever been the property of the Confederate Government. Everybody will admit that in every instance where this cotton had been purchased by the Confederate Government and had been deposited with a citizen, that the citizen took no title, and that the United States Government is the legitimate owner of the proceeds of that cotton. It appears that among the list of those in whose names this cotton stood there are many concerning whom the Government has the record evidence that it was not their cotton, but that it was the cotton of the Confederate Government. The simple proposition is, that wherever that condition of affairs exists it will be admitted that the Government has title to the money, and that the party in whose name this cotton appears is not entitled to the money. The sole purpose, so far as this branch of the resolution is concerned, is to eliminate that controversy and not put parties to the necessity of coming here and litigating and then have the Government produce the evidence which, if it is produced in advance, will obviate the necessity of that litigation. That is the whole thing.

The Secretary of the Treasury in his letter states that when the case comes up for trial the Government will be prepared to show this fact, that the court will be in possession of the evidence of it, and it will be disposed of in the manner contemplated by the law; but it does look like a great hardship, Mr. President, that parties who are simply the descendants of the people in whose name this cotton was originally placed and who could have no personal knowledge of it should be required to come up here, litigate about a matter, and have the Government then produce the evidence, when the Government can dispose of the whole thing without litigation by a simple production in advance of that evidence. It is not correct, as suggested by the inquiry of the Senator from Utah, that the production of that evidence will inure in any manner to the benefit of other parties who are not in this class.

Mr. HEYBURN. Mr. President——

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

Mr. BACON. I do.

Mr. HEYBURN. I should like to ask the Senator from Georgia what became of this cotton; who took it?

Mr. BACON. The Federal Government, I presume.

Mr. HEYBURN. Well, what did they do with it?

Mr. BACON. They sold it.

Mr. JOHNSTON of Alabama. And put the proceeds into the Treasury.

Mr. BACON. They sold it and put the money in the Treasury.

Mr. SMITH of Georgia. The Treasury report discloses the actual money which was passed into the Treasury from this cotton that was taken and sold.

Mr. HEYBURN. What was the amount? Can the Senator state approximately what the amount was?

Mr. OVERMAN. It was over a million dollars.

Mr. BACON. I think I can tell the Senator from Idaho, if he will permit me to proceed. I think I can tell the Senator that the total amount remaining in the Treasury—I state this from memory, from statements made in debate years ago, for the subject has been up here frequently in the Senate—is something approximating $10,000,000.

Mr. HEYBURN. Ten million dollars. Was that in gold?

Mr. BACON. I have not finished the answer; I have not given the information the Senator from Idaho desires.

Mr. HEYBURN. I will wait.

Mr. BACON. But I think it is conceded that of this amount, the amount to which the parties would be entitled upon an examination and elimination of this class of cases that we are now speaking of, would be something like $5,000,000.

Mr. HEYBURN. Was that in gold or in paper?

Mr. OVERMAN. The cotton was sold in 1866.

Mr. HEYBURN. I know; but was the amount in gold?

Mr. OVERMAN. I suppose it was in gold. It was turned into the Treasury.

Mr. HEYBURN. Was the cotton sold abroad?

Mr. OVERMAN. No; it was sold——

Mr. BACON. I hope the Senator will confine his views to the particular question I was discussing.

Mr. HEYBURN. I was trying to.

Mr. BACON. I was not going into details as to what all the different defenses would be. Those matters, such as are suggested by this question, would be matters of defense by the Government; those would be matters of adjustment by the courts; but we are speaking altogether of different matters. I was speaking of the question of the propriety of the passage of this resolution, not with reference to what defense might be put up, though what the Senator now says illustrates what I was about to say, that there are other matters to be urged by the Government than the simple question as to whether the cotton had been sold to the Confederate Government. There would be, as to cotton not sold to the Confederate Government, the question which the Senator is now raising in order that it might be determined what amount was due to the owner of the cotton.

Mr. OVERMAN. Mr. President——

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

Mr. BACON. I do.

Mr. OVERMAN. I want to state, for the benefit of the Senator from Idaho [Mr. HEYBURN], that this document shows that this cotton was seized in Georgia and sold in New York.

Mr. HEYBURN. Seized by whom?

Mr. OVERMAN. By officials of the United States Government, of course.

Mr. BACON. Well, Mr. President, I am not now proposing to discuss the merits of the question which will come up on the bill. Those are questions that will be entertained by the court. We are simply discussing this question now, of whether or not, in view of the fact that among this large list of persons who are said to be the persons from whom the cotton was taken, the Government has record evidence that a large part of the cotton thus taken from individuals did not belong to such individuals, but that, in fact, it belonged to the Confederate Government and that they were the mere depositories of the cotton.

In view of that fact, the Government having the evidence, is it not better, when that fact would necessarily control the judgment, to relieve these people of the necessity of coming up here and going to the expense and trouble of litigation, by simply giving that evidence in advance?

If it were true, as suggested by the Senator from New York, that this was immediately succeeding the war, then every man would know, when his name was published in the list, whether he was himself the owner of the cotton or whether he was simply a depositary of it; there would be but little or no merit in the attempt which is being made to get this information; but it must be apparent to everybody that not one in one hundred in that list who was then the custodian or the owner of the cotton is now in life. It was not owned by young men, and only the very young men of that day are now in life. The men who then owned this cotton, or the men who were then the depositaries of this cotton, as the case might be, were probably men in middle life, all of whom have gone.

Mr. JOHNSTON of Alabama. They were old men.

Mr. BACON. They were old men and men of middle life. The young men, with scarcely an exception, were then engaged in the work of active soldiering, as were even most of the middle-aged men. The young men were not the possessors of plantations and farms. They were owned by men of riper years, and they are all dead and gone. These are the descendants of those men, who themselves have not the knowledge.

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

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

Mr. BACON. I do.

Mr. HEYBURN. These certificates would be evidence that the ancestors sold the cotton to the Confederacy, would they not?

Mr. BACON. Not necessarily—either their ancestors or somebody else.

Mr. HEYBURN. Yes. Well, then, what would that establish? What nature of claim would that show a man had?

Mr. BACON. That would establish the fact that the United States Government was entitled to the money and that those men were not. That is the point about it.

Mr. HEYBURN. That would be a controversy, would it?

Mr. BACON. Not at all. If the Government has the record evidence, which I understand to be the case, possibly in each case the bill of sale of the cotton, that would establish the

fact that these claimants have no claim and that the money belongs to the United States Government. There is a large amount of money that is shut up in the Treasury which would be released by this thing.

Mr. HEYBURN. To whom?

Mr. BACON. To the United States Government.

Mr. HEYBURN. And go into the general fund?

Mr. BACON. Of course.

Mr. OVERMAN. It is already in the general fund.

Mr. BACON. That money, which amounted to about $10,000,000, has been in the Treasury for 30 years under a decision of the Supreme Court, as I understand; that it does not belong to the Government, but belongs to the owners of the cotton, from whom it was taken.

Mr. HEYBURN. And now they want to get this information as evidence of that fact?

Mr. BACON. Not at all. Those of them to whom it did legitimately belong, of course, want their money, and the Congress of the United States indicated the purpose for them to have it in the passage, in connection with the judiciary bill, of the cotton amendment. I presume that was passed in good faith on the part of the Congress of the United States, intending that whoever was really entitled to the money should have it; but now it develops, and it is undoubtedly the fact, and has been known to be the fact for a long time, that all of this fund does not belong to these people.

Mr. HEYBURN. To whom does it belong?

Mr. BACON. It belongs to the Government of the United States, and yet, under a decision of the Supreme Court of the United States, it is tied up in the Treasury, but it is not in the general fund.

Mr. HEYBURN. Mr. President——

Mr. BACON. If the Senator will permit me, say that half of this cotton which was seized was not the cotton of the individuals in whose possession it was found, but that it was the cotton of the Confederate States, and that these individuals were simply the depositories of it, this cotton was taken from their possession and sold. Now, nobody will dispute that every dollar of that belongs to the Government of the United States.

Mr. HEYBURN. By virtue of seizing it?

Mr. BACON. By virtue of the fact that it was the property of the Confederate Government.

Mr. HEYBURN. And the United States Government captured and sold it.

Mr. BACON. They captured the property and sold it, and it was the property of a government in hostile opposition to the Federal Government.

Mr. HEYBURN. Now, that covers about half of it.

Mr. BACON. It has been conceded in the debates which have taken place in the Senate, some of them before the Senator from Idaho came here, that a very large proportion, possibly a half, and I think more, was cotton which did not belong to the parties from whom it was taken, and that the money in the Treasury representing that portion of the cotton, when the facts could be ascertained, would not go to any individuals, but would be covered into the general fund of the Treasury. Now we are simply seeking to segregate that $10,000,000 fund and find out how much of it belongs to the Government of the United States because it is the proceeds of cotton which had belonged to the Confederate Government.

Mr. HEYBURN. Confiscated cotton?

Mr. BACON. Confiscated by that fact. If that is so, that amount will be released.

Mr. JOHNSTON of Alabama. Mr. President——

Mr. BACON. The Senator will allow me to finish the sentence, please.

Mr. JOHNSTON of Alabama. Certainly.

Mr. BACON. When that is ascertained that amount will be released and will go into the General Treasury. There will then remain, according to my best information, between four and five million dollars, which will be covered by the provision the House attached to the bill of the Senator from Idaho—the judiciary bill, if I may call it his bill, because he was the principal advocate of it, and he was the one who got it through—attached to it as an amendment in the House a year ago last March, for the purpose of enabling such people as were the real owners of that cotton at the time of the seizure, and if the contention of the Senator as to proof of loyalty is correct, who might be able to make proof of loyalty, to get it.

The Congress certainly passed that bill in March, 1911, for the purpose of enabling such parties as were entitled to this money to get it. This resolution simply seeks to accomplish two things, and it will accomplish two things if it is adopted. First, it will save a tremendous amount of litigation. As soon as this information is published everybody will accept it as a fact, and every man whose name is put down among those as having been simply depositaries will at once abandon his effort to get it. The second effect will be that the money ascertained to be the money of the United States Government will go into the Treasury of the United States Government and only leave for litigation less than half the amount still remaining for parties to prove title to the cotton and loyalty to the Government, if the Senator's contention as to the necessity of such proof is correct.

Mr. HEYBURN. That will be litigated only on the basis that the title remained in the individual and that, if the Government took it, it took the individual's cotton?

Mr. BACON. Yes, sir.

Mr. HEYBURN. And that the individual would be entitled to recover, with or without proof of loyalty, as it may be held?

Mr. BACON. Yes.

Mr. HEYBURN. As it may be held. We considered that when we were discussing on the floor the bill to which the Senator has referred; and that is the contention that is involved in this bill.

Mr. BACON. Yes; and the only effect of it is to remove from contention that about which there will be no contention if the facts are shown.

Mr. HEYBURN. That is commendable. I merely wanted exact information in order that I might make no mistake.

Mr. JOHNSTON of Alabama. I want to suggest to the Senator from Idaho that under the law as it now stands a man can bring his suit and go into the Court of Claims and have this very information certified. The Court of Claims orders the information to be certified. The only question now is whether it shall be certified before he is put to the expense of bringing suit.

Mr. HEYBURN. I think not——

Mr. OVERMAN. In Senate Document No. 23, Forty-third Congress, second session, under the heading "Statement of captured cotton collected in the first special agency subsequent to June 1, 1865, under J. R. Dillin and H. M. Buckley, supervising special agents, Nashville, Tenn., and forwarded to and sold by Simeon Draper, United States cotton agent at New York," I find the following item:

From whom collected.	Where collected.	By whom collected or forwarded.	Bales received.	Bales sold.	Gross proceeds.	Expenses to and at Cincinnati.	Freight to New York.	Expenses at New York, including commissions to agents.	Total expenses.	Net proceeds.
*	*	*	*	*	*	*	*	*	*	*
F. A. Billingsley	Albany, Ga	W. C. Buntz	24	24	$2,921.82	[1] $492.36	$81.85	$80.15	$654.36	$2,267.46

[1] Expenses to and at Apalachicola.

It appears from that statement that Mr. Billingsley had about $3,000 worth of cotton seized. Under the law which has been passed his heirs would want to bring suit for it, but when they come up here and bring suit the Government exhibits a certificate showing that the cotton belonged to the Confederate Government and did not belong to Mr. Billingsley, and his suit is gone. Now, we want to avoid that, so that, for instance, I could say to the heirs of Mr. Billingsley, when they write me to get a lawyer to bring this suit, "You have no suit; this property belonged to the Confederate States."

Mr. CULLOM. Is the evidence there to that effect?

Mr. OVERMAN. Certainly. Here is the evidence showing the cotton seized, and so forth.

Mr. SMITH of South Carolina. Mr. President, I should like to make this statement: As I understand, the resolution simply requires the Government, upon the information in its possession, to declare authentically what it does own beyond controversy, and separate it from that to which it does not have a fair claim, which may or not belong to individuals. Is not that the scope of the resolution, I should like to ask?

Mr. OVERMAN. We want the facts furnished as in the case of the items contained in the document to which I have referred.

Mr. SMITH of South Carolina. The point that I make is that there is so much money, and we want to know to how much of that money the Government has a valid claim and how much of it belongs to individuals, although it is in the Treasury.

Mr. OVERMAN. Yes; we want all the records. We have part of them, and if we are going to have part of them we want all of them.

Mr. SMITH of South Carolina. So as to know what may be litigated for and what may not.

Mr. HEYBURN. Mr. President, when the subject was before the Senate in the consideration of the revision of the judiciary title my attention was drawn strongly to this question. I was frequently asked by Members of the Senate what interpretation the committee had placed upon the provision which would govern this matter in the courts, and I stated then, and have frequently stated since, orally and in writing, that the provisions of the judiciary title do not relieve the claimant from proof of loyalty, and it was not intended that they should. It was the subject of long discussion and also of longer investigation on my part in order that I might be justified in the answer which I made. Some Senators now before me have letters in which I go into the matter at some length, citing authorities.

Mr. President, I will defer referring to the real objection that I had to the consideration of this resolution until I have said a word in regard to the two classes of claims. A portion of the cotton was claimed by the organization calling itself the Confederate Government. That passed by confiscation through the ordinary operation of war to the Government of the United States. It was taken possession of. That belongs distinctively to a class by itself. The claim was set up that all of that cotton was not the property of that organization, that it held it merely as the custodian or depository for the owners. My recollection from my investigation at that time is that, disregarding the question of interest or additional sums, it represented a principal of between five and six million dollars.

Now, the question is, I assume, whether or not suit shall be brought on behalf of individuals claiming that the title to the cotton remained in them when the Government of the United States took possession of it through the act of confiscation. The Government took both classes of cotton and sold it and the money is in the Treasury of the United States. The courts have dealt with it only partially. They have decided certain questions, but they have not passed upon the question as to the five or six million dollars' worth claimed to be individual property.

The controversy that arose in this Chamber a year or so ago as to whether or not the proof of loyalty was dispensed with is responsible for this resolution. It has awakened the cupidity of a certain class of claim lawyers and also of a certain class of persons who claim to be successors of those who turned in cotton. They think they see a way to open up litigation involving this five or six million dollars' worth of cotton, the money which was received for it being in the Treasury of the United States. That is all this is; it is an attempt to stir up this question, and, if possible, to get a decision from the courts holding that the question of loyalty is now eliminated. They will run against another snag, as they will find when they come to bring suit, as to when the rule applies. If the question of loyalty was a condition precedent at the time the right of action accrued, they will find they have not been relieved of it by any subsequent legislation; but we have not yet reached that. The courts will reach it first, and we will let all parties take their chances. We will not volunteer as advisers for them; but it is one of the questions that I felt called upon to go into with some care when it was responsibly in my hands for consideration.

Mr. President, I am perfectly willing to leave to the courts the decision of those questions without undertaking to anticipate them here, for nothing we would do could control the decision of the courts in that respect. They will decide the question according to the rules of law, as is their duty, and not according to a resolution of the legislative branch of the Government as to how they ought to decide it, for it will not be the decision of a new question involving new rights, but it will be the determination of the legal status of citizens and the rights of citizens existing nearly half a century ago; and the rule that they will apply to it will be the rule of that day, and not the rule of this day. I am merely stating these considerations. I think they are truly expressed axioms that will follow this matter all the way through.

I objected to the consideration of this resolution because, without any sufficient reason, it has undertaken to express on its face a recognition of the Confederate Government. There never was a Confederate Government, and we have the best authority in the world for that statement, and I desire to put it in the RECORD. I have all the decisions here. There are too many of them to undertake to read into the RECORD, but the question came squarely face to face with the Supreme Court of the United States for the purpose of decision where the decision of that question determined the rights of the parties. It was not obiter; it was not incidental; it was a decision of that court in a case of conflicting interests and rights, and it was rendered by one of the Justices of the United States Supreme Court whose record is, perhaps, as good as that of anyone who ever sat on it. He represented us not only in the Supreme Court of the United States, but in great international controversies and tribunals, and he stands not only as a great jurist in this country but as a great jurist in all the world. I refer to Mr. Justice Swayne. His decision was rendered long enough after the war for cooling time to have elapsed. The question grew out of an action by the so-called Confederate Government in the creation of courts and the establishment of their jurisdiction. The decision is in Ninth Wallace, and I read it, not because Senators do not know it or have forgotten it, but in order that it may accompany my remarks in this RECORD that will stand forever. He discusses the status of what was claimed to be the Confederate Government. In the resolution under consideration (S. Res. 162) the language used is "the Confederate States Government." The question in my mind is, Are we going to give it official recognition in the Senate of the United States? The court says:

> The rebellion out of which the war grew was without any legal sanction. In the eye of the law, it had the same properties as if it had been the insurrection of a county or smaller municipal territory against the State to which it belonged. The proportions and duration of the struggle did not affect its character. Nor was there a rebel government de facto in such a sense as to give any legal efficacy to its acts. It was not recognized by the National, nor by any foreign Government. It was not at any time in possession of the capital of the Nation. It did not for a moment displace the rightful government. That government was always in existence, always in the regular discharge of its functions, and constantly exercising all its military power to put down the resistance to its authority in the insurrectionary States. The union of the States, for all the purposes of the Constitution, is as perfect and indissoluble as the union of the integral parts of the States themselves; and nothing but revolutionary violence can, in either case, destroy the ties which hold the parts together. For the sake of humanity, certain belligerent rights were conceded to the insurgents in arms. But the recognition did not extend to the pretended Government of the Confederacy.

That sounds like the patriotism of my early life, the echo of which has been ringing in my ears all through. Mr. President, there are more than a dozen decisions in exact accord with the expression of Mr. Justice Swayne upon this question. Now, with what propriety can Congress to-day incorporate into its responsible action a recognition of the existence of the Confederate States Government. I appeal in the name of reason and consistency whether or not you ought to accept such a thing.

Mr. OVERMAN. It is merely a designation. It only designates the records as they are designated in the department itself. That is all it is.

Mr. HEYBURN. No; I must differ from the Senator. In personal conversation the Senator has so maintained and does now on the floor, but you would have to rewrite this resolution to make it susceptible of such an interpretation. It reads:

> *Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, and to transmit to the President of the Senate as soon as practicable a list of persons shown to have sold cotton to the Confederate States Government.

Now, if you leave off the word "Government" you come pretty nearly describing those States. They were confederated together for the purpose of disrupting the Union.

Mr. OVERMAN. I have no objection to striking it out.

Mr. HEYBURN. And the words "Confederate States" there would be less objectionable.

Mr. OVERMAN. I have no objection to striking out the word "Government."

Mr. HEYBURN. Just a moment. It was the use of that word "Government" that first took me to the Senator's desk to protest, and it was the use of that word "Government" that caused me to object to the consideration of this resolution to-day.

Mr. BACON. Will the Senator permit me to make a suggestion to him?

Mr. HEYBURN. Yes; with pleasure.

Mr. BACON. Of course, I do not want to go into any argument upon this question. If the name of that government were used, the Senator might object to the recognition of it; but that was not the name of it. It was the Confederate States of America, just like the name of our Government is the United

States of America. It undoubtedly was a government, and you have to designate it some way.

Mr. HEYBURN. The courts say not.

Mr. BACON. A government is something which governs, and there was something which governed a large territory and maintained armies and fought a great war, the greatest of modern times, for four years.

Mr. HEYBURN. The Supreme Court says it was not a government.

Mr. BACON. I do not want to split hairs with the Senator about that and I do not want ever to enter into any discussion of that question. I think the country is pretty well satisfied about the whole thing, one way and another. I do not think there is anything to be gained by the discussion, but I thought possibly that the suggestion to the Senator that the name that he so much objects to in this resolution is not the name of that government might cause him to view the matter differently.

Mr. HEYBURN. It is so described. There was no government. The Supreme Court says there was none; and I know the Senator is a great lawyer and reverences the decisions of the Supreme Court of the United States.

Mr. BACON. In one sense the Supreme Court could say that and in another sense it could not; but I just want to ask the Senator this question: Under what title would the United States Government be entitled to this $5,000,000 that I say is in the Treasury now?

Mr. HEYBURN. Because they took it from the insurgents.

Mr. BACON. Well, but there must have been an organization from which it could be taken.

Mr. HEYBURN. Well, the organization—I hope the Senator will not force me to be too particular in naming that organization. I used to content myself——

Mr. BACON. I have no objection to the Senator using it; but I simply say to him that the Senate itself has by solemn vote condemned it in the past.

Mr. HEYBURN. Mr. President, it is not pleasant for me to rise in my place in this body and seem even to refer to unpleasant things.

Mr. BACON. If the Senator will permit me, I will interrupt him so far as to say that I acknowledge my error in making any reply to him whatsoever, and——

Mr. HEYBURN. I will not yield for that. That was not intended to be courteous, and I am not one of those who stand discourtesy here or elsewhere. Senators might just as well make up their minds on that. If Senators can content themselves with a courteous discussion of these questions, well and good; but I am going to speak of them from my standpoint. I speak with responsibility, and when a Senator attempts to say in a contemptuous way that he made a mistake by replying to me he will find that he has made no mistake by replying.

Mr. BACON. Mr. President, I will try to be in order by being silent.

Mr. HEYBURN. I will enforce courtesy to myself here or anywhere against any man or men on earth. Just mark that down; and I know how to do it, too. Now, Mr. President, I will resume.

Mr. OVERMAN. Mr. President——

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

Mr. HEYBURN. Yes.

Mr. OVERMAN. Suppose we strike out the word "Government" and say the "Confederate States."

Mr. HEYBURN. That was the suggestion I made to the Senator when the matter first came to my attention, and the Senator said he would, but afterwards suggested that he thought he would not.

Mr. OVERMAN. No; I think the Senator misunderstood me. However, I will take the suggestion back.

Mr. HEYBURN. Now, that resolves itself down to its merits.

Mr. OVERMAN. I am not offering to amend the resolution at all. I will strike nothing out, but will just leave it to the Senate and have it passed on by them.

Mr. HEYBURN. Then the Senator is contending for it. Whatever we put up to the Senate we contend for.

Mr. OVERMAN. No; I never have contended for it, except that it was the proper way to designate the records; that is all.

Mr. HEYBURN. Mr. President, it has got to be that I retain the liberty to stand up for the loyalty of the citizenship of this country, but I will not apologize for the acts of the great majority of the patriotic people in suppressing the rebellion. The Senator says he is not going to withdraw that word. I will just set that off against it, and if the majority of the Senate dare, by the language of that resolution, recognize that there ever was a Confederate Government, they will find enough patriotism in this country to make them think that they had better give it more attention.

I suppose they would get up a direct primary. I think probably that would be their last resort. They would submit this to a direct primary, as they are submitting other questions.

I would not have given more than the passing attention that I give to all measures to the resolution had not those words obtruded themselves upon my notice on the face of the resolution. They occur twice. They occur in line 6 and in lines 7 and 8, where reference is made to "said Government."

Mr. GALLINGER. Mr. President——

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

Mr. HEYBURN. I do.

Mr. GALLINGER. In line 6, I move to strike out the word "Government."

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. GALLINGER. In line 8, I move to strike out "Government" and substitute the words "Confederate States."

The amendment was agreed to.

Mr. OVERMAN. Since that has been done I want to direct the Senator's attention——

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

Mr. HEYBURN. I yield if the Senator desires——

Mr. OVERMAN. I merely want to call the attention of the Senate to the fact that the Secretary of the Treasury, in his report, says——

Mr. HEYBURN. The Secretary of the Treasury speaks of many things that, in my judgment, are admirably spoken, but——

Mr. OVERMAN. I wanted to show that these words appear in the letter.

Mr. HEYBURN. I know what has been read into the RECORD.

Mr. OVERMAN (reading):

> Records in his possession, either those of the United States Government or those of the late Confederate States, a list of persons shown to have sold cotton to the Confederate States Government or to have entered into any agreement to sell cotton to said Government.

Mr. HEYBURN. I never did take my patriotism from the Secretary of the Treasury of the United States, and I am not apt to commence in this debate. But I am not going to animadvert further upon his views of these questions.

The VICE PRESIDENT. The question is on agreeing to the resolution as amended.

The resolution as amended was agreed to.

INSTRUCTION IN FORESTRY.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests was announced as next in order on the calendar.

Mr. HEYBURN. I ask that the bill may go over.

The VICE PRESIDENT. It will go over.

WAIVER OF TRIAL BY JURY.

The bill (S. 3846) to authorize a waiver of trial by jury in the district courts of the United States was announced as next in order.

Mr. GALLINGER. Let that go over.

The VICE PRESIDENT. It will go over.

Mr. CHILTON. I did not understand what Senator asked that Senate bill 3846 be passed over.

Mr. GALLINGER. I asked that it should go over, not noticing the Senator from West Virginia in his seat. I have no desire to insist on its going over.

Mr. CHILTON. It is a bill of great public importance.

Mr. GALLINGER. I withdraw my objection, but I should like to have the Senator make a brief statement about the bill. It seems to waive trial by jury. I do not know its exact significance.

Mr. CHILTON. The object of the bill is simply this: Section 649 of the Revised Statutes provides that civil cases in the circuit courts may be tried without a jury, and then provides how a jury shall be waived. Section 700 of the Revised Statutes provides how appeals on writs of error may be taken in cases where a jury has been waived by stipulation of the parties.

Those two sections relate to circuit courts. The circuit courts having been abolished, and all trials by jury in the first instance being now in the district courts, the bill substitutes in those two sections the words "district courts" for "circuit courts."

There has been some question as to whether the judicial codification does not provide for it, but some of the judges hold one way and some the other. It was at the instance of several district judges that the bill was introduced and finally reported by the Judiciary Committee of the Senate.

If the present law by construction would operate as the bill is intended to do, the bill can not hurt anything. The bill was prepared and introduced and reported by the Judiciary Com-

mittee for safety. It embodies those two sections for sections 649 and 700, and strikes out the words "circuit courts" and inserts "district courts."

Mr. GALLINGER. I withdraw my objection, Mr. President.

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

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

PRESIDENTIAL PRIMARIES IN THE DISTRICT OF COLUMBIA.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice President of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen, was announced as next in order.

Mr. HEYBURN. I ask that the bill may go over.

The VICE PRESIDENT. The bill will go over.

EL PASO & SOUTHWESTERN RAILROAD.

The bill (H. R. 21170) granting to the El Paso & Southwestern Railroad Co., a corporation organized and existing under the laws of the Territory and State of Arizona, a right of way through the Fort Huachuca Military Reservation in the State of Arizona, and authorizing said corporation and its successors or assigns to construct and operate a railway through said Fort Huachuca Military Reservation, and for other purposes, was considered as in Committee of the Whole.

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

LOANS IN THE DISTRICT OF COLUMBIA.

Mr. SMOOT. I move that the Senate adjourn.

Mr. CURTIS. There are quite a number of bills on the calendar. A very important bill is the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia. It has been on the calendar for a long time. It is only 4 o'clock, and that bill would soon be reached in order on the calendar.

Mr. SMOOT. We have been here since 11 o'clock this morning. I understand that a number of Senators have already made appointment for committee meetings thinking that we would adjourn by 4 o'clock.

Mr. CURTIS. I give notice that to-morrow, immediately after the report of the conferees on House joint resolution 39 has been disposed of, I will move to take up House bill 8768.

The VICE PRESIDENT. The Senator from Utah moves that the Senate adjourn.

The motion was agreed to, there being, on a division, ayes 21, noes 7, and (at 3 o'clock and 57 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, April 23, 1912, at 2 o'clock p. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *April 22, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God, our heavenly Father, let Thy spirit come mightily upon us, to strengthen, encourage, and guide us in our struggles to attain the ideals that each is bound to contribute to his fellows, to the public weal, to the uplift of humanity, if Thy kingdom shall come and Thy will be done in earth as it is in heaven. Hear us and help us to answer our prayer. In the spirit of the Lord Jesus Christ. Amen.

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

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to concur in the Senate amendments to the House bill 18336.

The SPEAKER. The Clerk will report the bill and the Senate amendments.

Mr. MANN. Mr. Speaker, where is the bill?

The SPEAKER. The bill is in the hands of the Committee on Invalid Pensions.

The Clerk read the title of the bill, as follows:

H. R. 18336. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The Senate amendments were read.

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

Mr. RUSSELL. Mr. Speaker, I move to concur in the Senate amendments.

The SPEAKER. The gentleman from Missouri [Mr. RUSSELL] moves to concur in the Senate amendments. The question is on agreeing to that motion.

The motion was agreed to.

EULOGIES ON THE LATE REPRESENTATIVE BINGHAM.

By unanimous consent, at the request of Mr. MOORE of Pennsylvania, it was—

Ordered, That Sunday, the 19th day of May, at 12 o'clock m., be set apart for addresses on the life, character, and public services of Hon. HENRY H. BINGHAM, late a Representative from the State of Pennsylvania.

WITHDRAWAL OF PAPERS.

Mr. FULLER, by unanimous consent, was granted leave to withdraw from the files of the House papers in the case of George W. Marston, Sixty-first Congress (H. R. 3794), without leaving copies, no adverse report having been made thereon.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 16101. An act providing for patents to homesteads on the ceded portion of the Wind River Reservation, in Wyoming.

NORWEGIAN ICE BREAKER "KIT."

Mr. HUMPHREY of Washington. Mr. Speaker, I ask unanimous consent to file the views of the minority (H. Rept. 523, pt. 2) on the bill (H. R. 17235) to grant American registry to the Norwegian ice breaker *Kit*.

The SPEAKER. The gentleman from Washington [Mr. HUMPHREY] asks unanimous consent to file the views of the minority on the bill H. R. 17235. Is there objection?

There was no objection.

PERSONAL PRIVILEGE.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent to address the House for 30 minutes.

The SPEAKER. The gentleman from Kansas asks unanimous consent to address the House for 30 minutes. Is there objection?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, for some weeks Col. Roosevelt, a receptive candidate for a third-term nomination for the Presidency, has been taking occasion to flay me before the American people. He did this in a letter to Senator DIXON, which he gave to the press before he mailed it to the Senator. He did this in his Carnegie Hall speech and in his tours throughout the country.

In his recent western trip he continued to assail me, not only in other States, but in my home State. He began early in the morning and continued through his 18 or 20 speeches in Kansas to make me the principal subject of his speeches.

I am not a candidate, not even a receptive candidate, for the Presidency. [Applause.] I am a candidate for membership in this House. Col. Roosevelt's grievance against me arises from the fact that at Concord, N. H., some weeks ago I took occasion to expose the absolute absurdity of his proposal to appeal from the decision of the court to the crowd in the courthouse yard.

In order to make it so plain that it could be easily understood as to what the colonel was proposing or had proposed in his Columbus speech, I declared that such an appeal as he proposed was like appealing from the umpire to the bleachers in a ball game. The colonel, in his letter to Senator DIXON, in his Carnegie Hall speech, and elsewhere, assumes, like an artful politician, that I was not talking about his proposal as to judicial decisions when I referred to the appeal from the umpire to the bleachers, but about the game of politics in which he is now so intensely interested. In his Kansas speeches he has done the same thing. I will read samples of what comes to me in the press this morning.

ROOSEVELT RACING THROUGH KANSAS—BY SPECIAL TRAIN HE CROSSES STATE, NORTH TO SOUTH—JABS CAMPBELL AS HE GOES—HIS SPEECHES, AS USUAL, MORE INGENIOUS THAN FAIR—CHARGES CONGRESSMAN WITH MEANING WHAT HE NEVER DID, THEN DEMOLISHES HIS ARGUMENT.

[By the Associated Press.]

MANHATTAN, KANS., *April 19, 1912.*

In his speeches to-day en route across Kansas Col. Roosevelt repeatedly assailed Congressman CAMPBELL. CAMPBELL, he said, had visited New Hampshire as a "sort of perverted missionary," and there had referred to Roosevelt's judiciary proposal as an "appeal from the umpire to the bleachers."

"Mr. CAMPBELL showed he was wholly ignorant of the foundation of this Government," he said. "Mr. CAMPBELL felt that the attitude of the people in reference to politics ought to be that they sat on the bleachers and paid the price of admission, but had nothing to do with

the game. I ask you in Kansas to stand by us because we stand by the bleachers.

"We have appealed in this campaign to the bleachers. We appealed to them in Illinois and Pennsylvania, and the bleachers went with us.

Here is another:

Col. Roosevelt assails Congressman CAMPBELL, telling the people that their fellow Kansan made a mistake when he said the colonel's proposition for a recall of judicial decisions was like an appeal from the umpire to the bleachers. He declared that Mr. CAMPBELL, in effect, had said that he believed the people were unfit to manage their own affairs, but that he himself had appealed to the bleachers in Illinois and Pennsylvania and had won.

Mr. Speaker, it is reported in the press that these statements were made not by a pettifogging politician in ward politics but by a candidate for the Presidency of the United States, the most exalted position in all the world. In one breath he says I was talking about his proposal to appeal from judicial decisions to a popular vote and his only answer is in the next breath when he declares that he appealed to the bleachers, and won in Illinois and Pennsylvania. If his conception of the judicial function is that it is like a campaign for votes, he has underestimated the intelligence of the people of Kansas if he believes they have no higher conception of the judicial office. [Applause.]

In the Concord speech I discussed the colonel's Columbus speech, giving particular attention to that portion of it in which he favored an appeal to a popular vote on constitutional questions of law. I had good authority for making criticism of the absurd proposition made by the colonel, and I take some satisfaction out of the fact that as time goes on the colonel also sees the absolute absurdity of the proposition. In his life of Gouverneur Morris he says:

On the judiciary his views were also sound. He upheld the power of the judges, and maintained that they should have absolute decision as to the constitutionality of any law. By this means he hoped to provide against the encroachment of the popular branch of the Government, the one from which danger was to be feared, as a virtuous citizen will often act as a legislator in a way of which he would, as a private individual, afterwards be ashamed.

In the Review of Reviews for September, 1896, Col. Roosevelt said:

Furthermore, the Chicago convention attacked the Supreme Court. Again this represents a species of atavism; that is, of recurrence to the ways of remote barbarian ancestors. Savages do not like an independent and upright judiciary. They want the judge to decide their way; and if he does not, they want to behead him. The populists experience much the same emotions when they realize that the judiciary stands between them and plunder.

These are the views on the judiciary of Col. Roosevelt when he was not a candidate for a third-term nomination for the Presidency.

Col. Roosevelt has been holding himself up to the people as the paragon of political virtue. He has assailed every man who ventured to disagree with him on any question. He brands every man as infamous whom he can not lash into agreeing with him. [Applause.]

I have been told that I was taking my political life in my own hands this morning in assuming to answer the vicious attacks of the colonel on me in my own State. If I did not do so this morning I would despise myself. [Applause.] My political friends and foes alike would despise me. [Applause.] My regard for the intelligence of the people of Kansas is above any fear of Theodore Roosevelt. [Applause.]

I have been told before that I was taking my political life in my hands on this floor. I was told so when I attacked the Standard Oil Co. I was told so when I attacked the bucket shops and secured the passage of a law through this House making them outlaws. I was told so when I attacked the express companies, and I was told so when I attacked unscrupulous manufacturers, and I have been told so this morning because I resent Col. Roosevelt's attack on me and the insult to the intelligence of the people of Kansas that he gave them on last Friday when he assumed they did not know the difference between a judicial decision and a political campaign. [Applause.]

Virtue in politics is always in demand by the American people. There never was a time in the history of the Republic when the people required so high a standard of public service as they require to-day, and there has never been a time when public servants, from the President down to the humblest officer, so readily responded to that sentiment as to-day. [Applause.] The people of this country have been demanding certain things of their public servants. They have been demanding protection against great aggregations of wealth that control not only business but politics. To that sentiment of the American people Congress has responded. The President of the United States has responded and has brought more indictments and prosecution in three and a half years than all his predecessors in the Presidency.

Let me ask this of Col. Roosevelt to-day: Did you or did you not send a note to the Department of Justice asking that further steps toward the prosecution of the Harvester Trust be suspended? [Applause.] Did you or did you not flay malefactors of great wealth in whirlwind campaigns throughout the country and then in the nighttime, in private conference with the heads of the Steel Trust and the Tennessee Coal & Iron Co., agree that they should be united into one trust or monopoly?

Getting back to the original cause for the colonel's attack upon me, there must be a finality of judicial decision. Somebody must have the final word. Col. Roosevelt said, in his Life of Gouverneur Morris, the court should have it. Thomas Jefferson said the court should have it; the Constitution of the United States says the court shall have it; the constitution of every State in the Union says the courts shall have the final word. The colonel now says that in constitutional questions in the States an appeal should be to the crowd out in the courthouse yard after the case has been tried by the court. [Applause.] Ye gods! What a proposition from a man who has been President of this Republic two terms and desires again to occupy that exalted position. Well, let us see. He is also in favor of the initiative and referendum.

Does anyone doubt that between 1890 and 1896 a law could have been enacted by the initiative and referendum making 412½ grains of silver (16 to 1), then worth 50 cents, equal to a dollar in gold, and that if the court had held such a law unconstitutional an appeal from that decision to a popular vote would have resulted in a decision being reversed and declaring the law constitutional by a majority vote?

Anyone familiar with history can easily understand that the time may soon come when the price of wheat—wheat being a prime necessity of life—might be fixed at 50 cents per bushel through the enactment of a law by the initiative and referendum. On appeal by the wheat growers to the court the law, of course, would be held unconstitutional. Then on appeal, provided for under the new government—the new charter of democracy—from that decision of the court back to a popular vote the law would be declared constitutional. The wheat growers, being in the minority, would, under this new government—this charter of democracy—formed by the proposed revolution, lose their right to property and the pursuit of their happiness.

In the government under our Constitution by law not by men the poorest individual and the minority have rights they can have protected in the courts to the extent of setting aside laws passed by Congress or by State legislatures, where a final decree protects the individual in the value of his dollar, in his bushel of wheat, in his loaf of bread, in his home, no matter how humble.

All the decisions of all the country are not without error. Nothing that is human is perfect; we are continually reforming and growing better, but the proposed appeal from the decision of the court to a popular vote is not reform. It is revolution that will be the beginning of the early end of the last days of the best government the world has ever known, and the end of a government "of the people, for the people, and by the people," in which neither the liberty nor the property of the smallest minority nor of any man can be taken from him by the majority. The personal security our Government gives every man in it has fostered a spirit of devotion to the Government and has led to the greatest sacrifices for it.

The recall of judges became odious in the reign of the Stuart Kings and led the progressive Commons of England to assert their rights to have a judiciary that could without fear decide the law as it is, giving to high and low, rich and poor, equal and exact justice as God gave them the light to see justice.

One of the strongest counts in the indictment that Thomas Jefferson made against George III in the Declaration of Independence was that—

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers; he has made judges dependent on his will alone for their tenure in office.

It has been forcibly and solemnly declared by Col. Roosevelt that ours is the only Government in which the courts are given the right to set aside a law as unconstitutional.

Even if the claim made were true, it is not important. Our people have made precedents for the government of a free people; but the claim made does not state the facts. I am indebted to Mr. Justice Burch of the Supreme Court of Kansas for information on this subject.

Let it be understood, in the first place, that our National Constitution is a law and that each State constitution is a law, the Federal Constitution being by express declaration the supreme law of the land. Acts of Congress and acts of the State legislatures are laws. Whenever the validity of a law enacted by statute is challenged in a court the court compares it with the Constitution to see if the two laws are consistent. If they are inconsistent, the case can not be decided according to both. One of them must give way, and the Con-

stitution being the supreme law, the law enacted by the statute must give way.

Col. Roosevelt has said the courts of Australia have no such power as the courts of the United States in this regard. The colonel has overlooked the fact that in the year 1900 the people of Australia asked the British Parliament to give them the protection of just such a judicial power. A constitution which they had adopted, providing for a supreme court modeled after the Supreme Court of the United States, was embodied in the act of the British Parliament, which by her Britannic Majesty's proclamation established the Commonwealth of Australia, to begin January 1, 1901. Each State of the Commonwealth possesses a constitution and courts of its own, as in the United States, and the power of the courts, State and Federal, over unconstitutional legislation is described in "Quick and Garran's Annotated Constitution," Sir John Quick, one of the authors, having been a member of the Australian constitutional convention.

The work contains the following on page 791:

In the exercise of the duty of interpretation and ajudication not only the high court but every court of competent jurisdiction has the right to declare that a law of the Commonwealth or of a State is void by reason of transgressing the Constitution. This is a duty cast upon the courts by the very nature of the judicial functions. The Federal Parliament and the State parliaments are not sovereign bodies; they are legislatures with limited powers, and any law which they attempt to pass in excess of those powers is no law at all. It is simply a nullity, entitled to no obedience. The question whether those powers have in any instance been exceeded is, when it arises in a case between parties, a merely judicial question on which the courts must pronounce.

It was a high compliment to the fathers of the Republic that Great Britain, in 1900, put into effect for the government of the people of a continent a written constitution modeled upon the Constitution of the United States of America.

Since then many constitutional questions have been decided. Numerous laws affecting human rights from a vital standpoint—laws affecting the terms and conditions of life and employment among wage earners—have been passed upon and held to be unconstitutional.

In a union-label case, in Australia, it was held that a federal act establishing a worker's mark intended to promote the interests of union labor invaded the power of the separate States over domestic commerce and industry. In a State railway servants case it was held that the inclusion of a federal act of disputes relating to employment on State railways made the act, as their expression is, ultra vires. The excise tariff act of 1906 undertook, by means of excise duties on manufactured goods, to apply the principle of what is known in Australia as the "new protection," which aims to secure to workmen a reasonable share of any profit accruing to employers from protection taxes. The act was held to be void. A list prepared in July of last year includes seven decisions of this kind.

In directing the attention of the United States to the Government of Australia, Col. Roosevelt failed to refer to one very pertinent matter. His remedy of an appeal to the people from the decisions of the courts on constitutional questions was presented to the Australian constitutional convention, was fully debated, received no substantial support, and was finally withdrawn.

In the debate in the Australian constitutional convention the following remarks were made:

It is quite impossible that the people can sit as judges, because the function of judges is one thing and the functions of electors of the Commonwealth is quite another thing. I am not confounding these two. The people are absolutely incompetent to judge whether a certain law is or is not ultra vires, and I would not dream of committing that charge to the people, for there are no persons less fit than the general electors, taken all together on a referendum, of any country to decide whether this or that is a law.

* * * * * * *

To make an appeal to the people upon whether the court was right or wrong would weaken the authority of the court, which, if it be an arbiter, must be the final arbiter.

This is not unlike what Col. Roosevelt said in his life of Morris, from which I read a moment ago. This is what he said:

He (Morris) denounces with the fierce scorn that they richly merit the despicable demagogues and witless fools who teach that in all cases the views of the majority must be implicitly obeyed, and that public men have only to carry out its will and thus acknowledge themselves the willing instruments of folly and vice.

Great Britain has no supreme law which takes the form of a written constitution. Parliament is supreme. There is no document in which the people have said to the Parliament that no law establishing a religion or law taking private property without compensation shall be passed. Consequently acts of Parliament, as they are passed, are the supreme law in the fabric of the only constitution they have.

If an act be insisted upon as the one which governs a controversy, and a later act be discovered relating to the same subject, the court interprets the provisions of each, following the same methods and using the same rules adopted by the American courts, to ascertain the true scope and purpose of each. Having discovered the meaning of each act the court compares them, and if they conflict, decides the case according to the one which is superior in authority.

In England the choice is between different acts of Parliament. In this country it is between the Constitution and a statute. In England this function has been performed in reference to acts concerning the jurisdiction of courts and consequently properly falls within the domain of English constitutional law, and this has been the English practice times out of mind. The rule in Canada is similar to that in the mother country.

In Germany the power of the judiciary respecting statutes which are unconstitutional has been considered in three classes of cases. First, where a state statute conflicts with a state constitution; second, where a state statute conflicts with an imperial statute or the imperial constitution; and third, where an imperial law conflicts with the imperial constitution. In the first and third classes cases indicate that if a conflict exist between a statute which the courts are called upon to apply and a higher law the latter must govern. The judges have not consistently acted upon the principle.

In the second class, however, in which a statute conflicts with an imperial statute or with the imperial constitution, the courts and the authorities are unanimous in holding that the judges must give preference to the higher law. The leading case is one in which an income-tax law of Prussia was held void because contrary to the clause of the imperial constitution which prohibits double taxation.

The judicial powers exercised in other countries of standing with our country confirms instead of condemns the judicial power exercised under our Constitution.

Mr. SIMS. Mr. Speaker, may I ask the gentleman a question?

The SPEAKER. Does the gentleman from Kansas yield to the gentleman from Tennessee?

Mr. CAMPBELL. Yes.

Mr. SIMS. At the time that President Roosevelt agreed that the Steel Trust might acquire the Tennessee Coal & Iron Co.——

Mr. CAMPBELL. No; I must decline to yield upon that.

Mr. SIMS. But I want to ask the gentleman a question.

The SPEAKER. The gentleman declines to yield.

Mr. SIMS. Just a question.

The SPEAKER. The gentleman declines to yield.

Mr. CAMPBELL. Well, go ahead and ask the question.

Mr. SIMS. Did Roosevelt or did he not consult with and obtain the approval of his Cabinet at that time, and who was then in the Cabinet?

Mr. CAMPBELL. I do not know whether he consulted his Cabinet or not. He rarely consulted anybody. [Laughter and applause.]

Mr. Speaker, why all this fury?

Mr. BARTLETT. Mr. Speaker, will the gentleman permit a statement right there?

Mr. CAMPBELL. Mr. Speaker, my time is passing very rapidly.

Mr. BARTLETT. I only wish to suggest that he decided in 20 minutes the whole question of law which had taken the Supreme Court of the United States 20 years to decide.

Mr. CAMPBELL. Why all this fury? Why is this candidate for the Presidency for a third-term nomination fanning the passions of the people into a fury throughout the length and breadth of the land? What is wrong? What has happened in the last four years? One important thing. The colonel is not President of the United States. [Applause.]

Four years ago I was for Senator Dolliver for the Republican nomination for President. Col. Roosevelt convinced me, as he convinced a majority of the Republicans throughout the country, that William H. Taft, with whom he was well acquainted, who was his Secretary of War, who had done the big jobs for him during his entire occupancy of the Presidency, was the best fitted man in the Republic for the place. [Applause.] He said of William H. Taft that he was as great as Lincoln and that he would give the American people the kind of administration that the country needed.

Mr. Speaker, he told the truth about that. The President has made good [applause on the Republican side]; he has fulfilled every promise made for him by Col. Roosevelt. Wherein has he failed? He has led in the enactment and enforcement of laws. Has it offended the colonel that some of his particular friends have been haled into court by the order of the President? Did it offend the colonel that a suit was instituted against the Steel Corporation and the Harvester Trust? The McCormick interests and the Morgan interests are allied with the steel interests

and to the Harvester Trust and are back of the campaign of Col. Roosevelt.

Why all this fury? Are the people in want? Are the economic and financial conditions of the country prostrated? Ah, no; they never were better than they are to-day. There never was a time when labor was more generally employed or at better wages than to-day. There never was a time when the financial conditions of the country were better than they are to-day. There never was a time, I repeat, when public servants responded more readily to demands from the people than they do to-day.

The Republican platform promises of 1908 have been faithfully kept by the party.

The party enacted a law giving the Interstate Commerce Commission power to fix reasonable rates on interstate railroads; established the Court of Commerce; provided for postal savings banks; established the Bureau of Mines and Mining, providing rescue appliances for miners in case of mine disasters; admitted Arizona and New Mexico into the sisterhood of States, with State constitutions that conform to the political system of the Federal Constitution.

We have taken river and harbor improvements out of the pork-barrel class and put that work on a sound business basis. We have created a Tariff Board for the purpose of placing the tariff above partisan politics and of taking tariff making out of the uncertainty of bargain and trade, placing it upon a scientific and accurate basis, giving to the American laborer and American manufacturer the difference in the cost of producing like articles in this and in foreign countries. The wisdom of the establishment of that board has been emphatically attested by its efficiency, as shown in the report it has made upon the wool and woolen schedule. We have passed a corporation-tax law, under which we raise $30,000,000 of revenue annually. We have submitted a constitutional amendment to enable the enactment of an income-tax law. We have provided for a stocks and bonds commission that has made an illuminating report upon which legislation may be enacted to prevent the overcapitalization and the overissue of stocks and bonds by corporations engaged in the transportation and distribution of interstate and foreign commerce. We have passed a law authorizing and directing the conservation of our natural resources, and the settled policies of the country on conservation are carried on under that law without friction or comment. We passed a tariff law that is not perfect, but it can be said of it that its provisions have not closed the door of a single factory or thrown a laborer out of work anywhere in the United States.

Under that law, imperfect as it is, we have paid all the expenses of the Government from the revenues derived under it, and have converted a deficit of $58,000,000 the year before it was enacted into a surplus of $30,000,000 the year after it was passed. Under that law, from sea to sea, our labor is generally well employed at fair wages—the highest ever paid to wage earners in any country at any time. Our foreign trade is greater than ever before. We exported during the month of January this year $202,500,000 worth of American goods to foreign countries. In the same month we imported $143,500,000 worth of foreign goods into our own country. Our inward and outward commerce for the first seven months of this fiscal year amounted to the colossal sum of $2,220,000,000, the greatest foreign commerce in a like period that has ever been enjoyed by any nation in the history of mankind. At the rate of these seven months, our foreign trade for the year ending July 1, 1912, will make our exports $2,240,000,000 and our imports $1,563,000,000, making an annual foreign trade of $3,805,000,000, leaving a balance of trade in our favor of $675,000,000.

What is the trouble, Mr. Speaker? It is ambition, thirst for power, by the greatest politician since Julius Cæsar. Col. Roosevelt has all of the ambition of Cæsar, of Cromwell, and of Napoleon combined without the statesmanship ability of either. [Applause and laughter.] I repeat, he is as ambitious for power as Cæsar or Napoleon, and he is adopting their plan for securing imperial power. [Applause.]

Lincoln, whom he so often quotes, told the people of this Republic in one of the greatest speeches ever delivered within its confines that their principal danger would come from just such an attack as is being made to-day by Col. Roosevelt—to discredit public office, to discredit the laws, then to discredit the Constitution, then the necessity for a strong man to rule the people, and that is exactly what Mr. Roosevelt is planning to-day. Here is what Lincoln said:

> At such a time and under such circumstances men of sufficient talent and ambitions will not be wanting to seize the opportunity, strike the blow, and overturn that fair fabric which for the last half century has been the fondest hope of the lovers of freedom throughout the world.
>
> Many great and good men sufficiently qualified for any task they should undertake may be found whose ambition would aspire to nothing beyond a seat in Congress, a gubernatorial or a presidential chair, but such belong not to the family of the lion or the tribe of the eagle. What! think you these places would satisfy an Alexander, a Cæsar, or a Napoleon? Never. Towering genius disdains a beaten path. It seeks regions hitherto unexplored. It sees no distinction in adding story to story upon the monuments of fame erected to the memory of others. It denies that it is glory enough to serve under any chief. It scorns to tread in the footsteps of any predecessor, however illustrious. It thirsts and burns for distinction and, if possible, it will have it. * * * Is it unreasonable, then, to expect that some man possessed of the loftiest genius, coupled with ambition sufficient to push it to its utmost stretch, will at some time spring up among us? And when such a one does it will require the people to be united with each other, attached to the Government and laws and generally intelligent, to successfully frustrate his designs.

Expressing a like sentiment, Hamilton said, in his first paper in the Federalist, urging the adoption of the Constitution—

> That the vigor of government is essential to the security of liberty; * * * their interest can never be separated; and that a dangerous ambition more often lurks behind a specious mask of zeal for the rights of the people than under the forbidding appearance of zeal for the firmness and efficiency of government. History will teach us that the former has been found a much more certain road to the introduction of despotism than the latter, and that of those men who have overturned the liberties of republics, the greatest number have begun their career by paying obsequious court to the people—commencing demagogues and ending tyrants.

If we are wise—and we are—we will to-day heed the warning of patriots and statesmen, and not experiment with the fundamental principles of a government that for a century and a quarter has guaranteed life, liberty, property, and the pursuit of happiness to the most aggressive and progressive people history has known, and been the model for better government and higher and nobler civilization throughout the world.

> Lord God of Hosts, be with us yet,
> Lest we forget; lest we forget.

AMENDMENT TO POST OFFICE APPROPRIATION BILL.

Mr. BARNHART. Mr. Speaker, I rise to ask unanimous consent to have placed in the RECORD an amendment to the Post Office appropriation bill concerning publicity of newspaper owners and editors, as authorized by a special rule, with an amendment thereto which I shall offer.

The SPEAKER. The gentleman from Indiana asks unanimous consent to have printed in the CONGRESSIONAL RECORD an amendment touching the ownership of newspapers and an amendment which he proposes to offer to the amendment. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The amendment authorized by the Committee on Rules is as follows:

> After line 15, page 28, of H. R. 21279, insert the following:
>
> "That it shall be unlawful for any person or persons, or association or corporation, to enter or to have entered into the mails of the United States any newspaper, magazine, or other periodical of like kind, unless such publication shall have plainly printed in a conspicuous place therein the name or names of the managing editor or managing editors, the name or names of the publisher or publishers, and the name or names of the owner or owners, including all stockholders owning stock of the par value of $500 or more of such periodical publication. Any person, association, or corporation that shall violate any provision of this act shall be punished for each violation of any provision thereof by a fine of not less than $100 nor more than $1,000."

Amendment to the amendment:

> After line 15, page 28, of H. R. 21279, insert the following:
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> "That it shall be unlawful for any person, association, or corporation to enter or deposit, or to have entered or deposited, into the mails of the United States any newspaper, magazine, or other periodical publication of like kind, unless such publication shall have plainly printed in a conspicuous place therein the name or names of the managing editor or managing editors, the name or names of the publisher or publishers, and the name or names of the owner or owners, including the name or names of the owner or owners of stock, bonds, or other securities to the amount of $500 or more which have been issued or sold by the said person, association, or corporation owning or controlling such publication and which may be outstanding. Any person, association, or corporation that shall so enter or deposit, or have entered or deposited, in the mails of the United States any such newspaper, magazine, or periodical publication of like kind in violation of the foregoing provision shall be guilty of a misdemeanor and be fined in any sum not less than $100 nor more than $1,000 for each offense."

DISTRICT BUSINESS.

Mr. JOHNSON of Kentucky. Mr. Speaker, inasmuch as there are five Mondays in this month, and the Committee on the District of Columbia would be no loser by it, and the Committee on the Post Office and Post Roads have their appropriation bill under consideration, I ask unanimous consent that next Monday be substituted for to-day for the purpose of transacting District business.

The SPEAKER. The gentleman from Kentucky asks unanimous consent that, inasmuch as this month has five Mondays, the fifth Monday be substituted for the fourth for the transaction of District business. Is there objection?

Mr. MANN. Mr. Speaker, I could not hear the request, and did not catch the statement of the gentleman.

The SPEAKER. The request is that next Monday being the fifth Monday it be substituted for to-day—the fourth Monday—for the transaction of District business.

Mr. MANN. That is under the same terms?

The SPEAKER. Under the same terms. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

ORDER.

Mr. STEPHENS of Nebraska. Mr. Speaker, I ask unanimous consent that Sunday, May 26, 1912, at 12 o'clock m. be set apart for addresses upon the life, character, and public services of the Hon. JAMES P. LATTA, late a Representative from the State of Nebraska.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Ordered, That Sunday, May 26, 1912, at 12 o'clock m., be set apart for addresses upon the life, character, and public services of Hon. JAMES P. LATTA, late a Representative from the State of Nebraska.

The SPEAKER. Is there objection to the present consideration of the order? [After a pause.] The Chair hears none.

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

SPEECH OF SENATOR O'GORMAN.

Mr. CONRY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. CONRY. Mr. Speaker, I would like to have unanimous consent to have printed in the RECORD a speech delivered by Senator O'GORMAN, of New York, at a banquet held by the National Democratic Club of New York City on Jefferson's birthday last.

The SPEAKER. The gentleman from New York asks unanimous consent to print in the CONGRESSIONAL RECORD a speech delivered by Senator O'GORMAN at a banquet given by the National Democratic Club of New York City on the 13th of this month. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The speech is as follows:

ADDRESS OF SENATOR JAMES A. O'GORMAN AT THE JEFFERSON DAY BANQUET OF THE NATIONAL DEMOCRATIC CLUB, HELD AT THE WALDORF-ASTORIA, NEW YORK CITY, APRIL 13, 1912.

"On this day a grateful Nation pays tribute to the memory of one of the fathers of the Republic. To Democrats the day has a peculiar significance, for our party creed found its birth in the genius of the illustrious American whose natal day we commemorate.

"Thomas Jefferson was born 169 years ago. He died on July 4, 1826, in his eighty-third year and on the fiftieth anniversary of the Declaration of Independence. His public career embraced more than half a century. By birth an aristocrat, he abhorred class distinctions, and devoted his life to the betterment of humanity. He was a member of the Virginia House of Delegates, a member of the Continental Congress, Governor of Virginia, a Member of the Congress of the United States, minister to France, Secretary of State in Washington's first Cabinet, Vice President under John Adams, and President of the United States for two terms.

"Three great events in our national life were the Declaration of Independence, the adoption of the Federal Constitution, and the Louisiana Purchase. Two of these achievements are imperishably associated with the name and fame of Thomas Jefferson. When 33 years of age he wrote the Declaration of Independence, which marks one of the most important epochs in the history of government. It dismembered an empire and founded a nation upon the immutable principles of human freedom and equality; and at a critical stage in our struggle against British oppression it gave us character abroad, and inspired enthusiasm and resolution and confidence at home.

"The next enduring contribution of Jefferson to the cause of human freedom was the purchase from France, during his administration as President, of the Louisiana Territory, which extended from the Gulf of Mexico north to the Canadian line, and from the Mississippi west to the Spanish possessions on the Pacific coast. That empire, acquired for $15,000,000, was larger than the original 13 States. It now contains 16 States. It has a population of 20,000,000, and its value as an integral part of the Union is without price. Events are great in their consequences. We call them great because of the results that follow them. Measured by this test, the Declaration of Independence and the Louisiana purchase give their author high rank among the benefactors of the human race. Jefferson was absent in France during the sessions of the convention that framed the Federal Constitution, but the adoption of the first 10 amendments to the Constitution was due largely to his insistence that they were essential to the scheme of government devised by the patriots who had achieved our independence.

"After Washington, Jefferson was the foremost figure in the formative period of the Republic. He could not make a speech, but in the science of government he was not surpassed by any of his compatriots. The purity of his patriotism was never challenged. He was an ardent advocate of the rights of man, and was unrelenting in his opposition to the monarchial tendencies of Hamilton, who wanted the President and Senate to be elected for life, and proposed that the governors of the States be selected by Congress. Hamilton and Adams distrusted the people, as do many of their followers in our own day. In the administration of John Adams the naturalization period was extended to 14 years, but was reduced to 5 years when Jefferson became President, and in this connection it is worthy of note that the Society of Tammany, or Columbian Order, was the first influential body to utter a protest against the odious alien and sedition laws; and it is, as it should be, a source of pride to that venerable society that it took a leading part in the agitation which led to the repeal of those un-American measures.

"Jefferson had confidence in the people, and he relied on the masses as the safest depository of political power. He believed in the equality of rights and responsibilities. He believed in the freedom of individual enterprise untrammeled by special privilege and unshackled by governmental restraints and favoritism. He had faith in humanity and hastened the dawn of a new era of hope for the oppressed of all lands. In his first inaugural he enunciated the creed of the Democratic Party. He declared his belief in the principles of 'Equal and exact justice to all men of whatever state or persuasion, religion or politics; peace and commerce and honest friendship with all nations—entangling alliances with none; economy in the public expense that labor might be lightly burdened.' Jefferson practiced what he preached. In his day and for 50 years afterwards the annual cost of the National Government averaged $1 for each member of the population. In this era of Republican waste and extravagance the cost per capita is thirteen times greater. More than a billion dollars is now being spent annually by the Republican administration, and a distinguished member of that party has recently confessed that three hundred millions of public money could be saved annually if rigid economy were exercised, but retrenchment in public expenditures can not be hoped for while the Republican Party is in control of the National Government.

"Jefferson believed that the Presidency should be limited to two terms. He followed the precedent established by Washington and refused to accept a third term, although the legislatures of five States urged him to accept a renomination, which would be equivalent to an election. No attempt to violate one of the wisest traditions of the Republic was made until the case of Gen. Grant, who, after an intervening term, was suggested for reelection in 1880. The disaster which that project invited should be heeded by a distinguished citizen of this State, who is deceiving himself with the hope that the American people will confer upon him a power which Washington and Jefferson would not accept and which was denied to the greatest of American soldiers.

"As Democrats we may boast of an honorable ancestry. We have survived the vicissitudes incident to the political conflicts of more than a century. We have witnessed the dissolution of one opposing party after another. The principles that we espouse are as vital to-day as when they were enunciated by Jefferson and practiced by Monroe and Jackson and Cleveland. The past is secure. What of the future? To-day the followers of Jefferson are the only united, harmonious, and coherent party in the Nation. We are on the eve of a presidential election. Our party is rich in presidential material, and we may have preferences for that high office, but we have no divisions, and whoever is selected as the standard bearer at Baltimore can be assured of the support of a united, vigorous, and aggressive party. The Republican Party is rent in twain. It is discredited, disorganized, and demoralized. The titular head of that once grand old party describes those who support his rivals as emotionalists and neurotics. The retort courteous describes the other factions as political paranoiacs. If either accusation be true, the Republican Party can have no claim upon the favor of the American electorate. There is an old adage that when a certain class of people fall out honest men come into their own. For many years the Democratic Party has endeavored to free the American people from the unjust exactions of the tariff, the trusts, and every form of oppression by special privilege. The Republican Party has claimed that a high tariff was necessary to protect wage earners from the products of the labor of Europe, although free trade in labor itself has never been seriously interfered with. It is now generally recognized that labor has not shared in the fruits of protection, for American workmen have been forced to compete not only among themselves, but also with the cheap labor imported by the protected industries. This is well illustrated in Lawrence, where most of the labor is of recent importation, and where the meager wages paid in the mills have driven from employment in the protected industries in that city nearly all

American labor. But a new light has dawned, and the truth is now told by one of the Cabinet officers in the present administration.

"In a public speech a few weeks since, in the city of Chicago, the Secretary of War declared that during the last 30 years there has been a steady increase of unnecessary protection every time the Republican Party has touched the tariff; that privileged interets have fattened upon the tariff as a bounty; and that the beneficiaries of the tariff have become stronger and stronger within the party and the Nation. How can Mr. Taft reconcile this declaration that his party has served the special interests for 30 years with his defense of the Payne-Aldrich tariff, which was dictated by the special interests and which increased the tariff on more than 600 articles? How can he justify his veto of the tariff legislation of last year, framed by a Democratic House in response to the protest of the masses of the people, who suffered from the high cost of living caused in great part by the high tariff enacted by the Republican Party? I doubt whether the history of American politics furnishes a parallel to the kaleidoscopic record of Mr. Taft on the tariff. When a candidate in 1908 he promised a reduction of the tariff. After election the Republican Party repudiated its pledges and increased the tariff. Mr. Taft condemned the bill and denounced the wool schedule as indefensible, and it was hoped he would veto the measure. He disappointed these expectations. He signed it, and, notwithstanding his previous utterances, declared it was the best tariff bill ever enacted. He later apologized for this unmerited approval, and in 1910 urged the elimination of its bad features. A bill accomplishing this reform was passed by a Democratic House last year, but he vetoed it with an inconsistency that has ceased to surprise the American people. He now professes a desire to eradicate the iniquitous features of the tariff, but refuses to do anything until a Tariff Board, working on an impossible principle, reports the results of its investigations. But the period of obstruction is nearing its end. The people will not tolerate the use of a Tariff Board as a device to delay the reduction of the tariff which the Republican Party promised four years ago.

"The people are beginning to realize as they never did before that when the law compels a citizen to contribute his just share to the support of the Government, that is taxation; but when it compels him to pay tribute to enrich private enterprises and confederated monopolies, that is robbery. Mr. Taft's Cabinet officer is authority for the statement that for 30 years our countrymen have been robbed by Republican legislation, and it can not now be denied that the tariff policy of the Republican Party has destroyed competition, created monopolies, and paralyzed and strangled our foreign trade. The only hope for relief from these conditions lies with the Democratic Party. The leaders of the Republican Party are now fencing over questions which are important, but which are not vital. They might well wish to divert attention from the record of the Republican Party on the tariff and trust questions, but with the vacillation and inefficiency which have marked this administration and its betrayal of the pledges upon which it secured the election in 1908, we have an issue upon which a Democrat can be elected President in November next. The tariff and the trusts are the only issues upon which we have elected a President since 1856, and they make the issue upon which the party will go forth to a glorious triumph in the contest now impending. Animated by the spirit of Jefferson and cherishing the memory of his achievements, we may invite the cooperation of all citizens who desire the restoration of a people's government, free from the sinister influences which in recent years have dominated the Republican Party and menaced the integrity of our institutions. The prospects of party success were never brighter; and with unity and harmony in our ranks and with a firm adherence to the principles of Jefferson, we may look forward with confidence to the result of the campaign upon which we are about to enter."

ICE FLOES IN NORTH ATLANTIC.

Mr. MOORE of Pennsylvania. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. MOORE of Pennsylvania. Mr. Speaker, I rise to ask the same privilege accorded to the gentleman from New York a moment ago. I want to extend in the RECORD as a part of my remarks a statement authorized by the Secretary of the Navy, as coming from the Hydrographic Office, and having reference to ice floes in the North Atlantic. It also throws light upon the accident to the steamer *Titanic*.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania to extend his remarks in the RECORD? [After a pause.] The Chair hears none.

The statement referred to follows.

SHIPPING WARNED OF ICE CONDITIONS IN NORTH ATLANTIC.

[By the Hydrographic Office.]

For more than a quarter of a century the Hydrographic Office of the Bureau of Navigation, Navy Department, has been publishing graphically from month to month a series of charts known as the Pilot Chart of the North Atlantic Ocean, depicting thereon the physical conditions of the ocean and of the atmosphere for the current month, as well as the location of dangers to navigation as reported by incoming ships. A summary of these dangers and a more detailed description than the space on the Pilot Chart would permit was in time given from week to week on a printed sheet known as the Hydrographic Bulletin. These publications were circulated freely among the shipmasters and shipping people in return for their news of the sea, the point of contact between the office at Washington and the marine world being a chain of branch hydrographic offices at the principal seaports.

Practically all the captains in the trans-Atlantic trade cooperate in this work by handing in their information upon arrival in port to the branch hydrographic offices. In recent years the collection of marine data has been immensely accelerated by the use of radio telegraphy, and the Hydrographic Office is thereby enabled to publish daily in a so-called Daily Memorandum whatever important reports of dangers have been received. This sheet is prepared every afternoon and is mailed to the branch hydrographic offices and there given publicity to all concerned. By this means Boston, New York, Philadelphia, Baltimore, Norfolk, etc., are daily put in possession of the accumulated reports of dangerous derelicts and icebergs, which have been edited by experts in this line of work. Thus in the case of the recent loss of the *Titanic* the shipping companies and shipmasters had been put in possession of the experience and judgment of a trained staff in the Hydrographic Office as summarized in a pamphlet printed in April, 1909, entitled "North Atlantic Ice Movements," giving a study of the entire question, with diagrams to show the usual limits of ice for a period of 10 years. More specifically the shipping community had been provided from month to month with the Pilot Chart showing the conditions of ice up to the time of printing and with the weekly Hydrographic Bulletin giving all pertinent details in regard to ice and derelicts and also the Daily Memorandum summarizing the collected reports of each day.

In New York the officer in charge of the branch hydrographic office has on exhibit on the floor of the Maritime Exchange, as well as in his own office, a large chart of the North Atlantic Ocean, on which is shown the location of the derelicts, ice, and other reported dangers. These charts he keeps posted to date. He also informs at once by telephone the various steamship companies of all reported dangers to navigation. The officers of said companies and the masters of their vessels, particularly those of outgoing vessels, have always been urged to call at the branch hydrographic office to obtain the latest information. Steamship companies have also always been urged to keep their ships afloat constantly informed of these dangers by means of wireless telegraphy. Similar action to that above outlined has been taken by the officers in charge of the branch hydrographic offices at the other ports mentioned above.

A trained seaman can and does estimate the probable speed and direction of drift of any dangerous obstruction, so that if he had knowledge of the existence of an iceberg or a derelict in a certain location at a given date he reckons its future position for an interval of a few days.

The April Pilot Chart, which was issued March 28, 1912, showed that in March ice had come as far south as latitude 44° N. The Daily Memorandum, prior to the 13th instant, showed that the trend of ice was to the southward, icebergs being sighted below the forty-third parallel on April 7, 8, 9, and 11; on the 9th and 11th it had reached the forty-second parallel, and on the 11th some of it was seen south of latitude 42°. The Daily Memorandum of April 15 contains a message from the steamship *Amerika* via steamship *Titanic* and Cape Race, Newfoundland, April 14, 1912, to the Hydrographic Office, Washington, D. C.: "*Amerika* has passed two large icebergs in 41° 27′ N., 50° 8′ W., on the 14th of April."—Knuth.

As the *Titanic's* position is reported to have been latitude 41° 16′, longitude 50° 14′ at the time of her disaster, it is thus seen that the message which she transmitted for the *Amerika* doubtless relates to the very ice upon which she was wrecked.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 21279, the Post Office appropriation bill.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 21279.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of Union for the further consideration of the bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes, with Mr. HAY in the chair.

The Clerk read as follows:

For two delegates to the International Postal Union at Madrid, 1913, to be appointed by the President, $5,000 each, $10,000.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph. I would like to get some information in reference to this. How long do these delegates serve?

Mr. MOON of Tennessee. I understand they serve for the next convention, which will be about two years from now. Really, they do not perform services except at the international conventions and preparing for them.

Mr. MANN. Why should their expenses amount to $5,000 each for attending an international convention?

Mr. MOON of Tennessee. I do not know why they should, except that the department estimates that is a proper sum to

cover the expenses—the travel there and back, their expenses at the place, and a reasonable compensation.

Mr. MANN. Certainly the travel there and back and expenses there will not amount to $5,000 a person for attending an international convention which probably only lasts for a few days or, at best, a few weeks.

Mr. MOON of Tennessee. I will say to the gentleman that has been the usual amount carried in the bill.

Mr. MANN. I know there was inserted into the bill a few years ago in some way a provision for the expenses of delegates to this International Postal Union for the purpose—I will not say for the purpose—but said by some gentleman to be for the purpose of providing places for some gentlemen who were in or out of Congress, or who were in and were going out. It may have been an entirely proper thing. I do not know. But if these gentlemen perform service by the year, if they are really engaged in working for the Government in preparation for the postal union meetings, that is one thing. I am not advised that they are. But if this is an honorarium, I think it is fair for the House to know who are the beneficiaries of this honorarium.

Mr. MOON of Tennessee. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Illinois [Mr. MANN] yield to the gentleman from Tennessee [Mr. MOON]?

Mr. MANN. I do.

Mr. MOON of Tennessee. I am sure I am not able to tell the gentleman who will be appointed, whether they will be gentlemen who have not positions and who are desiring positions which the department desires to give them, or not. Matters of that kind in the administration of the Post Office Department, of course, are not disclosed to the committee. This sum of $5,000 for each delegate has been for some time carried in the bill. I assume, of course, that the delegates to this convention must take some time to prepare themselves for the discharge of their duties. Whether the amount is too great or not I am not prepared to say now. Out of deference to the judgment of the Postmaster General and the department, the committee reluctantly placed this sum in the bill. There were some of us who were opposed to it entirely. If the gentleman from Illinois [Mr. MANN] is himself in a position to show that this service is useless, I am entirely willing to accede to a motion to strike it from the bill.

Mr. MANN. I am not in a position to show that the service is useless. I do not know about that. I take it that if we are parties to an International Postal Union it is proper that we should have delegates there. But certainly we ought to have men experienced enough in postal affairs here to go as delegates to that meeting and receive only their expenses going and coming and while there.

Mr. MOON of Tennessee. I take it that no gentleman who is competent to represent the Government of the United States in a convention of this sort could afford very well to go for mere expenses, nor could he afford not to be thoroughly prepared to meet other delegates in the consideration of international postal questions. The man who is worth anything at all would seem to me to be worth the sum fixed in this bill. Yet, as I said before, if the gentleman will show it ought to be less, we will accept his judgment. We have only taken the judgment of the department, and that we are obliged to do in many of these matters, and it is impossible for us to go into details of the service performed there, because that can not be understood in advance. We must of necessity take the judgment of the department in this matter.

Mr. MANN. How often does this postal union meet?

Mr. MOON of Tennessee. Every two years, in my judgment. However, the gentleman from Connecticut [Mr. TILSON] corrects me, and says the last one was six years ago. But they are subject to call of the postal convention. I think the convention meets next year.

Mr. MANN. I should suppose in sending a man to this convention some one would be selected naturally from the department who is informed in reference to post-office matters. Of course, if we practically direct the President to pay a compensation of $5,000 to each delegate, he naturally will do that at the direction of Congress. I shall withdraw the point of order and offer a motion to reduce the amount.

The CHAIRMAN. The gentleman from Illinois offers an amendment.

Mr. MANN. I offer an amendment to page 24, line 1, to strike out the word "ten" and insert the word "two."

The Clerk read as follows:

Amend, page 24, line 1, by striking out the word "ten" and inserting in lieu thereof the word "two."

Mr. MANN. And also strike out the words "$5,000 each." It is part of the same amendment.

The CHAIRMAN. The Clerk will report the remainder of the amendment.

The Clerk read as follows:

Also strike out the words "$5,000 each" in the same line.

Mr. MANN. Mr. Chairman, the amendment I offered would make the paragraph provide the sum of $2,000 to pay the expenses of two delegates to the International Postal Union next year. It seems to me that is an ample sum, quite commensurate with the sums usually provided for such purposes.

Mr. BUCHANAN. Mr. Chairman, may I ask the chairman of the committee what are the duties of these delegates and what is the length of time necessary to spend at these conventions?

Mr. MOON of Tennessee. The duties of delegates to the postal convention are those connected with fixing the rates of mails in an international way.

Mr. BUCHANAN. What is the usual time spent in that connection?

Mr. MOON of Tennessee. I do not know what time is taken in the preparation or what time they stay. The item is similar to that which has been carried in the bill for some years at $5,000.

I want to suggest, Mr. Chairman, that the figure presented by the gentleman from Illinois [Mr. MANN] is rather a small one to secure a good competent man to represent the United States in that convention. I think it would be hardly possible to get such a man for a thousand dollars. I myself have thought that the amount, $10,000, for the two was rather large, yet the department insisted very strongly upon that amount. Mr. Chairman, I move to amend the amendment offered by the gentleman from Illinois by inserting the word "six" instead of the word "two."

Mr. MANN. Oh, not "six." Let us see if we can not reach a compromise. I would be willing, so far as I am concerned, to make the total amount $4,000.

Mr. MOON of Tennessee. I move to strike out "two" and insert "six."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Tennessee to the amendment of the gentleman from Illinois.

The Clerk read as follows:

Amend the amendment by striking out the word "two" and inserting in lieu thereof the word "six."

Mr. MANN. Well, Mr. Chairman, $3,000 to each delegate going abroad to a convention is too much. We are not supposed to pay salaries to these delegates. We are supposed to pay their expenses. We have a number of international conventions, most of which are provided for in the diplomatic and consular appropriation bill, and that is where this ought to be provided for, not in the Post Office appropriation bill.

Mr. MOON of Tennessee. You can not get a man to go without a salary of something.

Mr. MANN. Why, if the Post Office Department has not men sufficiently competent to represent the Government at an international convention like this, they ought to dismiss the whole service and enlist new men.

Mr. MOON of Tennessee. The gentleman's idea is to take somebody from the department. It might not be wise to take them from there at all.

Mr. MANN. Well, I do not see the wisdom of taking outsiders. Who is so well posted in postal affairs and so well qualified to judge of what should be done at the International Postal Union Convention as the officials who deal with those problems in this country? I do not think there is any occasion for paying salaries. I happen to know how the item first got in the bill a few years ago. I am not going to say. But it was for the purpose of taking care of a distinguished gentleman who had rendered faithful service to his country. There is no reason for paying these salaries. We do not do it in any of the other international conventions and we ought not do it here.

Mr. MOON of Tennessee. Well, Mr. Chairman, the gentleman from Illinois has given me some information that I did not have before. I did not know that his party had made provision in the line that he indicates, otherwise we would not have taken the recommendation of the Postmaster General on this question. Mr. Chairman, I withdraw my amendment to the amendment on the gentleman's statement of the facts.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

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

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For expenses of agency for inspection of manufacture of official envelopes at Cincinnati, Ohio, $5,700.

Mr. MOON of Tennessee. Mr. Chairman, the item which has just been read ought really to be under the Fourth Assistant Postmaster General's office.

The CHAIRMAN. The gentleman can offer an amendment to strike out the paragraph and then insert it in the proper place later on.

Mr. MOON of Tennessee. I will ask unanimous consent at the end of the bill to transfer two or three items, of which this is one.

The CHAIRMAN. The gentleman asks unanimous consent to pass the paragraph.

Mr. MANN. No; that is not the gentleman's request.

The CHAIRMAN. The Chair will state that the gentleman can move to strike out the paragraph now.

Mr. MOON of Tennessee. I know that can be done, but I will simply ask unanimous consent later to transfer it.

The Clerk read as follows:

For payment of limited indemnity for the loss of pieces of first-class domestic registered matter, $25,000.

Mr. MOON of Tennessee. Mr. Chairman, I move to strike out, in line 25, the words "first class," and to insert, after the word "dollars," in line 26, the words "of the first, third, and fourth classes," so that the indemnity will cover all three of those classes. That is the intention of the act.

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

The Clerk read as follows:

Page 24, line 25, strike out the words "first class," and after the word "dollars," in line 26, insert the words "of the first, third, and fourth classes."

The question being taken, the amendment was agreed to.

The Clerk read as follows:

For payment of limited indemnity for the loss of registered articles in the international mails, $7,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. This item in the current law was $15,000, of which $8,000 was immediately available, as there was some deficiency. In view of the loss of the registered mail on the *Titanic*, I ask the gentleman whether it may not be advisable to increase the amount, and to make part of it immediately available?

Mr. MOON of Tennessee. I am rather inclined to think it would be. In line 2, page 25, I move to strike out the word "seven" and insert the word "fifteen," and after the word "dollars," in line 3, I move to insert the words "of which $8,000 shall be immediately available."

Mr. MURDOCK. Will that cover losses during the current year?

Mr. MANN. That is precisely what we did last year, and in view of the accident to the *Titanic* I have suggested to the gentleman from Tennessee that he offer this amendment, and he has done so.

The question being taken, the amendment was agreed to.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, office of the Third Assistant Postmaster General, $1,000.

Mr. MURDOCK. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

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

The Clerk read as follows:

Insert as a separate paragraph:

"That hereafter magazines, periodicals, and other regularly issued publications, in raised characters for the use of the blind, whether prepared by hand or printed, which contain no advertisements and for which no subscription fee is charged, shall be transmitted in the United States mails free of postage and under such regulations as the Postmaster General may prescribe."

Mr. MURDOCK. Mr. Chairman, this amendment relates to the carriage free of certain magazines printed in raised letters for the blind. There are two kinds of raised letters in use for the blind. One is known as the Moon system, a letter which older people who are blind can read easily. A Mrs. Ziegler philanthropically began the publication some years ago of a magazine for free distribution among the blind, a magazine of this character. It is printed in both systems of raised letters. It carries no advertisements; it is kept up by her private expenditure. It is not extensive. A measure like this has passed this body in a previous year.

Mr. SHERLEY. If the gentleman will pardon me the interruption, I could not catch the purport of the amendment by the reading of it from the desk. It is not limited to any particular publication for the blind, but applies to all publications?

Mr. MURDOCK. It applies to all publications that carry no advertisements and for which no subscription price is asked. The amendment has this added degree of merit, that a great many of the older blind are poor, from the very nature of things. This will not burden the mail and will not result in profit to anybody. The revenue which the Government will lose, I think, amounts to something like $1,000, if I am correctly informed. The measure passed this House once before, and I think was favorably reported in the Senate, but through an early adjournment, or something of that kind, it failed to become a law.

Mr. SHERLEY. Is there now any provision in the law touching the postage to be paid on mail matter for the blind?

Mr. MURDOCK. I will say to the gentleman from Kentucky that there is, that any book in raised letters for the blind, loaned by any association or library, shall go through the mails free, but it has been held by the legal authorities that this magazine published by Mrs. Ziegler is not a loan, but is a gift, and it is excluded from the mails on that account.

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

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

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

The Clerk read as follows:

On page 25, immediately after line 6, and as a new section, insert the following:

"That from and after the passage of this Act all periodical publications issued from a known place of publication at stated intervals, and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than one thousand persons, or by a regularly incorporated institution of learning, or by a regularly established State institution of learning supported in whole or in part by public taxation, or by or under the auspices of a trades-union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by State boards of health, shall be admitted to the mails as second-class matter, and the postage thereon shall be the same as on other second-class matter, and such periodical publications, issued by or under the auspices of benevolent or fraternal societies or orders or trades-unions, or by strictly professional, literary, historical, or scientific societies, shall have the right to carry advertising matter, whether such matter pertains to such benevolent or fraternal societies or orders, trades-unions, strictly professional, literary, historical, or scientific societies, or to other persons, institutions, or concerns; but such periodical publications, hereby permitted to carry advertising matter, must not be designed or published primarily for advertising purposes, and shall be originated and published to further the objects and purposes of such benevolent or fraternal societies or orders, trades-unions, or other societies, respectively; and all such periodicals shall be formed of printed paper sheets, without board, cloth, leather or other substantial binding, such as distinguish printed books for preservation from periodical publications: *Provided*, That the circulation through the mails of periodical publications, issued by or under the auspices of benevolent or fraternal societies or orders or trades-unions, or by strictly professional, literary, historical, or scientific societies, as second-class matter, shall be limited to copies mailed to members, exchanges, and bona fide subscribers, together with ten per centum of such circulation in addition as sample copies: *Provided further*, That the office of publication of any such periodical publication shall be fixed by the association or body by which it is published, or by its executive board, and such publication shall be printed at such place and entered at the nearest post office thereto."

Mr. MOON of Tennessee. Mr. Chairman, to that amendment I reserve a point of order.

Mr. DODDS. Mr. Chairman, it will be necessary for me to say but little in explanation of this amendment.

During the past 33 years all newspapers and other periodicals have found their way into the mails as second-class matter through and under the provisions of the act of March 3, 1879, the act of July 16, 1894, or the act of June 6, 1900, and, as the latter act applies only to the publications of State departments of agriculture—which will in no wise be affected by the provisions of this amendment—it will not be necessary for us now to concern ourselves with it.

The act of 1879, in so far as it applies to second-class matter, reads as follows:

SEC. 10. Mailable matter of the second class shall embrace all newspapers and other periodical publications which are issued at stated intervals, and as frequently as four times a year and are within the conditions named in sections twelve and fourteen.

SEC. 12. Matter of the second class may be examined at the office of mailing, and if found to contain matter which is subject to a higher rate of postage, such matter shall be charged with postage at the rate to which the inclosed matter is subject: *Provided*, That nothing herein contained shall be so construed as to prohibit the insertion in periodicals of advertisements attached permanently to the same.

SEC. 14. The conditions upon which a publication shall be admitted to the second class are as follows:

First. It must regularly be issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

Second. It must be issued from a known office of publication.

Third. It must be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications.

Fourth. It must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of sub-

scribers; *Provided, however*, That nothing herein contained shall be so construed as to admit to the second-class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates.

For several years immediately following the passage of this act fraternal and kindred publications, having obtained the required number of subscribers, were admitted to the mails as second-class matter, without hindrance, upon the same terms and under the same conditions as were other periodicals. But as the years went by publishers of other periodicals entered complaints with the Post Office Department, insisting that the subscribers of fraternal periodicals were not being regularly obtained, because required to take the publications during their periods of membership; and that for this reason they should not be allowed the right accorded to their own publications, namely, the right of transmission through the mails as second-class matter.

These complaints were so insistently made that the department was induced to give consideration to them, and agitation of the question brought on the enactment of the law of 1894, which reads as follows:

All periodical publications issued from a known place of publication at stated intervals and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than one thousand persons, or by a regularly incorporated institution of learning, or by or under the auspices of a trades union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by State boards of health, shall be admitted to the mails as second-class matter and the postage thereon shall be the same as on other second-class matter and no more: *Provided, further*, That such matter shall be originated and published to further the objects and purposes of such society, order, trades union, or institution of learning, and shall be formed of printed paper sheets without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications.

This act was very satisfactory to the publishers of these periodicals, they and the lawmakers particularly interested in such legislation then believing that the requirements as to their subscription lists were by it fixed, and that they were thereafter to have the same rights otherwise that they had previously enjoyed, namely, the right to print and publish such articles as they should believe would be of interest to their readers, and the right to carry such advertising matter as they might think would be interesting to their readers and beneficial to themselves; and this being the case, many publishers caused their publications to be reentered under the later law. However, other publishers continued to circulate their publications under the old law, and, after a time, complaints again were made; but when the department thereafter gave them consideration it was agreed between these publishers and the department that if a sum certain should be set aside by the society or lodge—the same to be deducted from membership fees or dues paid in by members and held for this purpose; the by-laws making such provision—then this would be considered a compliance with the law and would be satisfactory. But the end was not yet; the department again raised the question as to the rights of these periodicals to be received into the mails as second-class matter, under the act of 1894, in case they carried advertising matter of any kind—except, perhaps, the advertising of themselves or of their own individual property or effects in case of their having any for sale—and the holding of the department then was, and ever since has been, that the kinds of publications embraced in this bill can have no right in the mails as second-class matter under the act of 1879 unless they shall have secured their subscribers in the usual way, and not in the manner hereinbefore referred to; and that they can not be received under the act of 1894, in case they contain any advertising, except as before stated. As the law now seems to be—under the holdings of the department—if the society has an old desk or an old chair of its own it can advertise the sale of same through its publication; but if it desires to advertise the productions or wares of others—no matter how beneficial the information may be to its members nor how profitable it may be to the society itself—nothing of the kind can be done, and it must leave this kind of privilege to other more favored periodicals, whose rights in this respect are seemingly unquestioned.

Much ado is made over the fact that fraternal periodicals secure their subscribers in the way named; but where is the wrong in the methods which they pursue? No one needs to join the society or union unless he chooses to do so; and if he does join he does it willingly and must be presumed to know, and usually does know, the nature of the contract or agreement into which he is entering—a portion of which is that he will take the society publication, while a member, and pay for it in the way the by-laws prescribe. If this were not done thus and so; if his subscription could not be obtained in this way, and for the time that he remains a member, the society paper could not be used as a conveyance of society notices, and would thus lose much of what it now is as a beneficial agent in its work.

But how do some of the favored periodicals secure their subscribers? Let me quote from the statement of Mr. Williams, of Detroit, Mich., in the RECORD of last Congress—March 8, 1910, page 2965—namely:

SUNDAY COUPON GIVES 10 VOTES—PURCHASE OF COUPONS IN BULK WILL NOT BE PERMITTED—A CHANCE FOR ALL.

Ten votes will be represented by the coupon to be printed in the Sunday Leader to-morrow for the free trip to the Jeffries-Johnson fight offered by the Leader.

The coupon will be printed on page 2 to-morrow, and, as previously announced, all Sunday coupons will be good for 10 votes.

Save your coupons and have your friends save for you, but pay particular attention to the fact that coupons purchased in bulk from news agents or news dealers will be thrown out. Under no circumstances will such coupons be counted.

Surely, if the law remains as it now is, under the construction of the department, "it strains at a gnat and swallows a camel."

What the publishers of these periodicals are contending for and what they want, and all they want, is the right to have their publications transmitted through the mails as second-class matter, with the same rights and privileges as are now enjoyed by other publications being so transmitted; and when we consider the great work these fraternities and unions are doing in the way of bringing help and comfort to the widow and to the fatherless—at the times, too, of their greatest need—instead of being discriminated against in any manner they should be helped to the uttermost in every way that justice and right will permit.

There is but little of selfishness in the work in which they are engaged; theirs, for the most part, is a work of humanity and of the heart. When fate strikes her hardest blow, when the natural stay and support of the family—the great institution upon which our civilization is based—is taken away, then does the fraternal organizations or trades-union step in and shoulder the burdens of the weak and of the helpless, and often does the work for them that otherwise would have to be done by charity or by the State.

Do we comprehend the extent of this great work? The proofs taken at the hearings on House bill 22239, in the last Congress, show that what are known as fraternal organizations alone have a membership of nearly 7,500,000, and that they have already paid out in benefits nearly $1,500,000,000.

Then, too, I can say that what is true of the fraternities is also true of the labor organizations. According to these same proofs the Cigar Makers' Union alone, with a membership of about 40,000, paid out for benefits in the year 1908 the sum of $586,255.73, and during the first 29 years and 2 months of its existence it paid out $8,372,383.60. There are 118 of these unions affiliated together in America—all doing presumably about the same work; and—assuming that each has paid out in this way substantially the same amount as the others—should computation be made we would find that they have contributed almost another billion of dollars to those within their ranks and those depending on them; so that the great social work being done by these societies and unions is almost beyond our power to comprehend.

In granting the request which they are now making, we are giving to them nothing to which they are not richly entitled—nothing which is not really theirs under the act of 1894, rightly construed. That they have been greatly annoyed and hindered in their work by the various holdings and changes in holdings—in the administration of the present laws—no one can gainsay; and that they should have their rights determined, and placed beyond chance for dispute, should be apparent to all.

Mr. Chairman, this amendment is identical with the bill H. R. 22239, which bore my name in the last Congress. It passed the House at that time by unanimous consent and went to the Senate, but we were unable to get it out of the Senate committee. It gives only the same rights to these periodicals that are now enjoyed by newspapers and magazines—the fraternal publications and trade-union periodicals being allowed to get their subscribers in the way they usually do. It gives to them only the rights that are now enjoyed by general periodicals, in so far as carrying advertisements is concerned.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. DODDS. Certainly.

Mr. MOORE of Pennsylvania. I notice the gentleman's amendment does not include journals, magazines, or newspapers published by religious bodies. They have made an appeal to be included if any arrangement of this kind goes through. It seems to me the gentleman's amendment would be incomplete and special if it did not include these religious publications.

Mr. DODDS. I will say to the gentleman from Pennsylvania that when the bill went through the House Committee on the Post Office and Post Roads, two years ago, the committee did not agree upon allowing the kind of periodicals that the gen-

tleman refers to to be included. I have included in this amendment all of the publications that were allowed by the committee, two years ago, in my bill that passed the House.

Mr. MOORE of Pennsylvania. If the gentleman will pardon me, these publications of large religious bodies are publications of a charitable and philanthropic nature and would in every way meet the conditions that the gentleman's amendment proposes in regard to the other societies and associations. It seems to me to be a serious objection to the amendment if it should be considered without considering these religious publications.

Mr. MURDOCK. Will the gentleman yield?

Mr. DODDS. Certainly.

Mr. MURDOCK. I have not seen the amendment which the gentleman offered this morning. Is it virtually the same amendment as the bill prepared two years ago?

Mr. DODDS. It is exactly the same, verbatim.

Mr. MURDOCK. As the bill was drawn at that time, did it admit the National Geographic Magazine, which carries no advertisements?

Mr. DODDS. I think it did.

Mr. MURDOCK. Was there any material change in that bill in the definition of what is a legitimate subscriber?

Mr. DODDS. Yes; it fixes the subscribers of periodicals as parties who are members of the order, society, or union, and exchanges, and bona fide subscribers, together with 10 per cent of such circulation in addition as sample copies.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. DODDS. Certainly.

Mr. BORLAND. Does the amendment now proposed include publications of religious organizations?

Mr. DODDS. It does not.

Mr. BORLAND. Is there any objection to such inclusion?

Mr. MOORE of Pennsylvania. Mr. Chairman, I was just going to ask whether or not the gentleman would accept such an amendment.

Mr. MANN. Mr. Chairman, let me suggest to the gentleman that the amendment as offered is confined to bodies which have a status that can be ascertained, but if you permit any religious publication to go through the mails, then a different question arises. Anybody can publish a religious publication. You can organize a publication and call it religious. There is no limitation whatever upon that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Michigan be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Suppose the Roman Catholic Church, which issues an official publication not intended for profit wholly; or suppose the Presbyterian Church or the Methodist Book Concern issue publications; or suppose the Baptist Publication Society does, or the Protestant Episcopal Church does, or the Lutheran Church, and so on, how are you going to meet that question? These are associations that are constituted just as these bodies referred to in this amendment are, and it would seem that they are entitled to all the privileges that are extended to these fraternal organizations or unions, as proposed by this amendment. If the gentleman does not accept an amendment of that kind I shall offer it.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. DODDS. Certainly.

Mr. BORLAND. I have introduced a bill, which is pending before the Committee on the Post Office and Post Roads, providing for the extension of the second-class privileges to these religious bodies, and it is designed to cover exactly the class of publication referred to, issued by the Methodist Church, the Presbyterian Church, the Protestant Episcopal Church, and other national religious bodies.

Mr. MOORE of Pennsylvania. Is the gentleman prepared to offer his amendment now as an amendment to this amendment?

Mr. BORLAND. Yes.

Mr. MOORE of Pennsylvania. If the gentleman is, that settles it.

Mr. BORLAND. Some of these issue what they call a weekly bulletin, and upon that they have to pay first-class rates.

Mr. MOORE of Pennsylvania. I merely desire to ask if the gentleman will offer such an amendment as he suggests at this time?

Mr. BORLAND. Yes; if the gentleman from Michigan gets by the point of order, I shall be very glad to offer it.

Mr. SHERLEY. Mr. Chairman, will the gentleman from Michigan yield?

Mr. DODDS. Certainly.

Mr. SHERLEY. Mr. Chairman, I would like to pursue a little further the inquiry of the gentleman from Kansas [Mr. MURDOCK] as to whether the gentleman's bill embraces as a subscriber a member of a fraternal order who pays dues to a grand lodge and who, by virtue of the payment of such dues, is entitled to receive a copy of the order's paper.

Mr. DODDS. In words it includes only the members of the society, order, or union, and exchanges and bona fide subscribers, together with the 10 per cent for sample copies.

Mr. SHERLEY. Can the gentleman read just the part of his amendment that deals with this particular point?

Mr. DODDS. Certainly; I will read it:

Provided, That the circulation through the mails of periodical publications, issued by benevolent or fraternal societies or orders, or by trades-unions, strictly professional, literary, historical, or scientific societies, as second-class matter, shall be limited to copies mailed to members, exchanges, and bona fide subscribers, together with ten per centum of such circulation in addition as sample copies.

Mr. SHERLEY. In other words, it does not make the right to second-class privileges dependent at all upon the number of subscribers as the Post Office Department construes the word "subscribers."

Mr. DODDS. It does the same in that respect as the law of 1894.

Mr. SHERLEY. Mr. Chairman, I am not sufficiently familiar with that law to know to just what the gentleman refers. Here is a proposition that was up before the department. A paper was denied the second-class mail privilege upon the ground that its subscription was not a bona fide subscription, that the subscribers were not real subscribers, but were simply members of an order, who got the paper by virtue of being members. I want to know if that rule is changed by this amendment.

Mr. DODDS. It would be denied under the law of 1879, but under the law of 1894, which is as follows, it would not be denied:

All periodical publications issued from a known place of publication at stated intervals and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than one thousand persons, or by a regularly incorporated institution of learning, or by or under the auspices of a trades union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by State boards of health, shall be admitted to the mails as second-class matter and the postage thereon shall be the same as on other second-class matter and no more: *Provided, further*, That such matter shall be originated and published to further the objects and purposes of such society, order, trades union, or institution of learning, and shall be formed of printed paper sheets without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications.

That is the provision of the law of 1894, and does away with the necessity of getting the subscribers required by the law of 1879.

Mr. SHERLEY. Well, if this does not do any more than the law of 1894, what is the use of passing it?

Mr. DODDS. It does more.

Mr. SHERLEY. That is what I am trying to find out.

Mr. DODDS. It allows these periodicals to carry advertising matter, in a limited way.

Mr. SHERLEY. Then, in other words, you have changed the law of 1894 by enlarging it so as to include papers that also carry advertisements——

Mr. DODDS. That is what this does.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I ask that the gentleman have five minutes additional.

Mr. SHERLEY. Mr. Chairman, I suggest to the Chair that there is no time limit on the gentleman, there is a point of order being reserved, and the gentleman is practically speaking by unanimous consent.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that it has been the practice when the point of order was raised to hold gentlemen to the five-minute rule, and the Chair is endeavoring to enforce that practice. The gentleman from Illinois asks unanimous consent that the gentleman from Michigan may have five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Chairman, I understand the amendment offered by the gentleman now specifically provides that fraternal organization papers may be sent to members of the fraternal organization as second-class matter.

Mr. DODDS. It does.

Mr. MANN. So it obviates the question of bona fide subscribers to the amount of 50 per cent, which is required of the other papers which were granted the second-class mail privilege.

Mr. DODDS. It does away with the objections referred to and gives the right, as I stated a moment ago, to carry advertising matter.

Mr. MANN. It would not require, as I understand, that a member of the fraternal organization should subscribe for the publication.

Mr. DODDS. It does not under this provision.

Mr. MANN. It may be sent to them free, or may be sent to them because of the dues which they pay to the organization.

Mr. DODDS. Under such regulations as the organization may see fit to make.

Mr. MANN. But I am not certain it is entirely free from doubt as to the wording, and I want that statement to go in the RECORD for the benefit of officers who have to construe the law.

Mr. TILSON. I would like to ask the gentleman from Michigan if he would make a little more clear the provision as to advertising and its limitation. What limitation is there in the gentleman's amendment as to the amount of advertising which these publications may carry and allow them to be admissible at the second-class rate?

Mr. DODDS. The amendment provides that the publication shall have the right to carry advertising matter, whether such matter pertains to such benevolent or fraternal societies or orders, literary, historical, or scientific societies, or to other persons, institutions, or concerns.

Mr. TILSON. Is it unlimited in amount? Can one of these journals carry an unlimited amount of advertising?

Mr. DODDS. It is not unlimited in amount. It provides that the periodicals shall not be designed or published primarily for advertising purposes; that the carrying of the advertising must be incidental—just the same regulation as applies to general periodicals, or substantially the same.

The CHAIRMAN. Does the gentleman from Tennessee make the point of order?

Mr. MOON of Tennessee. I withdraw the point of order.

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

Mr. BORLAND. Mr. Chairman, was there not an amendment to the amendment of the gentleman from Michigan?

The CHAIRMAN. No.

Mr. BORLAND. The gentleman from Pennsylvania started to offer an amendment on that and I thought he would. If the Chair will withhold the putting of the question I would like to offer an amendment.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. May I offer this amendment to the amendment after the amendment of the gentleman from Michigan has been passed?

The CHAIRMAN. Without objection, the gentleman from Pennsylvania offers an amendment, which the Clerk will report.

Mr. DODDS. The request is that his amendment be offered after my amendment is passed.

The CHAIRMAN. The amendment has not yet been passed. The Chair was in the act of putting the question and the gentleman from Pennsylvania asked unanimous consent to offer an amendment to the amendment, and without objection the Clerk will report the amendment to the amendment.

Mr. MOORE of Pennsylvania. Mr. Chairman, if there is no objection I will read it.

The CHAIRMAN. The Clerk will have to read it after the gentleman has read it, and the gentleman had better send it up for reading.

The Clerk read as follows:

Amendment to the amendment:

"*Provided*, That all the privileges of second-class mail matter herein extended to benevolent and fraternal societies be also extended on similar terms to religious societies and associations issuing newspapers and magazines."

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

Mr. MANN. Mr. Chairman, reserving the right to object, does the gentleman have any idea how far that would go? It is a rather hastily prepared amendment.

Mr. MOORE of Pennsylvania. It would have a very wide effect. There is no question about that, but the other proposition is equally wide.

Mr. MANN. The other proposition is pretty well guarded, I will say to the gentleman, as he would see if he had examined the bill, which I have studied a number of times when introduced on the floor. Supposing some one now who is deprived of the use of the second-class privilege, publishing some paper, organizes what is called religious societies, and thereupon proceeds to claim the benefit of the second-class matter for a purely advertising sheet? How can it be shut out under the gentleman's amendment?

Mr. BORLAND. With the permission of the gentleman from Pennsylvania, I would say that this provision in regard to religious publications is carried in exactly the same order as the provision in reference to fraternal publications. It must be issued from the known place of publication. It must be issued at least four times a year, and so forth. There are the same safeguards exactly, and no others, that exist as to fraternal orders.

Mr. MANN. As to the fraternal propositions, this amendment provides that the fraternal organizations must have a thousand bona fide members. That is one proposition. It is quite a different proposition to say that anybody can issue an advertising sheet, call it the organ of some imagined religious name, and issue what they please under the second-class privilege.

Mr. MOORE of Pennsylvania. I think it is fair to say to the gentleman that that is not contemplated by the amendment. The amendment to the amendment suggests the same conditions that are imposed upon beneficial and fraternal orders shall be imposed upon religious organizations.

Mr. MANN. I saw that part of it, but I do not think it amounts to anything. I understand what the gentleman desires to accomplish. But here is a proposition offered on the floor that, if it gets into the law, will be the law. The question is, What does it say? The gentleman knows that the Post Office Department is in a constant fight with people who are issuing purely advertising sheets for advertising purposes only, and endeavoring to secure the second-class privilege to transmit their advertisements at the expense of the people of the United States. And any proposition ought to be safely guarded. I supposed the gentleman from Missouri [Mr. BORLAND] had a bill which probably would cover it. I do not believe the gentleman's amendment covers it.

Mr. MOORE of Pennsylvania. That also seems to be the idea of the gentleman from Michigan [Mr. DODDS]. If the effect of my amendment on his amendment would be to defeat his amendment, I prefer to withdraw mine and then take the question up with the gentleman from Missouri [Mr. BORLAND], who has a bill covering this point.

Mr. MANN. I think that would be better.

Mr. MOORE of Pennsylvania. I withdraw the amendment.

Mr. BORLAND. I offer the same amendment, then.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Missouri [Mr. BORLAND], which is the same as the amendment offered by the gentleman from Michigan.

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

Mr. BORLAND. Division, Mr. Chairman.

The committee divided; and there were—ayes 4, noes 20.

So the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DODDS].

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

Mr. DODDS. Mr. Chairman, I offer the following amendment in order to perfect the language of the bill, to follow the suggestion of the department.

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

The Clerk read as follows:

On line 3, page 2 of the amendment, after the word "by," insert the words "or under the auspices of."

Mr. MANN. Mr. Chairman, reserving the right to object, that can only be done by unanimous consent. What is the purpose of that?

Mr. DODDS. We only place here the other language elsewhere in the bill—"under the auspices of."

Mr. MANN. That was in the other part.

Mr. DODDS. It ought to be repeated in this part.

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

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

Mr. DODDS. Mr. Chairman, I offer the following amendment for the same purpose.

The CHAIRMAN. The gentleman from Michigan [Mr. DODDS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On line 4, page 2 of the amendment, after the word "orders," strike out the comma and insert the word "or."

Mr. DODDS. That just carries the same provision to the trade-unions.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan.

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

Mr. DODDS. Mr. Chairman, I offer the following amendment for the same purpose.

The CHAIRMAN. The gentleman from Michigan [Mr. DODDS] offers another amendment, which the Clerk will report.

The Clerk read as follows:

On line 4, page 2 of the amendment, after the comma and before the word "strictly," insert the words "or by."

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

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

Mr. DODDS. I offer the following amendment for the same purpose.

The CHAIRMAN. The gentleman from Michigan [Mr. DODDS] offers another amendment, which the Clerk will report.

The Clerk read as follows:

On line 13, page 2 of the amendment, after the word "further," strike out the words "their own" and insert the word "the."

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

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

Mr. DODDS. Mr. Chairman, I offer the following amendment for the same purpose.

The CHAIRMAN. The gentleman from Michigan [Mr. DODDS] asks unanimous consent to offer another amendment, which the Clerk will report.

The Clerk read as follows:

On line 13, page 2 of the amendment, after the word "purposes" and before the comma, insert the words "of such benevolent or fraternal societies or orders, trade-unions, or other societies."

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

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

Mr. BORLAND. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] offers an amendment, which the Clerk will report. Where does the gentleman propose that it shall go in the bill?

Mr. BORLAND. At the end of the last word of the amendment offered by the gentleman from Michigan.

Mr. MANN. That amendment is not subject to amendment.

Mr. BORLAND. It follows the amendment of the gentleman from Michigan.

The CHAIRMAN. The gentleman from Missouri offers an amendment as a new paragraph, after the word "dollars." The Clerk will report the amendment.

The Clerk read as follows:

Provided, That the privileges herein given to fraternal and benevolent associations are hereby extended to religious societies or associations which comply with the same requirement.

The CHAIRMAN. The gentleman's amendment is offered by unanimous consent. Is there objection?

Mr. MOON of Tennessee. I make the point of order on that.

Mr. MANN. What is the request?

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent to amend the amendment of the gentleman from Michigan [Mr. DODDS].

Mr. BORLAND. No; it should be a proviso.

Mr. MOON of Tennessee. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Tennessee objects.

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

The CHAIRMAN. The gentleman from Michigan [Mr. DODDS] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following as a new paragraph.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert as a new paragraph the following:

"That mailable matter of the second class shall embrace every newspaper or other periodical publication issued by or under the auspices of a religious or charitable society or organization: *Provided*, That such publication complies with the requirements and conditions of section 429 of the Revised Statutes of the United States."

Mr. MOON of Tennessee. I make the point of order on the amendment.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

For blanks, books, and printed matter of urgent or special character, including the preparation, publication, and free distribution by postmasters to the public of a pamphlet containing general postal information, intaglio seals, and other miscellaneous items of immediate necessity for the registry system, $4,000.

Mr. MOON of Tennessee. Mr. Chairman, I ask unanimous consent to transfer to the paragraph which we passed under the head of the "Office of the Third Assistant Postmaster General" these words: "For expenses of agency for inspection of manufacture of official envelopes at Cincinnati, Ohio, $5,700." I ask that the item be transferred to this part of the bill under the "Office of the Fourth Assistant Postmaster General," where it belongs.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to transpose lines 17, 18, and 19, on page 24, to come in on page 25, after the word "dollars," in line 20. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will read.

The Clerk read as follows:

For pay of letter carriers, substitutes for carriers on annual leave, clerks in charge of substations, and tolls and ferriage, Rural Delivery Service, $43,375,000: *Provided*, That not to exceed $20,000 of the amount hereby appropriated may be used for compensation of clerks in charge of substations.

Mr. MOON of Tennessee. Mr. Chairman, a day or two ago we passed a provision for the payment of the mail carriers on Lake Winnepesaukee. There was a mistake made in that amendment. I ask unanimous consent that we go back to page 16, line 25, to strike out that amendment which was agreed to the other day.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] asks unanimous consent to return to page 16, line 25, for the purpose of offering an amendment. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman will offer his amendment.

Mr. MOON of Tennessee. The amendment is to strike out the amendment that was agreed to by the committee.

The CHAIRMAN. The gentleman from Tennessee moves an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out the following in page 16, line 25:

"*Provided*, That in the discretion of the Postmaster General the pay of the carrier on the water route on Lake Winnepesaukee, who furnishes his own power boat for mail service during the summer months, may be fixed at an amount not exceeding the maximum salary allowed rural carriers by law in any one year."

The amendment was agreed to.

Mr. MOON of Tennessee. Now, Mr. Chairman, I move to amend by inserting, after the word "station," in line 21, page 27, the following, which I send to the Clerk's desk to be read.

The Clerk read as follows:

On page 27, after line 21, insert:

"*Provided further*, That in the discretion of the Postmaster General the pay of the carrier on the water route on Lake Winnepesaukee, who furnishes his own power boat for mail service during the summer months, may be fixed at an amount not exceeding the maximum salary allowed rural carriers by law in any one calendar year."

The amendment was agreed to.

Mr. HAMILTON of Michigan. Mr. Chairman, I offer an amendment.

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

The Clerk read as follows:

On page 27, line 18, after the word "dollars," amend by inserting the following:

"*Provided*, That the Postmaster General shall allow extra compensation to carriers for closed-pouch service."

Mr. MANN. I reserve a point of order on that.

Mr. HAMILTON of Michigan. Mr. Chairman, there are a great many closed pouch rural mail carriers. My attention has been called particularly to certain cases in my own district, and one of them was investigated a few days ago. The investigation covered three days, and the department had not yet finished the investigation when the report was made to me.

The closed pouch carried by the carrier from the city of Hastings, in my district, on a route running out of Hastings, through the town of Dowling, contained, during the three days investigated, an average of 281 packages, and the average weight of the closed pouch for the three days was 97 pounds. In addition to this pouch to the town of Dowling the carrier is making the regular delivery on his route, and the investigation showed that the average number of pieces delivered by him along his route, outside the mail destined for Dowling, for the three days was 290. There are 117 boxes on the route. It seems to me perfectly apparent that a service which requires a carrier, without additional compensation, to carry a closed pouch daily, thereby imposing a duty which other carriers over the various routes out of the same post office do not have to perform, where the average weight, as in this case for illustration, is 97 pounds a day, is unfair, and that there ought to be some means provided in the law whereby these men who are performing this extra service every day in the year may receive some compensation for it. Not only should all carriers receive more than they are now receiving, but carriers of closed pouches should receive proper extra compensation therefor.

I have always appreciated our splendid rural mail service as I know the gentleman from Kansas does.

Mr. MURDOCK. Will the gentleman yield?

Mr. HAMILTON of Michigan. Yes.

Mr. MURDOCK. Here is the case of a carrier taking a closed pouch with 97 pounds of mail in it from Hastings to Dowling.

Mr. HAMILTON of Michigan. Yes.

Mr. MURDOCK. Of course he carries that closed pouch for nothing?

Mr. HAMILTON of Michigan. Yes.

Mr. MURDOCK. Does the gentleman know what the cost of the carriage of the same kind of mail between Hastings and Dowling was when that was a star route, as it undoubtedly was at some time?

Mr. HAMILTON of Michigan. I took the pains to inquire into that and I have a letter here concerning the cost of the former star route. It is as follows:

APRIL 15, 1912.

Hon. E. L. HAMILTON, *House of Representatives.*

MY DEAR SIR: With reference to your inquiry of to-day concerning the cost of the star route by which the post office at Dowling, Barry County, Mich., was supplied, I beg to inform you that from July 1, 1903, service was performed on star route No. 37183, from Cedar Creek by Dowling and Pritchardville to Hastings, 14.75 miles and back, six times a week, at the rate of $450 per annum. This star route was discontinued from September 30, 1903, and since that date the office at Dowling has been supplied by closed pouch on rural route No. 4, from Hastings, Mich.

Very truly, yours, P. V. DE GRAW,
Fourth Assistant Postmaster General.

Mr. MURDOCK. The point that I want to bring out is that here is one instance where the rural route between two places costs the Government $500. It used to cost $500 on a star route and now it only costs $1,000 on a rural route. The rural route serves the star-route terminal and the intervening territory in addition.

Mr. HAMILTON of Michigan. Apparently. But there ought to be discretionary power somewhere to give the Postmaster General authority to allow extra compensation. It is perfectly clear that it is unfair to ask a carrier to do this extra work without such compensation. I have no doubt that the same condition exists in many other towns. I suppose in nearly every district represented here on the floor by gentlemen present in the Committee of the Whole there are cases of this kind, and there ought to be some means provided where some compensation can be allowed in these cases within the discretion of the Postmaster General.

Mr. MADDEN. Mr. Chairman, the proposition of the gentleman from Michigan is rather a singular one. The carrier, no matter who he may be, is employed by the Government to do the work that is to be done in the territory. It does not seem to me to make any difference whether he carries a closed pouch or open packages of mail, he ought to be paid the compensation allowed by law. If we are going to have a system of paying extras to certain classified men in the service for every additional package they are called upon to carry, the department will never know exactly what it is going to cost to do the work.

This bill provides an extra compensation of $74 a year for a rural carrier over what he is now getting. This proposition was considered in the committee, thoroughly canvassed, and it was the judgment of the men who gave it careful consideration that there ought to be no exceptions whatever made for any service by any rural carrier; that all men should be treated alike.

Mr. HAMILTON of Michigan. Will the gentleman yield?

Mr. MADDEN. Certainly.

Mr. HAMILTON of Michigan. In the course of the investigation which the gentleman has made has he found cases where the carriers of closed pouches have found it necessary to provide more horses to perform the service on that account?

Mr. MADDEN. Various statements were made by men who wanted extra pay for everything that they were called upon to do. Some men say that it takes three horses to do the work that they are called upon to perform, while other men say that one horse is sufficient. Some men think that they ought to be allowed $350 extra for horse hire, in addition to the pay they are now receiving, and some think they should get higher pay than they are now getting and then be allowed an extra price for horse hire, to be fixed by the Government.

Mr. HAMILTON of Michigan. Will the gentleman again yield?

Mr. MADDEN. Certainly.

Mr. HAMILTON of Michigan. Has the gentleman's attention been called to occasions where carriers of closed pouches were obliged to provide larger vehicles on that account?

Mr. MADDEN. Oh, they make all sorts of claims for all sorts of things; but there must be some discretion somewhere, and we should call a halt here. It seems to me there ought not to be any system of conducting the department except on a flat compensation to be paid under the law; that no man appointed as a rural carrier should be placed in a position where he is able to demand extra pay for extra packages carried.

Mr. HAMILTON of Michigan. Will the gentleman yield again?

Mr. MADDEN. I will yield to the gentleman.

Mr. HAMILTON of Michigan. Suppose the gentleman had in his employment men whose business it was to carry parcels, and he had a regular schedule of wages. Would he regard it as fair to require one of these men to carry twice as much as any of the other men at the same wage he was paying the other men?

Mr. MADDEN. I will say to the gentleman from Michigan that there is no man employed as a rural carrier who is called upon to do any very great amount of extra work. Every one of these men are required to do only what is fair, and they are being well paid for what they do. None of them are overworked. The department ought not to be compelled to fix a scale of extra compensation for carrying additional packages. The men employed by the Government should be compelled to carry whatever packages are given them to carry along the routes, and they ought to be compelled to carry them at the compensation in the bill.

I do not believe in this thing of fixing extras where every man comes in and claims that he has done extra work. If you do it for one man, you will do it for every man, and nobody will know what the cost of carrying the mail will be. The department will be in a state of chaos. There will be no system about it. Rural carriers will be dictating to the department just when they will carry a sufficient load, and they will tell the department how many packages they are to carry, whether in a closed pouch or in an open package. They will insist they can not be compelled to carry more than 100 pounds, and some will insist they can not be compelled to carry more than 50 pounds. In any case, there will be a question of doubt as to what shall be done and who shall have the authority to order it done. When the men are employed they ought to be compelled to do just exactly what there is to do and to receive for what they do the compensation fixed by law, without any possibility of being given an opportunity to make application for extra pay for additional work.

Mr. HAMILTON of Michigan. The gentleman does not answer my question.

Mr. MANN. Mr. Chairman, at different times there has been urged upon the Post Office Department and upon Congress the desirability of changing star routes into rural carrier districts. In many of those rural carrier routes the amount of mail delivered is not very great, a large share of the service being the carrying of locked pouches, which originally and formerly were carried by the star-route service. The gentleman now proposes that he shall pay in all of those cases the regular salary to the rural carrier and then, in addition, pay for the locked pouch or the star-route service. Of course the inevitable result of that will be, if it be adopted as a policy of Congress, that the Post Office Department will not change a star route into a rural delivery district, if the expense is to be greater, and people will thereby be deprived of the privilege of receiving their mail through the rural routes where star routes now exist. We do not establish the principle of paying rural carriers according to the amount of mail carried, and it ought not to be done.

Mr. AUSTIN. Does not the department require a certain amount of mail to be carried over a rural delivery route, and if it falls below the requirement do they not reduce the number of trips per week? There is a standard amount of mail required in order to maintain a six days' rural free-delivery route.

Mr. MANN. Considering the fact that they do not count the packages or weigh the mail, I do not see how they enforce any such provision if they have one.

Mr. AUSTIN. I know in a number of instances in the district that I represent the department has discontinued or reduced the number of trips from six to three trips per week, giving as a reason that the amount of mail collected on that route falls below the minimum requirements of the department.

Mr. MANN. Oh, very likely. They endeavor to use some common sense in reference to such matters, but they do not establish as a basis for the paying of the rural carriers the amount of mail which is carried, and ought not to, in my judgment.

Mr. AUSTIN. It is the length of the route that fixes the compensation now.

Mr. MANN. The length of the route fixes the compensation, and in creating new routes they take into consideration the number of people to be served, and the probable amount of mail

to be carried, as they ought to do; but now to propose when you transfer a star route into a rural carrier route, for the benefit of people living along the route upon the theory that the carrier can do both just as easily as one, and then turn around and seek to pay the full limit for the rural carrier and in addition thereto the amount originally paid to the star-route service seems to me to be extravagant.

Mr. HAMILTON of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. HAMILTON of Michigan. I fancy from what the gentleman has said that he perhaps does not fully appreciate the facts in this matter. Here is a case where a man is carrying all the mail that any other carrier is carrying out of a particular office. He is doing just as much work as any other carrier, and in addition to that every day in the year he is carrying this locked pouch. I am not left to conjecture in this matter. I have submitted an inquiry to the department, and the department has made an investigation, and it turns out that this pouch weighs about 100 pounds every day and contains 281 pieces.

This is in addition to the regular work of the carriers. This is a long preliminary, but I will get the gentleman's time extended—ought not there to be——

Mr. MANN. I am not complaining.

Mr. HAMILTON of Michigan. I submit to the gentleman, who I regard as a fair man, ought not there to be some way to make compensation in those cases?

Mr. MANN. I see no occasion for it.

Mr. HAMILTON of Michigan. Then I will have to withdraw my statement about the gentleman being a fair man. [Laughter.]

Mr. MANN. I will leave that to others not so much interested as the gentleman from Michigan in this particular case. Here is a case where a star route for the convenience of the people was transferred to a rural-carrier route, and when he commenced the service which the gentleman now speaks of that was required the rural carrier performing this service was not required to accept the position. He knew what was required of him——

Mr. HAMILTON of Michigan. No; the gentleman is in error.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I yield to the gentleman from Michigan to make his request.

Mr. HAMILTON of Michigan. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent that the time of the gentleman from Illinois be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. HAMILTON of Michigan. This additional service was added after the carrier had entered the service, and I have here pictures showing that this carrier has to habitually have a larger conveyance than other carriers, and his ordinary load in bulk is easily three times as large as other carriers, and there is nothing fair about it.

Mr. MADDEN. If that carrier had been as industrious in doing his work as in getting pictures there would not be this request.

Mr. MANN. I do not undertake to say that this particular carrier might not properly receive more money——

Mr. HAMILTON of Michigan. Thank you for that.

Mr. MANN. But it is entirely out of the question for a great administrative department of the Government to make fish of one and fowl of another, and you can not make your general rule applicable to these cases which would apply to this particular case without covering a whole lot of cases that have no justice in them at all. Now, converting the route to a rural-carrier route for the convenience of the people is no reason why we should pay an additional amount.

Mr. CANNON. Will the gentleman yield?

Mr. MANN. I do.

Mr. CANNON. As I understand it, the gentleman from Michigan wants this man to be paid because somebody else gets equal pay for a less amount of service in weight.

Mr. MANN. For less service; that is the proposition.

Mr. CANNON. I suppose that that would involve the proposition of finding out the smallest route in the United States in mail that is carried and make that the standard and have everybody carry the same weight. Is that involved in this?

Mr. HAMILTON of Michigan. Nobody is advocating any such ridiculous proposition as that.

Mr. MANN. The gentleman is not advocating that, although that is fairly true of the gentleman's proposition.

Mr. HAMILTON of Michigan. This harmony between the gentlemen from Illinois is pleasing, but they have agreed upon an entirely erroneous premise.

Mr. CANNON. Will the gentleman allow one further word?

Mr. MANN. Certainly.

Mr. CANNON. I do not know how many carriers there are in my district; it is completely covered.

Mr. HAMILTON of Michigan. I warrant you. [Laughter.]

Mr. CANNON. It is completely covered.

Mr. MANN. And thoroughly settled up.

Mr. CANNON. Thoroughly settled. Now, the trouble with me is I see considerable trouble ahead if this practice is adopted—that I shall have claims for special legislation and have to take them up one by one——

Mr. MADDEN. The gentleman would have to go every day to the Postmaster General——

Mr. HAMILTON of Michigan. If gentlemen could only get to understand what this proposition is, they would not talk in the air so much——

The CHAIRMAN. Does the gentleman yield to the gentleman from Michigan?

Mr. MANN. I do not yield to anybody, and I make the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

SEC. 13. That if the revenues of the Post Office Department shall be insufficient to meet the appropriations made by this act, a sum equal to such deficiency of the revenue of said department is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply said deficiencies in the revenues for the Post Office Department for the year ending June 30, 1913, and the sum needed may be advanced to the Post Office Department upon requisition of the Postmaster General.

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

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

GOOD ROADS.

Mr. BORLAND. Mr. Chairman, in taking time during the general debate on the Post Office bill to discuss the subject of good roads, I feel that I am not only dealing with a subject of prime importance to the great postal service, but to every national interest. I have no hesitation in saying that there is no one subject of greater importance to-day to the entire producing and commercial interests of the Nation than that of good roads. The interest is so widespread throughout the United States that it needs no words of mine to emphasize it. All Members of Congress admit the supreme and immediate importance of the subject, and the only difference of opinion has been whether it is properly one of national or local character. There is no doubt in my mind that it is national; as national as any of the great activities of the Department of Agriculture, the Department of Commerce and Labor, or the Department of the Interior. It bears a more general and intimate relation to the welfare of the people of the entire Nation than any of the bureaus now operated under national authority. It is more national than the Forest Service, more national than the irrigation of arid lands, more national than the work of the Bureau of Animal Industry, the Bureau of Plant Industry, the Bureau of Mines, the Bureau of Immigration, the Bureau of Manufactures, and the Bureau of Corporations. It is as national in its character as the improvement of the rivers and harbors or the functions of the Interstate Commerce Commission. It deals with the most primal aspect of the great subject of transportation, which, in such a vast country as ours, is the greatest national subject of internal administration. The care of highways has been a national matter with every nation from the moment of its first emergence from savagery into an orderly development toward commercial civilization and self-government. The great highways of Rome bound her to her most distant colony, and over them marched the invincible legions that conquered the world. Backward along the same highways flew the fleet messengers, with relays of Arabian horses, which formed the first great national and international posts.

The care of the highways is national in France, a land possessing the most beautiful roadways in the world. That country has divided her highways into three classes—the national trunk lines, the great provincial main roads, and the local highways or lanes. This classification is scientific and is the basis for a splendid system of administrative law and a fair distribution of the cost of construction and maintenance.

For more than a century of our national life we have been trying to solve this national problem by a system of isolated local control. We borrowed from the old English common law a doctrine which grew up at a time when England was practically a hermit nation without arts or commerce—that the control of the highways is a mere neighborhood matter, to be attended to by the township or the hundred. We have presented the amusing spectacle of trying to adapt this obsolete

principle of the common law to a vast undeveloped country 3,000 miles in extent, the richest and most fertile stretch of country of any government on the face of the globe.

At one time there was a serious doubt in the minds of the American statesmen whether the Federal Government had legal power to aid in the construction of highways. That doubt has long since disappeared. There is no legal proposition better settled by the Supreme Court of the United States than that the Federal Government has power to engage in the construction and maintenance of interstate highways. The power is ample, whether under the express terms of the Constitution, which gives Congress the power to establish post offices and post roads, or under the clause which gives to the Federal Government control over commerce between the several States. This question was determined in the affirmative when the Federal Government undertook to aid in the construction of the Pacific railroads. The Supreme Court, in one of these cases, said as follows:

> Without authority in Congress to establish and maintain such highways and bridges, it would be without authority to regulate one of the most important adjuncts of commerce. This power in former times was exerted to a very limited extent, the Cumberland, or national road, being the most notable instance. Its extension was but little called for, as commerce was then mostly conducted by water, and many of our statesmen entertained doubts as to the existence of the power to establish ways of communication by land. But since, in consequence of the expansion of the country, the multiplication of its products, and the invention of railroads and locomotion by steam, land transportation has so vastly increased, a sounder consideration of the subject has prevailed and led to the conclusion that Congress has plenary power over the whole subject. (California *v.* Pacific Railroad Co., 127 U. S., 1, 1c, 39.)

Later cases are to the same effect:

> Congress has likewise the power, exercised early in this century by successive acts in the Cumberland or National Road, from the Potomac across the Alleghanies to the Ohio, to authorize the construction of a public highway connecting several States. (Lucton *v.* North River Bridge Co., 153 U. S., 525–529; Indiana *v.* U. S., 148 U. S., 148.)

All of these are cited with approval in the case of Wilson *v.* Shaw (204 U. S., 33), in which it was determined that the Federal Government had power to construct, maintain, and operate the Panama Canal.

It is a matter of familiar history that when the Federal Constitution was framed the thirteen Colonies were all connected by sea or navigable streams which were arms of the sea, and no general system of land communication existed. The States gave up to the Federal Government the power to levy tonnage duties, which each State had previously been in the habit of levying for the purpose of maintaining its own works of internal improvement, such as the care of its rivers and harbors. The rivers and harbors were at that time the great, and practically the exclusive, agency of interstate communication. The view, therefore, that it was the intention to endow the Federal Government with plenary power over the means of interstate communication is now considered as a sound view of the Constitution. It is a matter of history, also, for that for a hundred years after the foundation of the Constitution—that is to say, from 1787 to 1887—it was the opinion of many statesmen and most lawyers that the clause of the Federal Constitution which clothed the Federal Government with the power over interstate commerce was only negative, or restrictive, in its character; that its only effect was to prevent injurious discrimination by the several States against commerce or traffic of the other States or the foreign nations, and that its full force was exerted in preventing and restraining such discrimination. In 1887, however, this view was entirely reversed, and Congress took the position that the interstate commerce clause was an affirmative grant of power to the Federal Government and would justify affirmative legislation regulating the agencies of commerce. It therefore passed the interstate commerce bill, the first affirmative exercise of its power. I need not tell you how rapidly this new conception of the Federal power over interstate commerce has grown since 1887, or how deeply embedded it is now in all national legislation.

It being clear, then, that the power exists with the Federal Government, that it is affirmative in its character and ample in its scope, and that it applies directly to the subject of good roads, we are then confronted with the question, which is always one of legislative discretion, whether the time has arrived for the exercise of such power in that behalf. I think there is no one subject in the whole scope of governmental activity that is so directly related with the prosperity of the producer in the country and which is so uniformly national in its character as the subject of good roads. The rural highway is the primary and universal agency of transportation. It leads from every farm to every market, and over it passes annually the food supplies of the Nation. Not only does it carry to market the food supplies and raw material for domestic consumption, but it is the first step in international commerce. The great export wealth of the Nation that must find its way abroad to turn the balance of trade in our favor and bring to our shores the golden stream of wealth must begin its journey on the rural highway. I will not stop to discuss the intricate problem as to who pays the cost of transportation, whether it be the producer or the consumer. Unquestionably, in the aggregate, the consumer pays the cost of transportation, and every wage earner in the cities must pay every penny of the cost to get the food to his dinner table. But the contrary may be true as to export trade, and in such case the producer must pay the cost of transportation, because he must sell his goods in the open markets of the world under conditions of strictest competition, of which distance and transportation are always a part. Without attempting to solve this economic problem, I feel sure that if our farmers could get their products to the seaboard at a lower cost a larger proportion of the ultimate price would remain in their pockets and would result in building up the wealth of the country by entering into all the channels of local trade. I am satisfied also that with better conditions of rural highways the wage earners in the cities would find a lower cost of living, with better and more abundant supplies, without reducing the ultimate value now realized to the farmer who produces the crop. In other words, a high and unnecessary cost of transportation is an economic loss to the entire Nation. I will not weary you with figures as to the relative cost of traffic over rural highways as compared with railroad and water haul.

It is sufficient to say that it forms an absurdly large percentage of the entire cost of handling the article in proportion to the distance transported, and that this is due entirely to the unimproved and unscientific condition of the highways, which results from isolated local control.

I need not emphasize the importance of rural highways as an aid to the postal service. If there is any branch of the service which has fully justified itself by results it is rural free delivery. I hold it to be true that in our common country, where we all labor together to produce the national wealth and all must bear a share of the burden of taxation, we are all entitled to the national facilities and advantages. The farmer is as much entitled to the daily delivery of mail to his doorstep as the dweller in the city. It is not only a matter of right, but a matter of national importance in a free Republic such as ours. Intelligence of all kinds ought to be widely distributed. Books, newspapers, literature, political intelligence, market reports, and all information relating to commerce and politics should be spread broadcast throughout the land. The work of the postal department is to supply the winged feet of Mercury, the messenger of the gods, and bring the message to every American sovereign. The light of intelligence and information, the news of the progress of the world, and the messages from loved ones should flash to the fartherest corner which acknowledges the jurisdiction of Uncle Sam. The postal service is like a great golden thread—running to the fartherest hill farm in the most remote county in the Union and binding the whole Nation together. There is no bond of union so strong as the postal service, which knows no East, no West, no North, no South.

Perhaps it is unnecessary also for me to emphasize the fact that one of the greatest economic problems confronting our Nation to-day is the enormous growth of the cities at the expense of the country district and the small town. Not alone the population, but the wealth of the country continues to concentrate in the cities. This wealth was originally drawn from the country districts as the population of the cities was drawn from the country districts, but under our system neither the wealth nor the population returns or tends to return to the rural community. It is a constant, steady, and exhausting drain upon the great underlying base of national prosperity and national moral and political life. It is a grave question how long the national wealth will stand such a drain.

One of the best results which will come from the improvement of rural highways is the turning back again this stream of population and wealth toward the rural district and the small town. Motor vehicles of all kinds are here to stay and have become a permanent fixture of American life. They make it possible, with the aid of good roads, to establish country homes for people of wealth or even moderate circumstances in the rural sections within an increasing radius of the great cities. The small towns will become commercially active and socially attractive, and will be, as they should be, delightful places of residence for the American citizen and healthful and attractive for his wife and children. A constant passage of city people back and forth through the country districts will distribute a large share of trade in the money spent for pleasure or business.

I need not emphasize, of course, the supreme advantage that good roads would be to the farmer himself, making his labor easier, his life more pleasant, his farm more valuable, and reserving to him a larger share in the fruits of his toil. The farmer realizes his need of good roads and has placed the

matter before the American Congress in language which is clear and unmistakable. I need only quote a brief extract from an article by Howard H. Gross, secretary of Farmers' Good Roads League of Illinois, appearing recently in the Saturday Evening Post:

The need of the hour is the road builder, and in no part of the continent is the need greater than in the Mississippi Valley, the granary of the world. In all that vast expanse from Pittsburgh to Denver and from the Lakes to the Gulf is a land of surpassing fertility and almost boundless possibilities, peopled with men and women of marvelous energy, hopeful, self-reliant, and prosperous beyond compare. Within two generations they have conquered the wilderness, swept the wigwam from the prairie, and placed in its stead the comfortable, modern farm home. They have crossed and recrossed this great area with railroads over which the traffic of an empire is carried. Is it not strange that a people who have given such splendid proof of their capacity to do great things should fail so signally in dealing with the public roads? The greatest difficulty in building good roads is not the actual construction or even the paying for them, but convincing the people locally that it can be done without burdensome or ruinous taxation. No community ever began the building of stone or gravel roads, usually called hard roads, without the most bitter opposition from farmers who would most largely benefit by the improvement. It is encouraging to know that no community ever began the building of hard roads that did not keep on doing so. When the taxpayers had had the experience of using the roads and paying for them, more roads were demanded, and soon those most violently opposed were found on the firing line fighting for more appropriations for road improvement.

It is said that however desirable good roads may be their construction and maintenance is the sole business of the man whose land fronts on the road or the neighborhood which uses the highway. In the public improvements conducted in the cities it has been found that the construction and, to some extent, the maintenance of the improvements in the streets are a matter of such local benefit to the abutting property that their cost within any reasonable limit is promptly absorbed in the increased value of the adjoining land. Most American cities recognize this principle as to the construction of streets, though some hold that the maintenance of the streets after the construction is a matter for the common expense of the entire community. I confess that it puzzled me somewhat when I first began to study the subject of rural highways why this principle did not apply to the construction and maintenance of such roads. That it does not apply is clearly evident from the fact that we have been proceeding upon this principle for more than a hundred years and have found it to be a complete and utter failure, whereas cities have found it to be a complete and satisfactory solution of the problem. I have at length come to the conclusion that the principle can not be justly applied to the construction of the country highways. Generally speaking, city property is valuable on account of its location and accessibility. If it has these advantages almost any use can be made of the property, and the limit of rent or productive value has never yet been reached. An unsafe, unimproved, dilapidated condition of the street in front of city property almost immediately destroys its entire value. We begin to see, therefore, why there is no analogy with farm property. The farm property is not only the basis of the wealth of the farmer who occupies it, but the basis of the wealth of the entire Nation. As a Nation we are interested in using every available foot of productive land in the United States for the growth of our national wealth, for the food of our great industrial army of workers, and for the supply of our great industrial trade. We can not afford to allow land to remain undeveloped or to remain inaccessible, or to put a burden upon the producer which he is unable to meet. While it is true in a general way that an improvement of a highway raises the value of the surrounding land, it is also true that a large amount of the wealth raised upon the land must be divided by the farmer with his fellow man in the cities.

The farmer can not retain all of the increased wealth from his land. He must divide with the implement men, the general merchant, the railroad, the factor, the wholesaler, the manufacturer, and in may cases with the exporter. The farmer can not be asked therefore to assume the initial expense of the vast means of industrial intercourse. He has a right to divide this with the cities who divide with him the profits of his business. The business men of the cities have come to realize this condition, and in the great commercial center of Kansas City, Mo., which I represent, they have learned both by observation and experience that the improvement of the rural highways is a direct and important source of wealth to the cities. In Jackson County, Mo., the county which surrounds Kansas City, there is to-day nearly 300 miles of the most highly improved country highways, surfaced with rock and treated with oil, constituting a great connected system of beautiful boulevards. They are not only a source of pleasure, health, and enjoyment to the people of Kansas City, and have not only raised vastly the value of the suburban property, but they are a direct source of wealth in the increase of trade and the abundance and cheapness of market supplies for the wage earner and housekeeper.

But I have yet to touch upon one of the most beautiful results that I believe would follow from the improvement of our national highways. The building of good roads in every direction which will form continuous routes of trunk lines across the continent, joined by such local highways leading into every section of the country, will open up our land to its own citizens as nothing else will do. It will show America to Americans and instill a broader patriotism and a deeper love of the country, founded upon a truer and wider knowledge. We are sending abroad every year thousands of Americans with millions of dollars to see the beauties, natural and historic, of Europe. We are fortunate that our country is not able to show the wrecks of feudal power. The commanding points along our great rivers were never marked by frowning towers that showed the limits of some petty state. The hills above our fair valleys were never crowned by the feudal castles of the lord. The history of our country happily began in a different and nobler age of human life. Europe has her charms, artistic and historic, worthy of the attention of any American, and to see them in their true light and in their historic prospective will make any man a better American and prouder of his own free land.

But for natural beauty we are blessed beyond any land under the sun. The hand of nature's God has adorned this country with all the splendors of mountain and sea, forest and plain. Our country, too, is not without its historic associations, its sacred shrines and its hallowed spots, its scenes of crucial battles, and its humble birthplaces of the Nation's great. It is time that Americans should turn their attention to their own land. "See America first" should be the rule of all patriotic citizens. Not only see America first, but see America at all events, for we must remember that thousands upon thousands of Americans have no opportunity to leave their employment to indulge in extensive travel, even if they had the money. Such recreation, travel, and enjoyment as most of the citizens may find must be in their own land, and unless we make it possible and attractive to indulge such tastes, we are depriving our citizens of a large share of the natural right to which we are all entitled in the enjoyment of our common country.

The good roads through the Swiss mountains are dotted with students, professional men, and mechanics on foot who are traveling from place to place to enjoy the scenery and to strengthen their bodily and mental faculties. There is no limit of time, equipment, or purse in the enjoyment of a beautiful highway. It is equally free to the richest and the humblest, and although one man may use it with all the advantage of wealth to a much greater extent than his neighbor, still the use by the neighbor will be just as free and just as full as his own means or inclinations will permit.

Mr. FOSTER. Mr. Chairman, a few days ago an amendment was offered to this bill, on page 14.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. FOSTER. I want to get unanimous consent as soon as I can to state a proposition.

The CHAIRMAN. Does the gentleman ask unanimous consent to address the committee?

Mr. FOSTER. I would like to state the proposition just for a moment, and I ask unanimous consent to do so.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent to make a statement to the committee. Is there objection? [After a pause.] The Chair hears none.

Mr. FOSTER. Two or three days ago an amendment was offered, on page 14, line 21, providing that in the future only $270 a year should be paid for the rental of canceling machines, and it was thought that this amendment might interfere with contracts already in existence; and I want to ask unanimous consent that this provision might be inserted or that we return to that paragraph——

Mr. MANN. What page and line?

Mr. FOSTER. Page 14—and insert:

Provided, That hereafter no contract shall be made for rental of any canceling machine for more than $270 per annum, including repairs on said machine, and that all contracts entered into shall be let after having advertised for bids and shall be awarded on the basis of cheapness and efficiency.

Mr. MURDOCK. Will the gentleman yield?

Mr. FOSTER. Yes, sir.

Mr. MANN. That is to take the place——

Mr. FOSTER. Of the proviso that is there now.

Mr. MURDOCK. The gentleman offered such an amendment the other day, if you remember, and withdrew it.

Mr. FOSTER. Oh, no; it was adopted.

Mr. MURDOCK. The amendment was not adopted, as I understand it, on the objection of the gentleman from Illinois, that it interfered with existing contracts.

Mr. FOSTER. That is what I am trying to correct now.

Mr. MANN. I will ask the gentleman from Illinois if his purpose is not to remedy the error that was made the other day as to existing contracts?

Mr. FOSTER. That is the purpose of the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent to return to a certain portion of the bill for the purpose of offering an amendment.

Mr. MANN. Mr. Chairman, I ask unanimous consent for a moment. I think the gentleman does not want to strike out the proviso:

Provided, That the rental paid for any canceling machine shall not exceed $300 per annum, including repairs on said machine.

I think that ought to remain in; and then the gentleman's amendment that the contract should not be let for over $270.

Mr. FOSTER. That hereafter all contracts shall not be let for over $270, the gentleman means?

Mr. MANN. Yes.

Mr. FOSTER. That would not interfere with the contracts already in existence if that proviso was changed in this regard.

Mr. MANN. Possibly not.

Mr. FOSTER. It refers to contracts in the future and, I think, does not have anything to do with the present contracts.

Mr. MANN. The present contracts are guarded because none of them exceed $300.

Mr. FOSTER. This simply says that hereafter no contract shall be made.

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

Mr. FOSTER. Yes, sir.

Mr. BOWMAN. In referring to the top of page 15, where it says:

After having advertised for bids—

would you understand for the purchase of machines? Ought it not to include the words "for rental and purchase"?

Mr. MANN. That is another proposition entirely. I do not think we should put it in here.

Mr. FOSTER. I offer the amendment, Mr. Chairman.

The CHAIRMAN. Where does the gentleman wish it inserted?

Mr. FOSTER. This proviso takes the place of the present proviso in line 21.

The CHAIRMAN. The gentleman's amendment strikes out the proviso and offers the following, which the Clerk will report.

The Clerk read as follows:

Page 14, line 21, amend by striking out the proviso and inserting the following in lieu thereof:

"*Provided*, That hereafter no contract shall be made for a canceling machine for more than $270 per annum, including repairs on said machine, and that all contracts entered into shall be let after having advertised for bids and shall be awarded on the basis of cheapness and efficiency."

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

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

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to address the committee for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to address the committee for 10 minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] is recognized for 10 minutes.

Mr. FOWLER. Mr. Chairman, on last Saturday, while discussing the Post Office appropriation bill, I offered an amendment for the purpose of correcting the punctuation of a certain paragraph. After the amendment was offered my colleague from Illinois [Mr. MANN] made some statements with reference to the propriety of offering amendments for the purpose of correcting punctuation, and among other things he said it was the duty of the enrolling and engrossing clerk to punctuate the bill properly after its passage.

I then informed him that in the past he had repeatedly offered amendments to correct punctuation of bills to make it conform to amendments newly offered or newly adopted; he denied that proposition and said he never had offered such an amendment and that he never expected to do so. Here is what took place. I quote from the CONGRESSIONAL RECORD of April 20, 1912, page 5068:

Mr. FOWLER. Mr. Chairman, I move to strike out the period after the word "dollars," in line 15, page 18, and insert a colon in lieu thereof.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

"Page 18, line 15, strike out the period after the word "dollars" and insert a colon in lieu thereof."

Mr. MANN. Mr. Chairman, I do not oppose the amendment, but I may say it never has been considered necessary to make an amendment of that kind. It is the duty of the engrossing clerk to properly punctuate the bill when amendments are offered.

Mr. FOWLER. Mr. Chairman, that may have been the custom in this House, but the gentleman from Illinois [Mr. MANN] has repeatedly offered such amendments on the floor of this House when amendments have been made to a bill.

Mr. MANN. Well, I beg my colleague's pardon.

Mr. FOWLER. Whether the gentleman desires to be technical on my amendment I do not know, but I want to say to him and to this committee it has been the custom in my short stay here that wherever there is an amendment destroying the punctuation it is in order to offer an amendment correcting the punctuation to give it the right intelligence. [Applause.]

Mr. MANN. Mr. Chairman, the amendment is undoubtedly in order. I have never offered such an amendment during my service in the House, and never expect to do it, because an engrossing clerk who knows enough to write would know enough to make the correction, and that is his duty, that is part of the engrossment of the bill.

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

In order, Mr. Chairman, that there may be no mistake with reference to the gentleman's conduct in the past regarding this character of amendments, I desire to call the attention of the House to page 1496 of the CONGRESSIONAL RECORD of this session of Congress, January 29, 1912. On that page my colleague from Illinois [Mr. MANN] offered five amendments, which read as follows:

Mr. MANN. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

"Amend, page 22, line 14, after the word 'parts,' by striking out the period and inserting the following: 'From a country, dependency, province, or colony, being the product thereof, which imposes no import tax or duty upon the importation from the United States of cottonseed oil, cottolene, and cotton stearin, and lard and compounds thereof.'"

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

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

Mr. MANN. I ask for a division, Mr. Chairman.

The committee divided; and there were—ayes 58, noes 81.

Mr. MANN. I ask for tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN appointed Mr. AUSTIN and Mr. DIXON of Indiana.

The committee again divided; and the tellers reported—ayes 74, noes 94.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, I offer a further amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] offers a further amendment, which the Clerk will report.

The Clerk read as follows:

"Amend, page 22, line 14, after the word 'parts,' by striking out the period and inserting the following: 'From a country, dependency, province, or colony, being the product thereof, which imposes no tax or duty or restriction, by way of regulation or otherwise, upon the importation from the United States of live cattle, meats of all kinds, fresh, dried, smoked, salted, in brine, canned, or prepared or preserved in any manner.'"

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

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

Mr. MANN. I ask for a division, Mr. Chairman.

The committee divided; and there were—ayes 59, noes 83.

Mr. MANN. I ask for tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN appointed Mr. AUSTIN and Mr. UNDERWOOD.

The committee again divided; and the tellers reported—ayes 61, noes 89.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, I offer a further amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] offers a further amendment, which the Clerk will report.

The Clerk read as follows:

"Amend, page 22, line 14, after the word 'parts,' by striking out the period and inserting the following: 'From a country, dependency, province, or colony, being the product thereof, which does not impose any export tax or charge of any kind upon or in any way restrict the exportation to the United States of crude potash or black salts, crude or refined carbonate of potash, hydrate of or caustic potash, crude nitrate of potash or saltpeter, crude or refined sulphate of potash, or muriate of potash.'"

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

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

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 53, noes 88.

Mr. MANN. Mr. Chairman, I ask for tellers.

Tellers were ordered.

The CHAIRMAN appointed Mr. AUSTIN and Mr. HULL.

The committee again divided; and the tellers reported—ayes 60, noes 88.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, I offer a further amendment to the paragraph.

The CHAIRMAN. The gentleman from Illinois offers a further amendment, which the Clerk will report.

The Clerk read as follows:

"Amend, page 22, line 14, after the word 'parts,' by striking out the period and inserting the following: 'From a country, dependency, province, or colony, being the product thereof, which imposes no import tax or duty on like articles imported from the United States.'"

The question being taken on the amendment, on a division (demanded by Mr. MANN) there were—ayes 50, noes 91.

Mr. MANN. I demand tellers, Mr. Chairman.

Tellers were ordered, and the Chair appointed Mr. SAUNDERS and Mr. AUSTIN.

The committee again divided; and the tellers reported—ayes 50, noes 90.

Accordingly the amendment was rejected.

Mr. MANN. Mr. Chairman, I offer a further amendment to the paragraph.

The CHAIRMAN. The gentleman from Illinois offers a further amendment, which the Clerk will report.

The Clerk read as follows:

"Amend, page 22, line 14, after the word 'parts,' by striking out the period and inserting the following: 'From a country, dependency, province, or other subdivision of government, being the product thereof, which does not impose any export duty, export license fee, or other export charge of any kind whatsoever upon or which does not prohibit or restrict in any way the exportation of news-print paper, wood pulp, or pulp wood.'"

The question being taken on the amendment, on a division (demanded by Mr. MANN) there were—ayes 42, noes 61.

Accordingly the amendment was rejected.

Mr. Chairman, I would not have adverted to this matter in anywise whatever, but my colleague in the past has repeatedly stood here on the floor of this Chamber and, in language which was not, in my opinion, respectful to other Members of this House, criticized the honest efforts of these gentlemen while discharging their duties to the people of this country. I have the highest respect for the membership of this House, and I expect to hold my bearings in this respect as long as I remain here. But, Mr. Chairman, when Members of the House in their rightful attitude are discharging their duties in this legislative Hall they have a right to expect of every other Member of this House that degree of courtesy and good faith which is required by the rules of this House and which is demanded by the dignity of this body.

Mr. Chairman, while the gentleman was trying to make it appear that such legislation was too small to be considered by the House I called his attention to the fact that he had attempted such legislation in the past. He denied it, and said it was not true. While, as a matter of fact, Mr. Chairman, the quotation from the CONGRESSIONAL RECORD shows that he did do so, five times in quick succession one day while we were considering the metal schedule.

The fact is, Mr. Chairman, punctuation is one of the most important features of a law. Its meaning is reflected by the punctuation, and without the proper punctuation the true intent of a legislative body can not be deciphered. It is often difficult to interpret the meaning of laws with the aid of proper punctuation. The gentleman is wrong when he says that it is the duty of the enrolling and engrossing clerk to punctuate the bill after its passage. This would confer legislative power on him, and his punctuation might give an entirely different meaning to that intended by the House.

Now, Mr. Chairman, not only has he in the past undertaken to correct legislation by correcting the punctuation in the instances which I have referred to, but he did it during the last session of Congress more than once. Now, I do not know whether the gentleman is getting old and childish [laughter] or whether he is intending to try to make every Member on the floor who does not agree with him feel miserable by his insulting language.

Mr. FOCHT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. FOWLER. Yes.

Mr. FOCHT. Will the gentleman please state the proposition more explicitly?

Mr. FOWLER. The question raised deals with the propriety of amending the punctuation of bills. I presume the gentleman was out while I have been discussing the matter.

Now, Mr. Chairman, I desire to say, with these few remarks upon this question, that if I have said anything that is offensive to any gentleman on the floor of this House at any time I desire now to withdraw that statement and beg his pardon—with the exception of my statements in reference to the gentleman from Illinois, my colleague [Mr. MANN]. [Laughter.]

The CHAIRMAN. Under the special rule of the House——

Mr. MONDELL. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. MONDELL. To ask unanimous consent to address the committee for five minutes.

Mr. MANN. I would like to have two minutes myself.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent to address the House for five minutes. Does the gentleman from Wyoming yield to the gentleman from Illinois for five minutes?

Mr. MANN. No; only two minutes.

Mr. Chairman, the other day a gentleman offered an amendment to come in after the word "dollars" at some place in the bill, as I recall it. The amendment was inserted after the word "dollars," as reported by the Clerk, and it commenced with the word "provided." The amendment was not even offered to come in after the period, although if it had been it would not have been necessary to offer an amendment to change the punctuation.

So far from never having offered an amendment on the floor of the House to change punctuation, I have frequently offered such amendments, but if anybody has ever found that I have offered an amendment after the committee has inserted an amendment following the last word of a paragraph to strike out the period and insert some other punctuation, then I will think that I was in that condition of mind which my colleague [Mr. FOWLER] thinks I am in, and which I fear he is in, growing somewhat aged and decrepit in spirit.

Mr. FOWLER. Mr. Chairman——

Mr. MOON of Tennessee. Mr. Chairman, I move to proceed with the general debate provided under the rules of the House.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] moves that the debate on this paragraph be now closed, and that the committee proceed with the general debate.

The motion was agreed to.

The CHAIRMAN. Under the special rule adopted by the House, and by unanimous-consent agreement, general debate will now begin, one half of the time to be controlled by the gentleman from Tennessee [Mr. MOON] and the other half by the gentleman from New Jersey [Mr. GARDNER].

Mr. MONDELL. Mr. Chairman, I think I asked and received unanimous consent to address the House for five minutes.

Mr. MOON of Tennessee. I will say to the gentleman from Wyoming that if he did, I did not understand it, and I will yield to him five minutes.

Mr. MONDELL. Mr. Chairman, it seems to be a little difficult to get even five minutes on the floor of the House to discuss the question of star routes.

There was a time when a great many men in the House were interested in star routes, but since the rural free delivery has taken the place of the star route in most of the congressional districts the star-route carrier is overlooked and forgotten.

The gentleman from Michigan [Mr. HAMILTON] is worried because a rural carrier has to carry a few pounds more than some other rural carrier, but no one seems to be distressed because a star-route carrier carries on an average three or four times as much mail as a rural carrier, and no one seems to appreciate the fact that he receives much less compensation for his labor.

The average cost of carrying a star route is about 8 cents a mile. The average cost of a rural route is approximately 12 cents a mile, and there is an amendment now pending whereby the compensation is to be increased.

The star-route carrier performs the same service that the rural carrier does. On many star routes he delivers, in the same number of miles, packages to nearly as many boxes. He generally travels a country very much more difficult, over much poorer roads than those traveled by the rural carriers. Yet we have not passed a Post Office appropriation bill for years that has carried an adequate appropriation for star routes. I do not think this bill carries an adequate appropriation for that purpose.

In the bill last year I succeeded in securing an additional appropriation of $40,000. The bill went to the Senate and the department asked for $60,000 more, and still the appropriation was deficient. I have not proposed an amendment at this time because of the fact that the department insists that the amount carried in the bill is sufficient. I think it will develop that it is insufficient.

As time passes, and as the rural routes displace the star routes, it becomes more and more difficult to get fair and decent pay for a star-route carrier. It becomes more and more difficult to secure the establishment of star routes. It is the one part of our postal service that has been going down hill and getting worse, while every other part of it has been improving for years past.

Mr. MADDEN. Is it the contention of the gentleman from Wyoming that as we reduce the number of star routes we reduce the appropriation out of proportion to the decreased number of routes?

Mr. MONDELL. That has been true for quite a number of years past. The department constantly estimates a reduction of star routes in excess of the number of star routes or the mileage that is actually dispensed with. The result is that when we try to secure additional star routes we are met with the statement that the appropriation is insufficient. When we try to get an extension of a star route the appropriation is insufficient.

I am trying now to get an extension of a star route for 5 miles. It is necessary to extend it 5 miles because of the fact that the only person who will take the office lives 5 miles

beyond the former post office. Yet the department says they have not money enough to extend this absolutely necessary service. There are many gentlemen in the House who are very much interested in the rural routes, and the consequence is that the rural-route appropriation increases all the time. The men interested in the star routes are few in number, and so the poor star-route carrier gets what he can. If he has a mountain route, such as many in our State, where the snows are deep in winter and where the road is difficult at all times, he must bid a sum low enough to satisfy the department. It does not matter how much it may actually cost to carry the route. The deparment will pay only what they consider a fair price.

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

Mr. MONDELL. Mr. Chairman, I will ask unanimous consent for two minutes more.

The CHAIRMAN. The time is in control of the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, I yield the gentleman two minutes more.

The CHAIRMAN. The Chair desires to make a statement to the committee before any more time is yielded. Under the rule there is a provision that 15 hours of general debate shall be devoted to the subject of the parcel post and parcel express, and five hours of general debate to the other subject included in the resolution.

Mr. MANN. Mr. Chairman, that is the provision of the rule, but under a unanimous-consent agreement, made in the House the other day by the gentleman from Tennessee [Mr. MOON], which was finally agreed to, it was agreed that the 20 hours of general debate should run along and Members might speak upon any one of the subjects at any time.

The CHAIRMAN. The Chair will then act upon the suggestion made by the gentleman from Illinois.

Mr. MOON of Tennessee. Mr. Chairman, the purpose was to have an unbroken debate, and that gentlemen might speak on any section they saw fit.

The CHAIRMAN. Then the gentleman from Wyoming is recognized for two minutes.

Mr. MONDELL. Mr. Chairman, I was observing that without regard to the difficulty of the routes the department fixes an arbitrary sum, above which it will not let a contract. The result is that some of the very worst star routes in the country, routes that have to be carried on snowshoes in the winter, are being carried for 9 and 10 cents a mile, or 2 and 3 cents a mile less than we pay to the rural carrier; but the star-route carrier has not hundreds of Members occupying seats here to speak for him, and so the department enforces its arbitrary rule, with a view of keeping down the expense of carrying the mail in the new and undeveloped portions of the country.

I cherish the hope that the department, inasmuch as they insist this appropriation is all they need, will be a little more liberal in regard to these routes in the future. There are some of them that are exceedingly difficult. None of them are routes easily carried, and it does seem to me that the department is parsimonious to an extent that can not be justified when it beats down the contract price under which the Government is served below the price it pays to the man it employs to perform the service as a rural carrier. It is certainly as expensive and difficult to carry these routes as it is to carry the rural routes, and at least as much should be paid for them.

Mr. CHAIRMAN. The time of the gentleman from Wyoming has again expired.

Mr. MOON of Tennessee. Mr. Chairman, I yield 30 minutes to the gentleman from Tennessee [Mr. BYRNS].

Mr. BYRNS of Tennessee. Mr. Chairman, I favor the amendment which will be offered to the pending bill providing for Federal aid to roads by way of compensation for their use in carrying the mails. Members are familiar with the amendment and I will not read it, but will ask to insert it in my remarks.

The amendment referred to is as follows:

That for the purposes of this act certain highways of the several States and the civil subdivisions thereof are classified as follows:

Class A shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide, composed of shells, vitrified brick, or macadam, graded, crowned, compacted, and maintained in such manner that it shall have continuously a firm, smooth surface, and all other roads having a road track not less than 9 feet wide, of a construction equally smooth, firm, durable, and expensive, and continuously kept in proper repair. Class B shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide, composed of burnt clay, gravel, or a proper combination of sand and clay, sand and gravel, or rock and gravel, constructed and maintained in such manner as to have continuously a firm, smooth surface. Class C shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, with ample side ditches so constructed and crowned as to shed water quickly into the side ditches, continuously kept well compacted and with a firm, smooth surface, by dragging or other adequate means, so that it shall be reasonably passable for wheeled vehicles at all times. That whenever the United States shall use any highway of any State or civil subdivision thereof which falls within Classes A, B, or C for the purpose of transporting rural mail, compensation for such use shall be made at the rate of $25 per annum per mile for highways of Class A, $20 per annum per mile for highways of Class B, and $15 per annum per mile for highways of Class C. The United States shall not pay any compensation or toll for such use of such highways other than that provided for in this section, and shall pay no compensation whatever for the use of any highway not falling within Classes A, B, or C. That any question arising as to the proper classification of any road used for transporting rural mail shall be determined by the Secretary of Agriculture. That the compensation herein provided for shall be paid at the end of each fiscal year by the Treasurer of the United States upon warrants drawn upon him by the Postmaster General to the officers entitled to the custody of the funds of the respective highways entitled to compensation under this act.

The provisions of this paragraph shall go into effect on the 1st day of July, 1913.

It embodies all of the provisions of a bill which I introduced in the House on the 8th day of April, 1912, with the single exception that the rate of compensation to be paid by the Government for the use of post roads in carrying the mails has been changed. No constitutional objection can be offered to the amendment, because Congress is expressly authorized by section 8, article 1, of the Constitution to establish post offices and post roads, and the power to establish necessarily carries with it the power to maintain or to pay for the maintenance and use of same when already established. The Democratic Party is committed to the policy of Federal aid in the construction and maintenance of post roads, for in the national platform adopted at Denver in 1908 it declared:

We favor Federal aid to State and local authorities in the construction and maintenance of post roads.

The amendment is therefore not only a wise, economic measure, promoting, as it will, the general welfare and progress of the entire Nation, but it is also Democratic and exactly in line with the promise made to the people by the party in the platform upon which a Democratic House was elected in 1910.

REASONS WHY AMENDMENT SHOULD BE ADOPTED.

There are several reasons why I favor this amendment and this form of Federal aid to this great work of internal improvement.

First. It is just and proper that the farmers and citizens, whose money, in the form of taxes, and whose labor build the roads of the country, should receive some compensation from the Government for their use in carrying the mails, more especially since the money so paid will be used in further improving and maintaining the roads. The Government pays more than $50,000,000 every year to the railroad companies for the use of their roads in hauling the mails, and this money goes to swell the receipts and increase the dividends of the stockholders, whose capital built and maintains our great and necessary railway systems. Why, then, should not our Government pay something for the use of our post roads to the citizens who have been taxed to build them, and who are to that extent stockholders, although they receive no dividends or money profit therefrom? The money so paid will not go into the pocket of any individual or set of individuals, but will be used toward the further improvement of our highways and in maintaining those already built.

Second. The enactment of this amendment will prove a great incentive to good road building throughout the country. Every State and locality will be anxious to improve their roads, so as to receive the greatest rate of compensation allowed. It is not open to the objection, with which I do not agree, but which has been made by some to the appropriation of a lump sum to each State to be used in road building on the ground that in some localities it might bring about a disposition to wait and let our National Government furnish all the money necessary to build post roads.

Third. This amendment safeguards the rights of the States, and neither warrants nor permits Federal interference in our local affairs. Each State or locality is left free to build its roads in its own way, locating them where it pleases and improving them in such a manner as it may see fit.

These, Mr. Chairman, are some of the reasons which actuated me in introducing the bill to which I have referred, after a conference held by many Members for the purpose of devising some feasible and proper legislation on the subject, and which prompt me to lend my support to the amendment now pending.

There are only 12 States of the entire 48 States in the Union which have a greater number of rural routes than the State of Tennessee, and 4 of those States exceed Tennessee by a very small number. During the years intervening between 1904 and

1909 there was a great deal of road building, more activity being shown than during any previous years. Statistics show that Tennessee stood eighth in the list of all the States in percentage and number of miles of roads improved during those years. But, Mr. Chairman, I do not advocate the adoption of this amendment because I believe that the State which I have the honor to represent in part will receive a considerable portion of the money which will be paid for the use of post roads if it is enacted into law. I am not moved by any such narrow reason in my advocacy of it. I place it upon the broad principle of right and justice. It is because I believe that there is nothing which will do more for the upbuilding and the general prosperity of the whole country than a complete and perfect system of good roads. History shows that no country has ever succeeded in building up a great system of highways without the benefit of national aid, and I believe that our National Government should render some assistance along that line without in any way attempting to interfere with the rights of the States. This amendment is thoroughly safeguarded in that respect, and I believe that it has a better chance of passage than any other measure which has been proposed. If our Government shall become committed to the policy and later on a better and more feasible plan is proposed, then it can be changed. But I feel confident that the passage of this amendment will bring splendid results and will prove satisfactory to the people of the entire country.

IMPORTANCE OF GOOD ROADS TO NATION.

If our Nation is to reach its highest productive capacity and fully develop all of its material resources, then we must have good roads. The success of a nation depends not so much upon what it makes as upon what it produces from the soil. Anything, therefore, which will have the result of economizing in the cost of transporting the products of the farm to the town must redound to the general welfare of the entire population. The soil is the real source of all wealth. The farmer feeds the world. Hence, whatever will enable him to get his produce easily, quickly, and cheaply to market contributes most materially to the comfort, happiness, and the prosperity of all the people. Good roads promote the success of the church and the better development of our schools; they result in a cheaper and quicker mail delivery, thereby adding to the advantage of intelligent and social intercourse among the people. They will have a tendency to cheapen food products and also the products of the manufacturer. They add to the attractiveness as well as to the profit of farm life, and will do much toward relieving the congestion in our badly crowded cities. In short, good roads mean better homes, better churches, better schools, and increased advantages in all of those things which add to our national growth and prosperity.

I can not, Mr. Chairman, in what I shall say, hope to add anything to what has already been said concerning this subject and the advantages to be derived from good roads, but I beg the indulgence of the House while I briefly refer to some of the reasons why the Government should extend its aid, because I do not believe they can be emphasized too much.

POLICY OF GOVERNMENT RELATIVE TO INTERNAL IMPROVEMENT.

This Government years ago adopted the wise policy of improving our waterways in the interest of our commerce, and this policy has redounded to the welfare of the Nation by lessening freight rates and affording cheaper transportation. Why is it not equally as wise to lend some assistance toward the improvement of our land highways in order that the products of the farm may have cheaper transportation to the towns and shipping points and that the products of the factory may more cheaply reach the farm? Years ago, at the beginning of the era of railroad building, subsidies of lands and loans of money were freely granted by the Government to the western railroads to aid in cheapening transportation across the western plains. If I mistake not, about 200,000,000 acres of public lands were at various times granted as subsidies to various railroads. I do not for one moment indorse those enormous grants of public property, but the point is that if this Government has, in the interest of cheaper transportation, done so much in the past for railroad companies, then surely there can be no reason why our Government should not assist in cheapening transportation on our highways when it is wholly for the public weal. Our Government is spending more than $225,000,000 every year upon our Army and Navy. I am in favor of maintaining an adequate Army and Navy, one sufficiently large to defend our coasts and protect the Nation's honor and the rights and property of her citizens, but I do not agree with those who wish to make this Nation the most powerful fighting nation on earth. There are those who advocate the building of two battleships, rather than one, every year at a cost of from fourteen to fifteen millions of dollars each. I recognize the necessity of maintaining our Navy up to a reasonable and proper standard, but for my part I do not want to see our roads and the internal improvement of our country neglected in order that these already great expenditures may be unnecessarily increased. It is, of course, necessary to add to our Navy from time to time, but battleships in a few years become obsolete and out of date and are thrown aside for those more modern, more expensive, and more to be dreaded. But good roads are never abandoned. No one wants to destroy them, for they do not aggrevate; they please. They add to the wealth of the Nation; and, after all, Mr. Chairman, the power and stability of a nation depends primarily upon its commercial importance and the happiness and prosperity of her citizenship rather than upon the number of its battleships or the size of its Army. [Applause.] We spent last year more than $152,000,000 in pensions, notwithstanding the Civil War ended nearly 50 years ago; and I regret to say that there is some likelihood that before the present session ends additional legislation will be enacted which will increase this already unjustifiably large amount so that for some years to come our pension roll will amount each year to nearly, if not quite, $200,000,000 per annum. This money neither builds up the country nor does it promote its general welfare.

It is but just and proper, Mr. Chairman, that this amendment should be passed in the interest of the farmers, who contribute possibly 60 per cent of these and the other expenses of our Government and who, as a class, have up to this time received so little of the benefits of legislation. Especially is this true since it will not only help the farmer individually, but will increase the wealth of the entire country.

LOSS ON ACCOUNT OF BAD SYSTEM OF ROADS.

Better roads enable a farmer to draw bigger loads with less injury to his team and wagon. For that reason he will, of course, derive a greater profit for his year's work. No one can estimate how much the farmers of this country lose annually on account of a bad system of roads. Our internal commerce is greater than the interforeign commerce of the world. Ninety per cent of it has to be hauled over highways, and it is estimated that the average haul is 9.4 miles and that the average cost of hauling is 23 cents per ton per mile. While it may be less in some localities, this estimate gives a general idea as to the cost of transportation over country roads. In France the average cost per ton per mile is only about 7 cents, while in England and Germany it is about 11 cents. This great difference in cost is due to the superiority of the roads of those countries over the roads in this country. If all of our roads were as good as those of the countries named, it is estimated that the average cost of hauling would be reduced from 23 cents to 12 or 13 cents per ton per mile. More than 300,000,000 tons are hauled annually over our roads, and their improvement would thus result in saving annually from $250,000,000 to $400,000,000 to our agricultural interests. The sums so saved would be sufficient in a few years to pike every mile of public roads in this country. Who will say that this difference is not the direct result of the fact that those countries have for years given national aid toward the building of the highways? France began this work under the great Napoleon, and whatever may have been the ruin and havoc he brought upon the countries of Europe, not even excepting his own, it will stand as a lasting monument to his genius and statesmanship.

Mr. Chairman, the farmers of the country are paying, either in their own labor and that of their teams or in the labor of others, this enormous cost to market their produce. It needs no argument to show that this cost would be reduced by a better system of roads. Experience shows that the improvements in roadbeds and rolling stock have served to steadily decrease railroad rates, and for the same reason the cost of wagon transportation would be decreased by an improvement of our highways. It is a significant fact that while the cost of transportation by railroad and water is now, on an average, less than one-ninth of what it was years ago, the cost of transportation over our roads has increased, according to statistics, 35 per cent. It costs 1.6 cents more to haul a bushel of wheat 9.4 miles than it does to carry it from New York to Liverpool, a distance of about 3,100 miles. Thus it is that a system of bad roads proves an impediment to the farmer, preventing him from getting to market in an easy, quick, and cheap manner and costing him an untold sum in time, labor, and money. To all of this must be added the loss to the wealth of the country occasioned by the failure of the farmer to produce as large crops as he otherwise would produce if the roads were better and his market more easy of access, not to mention the value of the products which he is compelled to allow to go to waste because of the expense of hauling to market.

INCREASE TO WEALTH OF COUNTRY.

Then, too, Mr. Chairman, an improved system of roads materially increases the value of farm lands. It is said that this increase in value ranges from two to nine dollars per acre. When it is remembered that there are about 450,000,000 acres of land in cultivation in the United States it resolves itself into a matter of simple arithmetic to figure the enormous increase of wealth which would be brought to the farmers of this country by a complete system of good roads. There are about 850,000,000 acres of improved and unimproved lands in the United States. Much of this is at present inaccessible and would prove unprofitable for cultivation on account of the difficulty of hauling the produce to market. The Agricultural Department figures that there are about 400,000,000 acres of land in the United States which are uncultivated. Think of the enormous addition to the wealth and the prosperity of this Nation if we had a system of roads which would reach this land and open it up for cultivation. How many families who are now living in the congested quarters of some of our large cities, frequently among unhealthy surroundings and eking out a bare subsistence, would be furnished with comfortable and happy homes. One of the most unfortunate conditions of the present day is the growing tendency to leave the farm and crowd into the cities. Nothing will do more to stop this than a system of good roads, which will not only make farm life more remunerative, but even more attractive than it now is by bringing neighbors closer together, thereby facilitating social intercourse and bringing the farmer nearer to the church and the school.

During the decade between 1890 and 1900 the population of the towns increased 46 per cent as compared with 40 per cent in the decade before and 3.4 per cent in 1790. Twenty-five counties with only 5 per cent of improved roads, selected at random by the office of the director of roads, lost 3,112 each in population, while 25 other counties, with 40 per cent of improved roads and selected in the same manner, gained 31,095 to the county population. These figures show the present tendency of the country to lose in population to the towns, and, in my judgment, they also point to one way in which it can be checked.

GOOD ROADS PROMOTE EDUCATIONAL PROGRESS.

I have said that good roads will result in better schools and churches. Children can not regularly attend schools in the country over bad roads in certain seasons of the year, nor can people attend their churches. Statistics show that in States with 34 per cent of improved roads an average of 77 out of 100 enrolled pupils regularly attend school. The same investigation shows that in States with only 1½ per cent of improved roads only 59 out of 100 enrolled pupils attend school with any degree of regularity. No stronger evidence showing the advantageous effect of good roads on the education of the boys and girls of the country could possibly be presented.

INCREASED COMPETITION IN FARMING.

Mr. Chairman, there is another controlling reason why the Government should lend some assistance in building good roads. The time has come when the farmers of this country must give attention to the competition of the farmers of Canada, South America, and of Africa. In the last few years great areas of land in these countries adapted in a large measure to the growing of nearly every crop that can be grown in the United States have been opened up. The soil is most fertile and will produce as much, and, in certain kinds of crops, more than the soil of the United States. The time has come when our farmers must meet the progressive farmers of those countries in competition for the markets of the world. Certainly this Government owes it to the farmer, who is the foundation source of all of its abundant wealth and great power, to give to him every assistance possible in meeting this competition. In what more effective way can this be done than by building good roads and thus lessening the cost of the transportation of his products from the farm to the market? We have seen how the farmers of this country lose hundreds of millions of dollars every year in money, time, and labor on account of bad roads. This does not include damage to teams and wagons, which can not be estimated. Nor does it include what could be earned during the extra time consumed in hauling by reason of a bad condition of roads.

For years the Republican Party has committed this Government to the unfair and unjust policy of protecting the large manufacturer, notwithstanding the fact that it has been done at the expense of the people, and in spite of the fact that such a policy has served to build up great trusts and combinations which grind out enormous profits every year at the expense of more than 92,000,000 people. But the proposition now pending involves no such principle. The farmer does not and never has asked for protection. He only asks for justice and the right to participate to some little extent in some of the benefits of a government to which he is the greatest contributor. He has always been patient even under circumstances which would have justified a protest. But the time has come when Representatives should do something for his welfare. The passage of this amendment will not benefit him alone. It will benefit all classes of people, for, as I have said, the soil is the real source of our wealth. Whenever the farmer prospers the country prospers, and whenever conditions are adverse with him then the country suffers. His products have caused the balance of trade with foreign countries to be in our favor and have helped to make this country great and powerful. Legislation which will enable him to increase his product and his profits will not only serve to cheapen the cost of living but it will add to our balance of trade and increase the general prosperity of the entire country. [Loud applause.]

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. HAMILL] five minutes.

Mr. HAMILL. Mr. Chairman, the present Post Office appropriation bill contains two provisions in particular in which I am deeply interested. One is the provision which reestablishes the eight-hour working day for letter carriers in the City Delivery Service and clerks in first and second class post offices; the other is the provision by which appropriation is made for the promotion of 75 per cent of the letter carriers in first-class post offices from the fifth to the sixth grade, and for the promotion of 75 per cent of the letter carriers in second-class offices from the fourth to the fifth grade. These proposals are so reasonable, so necessary, and so just that this House ought not for a moment to hesitate to adopt them. The first of these provisions which I mention is embodied in section 5 of the pending bill and reads:

> That on and after July 1 next, following the passage of this act, letter carriers in the City Delivery Service and clerks in first and second class post offices shall be required to work not more than 8 hours a day: *Provided*, That the 8 hours of service shall not extend over a longer period than 10 consecutive hours, and the schedules of duty of the employees shall be regulated accordingly.
>
> That in cases of emergency, or if the needs of the service require, letter carriers in the City Delivery Service and clerks in first and second class post offices can be required to work in excess of eight hours a day, and for such additional services they shall be paid extra in proportion to their salaries as fixed by law.

The plain and simple purpose of this section is to extend to the carriers and clerks affected by it the benefit of an eight-hour law, and thus to place them, so far as fair treatment is concerned, on an equal footing with all other Government employees.

Congress has repeatedly expressed its belief in the wisdom and the efficacy of an eight-hour working day. It has confirmed this belief by frequent legislation on the subject. It has established the eight-hour period as the limit of daily labor in every other department of the Government. To-day it prohibits contractors who perform work for the Government from requiring their employees to render more than eight hours' daily service. Notwithstanding, however, this stringency of labor regulations over other departments of the Government and in regard to independent contractors engaged in Government work, there is no statute of this kind to protect the post-office employees. They can be required to serve as many hours per day as their superiors may see fit to order. They can be compelled, and are now actually compelled, to work 10 and 12 hours a day and in some cases even more.

Mr. CALDER. Will the gentleman yield?

Mr. HAMILL. Certainly.

Mr. CALDER. Sometimes these clerks are compelled to work 16 hours a day.

Mr. HAMILL. I thank the gentleman from New York for his valuable information. It is certainly unjust to work men such a length of time continuously.

And yet some years ago the letter carriers did enjoy the benefit of an eight-hour law. They lost the advantage of it, however, through a species of legislative chicane, and have never since recovered it. The means through which they acquired this benefit and the way by which they were deprived of it is worth while remarking.

The legislation on the subject dates back to 1888. During the session of that year, on May 24, Congress passed the measure known as the letter carriers' eight-hour law. This statute, Thirty-fifth Statutes at Large, page 157, specifically limited the hours of labor of letter carriers to not more than eight hours each day. Notwithstanding, however, the positive mandate of the law, the post-office officials disregarded its requirement, and for seven successive years from the date of its passage it stood as a dead letter upon the statute books.

Finally, to discover what validity and effect this legislation possessed, the case known as United States *v.* Post (148 U. S., 124) was instituted and carried at length to the Supreme Court of the United States. It was a case where a letter carrier

sued for compensation for labor performed in excess of the eight hour daily period, and the purpose of the action was to test the soundness of a great number of similar claims. The Supreme Court decided in favor of the carrier, and as a result of their determination commissioners were appointed by the Court of Claims to adjust the matter, and they awarded the sum of $3,000,000, which was distributed among letter carriers throughout the country in payment for overtime service.

It was not, however, until January 1, 1895, that the letter carriers came into the full enjoyment of the benefits of the eight-hour law enacted in 1888. This was brought about through the action of Postmaster General Bissell, who, recognizing the controlling weight of the Supreme Court decision, and in order to cut off future claims for overtime service, issued an order whereby postmasters and supervisory employees were required to so arrange the routes and schedules of their offices that the carriers therein would not be required to work over eight hours a day. For about five and a half years the mandate of this statute was obeyed with strict fidelity, and its observance tended greatly to promote satisfaction and comfort among the carriers. But the law was abolished in 1900 through the effect of a clause which was inserted in the bill passed that year making appropriations for the Post Office Department. While this bill was under debate in this House on April 24, 1900, the then chairman of the Committee on the Post Office and Post Roads offered from the floor and had carried an amendment contained in these words:

Provided, That letter carriers may be required to work as nearly as practicable only 8 hours on each working day, but not in any event exceeding 48 hours during the 6 working days of each week, and such number of hours on Sunday, not exceeding 8, as may be required by the needs of the service; and if a legal holiday shall occur on any working day the service performed on said day, if less than 8 hours, shall be counted as 8 hours without regard to the time actually employed.

This 48-hour law, as it was called, went into effect June 30, 1900. The operation of it caused general discontent both among those amenable to it and those who honestly attempted to enforce it. Various interpretations and constructions were placed upon the law, with the result that the carriers never knew just what would be the daily hours of duty they would be required to serve. But it was believed, nevertheless, that however obnoxious the act might be the operation of it would expire on June 30, 1901, the date to which the appropriation bill into which it had been put made provision for the expenditures of the Post Office Department. This was the opinion on it which was given by the Assistant United States Attorney General attached to the Post Office Department; and pursuant, therefore, to this advice a return was made on July 1, 1901, to the 8-hour law of 1888 on the supposition that the so-called 48-hour law had become null and void through time limitation.

But this opinion, however gratifying, was not subsequently sustained by the Court of Claims. On the contrary, it was directly reversed some years afterwards. A case was submitted to this tribunal where a letter carrier claimed payment for overtime. He had not worked more than 48 hours during a certain week, but on various days of that week had worked more than 8 hours, and the Postmaster General requested to be informed whether or not the claim of the carrier was valid. The Court of Claims decided in the negative and held that the carrier was not entitled to extra compensation, for the reason that the act of May 24, 1888, known as the 8-hour law, had been superseded by the subsequent act of June 2, 1900, known as the 48-hour law, and that this latter statute still existed in all its original force and vigor.

Thus, the letter carriers were again compelled to work under a law which no one desired and which had been intended merely as an experiment. More than this, it was a law which prescribed no penalty for its violation, and, as a consequence, they could not, under the ruling of the United States Supreme Court, sustain an action in case it were disregarded. They could neither compel their superiors to adhere to it nor could they obtain extra compensation if forced to work for a longer period than the weekly 48 hours. And, according to reports, the law was in many cases flagrantly disregarded.

The result of this situation need not be outlined further than to state that the employees keenly felt the injustice and imposition of the law and that the Post Office service and the public generally suffered continual damage from its enforcement.

In the light of these facts there can be no possible question of the expediency and the justice of adopting the recommendation of this bill restoring the original eight-hour law and giving carriers and clerks the benefits conferred by it. In private industrial enterprises eight hours is now universally recognized to be as many as a man of average strength and health can give daily to his work with justice both to himself and to his employer. Surely we expect the United States Government to be at least as fair as the private employer, especially when both the Government and the public will be the gainers and beneficiaries from the pursuit of such a course.

In closing my remarks on this subject I wish to pay my compliments to my colleague from Connecticut, Mr. REILLY, the author of this eight-hour measure. From the time when he introduced it until now he has advocated it with persistency and fervor, and I feel sure that his efforts to have it made a law will be crowned with deserved success.

Closely connected with the eight-hour law as a means to effect an improvement in the condition of the postal employees is the second provision I have mentioned—that which appropriates a sufficient sum of money to enable postmasters in first and second class post offices to promote to the highest compensated grades in the service those employees whose proved efficiency entitles them to the advancement.

The inability of postmasters to do this at present is owing to the parsimonious action of Congress at the session after the law was passed which divided employees in first and second class post offices into different grades.

By a law enacted in the Fifty-ninth Congress, approved March 2, 1907, the postal clerks in offices of the first and second class and the carriers in the City Delivery Service were divided, according to salary, into six grades. The first grade received an annual compensation of $600; the second grade, $800; the third grade, $900; the fourth grade, $1,000; the fifth grade, $1,100; and the sixth and highest grade, $1,200. It was further provided that the clerks and carriers in first-class offices should be promoted successively to the fifth grade and that the clerks and carriers in second-class offices should be promoted successively to the fourth grade, but no promotion was permitted to be made except upon evidence satisfactory to the Post Office Department of the efficiency and the fidelity of the employee. Besides this, it permitted the making of a reduction in grade and salary. This could be done by a postmaster whenever, in his judgment, the clerk or carrier had failed to maintain the standard of efficiency proper to the grade in which he belonged.

This requirement put every man on his mettle and made industry and merit the ground and test for promotion. To provide for the proper enforcement of the law efficiency records were established. The character and conduct of every employee was carefully examined and the results of the investigations systematically tabulated. In this way a very high degree of efficiency was kept up, in consequence of which the Government received full and ample service for every dollar expended in salary. Now, as I have stated, the Fifty-ninth Congress created six grades or classifications. But the difficulty was it did not allow an employee after a certain number of years of service and demonstrated fitness to be advanced automatically to the highest grade. In first-class offices clerks and carriers could successively advance only to the fifth grade, where further promotions ceased, while in second-class offices clerks and carriers could advance only to the fourth grade, at which stage their right to further promotion terminated. To remedy this defect the Sixtieth Congress enacted a statute directing promotion to the highest grade in the service of all clerks and carriers in first and second class post offices whose records justified advancement.

It would seem impossible that any serious objection could be made against such a measure, and yet, curiously enough, during the debate upon it in Congress the law encountered opposition on the ground that the appropriation for this purpose would be improperly expended and that postmasters would use it to reward their own favorites rather than to elevate employees whose records justly gave them the preference. This suspicion on the part of Congress proved afterwards to have been wholly without foundation. The amount appropriated was used with vigorous impartiality and fairness, and only those whose merits recommended them received the benefit of it.

But the suspicion expressed had unfortunately this effect: Congress appropriated only 50 per cent of the amount that was necessary to provide compensation for all whose records warranted their advancement. What was the result? In the first place, dissatisfaction and complaint among employees, and in the second, almost insuperable difficulty and embarrassment to superiors having the right to promote. The employees declared that where two men had equal right for a promotion, which by reason of the failure of the law to provide sufficient funds only one could obtain, the postmaster selected his own favorite. Anyhow, in a number of such instances what did actually happen was that neither obtained advancement. In cases where two employees were equally entitled to promotion postmasters have been known to refrain from recommending either for fear of laying themselves open to the charge of favor-

itism or injustice. Thus both employees suffered the unjust consequences of an appropriation law which did not adequately cover the situation to which it was intended to apply.

The recommendation which the committee has embodied in this bill appropriates a sufficient sum of money to make possible the promotion of at least 75 per cent of the number of employees estimated as being entitled to advancement. For my part I am constrained to remark that it might and could have been made more liberal. Considering, however, the sums not needed to be disbursed on account of deaths, resignations, and reductions, it is hoped that in default of procuring anything better it will prove adequate for the purpose for which it is designed.

In any event it is a distinct step forward. It affords relief in a matter where in all honesty relief should be granted, and it tends by instilling encouragement among the employees to heighten the efficiency of a great and popular branch of the Government service. There is every good reason why Congress should authorize the expenditure.

For it is to be remembered that the post office is the one agency of the Government with which all the people have close and daily relations. It is the one agency with which all are familiar, and which is useful not merely to a part of our population but to all the people alike. Every citizen expects, as a matter of course, to have his mails promptly delivered and to find the business of the post office always in smooth running order. Only a few, however, appreciate the immense amount of labor and attention to detail the maintaining of the post office in this condition necessitates. There is no opportunity for neglect of duty on the part of employees, while the tests they are required to undergo before obtaining permanent employment makes incompetence a rare occurrence. They are chosen as the result of a rigorous civil-service examination. If successful on the examination they are required for several years, and oftentimes more, to work as substitute employee, at the end of which period they may get regular appointment at the small salary of $50 per month. Annually they may be advanced from grade to grade until in second-class offices they reach the fourth grade and in first-class offices the fifth grade. There, by operation of the law, the right to further advancement comes to an end. During all the time, however, that they are climbing, by toilsome performance of duty, from the lowest grade to the highest attainable they are always liable, for the slightest misstep, to be reduced in salary under that section of the law which permits demotion to be made on the score of inefficiency. Under such a system, with all its tests and exactions, only the very best, if not exceptional, men can hope to succeed. At the termination of this grinding career, when their vigor and usefulness become impaired from age and faithful devotion to duty, they are not even retired on pension. On this latter subject I propose to have something to say later on.

This, Mr. Chairman and gentlemen, is the character and record of the employees whose interests appeal to you to-day. I sincerely trust the appeal will not be in vain, and that both these provisions will be emphatically indorsed and incorporated as a part of the pending appropriation bill. [Applause.]

Mr. MOON of Tennessee. Mr. Chairman, I yield five minutes to the gentleman from Missouri [Mr. DYER].

Mr. DYER. Mr. Chairman, I want to call attention especially at this time to section 6 of this bill, and while I heartily approve of it, I believe that an improvement can yet be made on that section that would be for the interest and good of the service. This bill is going to give a great deal of valuable relief to the employees and carriers in the Post Office Department, and well it should do so and well is it deserved.

I believe, Mr. Chairman, that in section 6 an improvement could be made by amending it so as to insert a bill that I introduced in this Congress some time ago. I ask unanimous consent to have this amendment which I offer read and have it pending for consideration at the proper time.

The CHAIRMAN. The gentleman can have the amendment read for information, but it can not be offered, to be pending, now. Without objection, the amendment may be read for information in the time of the gentleman from Missouri.

The Clerk read as follows:

That the following is stricken out, to wit, beginning with the word "that," line 3, page 30, section 6, and extending to and including the word "thereof," line 22, same page and section, and insert in lieu thereof the following:

"That there shall be appointed by the President of the United States a commission, to consist of three members, who shall receive as compensation $3,000 per annum for a term of four years, and may be reappointed. The said commission shall be known as the commission on salaries and allowances of postal employees.

"The duties of the said commission shall be to pass on all salaries of postal employees who are in the classified service. When any employee is entitled to an increase of salary by reason of time and length of service, it shall be the duty of the Post Office Department to certify the said employee to the said commission for promotion, and if for cause the department deems it advisable that an employee be not promoted there shall be filed with the said commission a full report of the case and all charges against said employee, who shall receive a copy of the same and be allowed 10 days to file a written answer or may appear before the commission in person or by attorney, and after such hearing the commission shall decide the case, and such decision shall be final.

"No postal employee of the classified civil service having reached a certain grade and who receives a certain salary shall be reduced to a lower grade except for cause and after a hearing by the commission on salaries and allowances of postal employees.

"When the Post Office Department believes there is a good and sufficient cause for the reduction of salary of a postal employee who is in the classified civil service, it will file with the commission on salaries and allowances its recommendation, with the reasons thereof, and all charges.

"And a copy of the same shall be sent to the employee recommended for reduction, who shall be allowed 10 days to file a written answer to the same, or he may appear before the said commission in person or by attorney to present his case, and after such hearing the commission shall decide, and such decision shall be final."

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURDOCK. Mr. Chairman, I yield the gentleman three minutes more.

Mr. DYER. Mr. Chairman, with the amendment which I offer as a substitute for that which should be stricken out, in my judgment, it would make this an admirable section; that part which begins on line 22, page 30, and provides that membership in any society, association, and so forth, shall not constitute or be cause for a reduction in rank or compensation or for removal of such person or group of persons from said service, is a splendid provision, and it will be of great benefit to the service and make it more efficient and more valuable to the public. I therefore heartily indorse, Mr. Chairman, that section as I would suggest it should be amended, which I believe would make a great improvement. I am also heartily in favor of other improvements that are put forth in this proposed law fixing the hours of service, improving the conditions, and so forth, and I would like to see also a provision inserted in this bill to give to the letter carriers and postal clerks throughout the country the same rights and privileges now enjoyed by other civil-service employees, that of leave of absence for 30 days.

Mr. Chairman, in the city of St. Louis on or about the 1st of July we will open the new post office, the most splendidly equipped building, I believe, in the world for handling the mail. At a dinner on the 17th instant in the city of St. Louis the postmaster of our city delivered an address to the members of the Business Men's League upon post-office workings in the city of St. Louis and upon the postal department in general. He has given much time and much thought to the study and to the workings of the postal departments in all parts of this country. He has been upon commissions under the Postmaster General for studying matters pertaining to the pneumatic-tube service and the handling and distribution of the mail. I therefore ask unanimous consent to publish the address of Mr. T. J. Akins, postmaster of that city, delivered on the 17th of April, in the city of St. Louis, as part of my remarks.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to print as a part of his remarks the matter indicated. Is there objection? [After a pause.] The Chair hears none.

The address is as follows:

SPEECH OF T. J. AKINS, POSTMASTER AT ST. LOUIS, MO., APRIL 17, 1912.

"Members of the Business Men's League, I am indebted to the efficient secretary of the Business Men's League for the very great pleasure as well as the distinguished honor of speaking briefly at this time.

"Indeed, it is a great honor to speak to a body of men who are the prophets of progress and the architects who are drawing the plans for the greater St. Louis.

"To each and every one of us there is a bright spot, kissed by the genial rays of heaven's sun and watered with the dews of progress, the fairest and best portion of the earth—St. Louis.

"Our city stands like a beautiful queen whose crown is beauty, whose creed is hospitality, and whose watchword is progress, whose dominion is the richest valley in the world.

"To extend the trade relations of this splendid city—to increase her influence and make her a power among the great cities of the country—is the work committed to our hands.

"In this great work the St. Louis post office is willing to do its full share. We can not draw plans upon the world's trestle board for the extension of our trade relations. We can not send men into unexplored territory to sell your wares, but through one of the best organized postal agencies on the American continent, the St. Louis post office, we can send your messages to every corner of the globe.

"We realize that we live in an age of great strenuosity. Everybody is demanding prompt action. The city that makes quick deliveries gets the business.

"In this particular an efficient postal system is of the greatest importance to the business men of St. Louis, and we are straining every nerve to deliver promptly the incoming mail and to dispatch with the least possible delay the outgoing mail.

"In this great work we have had the most beautiful and helpful cooperation from the business men of the city, and as long as I have the honor to be postmaster of this city you will have my best efforts along these lines.

"We look forward with great pleasure to the time when we shall occupy the new post-office building at Eighteenth Street and Clark Avenue. This building is now almost completed, and we confidently expect to occupy the same not later than July 1. When completed in every detail it will be the most modernly equipped building for handling the mails in the entire country, and perhaps in the world.

"Our new automobiles, which are already in operation, will each make 23 trips every 24 hours, covering completely the business section of the city. During the busy portion of each day we expect to make deliveries and collections with our automobiles every 30 minutes. These automobiles are equipped so completely that they will carry from 1,000 to 2,000 pounds of mail with ease and deliver the same on the mailing platform of the new post-office building from our downtown stations in approximately seven minutes.

"This mail will be carried by an automatic conveyor to our new pick-up tables, where it will be properly prepared for dispatch upon the outgoing trains in so short a period that it seems almost incredible.

"If we are fortunate enough to secure additional pneumatic-tube service the St. Louis post office will then be one of the best—if not the best—equipped offices in the entire country.

THE ORIGIN OF OUR POSTAL SYSTEM.

"Perhaps it might not be uninteresting to you business men to briefly sketch the origin, the development, and the organization of our postal system.

"While each and every one of you recognizes the fact that a postal system in some form has existed for many years, yet few people realize that our postal system is almost as old as organized government.

"In your most studious moments if you will walk back along the track of time, guided by the light of history, you will find frequent allusions to the postal system before the Christian era. In the Books of Jeremiah, Esther, and Job frequent allusions are made to the post—'So the post went with letters,' 'So the post passed from city to city.' One sacred writer uses this term to represent the evanescence of human life: 'Swifter than a post my days flee away.'

"According to the great historian, Xenophon, Cyrus the Elder was the first reigning monach that conceived the importance of communicating with various parts of his empire by letters. Hence he built post roads and post houses and appointed trusted couriers or carriers, who received the message from the king and, mounted upon the swiftest horses in his dominion, dispatched these messages with all possible haste to the various parts of his empire. Hence you will see that quick delivery was an essential element in the postal system even in this remote age of the world.

"The postal system of America was first established by a man named Neal and was known as the 'Neal post.' This was operated under a grant from King George. This continued up to the beginning of the Revolutionary War, when Congress, on the 26th day of July, 1775, passed an act creating our postal system and appointed Benjamin Franklin Postmaster General, at a salary of $1,000 per year.

"Within 135 years the American postal system has grown to be the greatest organization in human history. We employ approximately 320,000 people, an army greater than was ever marshaled under one flag, commanded by a single general, on any of the great battle fields of the world. We spend approximately $250,000,000 annually to maintain our postal system.

"Three years ago a deficit of $17,500,000 existed in the Post Office Department, but to-day, I am happy to say, the Post Office Department is self-sustaining and turning into the Government a small surplus.

"We now have 61,000 post offices in operation in the United States and its territories. We have over 26,000 domestic transportation routes aggregating 450,000 miles in length. We have a delivery service by carriers over 41,000 rural routes, delivering mail approximately to 20,000,000 homes daily.

"The integrity of the service, while not perfect, is a marvel to all who have studied its operations. Each and every employee in the service, except presidential postmasters and their secretaries, are civil-service employees.

"The integrity of the service is illustrated by the fact that it is estimated by postal experts that only 1 ordinary letter in 100,000 that enter the mail is lost or stolen. It is further estimated that only 1 piece of registered mail in 27,000 pieces that are handled by the post office reaches its destination in bad order, and only 1 piece of registered mail in each 200,000 pieces handled is stolen and never recovered.

"The integrity of the service is further illustrated by the fact that of the 41,000 carriers employed on rural routes, less than 25 were arrested for any offense and removed from the service during the year 1911.

"Two serious defects exist in our postal system for which the Post Office Department is not responsible:

"First, our postal system has grown to be a great business organization, but it is subject to the vicissitudes of political changes. This is a serious handicap. The Postmaster General and the postmasters in great commercial centers, who are efficient, draw their plans to improve the postal system of the country with the same care and caution that would characterize the president and board of directors of a great banking institution, but a change of administration may disconcert all these plans and subject the postal system to radical changes and perhaps place the postal system in unskilled hands, and, as a result, business suffers from the change.

"The other defect lies in the fact that we have no American merchant marine flying the American flag that carries our mails to many countries where our trade relations should be extended.

TRADE FOLLOWS THE MAILS.

"If a St. Louis merchant desires to extend his trade to many South American countries, his goods must go by the way of Liverpool and from there to South America.

"It is the purpose of the Postmaster General, upon the completion of the Panama Canal, to make provisions for reaching South America direct, both from the Pacific and the Atlantic Oceans, through the Panama Canal, which will undoubtedly be of wonderful benefit to the commercial interests of the United States. It is a matter of national humiliation that our trade in South America is less than that of Japan.

"In my judgment, one of the demands of the present hour is a merchant marine carrying our mails by the shortest routes to every quarter of the globe.

THE POSTAL SAVINGS SYSTEM.

"On January 3, 1911, by authority of an act of Congress, the Post Office Department established postal-savings depositories.

"This system has been rapidly extended until it is now being operated in over 7,000 presidential post offices, and preparations are being made to establish the system in about 40,000 fourth-class offices that do a money-order business.

"The total deposits up to this date are approximately $20,000,000.

"We established a postal-savings depository in the main office in this city on the 1st of August, 1911. We have opened 3,790 accounts. We have received in deposits $320,000. The total value of certificates paid is $106,000, and we have on deposit in the various banks of the city to the credit of the Government $223,627. We have sold in postal-savings bonds $11,320.

"It is estimated that only 5 per cent of the depositors in our postal-savings bank have ever opened a bank account in any of our banking institutions.

"It is the purpose of postal-savings banks to draw money from hiding and place it into the legitimate channels of business; to minimize the sale of international money orders by furnishing safe and remunerative depositories, not only to our own citizens, but to persons of foreign birth as well.

"Great Britain was the pioneer in establishing postal savings banks. This subject was advocated in Great Britain for over 50 year. Finally, in the year 1858, the matter was brought forcibly to the attention of the English Parliament in the shape of a parliamentary resolution.

"This resolution stated that in the year 1857 the sum of £4,000,400 had been lost to depositors in private savings banks through the mismanagement or incompetency of the officials of these institutions. It further recited that the savings banks of Great Britain had gone into the hands of an idle and pleasure-loving class, and that out of 638 savings banks in existence nearly 350 of them were open for business only one day each week and then remained open only for a few hours.

"It was further shown that only 20 were open daily for the transaction of business and that 24 towns, each containing 10,000 inhabitants, and 14 counties were without savings institutions of any kind.

"In response to a popular demand, a bill was approved by Mr. Gladstone, chancellor of the exchequer, and Sir Roland Hill, the head of the post-office department of Great Britain, and an act was passed by Parliament on the 17th day of May, 1861.

"Since the establishment of postal savings banks of Great Britain the system has extended to practically all of the governments of Europe.

"At the beginning of the year 1910 Great Britain had 11,404,568 depositors in postal savings banks, with a total deposit of over $800,000,000; Italy had 5,000,000 depositors; Japan, 8,000,000 depositors; France, 5,000,000 depositors; and in every country on the globe where this system has been tested by actual experience it has not only proved of inestimable value to the depositors themselves, but to the entire country, including solvent banking institutions.

"The postal savings bank is not the dream of some astute politician sparring for political advantage. It is not a flower that grows in some populistic garden, but it rests upon the conscience and deliberate judgment of the American public, who are perfectly familiar with its operation and success in countries where it has been tested by actual experience.

"It is the purpose of postal savings banks to draw money from hiding in such quantities, and by minimizing the sale of international money orders, that it will make currency famines impossible and panics practically unknown.

POSSIBILITIES OF POSTAL SAVINGS DEPOSITORIES IN AMERICA.

"America is the most fertile field in the world for the operation of postal savings depositories. While we are the richest Nation in the world, yet we are the most extravagant. This country consumes more than half of the luxuries of the world.

"During the past 15 years the volume of our currency has more than doubled. In 1896 the entire volume of our currency amounted to $1,506,000,000, or $21.48 per capita, of which about 33⅓ per cent was gold.

"The circulating statement of the Treasury Department reveals the fact that at the present time we have $3,464,000,000 in circulation, or about $34.83 per capita, of which about 48 per cent is gold.

"The volume of our currency has grown at the rate of over $120,000,000 annually for the past 15 years, or $10,000,000 per month.

"The circulating statement issued by the Treasury Department is merely an invoice of the amount and kinds of money issued or coined by the United States Government, but it does not represent the entire stock of money owned by the American people.

"During the period above referred to the trade balances in favor of the United States have averaged nearly $400,000,000 annually, or a sum total of $5,500,000,000. This vast sum of money represents the excess of our exports over our imports and, therefore, goes directly into the pockets of the American producer. It can not be taken into account by the circulating statement of the Treasury Department.

"Every carload of wheat sold for export, every pound of beef exported, and every other article sent abroad, in the last analysis represents foreign gold which goes directly to the American producer.

"During the same period of time millions of foreign capital have been invested in American enterprises. Thousands of European farmers have come to our shores, bought land, and invested their private capital in this country.

"It is estimated by the most conservative financiers that of all the stock of money owned by the American people more than 50 per cent is in the pockets of the people, or places of hiding, and is not deposited in any bank or trust company of any kind. I emphasize the fact that it is the purpose of postal savings banks to draw millions of money now in hiding and place it into the legitimate channels of circulation.

"The banks of the State of Missouri are well managed and are as solvent institutions as exist on the globe. It is stated in the report of the bank examiner of Missouri that only two or three small failures have occurred within the past two years, and that practically nothing has been lost to the depositors on account of these failures.

"It is a wonderful comment on the integrity of the American financiers that since the establishment of the national banking system in this country less than one-eighth of 1 per cent of all deposits made in national banks has been lost to the depositors. But with this splendid record it is a fact that we have a large number of well-meaning people who have been hoarding their money and fear loss through our banking institutions, but have unlimited confidence in the Government and its guaranty.

"We have 61,000 post offices, covering all centers of population, large and small, in the United States and its Territories. Thousands of them are miles distant from any banking institution of any kind. In our large cities postal savings banks in branch post offices will accommodate the people after banks are closed for the day.

"The value to any country of a system which offers the people a method of systematic saving, and especially encourages the youth to habits of economy, can not be overestimated. The benefits resulting from such a cause are not limited to a monetary consideration, but include improved standards of living, character, and morals. Nothing so greatly encourages economy and thrift as an opportunity to safely deposit small amounts of money with the Government at a small rate of interest.

"I have in mind a boy who was one of our first depositors in the St. Louis office. The amount of his deposit was $2. This deposit has steadily grown from week to week until the balance to his credit to-day is $96.

POSTAL SAVINGS DEPOSITORIES WILL INCREASE PATRIOTISM WHERE IT IS MOST NEEDED.

"You will agree with me that history records no instance where a Government by law has ever been destroyed by a frugal people who own their own homes or their business or who have constant and remunerative employment. If a danger exists to this or any other form of constitutional government, it is not from the class of citizenship above mentioned, but from the transient, roving, nomadic classes, whose condition would not be injured in case of revolution or a change of government.

"This class of our citizens consists largely of persons of foreign birth, who come to our shores at the rate of almost 1,000,000 annually, attracted by the scale of wages offered in this country. Many of them can not speak our language. They are unacquainted with the fiber and genius of American Government. They are unacquainted with our splendid public-school system and the opportunities guaranteed to every citizen under our Constitution. They do not know the cost of constitutional liberty. They do not realize the meaning of our flag—that every star represents a State and that each and every State is great, but over and above and beyond them all is one great indivisible union of States, constituting the greatest Republic in the world, and that our flag is the beacon light to every lover of liberty throughout the world.

"To teach the story of patriotism to this mighty multitude is important far beyond our conception. My countrymen, trade expansion is important, but as you carry the story of trade development to the different parts of the globe be also the evangels of a higher and a better patriotism.

"This great multitude of citizens of foreign birth earn their wages, buy foreign money orders, and deposit the same in their native land. As a result of this custom the Post Office Department sells annually over $100,000,000 in foreign money orders, and this vast amount of money must be exported to countries where postal savings banks have been in operation for many years.

"I ask you, practical business men, if it is not a wise policy of government to minimize the sale of international money orders by offering safe and remunerative depositories in our own land?

"I have already alluded to the possibilities of postal savings depositories in this country. If Great Britain, with 40 per cent of our population, has accumulated deposits amounting to over $8,000,000, this forms a basis for estimating the possibilities of the system in this country.

"I make the prediction that by the close of the present calendar year $50,000,000 will be deposited in postal savings depositories in this country, and that the postal savings system will grow from year to year beyond the dream of its most earnest advocate. At the close of the first decade of its operation we will possibly have 10,000,000 depositors with a total deposit of not less than $500,000,000, and by the end of the second decade we will have a sum deposited that will equal our national debt.

BANKS NOT HARMED.

"Postal savings banks will benefit, rather than injure, our solvent banking institutions. There is no instance in history where postal savings banks have been established where they have worked ruin to conservatively managed banks. The bill is so drawn that it permits the redepositing in local banks of not less than 65 per cent of the money gathered in any locality. The board of trustees, which is composed of the Postmaster General, the Attorney General, and Secretary of the Treasury, will accept National, State, municipal, or other bonds having a taxing value as security for said deposit. This will doubtless create an active market for local securities, and the money paid for them will remain in the community where they are purchased.

"As local banks which qualify can receive these deposits by paying the Government 2½ per cent of interest, and as they will draw not less than 4 or 4½ per cent of interest on the bonds deposited with the Government, they will certainly be in a position to accommodate their customers at lower rates of interest than now prevail.

"As I look into the future and see the students of American history carefully studying the achievements of the present century, which, to my mind, are without parallel in the history of nations, I fancy I see them pausing over the record of the year 1910 as marking a new epoch in our national life. It will be pointed to as the beginning of the era when this great Government provided safe and remunerative depositories for its citizens of small means. It will mark the first step taken by a national administration which emphasizes the importance of personal economy among the masses of the people. It will contain the first practical invitation given the people to own and control the bonded debt of the country.

"If it were possible for the present and coming generations to forget every other achievement of the American Congress—of Postmaster General Frank H. Hitchcock and our beloved President, William H. Taft—their name and fame will be made secure for all time to come by having put in operation this form of Government depositories.

"The deposits in postal savings banks will reach such proportions that the country will ultimately be divided into postal savings depository zones. It will doubtless be necessary to provide a local board of directors having intimate knowledge of the value of municipal, county, and State bonds and other securities having a taxing value offered the Government by our banking institutions as security for deposits.

"The bill providing for this form of depositories, while the best within the history of civilization, will doubtless, when tested by actual experience, be found imperfect. It will be amended from time to time as those minor defects become apparent, and make this new policy of government not only permanent, but a blessing to all who use it and a triumph to the genius of American statesmanship."

Mr. MURDOCK. Mr. Chairman, I yield five minutes to the gentleman from Michigan [Mr. SAMUEL W. SMITH].

Mr. SAMUEL W. SMITH. Mr. Chairman, I would like to send to the Clerk's desk a letter from Mr. George P. Hampton, secretary of the Farmers' National Committee on Postal Reform, a letter which, I presume, possibly every Member received this morning, with an inclosure entitled "Postal Notes," and I would like to have that read also in connection with the letter.

The CHAIRMAN. Without objection, the Clerk will read the matter indicated.

The Clerk read as follows:

[Farmers' National Committee on Postal Reform (under auspices of the conference of progressive State granges). Organized to assist in securing the establishment of a modern parcel post or postal express and otherwise to improve the postal service. Executive committee: C. B. Kegley, master Washington State Grange; William T. Creasy, master Pennsylvania State Grange; C. S. Stetson, master Maine State Grange; C. E. Spence, master Oregon State Grange; F. P. Wolcott, master Kentucky State Grange; George R. Malone, master South Dakota State Grange; John Morris, master Colorado State Grange; H. F. Baker, president, and H. L. Loucks, vice president of conference ex officio. General counsel: Jackson H. Ralston, of Ralston, Siddons & Richardson, Washington, D. C. C. B. Kegley, chairman; William T. Creasy, treasurer; George P. Hampton, secretary. Address all communications to George P. Hampton, secretary, 53 Bliss Building, Washington, D. C. Telephone, Lincoln 2748.]

APRIL 20, 1912.

Hon. SAMUEL W. SMITH,
House of Representatives, Washington, D. C.

MY DEAR SIR: We ask your support for the postal express bill now before the House. The farm organizations of the country have indorsed this bill and, after waiting 20 years for Congress to act, are opposed to any halfway measures. The postal express bill provides a real solution and will give the farmers, local merchants, and consumers a satisfactory service, a real parcel post, to which none will object.

Will you kindly favor me with a letter stating your position?

Very truly, yours,

GEO. P. HAMPTON, *Secretary.*

POSTAL EXPRESS NOTES.

The National Grange, at its last annual session, unanimously indorsed the Lewis postal express bill on the favorable reports of both the committee on cooperation and the special committee on postal reform. The following resolutions were adopted:

Resolved, That in the opinion of the National Grange, in forty-fifth annual session assembled, the system of postal express as presented by Congressman LEWIS, of Maryland, offered a thorough solution of the parcel-post measures, and that we hereby indorse the same and urge its passage.

This action of the National Grange has been indorsed by every State Grange organization in the country, and the New York State Grange, representing the 100,000 members of that State, passed strong resolutions at the annual session, in February last, calling upon Congress to pass the Lewis bill (Goeke bill) at this session of Congress.

The Pennsylvania State Grange, with 75,000 members, was the first farm organization to indorse the Lewis postal express bill, and is now taking an active lead in the campaign to secure its passage, or rather the passage of the Goeke or Gardner bills, which are essentially the same.

The Maine State Grange, with its 60,000 members, has made the securing of the enactment of the postal express bill its paramount issue. The resolutions adopted are as follows:

Resolved by the Maine State Grange, That we indorse the Gardner bill (S. 5474) and the Goeke bill (H. R 19133) for a postal express and urge the Patrons of Maine and the farmers of the State generally to bring all possible influence to bear to secure the early enactment of this measure.

The Farmers' Union and the Grange organizations, at their conference last January, organized a joint committee on postal reform composed of an equal number of members from each organization, and this committee was instructed to concentrate its efforts to securing the passage of the Goeke bill (H. R. 19133) and the Gardner bill (S. 5474).

Mr. SAMUEL W. SMITH. Mr. Chairman, I desire to say I am in favor of cheaper and better transportation facilities, under whatever name it may be, but I am not in favor of purchasing the express companies, and I am in favor, as I have been for many years, of a marked reduction in express rates in this country. I would like to ask the gentleman from Maryland [Mr. LEWIS] if that which the Clerk has just read is the sentiment of the farmers throughout the country. In other words, is that the kind of legislation they desire enacted into law and which they term a general parcel post?

Mr. LEWIS. Mr. Chairman, of course I can not answer with any absolute assurance, but my information is that these resolutions represent the views of the farmers' organization known as the National Grange and also of the Farmers' Union.

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

Mr. MURDOCK. Mr. Chairman, I yield 30 minutes to the gentleman from Illinois [Mr. MADDEN].

Mr MADDEN. Mr. Chairman, there is a provision in this bill which reads as follows:

That after the 1st of July, 1917, the Postmaster General shall not approve or allow to be used or pay for any full railway post-office car not constructed of steel, steel underframe, or equally indestructible material, and not less than 20 per cent of the new equipment shall be put into operation annually after July, 1912; and after the passage of this act no contract shall be entered into for the construction of steel underframe cars.

This provision of the bill is intended to protect the lives of the men engaged in the Railway Mail Service. I think it is one of the most salutary provisions of the bill. In times gone by the men engaged in the Railway Mail Service, and up to the present time I may say, have been compelled to work in railway postal cars the superstructures of which were made wholly of wood, and every time we have had a wreck of a train the lives of many men engaged in this service have been lost. There are about 1,100 of these railroad postal cars in the service now, which are not constructed of steel or steel underframes. The policy of the railway companies has been for some time to construct their passenger cars of steel, and at present the wooden railway postal cars are wedged in between two steel cars in a train, and whenever a wreck occurs these railway post-office cars are almost sure to go to destruction, and the lives of the men in the cars are almost sure to be lost. In the last Post Office bill we had a similar provision to this, but in another body it was changed so as to make it useless.

When the bill came back to the House from the conference committee it was during the last hours of the session and at a time when it was impossible to give it the proper consideration, and the House was consequently obliged to accept the provisions in the bill as it came back from conference. The committee, however, on this occasion took the matter up and recommended the provision which I have just read. It is to be hoped that this provision will remain in the bill and become a law.

Mr. STERLING. May I ask the gentleman a question?

The CHAIRMAN (Mr. SAUNDERS). Will the gentleman from Illinois yield to his colleague?

Mr. MADDEN. Yes, sir.

Mr. STERLING. The gentleman stated there were 1,100 wooden-frame cars in service. I understood, however, that the cars more recently used in this service are iron-frame cars, are they not?

Mr. MADDEN. They are building some steel-frame cars, and they have some steel-frame cars under contract now, and this provision accepts the cars which are under contract and those which are already in use, but it prohibits the letting of any contracts for the construction of a steel-frame car which is simply a steel-frame car in the future.

Mr. STERLING. Does the gentleman know the proportion of the cars in the service——

Mr. MADDEN. There are 1,100 cars in the service that are built of wood, and it is to these 1,100 cars that this provision goes. The thought of the committee was that it would be unfair to attempt to force the railway companies to put all the cars into steel frames and steel superstructures at once. As a matter of fact, it would not be practical to do it, but in order that no discretion might be left with any executive officer of the Government as to how rapidly the steel cars should be constructed the committee has provided definitely that each year at least 20 per cent of all the cars used in the railroad post-office service shall be built of steel, beginning with the year 1912.

So that at the end of five years and a half all of the 1,100 cars will be remodeled or reconstructed, and that no car will be

in the railroad post-office service after the 1st of July, 1917, except steel cars. This is as it should be. The lives of the men engaged in this service ought to be protected. [Applause.] This is the measure of protection which they ought to receive. There are no men in any service, not even in the Army, who do more patriotic work than the men engaged in the Railway Mail Service. No man in any kind of employment risks his life more often than the man who is engaged in this class of employment. He takes his life in his hands every time he goes on duty, and it should be not only the duty of the Congress of the United States to give him every protection possible but it should be our pleasure to do it.

And I am glad that the Committee on the Post Office and Post Roads were unanimous in their report for this provision in this bill. [Applause.]

I am glad that the Committee on the Post Office and Post Roads, too, made some provision for a more definite working-day for the men engaged in the other branches of the postal service. This bill provides that 8 hours shall constitute a day's work and that the 8 hours' work shall be done within the limit of 10 hours. That gives the post-office authorities in every section of the country the right to call on every man engaged in the service for 2 hours beyond the time he is actually engaged in the transaction of the business for which he is employed. It has been said on the other side of this question that if we imposed the burden on the Post Office Department of compelling them to give an 8-hour day, with a maximum of 10 hours within the given day, it will embarrass the service; that it will make it cost more; that it will make it impossible to regulate the routes of the carriers. But I can not understand why the Post Office authorities can not so regulate the work as to give the men an opportunity of getting off duty within 10 hours from the time they are called on duty. They say in reply to questions that the mail deliveries on Monday, for example, are much heavier than they are on other days, and that is true. And in order to make it possible for the carrier to make delivery on Monday of all his mail within the period fixed in this bill they will have to make the carrier routes much shorter than they ought to be made; that because of the shorter routes on account of the heavy mail on Monday the carriers will not be able to work more than five or six hours on any other day of the week. Well, we have provided in this bill for auxiliary service, and if that auxiliary service is to be employed the Post Office authorities can fix the routes with a view to employing the auxiliary carriers on Monday.

So that when they have performed their work on Monday they may not be required on other days of the week, and if the routes are arranged with that end in view the carriers in the various districts will be kept busy for the full eight hours every day.

This provision of the bill is a humane provision. It will give the men employed in the postal service an opportunity for rest, for study; an opportunity to be more with their families than they ever have been before. It now sometimes takes 16 hours for a man to do a day's work in some of the branches of the postal service, and we ought to fix it so that there will be no question whatever about the period of time that he is to be employed. There was a time not long since when letter carriers had an eight-hour day. The business of the department was then carried on successfully. The department seemed to run along smoothly. There seemed to be no difficulty about doing the work within the period of time fixed by the law. But the courts decided a case that came before them in such a way as to make the law nugatory. And so the provision of this bill is intended to remedy the evils created by that decision of the courts. I am delighted to know that this provision is to be made for these men.

Now, as to the clerks of the great post offices of the country, the clerks have been working anywhere from 8 to 12 hours a day. There was no provision made for compensation for overtime in any bill up to this. This bill provides that the department may require men to work more than eight hours. It provides, however, that when they work more than eight hours they shall be paid for the overtime they work at the same rate that they get for their regular employment, and that when they are required to work on Sunday they shall be given compensatory time off on some other day during the week.

This bill classifies the railway mail clerks. The classification does not go into effect until 1913, and so there is no provision made in this bill for an appropriation to cover the classification. But I understand that it is satisfactory to all concerned; not only to the authorities of the Post Office Department, but to the men themselves. This provision of the bill covers a long-felt want. It is simple justice to the men, and there are no men anywhere, as I have said before, not even on the battle line in time of war, whose services ought to be considered with greater care than those of the men who do this work in the Railway Mail Service.

Now, I wish to call to the attention of the House another matter that is proposed to be inserted in the bill, but which was not recommended by the committee, and that is the provision which calls for expenditures from the Federal Treasury for the construction of highways in the rural districts of the country. In the State from which I come the people gladly contribute of their own funds for the construction of highways, and I may say that this is true of almost every other Northern State. I believe that we ought to have good highways. I am a believer in good roads. I believe that everything ought to be done that ingenuity can devise to make the roads of the country the best that can be had. But I believe that this is strictly a State function, and that it ought to be done by the States themselves. As a property owner in the State where I live, I have gladly contributed of what means I have had to help build the roads in my neighborhood. Illinois levies a tax on the abutting property. This tax is paid into the treasury of the township.

The township trustees or the highway commissioners have jurisdiction over the expenditure of this money. They expend it wisely. We are getting good roads. We are meeting the conditions. We are abreast of the times. We are moving forward. We are making progress. We have no complaint to make. We make no complaint because we are called upon to pay out of our own pockets for the construction of the roads that we use. Why should not every community throughout the land pay for the improvements that the community requires? Why should the Government of the United States be called upon to build the highways of the country?

Mr. SAMUEL W. SMITH. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Michigan?

Mr. MADDEN. I do.

Mr. SAMUEL W. SMITH. I would like to ask the gentleman if he knows what this provision would cost if enacted into law?

Mr. MADDEN. Oh, I do not suppose that anybody knows what it would cost, but I am convinced that it ought not to cost the Federal Government one cent. Why? Because we are not organized to take over State functions. The Federal Government has no jurisdiction over this matter. It ought not to assume jurisdiction over it, even at the earnest solicitation of Members of Congress coming from sections where no good roads have thus far been constructed.

Mr. LEVER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Will the gentleman from Illinois yield to the gentleman from South Carolina?

Mr. MADDEN. I do.

Mr. LEVER. I was just about to ask the gentleman from Illinois if he had read this bill with sufficient care to be able to state it as a fact that it is an appropriation out of the Federal Treasury to aid in the construction of good roads or is it a proposition to have the Federal Government pay to the States money out of the Federal Treasury for the use of State property?

Mr. MADDEN. Oh, the gentleman is technically correct; but we ought not to be dealing in technicalities. We ought to face the measure squarely. It does not matter whether you use the language that this money is to be paid out of the Federal Treasury for the purpose of paying the State for the use of highways used as post roads or whether the money is to be taken out of the Federal Treasury to put the foundations into these roads and put the surface on the foundations. It amounts to the same thing. Now, of course the people of the United States are not taxed directly for the maintenance of the Federal Government, and it may be that they think in many cases that the expenditure of money from the Federal Treasury does not take it out of their pockets; but the truth is that it comes out of their pockets just the same; and if they were called upon to pay a direct tax, out of which should be paid the money for the construction of highways, they would object to it; and I, who have already been paying a direct tax for the purpose of constructing roads in my neighborhood, object seriously to it.

Mr. BYRNES of South Carolina. I understood the gentleman to say that he favored taxing the adjoining landowners, as is the system in his State?

Mr. MADDEN. Yes.

Mr. BYRNES of South Carolina. The Republican national platform of 1908 said:

> We recognize the social and economic advantages of good country roads, maintained more and more largely at public expense and less and less at the expense of the abutting property owners.

Does the gentleman stand by that platform?

Mr. MADDEN. I do not always believe every man who writes a plank in a platform knows just exactly why he writes it or what it means when he writes it. In this case I am opposed to the plank, whoever wrote it or whatever party adopted it, if the plank is as the gentleman read it.

Mr. BEALL of Texas. May I interrupt the gentleman with the suggestion that it would be well for the gentleman from South Carolina to read all of that plank. I do not think he did.

Mr. BYRNES of South Carolina. I shall be glad to have the gentleman read it.

Mr. BEALL of Texas. I have no copy of it before me, but my recollection is that it declared in favor of the State and the minor subdivisions of a State improving the roads.

Mr. MADDEN. If it did, then it exactly agrees with my attitude.

Mr. SHACKLEFORD. May I ask the gentleman a question?

Mr. MADDEN. Yes.

Mr. SHACKLEFORD. Did the city of Chicago, at the expense of the people of Chicago, furnish her pneumatic-tube service, so that the city fellow can sit down at his mahogany desk and have the mail shot up to him eight times a day? Do not the farmers all over this country help pay the expense for that service, and do not the farmers all over this country help to pay for the magnificent post-office building in the gentleman's city, and all these other postal facilities that they have for performing the governmental function of carrying and delivering the mails? Do not the farmers help pay for all those things?

Mr. MADDEN. Yes; they do.

Mr. SHACKLEFORD. They pay 60 per cent of it.

Mr. MADDEN. And that is not all they pay for. But it does not amount to anything like 60 per cent.

Mr. SHACKLEFORD. Therefore, I suppose the gentleman thinks we ought to contribute it cheerfully?

Mr. MADDEN. The number of miles of pneumatic tubes in the city of Chicago is very small, and they are built by private capital and rented by the Government.

Mr. SHACKLEFORD. Why did not Chicago pay for them then?

Mr. MADDEN. And I wish to say to my friend from Missouri [Mr. SHACKLEFORD] that the people of the city of Chicago and every other city in the Union help to pay the $43,000,000 annually that is paid to rural carriers who deliver the mail to the gentleman from Missouri and his rural constituents.

Mr. SHACKLEFORD. You make us furnish the roads before you will do it, though.

Mr. MADDEN. And then I wish to say, in addition to that, if the highways in the rural districts are to be considered as post roads, the highways known as the streets in the great cities of the country are also to be considered as post roads, and that if the highways in the country are to be paid for because of the fact that the mails go over them, then the men who live in the great cities of the country will demand that payment shall be made out of the Federal Treasury for the construction of the streets in the great cities which are also used as post roads. I see no distinction. I see no justice in the contention that the man who lives in a city and owns property abutting on a street should be taxed for the construction of that street while the man who lives in the country and owns property abutting on a highway is to be relieved from such a tax. The same rule ought to apply everywhere. If country roads are post roads, then city streets are post roads. The Government of the United States has the power to come into the city of Chicago and tear up any street in that city without asking the consent of the local authorities.

They can tear the streets up, they can build their pneumatic tubes, they can operate these tubes without regulations from the local authorities. If that be true, why should not the Government of the United States be placed in the same position toward the citizens of the great centers that you seek to make with relation to the people who live in the more sparsely settled sections of the country? We are asking for no appropriation for any purpose out of the Federal Treasury that is not justified under the Constitution of the United States. The people who live in these cities are making no demands to put their hands into the Treasury of the United States for the construction of their streets. The people of the country districts are coming here and making demands that the Federal Treasury shall be used to construct their roads, and we object unless we are placed on an equality with the men that make those demands. We are citizens of the United States and our rights are equal to theirs. We have every right to make complaint, and the Constitution never intended that one class of citizens should do one thing and another class do another. The Constitution of the United States never contemplated the expenditure of money for the construction of highways in one place that it did not accord to every other place, and as a Representative from one of the great cities of this Union I solemnly protest on behalf of the people of that city to the expenditure of one dollar of the public money out of the Federal Treasury for the construction of any highway, anywhere, that does not give equal justice to the people of the territory from which I hail.

Mr. SHACKLEFORD. Will the gentleman yield?

Mr. MADDEN. Certainly.

Mr. SHACKLEFORD. The gentleman speaks of dealing with all the people on terms of equality. In my district I know where some of my constituents get a mail three times a week. The gentleman from Illinois who speaks on this floor, who resides in Chicago when at home, gets his mail eight times a day. He does not even have to walk down the steps to get it; it is brought up to him and laid on his desk, and I presume the man who brings it to him must come with kid gloves on [laughter] eight times a day, while my constituents, as I say, get theirs but three times a week; and then the gentleman from Illinois gets up here, with all his pneumatic-tube service and eight deliveries a day, and howls about the equality of citizenship.

Mr. MADDEN. Let me say to my distinguished friend from Missouri that it is the cities where the mail is delivered eight times a day that furnish the money to run the postal service. The receipts of the Chicago office, about which the gentleman complains, for the fiscal year ending December 31, 1911, were $20,868,000, while the expenses were but $6,478,000, leaving a profit of $14,390,000, while the losses on the Rural Delivery Service of the country were $28,000,000, and the territory from which the gentleman from Missouri comes helped to create part of this loss.

Nobody complains about that. I am not complaining about it. I am not complaining because there was a loss, for I believe that every citizen in the United States ought to have every facility that can be legitimately afforded by the Government in the delivery of mail.

Mr. BYRNES of South Carolina. Will the gentleman yield?

Mr. MADDEN. Certainly.

Mr. BYRNES of South Carolina. Is the gentleman opposed to the free rural delivery?

Mr. MADDEN. I am not; I have just said that I was not. I have just said that I was not complaining about it.

Mr. BYRNES of South Carolina. Is it not a great convenience and for the interest of those living in the great cities to have this means of communication with the people who live on the rural free-delivery routes?

Mr. MADDEN. My dear boy, I have made no complaint about it. I have said that I favor the distribution of mails to the rural routes. I merely said that in the distribution of mails on those routes we made a great loss annually, while in the distribution of the mails on the city routes we made a great profit. That is what I said and that is what I still say.

Now, if anybody can tell me what sense or what justice there is in the claim that the Federal Government should build the country highways, and convince me of it, I would be for it; but until somebody can show me some good reason why it should be so, why the city dweller should be discriminated against, I shall be against it, and I hope the good judgment of the membership of this House will see the necessity of defeating the proposed legislation for taking money out of the Federal Treasury for the construction of rural-carrier highways, or whatever you choose to call them. [Applause.]

Mr. MURDOCK. Mr. Chairman, I will ask the Chair to notify me when I have occupied 10 minutes.

Of very first magnitude to the postal service is section 7 in this bill, a section upon which there will not be much discussion here largely, I fancy, because it is technical. It relates to the reorganization of the Railway Mail Service. The Railway Mail Service, as gentlemen know, is at the center of the whole postal system. The railway mail clerk who stands in front of a distributing case is the essential agent of the man who puts his mail in the expensive pneumatic tube, which has just been mentioned here, and the dog sled in Alaska, between the busy city carrier and the rural carrier winding his way down pleasant country lanes, between the manufacturer and the retailer, between producer and consumer. This Railway Mail Service besides is the finest skilled governmental service in the world. It has three characteristics as such—first, its hazards; second, the mental and physical strain put upon the majority of the men who are in it; and, third, the skill it demands.

What are the hazards? Let us see. For instance, it very rarely happens that this Post Office bill is debated here without some current item of news, some tragedy of the day, entering into the consideration of one item in it. Two years ago while we were debating this item, the item in regard to the

Railway Mail Service, five men in that service were carried in a snow slide off the summit of the Cascade Mountains to death in the canyon below. A week ago this morning three of the men in the service, working to the very last with the mails, went down with the *Titanic*. The hazard is not exceptional or unusual. It is continuous and ever present. In 1910, 27 men were killed in this service and 527 injured. The year after the death list went to 12 and the injured list to 719. Now, these men work on the fastest trains in the country, usually in the car which is next to the engine. And usually after every great wreck the name of a postal clerk is in the list of dead and injured.

What of their skill? There is no skill in the world in governmental service to compare with it. Nearly every railway postal clerk must know something like 10,000 distributions. There are men to-day going out of New York City on fast trains who are distributing letters by towns, cities, and villages in California. The throwing of one letter into one box turns it north across the country over the Northern Pacific; the throwing of it into another box southward over the Santa Fe or the Southern Pacific, to gain in the one instance or the other the matter of an hour or two in delivery. Every man in the Railway Mail Service must keep constantly in touch with every change in schedules, every connection made between trains over the United States.

What of the strain? There is no service in the world, governmental or other, where the strain exceeds that upon the individual in this service. Let me cite an instance to this committee. The men who run from New York City to Pittsburgh and return travel 888 miles on four hours of sleep. There are several instances like that in the country.

Here, then, is the greatest hazard, the greatest skill, and the greatest mental and physical strain. This service, at the center of postal things, has grown up during the years not in a haphazard way but largely without thorough reorganization until now. Pay has been based largely upon car space occupied. The man who happened to belong to one of the larger crews where two or three full postal cars are moving out of New York City for Buffalo stood a chance for repeated promotions from the lowest grade to the top.

The man who happened to be running upon a smaller line in an apartment car, which made probably only a single trip out and back in a day, with a small amount of mail, might be equal to his brother out of New York City in skill, but promotion was not for him. One of the chief values and virtues in the measure that we propose is that we take away from the old system the matter of basing pay upon space, and make a new classification basing the pay upon the speed of the trains, the complexity of the distribution put upon the man, and the hours of duty that he is at work, arranging the classification in this bill so that whether a man be out on the smaller line which makes its single apartment-car trip a day with a small amount of mail, or running on a trunk line out of New York City or Chicago with a heavy complement of men, he will have an equal chance for promotion in all the different parts of the system. It is something that has been long delayed. It may not be satisfactory, I may say, in all its features to everyone, but it was the nearest thing that the combined knowledge of the postal clerks themselves, the Post Office Department officials, and the committeemen in this House could accomplish. And in conclusion, Mr. Chairman——

Mr. COOPER. May I ask the gentleman a question?

Mr. MURDOCK. Certainly.

Mr. COOPER. How long do these postal clerks work a day who run these eight hundred and eighty and odd miles, with only four hours' sleep?

Mr. MURDOCK. They make the round trip of 888 miles on four hours' sleep.

Mr. COOPER. That is about 24 hours of run; it must be.

Mr. MURDOCK. Not between New York City and Pittsburgh; I hardly think that.

Mr. COOPER. There and back.

Mr. MURDOCK. It is probably that. Of course they do not keep that up, I will say to the gentleman, from day to day. They have their lay-off. However, the strain is great.

And, Mr. Chairman, with these men working in a place of hazard as they do, making the sacrifices they do, skillful as they are—and they average, let me say, the country over in their work 98 per cent with 100 per cent as a standard—it seems to me that it is fitting that Congress should take their claims, consider them as we have, and draft into the law a new, modern, up-to-date system of classification commensurate with their efficiency, their measure of industry, and their fidelity to the service. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOON of Tennessee. Mr. Chairman, I yield 15 minutes to the gentleman from South Carolina [Mr. BYRNES].

Mr. BYRNES of South Carolina. Mr. Chairman, I desire to address the House for a few minutes in reference to the bill providing compensation for the use of highways for carrying rural mail, which has been introduced by Mr. SHACKLEFORD, at the request of the authors of various road bills at this session. The bill reads as follows:

That for the purposes of this act certain highways of the several States, and the civil subdivisions thereof, are classified as follows:

Class A shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide composed of shell, vitrified brick, or macadam, graded, crowned, compacted, and maintained in such manner that it shall have continuously a firm, smooth surface, and all other roads having a road track not less than 9 feet wide of a construction equally smooth, firm, durable, and expensive, and continuously kept in proper repair. Class B shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide composed of burnt clay, gravel, or a proper combination of sand and clay, sand and gravel, or rock and gravel, constructed and maintained in such manner as to have continously a firm, smooth surface. Class C shall embrace roads of not less than 1 mile in length upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, with ample side ditches, so constructed and crowned as to shed water quickly into the side ditches, continuously kept well compacted and with a firm, smooth surface by dragging or other adequate means, so that it shall be reasonably passable for wheeled vehicles at all times. That whenever the United States shall use any highway of any State, or civil subdivision thereof, which falls within classes A, B, or C, for the purpose of transporting rural mail, compensation for such use shall be made at the rate of $25 per annum per mile for highways of class A, $20 per annum per mile for highways of class B, and $15 per annum per mile for highways of class C. The United States shall not pay any compensation or toll for such use of such highways other than that provided for in this section, and shall pay no compensation whatever for the use of any highway not falling within classes A, B, or C. That any question arising as to the proper classification of any road used for transporting rural mail shall be determined by the Secretary of Agriculture. That the compensation herein provided for shall be paid at the end of each fiscal year by the Treasurer of the United States upon warrants drawn upon him by the Postmaster General to the officers entitled to the custody of the funds of the respective highways entitled to compensation under this act.

The provisions of this paragraph shall go into effect on the 1st day of July, 1913.

I am aware of the fact that many Members of this House have been and are now opposed to the Government embarking in the building of public highways, and these gentlemen are apt to conclude from a mere glance at this bill that it proposes to have the Government build roads. Such, however, is not the case, and I trust that before any Member of the House determines to oppose this bill that he will do the authors of the bill and himself the justice of carefully considering it. If he will do this, he will see that the bill does not provide for the building of roads by the United States Government, but provides simply that the Government shall pay a State for the use of its roads in the delivery of mail upon the rural routes, just as we annually pay the railroads practically $50,000,000 for the transportation of mail over their roadbeds, and as we provide in the pending Post Office bill for the payment of ferriage and toll for the use of private roads. One of the excellent features of the bill is that it does not interfere in any way with the jurisdiction of the State over its roads and at the same time protects the National Government by providing that no compensation shall be paid as rental for a road unless that road comes up to certain specifications set forth in the bill, which question is to be determined by an agent of the National Government.

Mr. SAMUEL W. SMITH. Will the gentleman yield?

Mr. BYRNES of South Carolina. Yes, sir.

Mr. SAMUEL W. SMITH. What, in the judgment of the gentleman, will it cost the first year if this bill is enacted into law?

Mr. BYRNES of South Carolina. If the gentleman will wait just a minute I will get to that and tell exactly what each class will cost.

Admittedly it is the function of the Government to deliver the mail, and it is the duty of the Government to perform that function. In the cities the Government, in order to perform this duty, may erect a public building or may rent a building from some citizen for a post office. It may perform its duty of delivering mails upon the rural routes by building post roads, as authorized in the Constitution; by daily using the roads of a State without paying any rental, as it has for a number of years; or by paying a reasonable rent for the use of the roads, as provided in this bill. It seems to me that if the Government is to be extravagant in its expenditures for facilities to assist it in performing its function in the cities, when it goes outside of the municipalities to the rural roads it should not become a mendicant upon the States, daily using and injuring the roads and never paying a cent for their use. We should not

spend millions to erect monuments of marble and stone to facilitate the delivery of mail in the cities and then refuse to pay even a reasonable rent for the same purpose in the country.

Mr. MADDEN. Will the gentleman permit a question right there?

Mr. BYRNES of South Carolina. I will.

Mr. MADDEN. I suppose the gentleman refers to post-office buildings in cities?

Mr. BYRNES of South Carolina. I do.

Mr. MADDEN. Is it not a fact there is just as much money spent proportionately for post-office buildings in the country out of the Federal Treasury as there is in the cities?

Mr. BYRNES of South Carolina. I am satisfied such is not the case.

Mr. MADDEN. Oh, surely.

Mr. LEVER. It makes no difference in the argument.

Mr. BYRNES of South Carolina. And, as suggested by the gentleman from South Carolina, it makes absolutely no difference in the argument.

Mr. BOWMAN. Is it not a fact the city is benefited quite equally with the country by the building of good roads, by their getting their produce cheaper, and also would not the Government be benefited by having good roads by getting their contracts much cheaper, so that it would probably quite cover the amount that is expected to be paid under the bill?

Mr. BYRNES of South Carolina. I think the constituents of the gentleman from Chicago will so inform him when he goes back if he votes against this bill.

Mr. MADDEN. I will vote against this provision, all right.

Mr. MICHAEL E. DRISCOLL. I would like to ask the gentleman if he introduced a bill having in view road construction in this country?

Mr. BYRNES of South Carolina. I did, sir.

Mr. MICHAEL E. DRISCOLL. Can the gentleman state how many of those bills were introduced in this House out of which this composite bill was produced?

Mr. BYRNES of South Carolina. As near as I recall, about 20.

Mr. MICHAEL E. DRISCOLL. Is it not 22 or 23?

Mr. BYRNES of South Carolina. I attempted to get all the bills——

Mr. MICHAEL E. DRISCOLL. But the gentleman will not say as many as 30.

Mr. BYRNES of South Carolina. No; I think about 20.

Mr. MICHAEL E. DRISCOLL. Very well. The gentlemen who introduced these several bills had one plan or another for the purpose of getting money out of the Federal Treasury to build country roads.

Mr. BYRNES of South Carolina. If the gentleman will read the bills he will see that there were many plans proposed——

Mr. MICHAEL E. DRISCOLL. Was not that the idea of the gentlemen, the purpose of all of the gentlemen in introducing these bills, simply to commit the Federal Treasury to the building of country roads?

Mr. BYRNES of South Carolina. Either to assist the States in building roads, or to have the Government build them.

Mr. MICHAEL E. DRISCOLL. And so you agreed on a bill——

Mr. BYRNES of South Carolina. Is the gentleman going to make a speech or did he desire to ask a question?

Mr. MICHAEL E. DRISCOLL. And you have all agreed on this bill here to get money out of the Federal Treasury to build roads just the same.

Mr. BYRNES of South Carolina. I can not yield to the gentleman to make a speech, but I will ask the chairman of the committee to give him time. As I have only 15 minutes I can not let him take up all my time.

The farmer who travels the road, through the payment of taxes, contributes to the maintenance of the roads. The automobilist who drives his car into a State is required to take out a license, the theory of such a tax being that, as he uses the roads of the State, he should pay for such use, and ordinarily the money derived from this source is converted into the road fund. Why should not the Government, in like manner, pay for the use of the roads in carrying on its business?

Mr. MICHAEL E. DRISCOLL. What would be the ordinary toll for a private individual over these roads which you have charged $25 a year for an ordinary mule and a cart?

Mr. BYRNES of South Carolina. I will ask the gentleman how big is a piece of chalk or how long is a string?

Mr. MICHAEL E. DRISCOLL. You are charging the Government $25 a month for the use of a carriage going over it once.

Mr. BYRNES of South Carolina. It provides $25 per mile per year on a macadam road. If the gentleman has an automobile and goes into a State other than his own, they will charge him almost that much for traveling 10 miles.

Mr. MICHAEL E. DRISCOLL. The carrier has not an automobile.

Mr. BYRNES of South Carolina. But nevertheless he uses the roads, and some of them have automobiles and motor cycles.

Mr. MICHAEL E. DRISCOLL. What do you charge the ordinary rig for toll?

Mr. BYRNES of South Carolina. I must refuse to yield to the gentleman any further time. This year we are paying the railroads $48,971,000 for the transportation of mail, which is at the rate of $206.21 per mile. Part of this, of course, is compensation merely for the use of the roadbeds. For the use of the most improved road over which a rural carrier travels this bill provides that only $25 a mile shall be paid. For the pneumatic-tube service, which has been installed in five cities in recent years, the Government will pay for the fiscal year 1912 $925,636.40

For railway mail cars our annual appropriation is about $5,000,000. The people are entitled to have their mail delivered as promptly as possible and an appropriation for pneumatic-tube service or any other service that will facilitate the delivery of mail in the cities is doubtless a wise and proper expenditure, but the Government should not be willing to appropriate money for such facilities in the cities and then when it comes to paying a reasonable rent for the purpose of facilitating the delivery of mail upon the rural routes refuse to do so and "sponge" upon the States.

The passage of this bill will not bankrupt the Government. According to an estimate furnished by the Office of Public Roads, the first year the bill is in operation we would have, under class A, 60,000 miles of road which, at $25 a mile, would be $1,500,000; class B would have a mileage of 125,000 miles, at $20 a mile or $2,500,000; class C would have 800,000 miles, at $15 a mile or $12,000,000; making a total expenditure under the bill for the first year of $16,000,000.

The effect of the bill undoubtedly is to encourage the improvement of the roads. If passed now it would not go into effect until July 1, 1913, and my opinion is that its passage at this time would cause the States to immediately improve their roads so as to secure the largest possible appropriation under the bill, and during the next year we would witness an era of road building unparalleled in the history of the country. I believe that in every State we would find this true, that the people of a county having poor roads for which they would receive but a small appropriation, would inquire into conditions prevailing in other counties, and as soon as they learned that another county with better roads was receiving a larger appropriation, they would demand of their county officials that the roads be improved, and if the officials failed to improve them they would have to hunt other occupations. If this should prove true and the roads be improved, as I believe they will, then there would be some increase in the appropriation in after years, but the small increase would be more than justified by the great benefit to the people.

Mr. SAMUEL W. SMITH. Will the gentleman kindly, if he can, tell us just what it would cost the second and third years?

Mr. BYRNES of South Carolina. That, I will say to the gentleman, would depend entirely upon how many miles of road were improved.

Mr. RUBEY. May I answer the question asked by the gentleman? The best estimate that can be made upon that proposition is between $18,000,000 and $19,000,000, provided that the roads are complete and ready to fall under the respective classifications as provided in this bill.

Mr. SAMUEL W. SMITH. Is that the second year, please?

Mr. RUBEY. That is when they are all completed.

Mr. BYRNES of South Carolina. That is when they are all completed.

Mr. RUBEY. I want to say further, if the gentleman will permit——

Mr. BYRNES of South Carolina. If the gentleman will excuse me, I have but a few minutes more.

There are some Members who frankly admit that they are opposed to any legislation on this subject, and, while we differ with them, we have no serious quarrel with them. Our quarrel is with those few Members who at home profess to favor road legislation and if this bill is voted on as it now stands will vote for it, but who hope to kill it by amending it.

Whenever a Member takes the position that the rent for the use of roads in class C should be greater than that for class A he either has not considered the bill at all, or, having considered it, is opposed to it and is deceiving himself into believing that he can vote against it and then go home and explain his opposition by professing to believe that the higher rental should be paid for the roads of class C instead of class A.

If they think that they can deceive the farmer in this way they are mistaken. He will understand that this bill is based on the idea of paying rent for the use of the roads; that the

Government does not pay more rent for the use of a poor post-office building than it does for a good one. Furthermore, he will understand that to pay a higher rental for the use of a poor road would be an inducement to the people of the States never to improve their roads, because should they do so they would receive a smaller appropriation. It would place a premium on indolence instead of progress.

Another objection urged by gentlemen who are opposed to road legislation of any kind, but who will not admit it, is that the bill should provide that the money appropriated as rent be expended upon the roads for the use of which the money is paid. We do not provide that the money paid as rent for a post-office building should be used by the landlord in repairing the building. We only require of him that the building be kept in proper repair. In like manner we provide in this bill that rent shall be paid only for roads coming up to certain specifications, and if a road for which rent is paid is not kept in proper condition it will no longer come up to these specifications and it will no longer be paid for. This insures the maintenance of the roads in proper condition by the States.

Those gentlemen who are opposed to the Government aiding in any way in the improvement of the roads of the country have a wonderful opportunity to enlighten the voters of the country at this time, as we are approaching a national convention, as to exactly what weight, in their opinion, should be given to pledges contained in the platforms of the two great political parties. The Denver platform, adopted by the Democratic Party in 1908, contained this positive declaration:

> We favor Federal aid to State and local authorities in the construction and maintenance of post roads.

The Chicago platform, adopted by the Republican Party in 1908, contains this less positive declaration:

> We recognize the social and economic advantages of good country roads, maintained more and more largely at public expense and less and less at the expense of the abutting property owner.

Mr. MADDEN. Read it all.

Mr. BYRNES of South Carolina. I can tell the gentleman what the rest is.

Mr. MADDEN. The gentleman is not fair about it. Tell us all.

Mr. BYRNES of South Carolina. The platform says:

> In this work we commend the growing practice of State aid and we approve the efforts of the National Agricultural Department, by experiment and otherwise, to make clear to the public the best methods of road construction.

But will the gentleman contend that when the national platform of the Republican Party declared that it favored the improvement of the public roads "more and more at the public expense" that it referred to the States and not the National Government?

Mr. MADDEN. Out of the State treasury.

Mr. BYRNES of South Carolina. Then why was it put in the national platform? Why did you not confine it to your State platforms? You know it was put in there to lead the farmers of the country to believe that the Republican Party, like the Democratic Party, was in favor of Federal aid to roads. That was the impression it was intended to make and did make upon the farmer, and if by your votes you tell him now that you did not favor it, he will know what weight to place upon the declarations which you make in the Republican platform of this year.

When we come to the Democratic Party there can be absolutely no question as to what was meant, and the question is squarely up to the Members on this side of the House to redeem this campaign pledge or else notify the voters of the country that platform pledges are made solely for the purpose of securing votes and without any intention of being redeemed.

This bill offers an opportunity to all sincere advocates of road legislation to unite. It would be almost impossible to secure unity of action upon any bill appropriating money to the States to be used by them in building roads, because we could never agree as to how such an appropriation should be made—whether upon the basis of population or of area—and, in any event, there would not be the same equitable division among the States as is provided for in this bill. Again, any proposition to have the Government undertake to build roads would involve the certain disagreement as to where such roads would be built, and the building of great highways across the country, while doubtless of great benefit to the automobilists, would not be of any service to those who live in rural districts and are in greatest need of improved roads. The improvements of the roads of the several States which would be accomplished under this bill would benefit all kinds of travelers, and particularly benefit the farmers who use the roads for business as well as pleasure and who are entitled to relief at the hands of this Congress.

We can gather an idea as to the universality of the benefits to be derived under this bill from the fact that to-day the rural delivery traverses 42,000 different highways of the Nation and comes into contact with 20,000,000 people living in the rural districts. We have in the United States 2,199,645 miles of public highway, of which 190,767 miles, or 8.66 per cent of the total, are improved. The Office of Public Roads estimates that 90 per cent of the travel over our public highways is confined to 30 per cent of our roads, and the improvement of 440,000 miles of public roads would practically meet the present demand throughout the Nation. It is therefore evident that the improvement of what may be called the rural delivery roads, with a total of 1,010,000 miles, will more than meet the present demands of the country.

In the early struggles of the railroads in this country, when they were being constructed, the Government donated to them millions of acres of our public lands, valued at over $2,000,000,000. Since 1875 we have appropriated $592,395,000 for rivers and harbors. We have appropriated for public buildings, up to June 3, 1911, $213,376,000, and for the purpose of road building in the Philippines and our other possessions, $800,300,000. During this period we have appropriated for the building and improvement of public highways in the United States—not 1 cent.

Anxious as are the people of the cities for appropriations for public buildings, I believe that the business men of every city recognize that the improvement of the highways approaching the city is of greater benefit to them than the erection of an ornamental post-office building, and gladly would they consent to have a part of this immense public-building fund diverted to the improvement of the rural free-delivery roads.

Three hundred million dollars of farm products are hauled annually. The average haul is 9 miles in the country and the average cost 23 cents per ton per mile, which makes the total cost of hauling farm products $600,000,000 a year. According to the estimates of the Director of Public Roads, the cost of transportation over the magnificent roads of England, Germany, and France, by wagon, is only 10 cents per ton per mile. Even if it were half the cost of transportation in this country, it is evident that if we would improve our roads to the standard of the European roads, we could save for the American people in a single year $300,000,000.

If we had such a system of good roads throughout the country the farmers would save on the transportation of the cotton crop $5,760,183; of the wheat crop, $10,256,058; of the corn crop, $12,709,278.

The average haul of cotton is 12 miles; the average load is 1,800 pounds, or four bales of 450 pounds each. At 23 cents per ton per mile the cost of transporting a 500-pound bale of cotton is therefore 69 cents a bale.

In order to appreciate these figures let me say to you that the State of South Carolina, in which I reside, last year produced 1,677,204 bales of cotton weighing 500 pounds each. At 69 cents a bale it cost the farmers of that State $1,157,270.76 to transport this crop to market. Of course this does not take into consideration the hauling of the cotton to the gin and back to the farm. It includes only the cost of hauling from the farm to the market. If the roads were improved to the standard of the European roads we would save one-half of this, or $1,257,970.50. In addition, we produce something like 838,647 tons of cotton seed. It cost $3 a ton to transport it, or for the entire crop $2,515,941.23. The improvement of our roads to the European standard would save one-half of this, or $1,257,970.50.

It is estimated that the farmers of our State use several hundred thousand tons of commercial fertilizers a year, and the cost of transporting it from the railroad to the farm is more than $1,500,000. If our roads were improved one-half of this amount, or $750,000, could be saved.

It cost the farmers of South Carolina $1,444,000 to transport their corn to market. If one-half of this could be saved by the improvement of the roads, it would be a saving of $722,000. So that, without taking into consideration the hauling of farm supplies, it is evident that improved roads would revolutionize the profession of the farmer and greatly increase his profits.

It is not only in the reduction of the cost of transportation that the farmer will benefit by improved roads, for we all agree that a good road increases the value of the land adjoining it, the increasing being estimated at from $2 to $9 per acre. In South Carolina we have 19,565,800 acres of land, and if our roads were improved so that the value of the land adjoining it increased but $1 per acre it would mean an increased wealth of $19,000,000, the taxes upon which would greatly aid in the maintenance of the roads.

Good roads contribute not only to the financial profit of the farmer, but also to his educational advancement. Where we

have good roads we have good schools and good attendance upon those schools. According to the statistics of five States where good roads prevail, the average attendance is 78 out of 100, and in five States where the people are not progressive enough to improve their roads the average attendance is 59 out of 100.

It is true that a man does not want to move into a community where the roads are poor. It is one of the first questions asked when he goes to home seeking. The census figures show in 25 counties taken at random, where 40 per cent of the roads are improved, that the average increase of population is 30,000 to the county. In 25 counties showing only 1 per cent of the roads improved the average loss of the population was 3,000 to the county.

While good roads mean more to the farmer than anyone else, because he uses them more, the road problem is by no means the problem of the farmer alone. It is the problem of the city man, whether he be merchant or laborer, just as much as it is the problem of the farmer. It is the problem of the consumer as well as the producer, because the cost of transportation enters into the cost of every commodity when it is placed on the market, and the increased cost of such commodity makes the consumer share with the farmer the burden of the bad-roads tax.

For several years we have heard the "back-to-the-farm" movement. I believe that good roads in the country will do more to solve the problem of keeping the boys on the farms than all the organizations and movements that have been inaugurated in recent years and at the same time will assist in the solution of the problem of the high cost of living. This is a practical measure. It removes the road question from the realm of discussion to the realm of action, and when your votes shall have been cast for or against it the farmers of the country will be able to tell whether or not you have been sincere in your promises to aid in the improvement of the public roads. [Applause.]

Mr. MURDOCK. Mr. Chairman, I would like to ask the gentleman from Tennessee [Mr. MOON] if I shall go ahead with the time?

Mr. MOON of Tennssee. Just as the gentleman chooses.

Mr. MURDOCK. I yield 30 minutes to the gentleman from Minnesota [Mr. ANDERSON].

Mr. ANDERSON of Minnesota. Mr. Chairman, I desire to direct the attention of the committee to H. R. 23419, introduced by myself, to provide for a parcel-post system based on distance transported, which, with one or two amendments to make more definite the operation and administration of the rates provided, I intend to offer as a substitute for the parcel-post sections of the pending Post Office appropriation bill.

During the present Congress more than 20 bills providing for various kinds of parcel posts have been introduced. These bills range from a bill providing for a limited experimental parcel post on rural routes only to a bill to condemn the express companies of the country and give the Government a monopoly of the business of transporting packages and parcels now included in both mail and express matter and include various flat-rate parcel-post schemes.

No one can question the determination of the House, at least, to pass some legislation of this character in the light of the unanimous vote of the House to consider the various parcel-post proposals in connection with the pending appropriation bill. No one will question the determination of the House to give the country some relief from the extortions of the express companies when he reflects that a bill has been reported by a committee of this House fixing maximum express charges for distances from 25 to 3,000 miles and connecting the express service with the rural-route postal service in a practical copartnership between the Government and the express companies in the transportation of express matter.

Recognizing the inadequacy and unfairness of some of these propositions, the inherent viciousness of others, as well as the seemingly insurmountable objections which they presented, I began to investigate the subject with a view of drafting a law which would meet the known objections, provide adequate service, and give relief from the extortionate charges of the express companies.

In drawing the bill and determining the rates I found that there were several limitations and considerations fixed by public sentiment, public policy, and existing law which should be observed. Among these considerations and limitations were:

First. That the traffic should be self-supporting without paying a profit to the Government.

Second. That a flat rate would obviously lose on long hauls while paying a profit on short hauls. This would grant a subsidy to merchants at a distance from customers—a subsidy paid by those who would be overcharged for short hauls.

Third. That no rate should be higher than the present rate for the same weight, and that no rate should be higher than the rate provided for traffic originating in foreign countries.

At the outset it occurred to me that the social, political, and commercial activities of the average individual, for whose convenience it seems to me the law should be made, if made at all, were carried on within a comparatively small area; that these activities decreased as the distance from the place of their inception increased. Roughly speaking, these activities in the largest degree are confined to a zone not more than 50 miles in diameter. I found that within the limits of 50 miles a parcel could be transported by railroad for less than 1 cent per pound under existing postal contracts. I found that the overhead charge on fourth-class matter, which includes everything but the cost of transportation, amounted, inclusive of rural-route service, to 4.36 cents, and exclusive of rural-route service to 3.66 cents per pound, so that it was possible under existing contracts to carry a parcel weighing 1 pound 50 miles or less for 5 cents. The injustice of a rate of 16 cents per pound, which is the present rate, for a haul of not more than 50 miles is at once apparent.

Now, the gentleman from Maryland [Mr. LEWIS] in the admirable study he has written upon this subject, finds that the average transportation cost on mail matter under present contracts is equivalent to 9 cents per ton-mile.

Mr. LEWIS. May I interrupt the gentleman right there?

Mr. ANDERSON of Minnesota. Certainly.

Mr. LEWIS. I want to ask the gentleman——

Mr. ANDERSON of Minnesota. I want to say that for much of my figures I am indebted to the study made by the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS. I only wish to interpolate at that point by saying that the rate of 9 cents a ton-mile refers to the equipment and mail.

Mr. ANDERSON of Minnesota. I understand that.

Mr. LEWIS. And if the mail alone be regarded, for 1908, the charge is 13 cents per ton-mile.

Mr. ANDERSON of Minnesota. Taking the figures submitted by the Post Office Department to the Hughes Commission, October 21, 1911, the average rate is found to be somewhat higher, approximating 10 cents per ton-mile on the fourth-class mail matter, exclusive of equipment. This rate is approximately equal to 1 cent per pound for a journey of 250 miles.

Again, referring to the overhead charge on fourth-class matter, it is observed that while the charge amounts to 4.36 cents per pound, the average weight per piece is approximately 4 ounces, so that the overhead charge per piece amounts to 1.09 cents, and the total charge, including transportation, to 2.5 cents per piece. Now, it is obvious inasmuch as present overhead charges will not be increased to any large extent by increasing the weight limit or by increasing the business, inasmuch as we will have the same number of postmasters, rural carriers, and other employees, that the overhead charge per piece or per pound will be very greatly diminished on parcels in excess of 1 pound in weight.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Iowa?

Mr. ANDERSON of Minnesota. I do.

Mr. GREEN of Iowa. Can the gentleman specify just what he means by "overhead charges"? I notice that is a term he is using.

Mr. ANDERSON of Minnesota. I will say in answer to that that the Post Office Department includes in overhead charges everything except the cost of railway transportation, and I have done the same.

Therefore I have taken as a basis for overhead charges in the rates provided in the bill an irreducible minimum of 5 cents per parcel up to 5 pounds in weight and have added 1 cent per pound for each pound in excess of 5 up to the weight limit of 11 pounds.

This charge will be amply sufficient to pay the proportional charge for salaries of postmasters, Railway Mail Service, departmental expense, and so forth, on each package.

With this basis of overhead charges and the basis of 10 cents per ton-mile, or 1 cent per pound for 250 miles, it is comparatively easy to work out a system of rates, determined according to distance, which are entirely feasible and which will be self-sustaining under the present contracts of the Post Office Department with the railroads. For instance, the overhead charge on a maximum distance of 1,000 miles would amount to 10 cents, the transportation rate to 40 cents, a total of 50 cents. The rate under the bill is 64 cents, leaving 14 cents as a margin of safety and to cover any additional haul which might be involved upon a rural route or for delivery in a city.

On a 7-pound package traveling a maximum distance of 1,800 miles the overhead charge would be 7 cents, the transportation charge 52 cents, making a total of 59 cents, whereas the postage rate under the bill would be 66 cents, leaving a margin of safety of 7 cents. These figures, of course, are for the maximum haul in each zone.

Mr. LOBECK. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Minnesota. I do.

Mr. LOBECK. Have you taken into account the cost that the Treasury pays for accounting?

Mr. ANDERSON of Minnesota. I have taken into account only the charges which the department reported to the Hughes Commission. The figures are absolutely based on the figures which the department reported to the Hughes Commission. I do not know whether they include the accounting charges or not.

Mr. LOBECK. The accounting charges should be included.

Mr. ANDERSON of Minnesota. I think they do not include them. There is a good deal of expense that is not assignable to any particular class, but is apportioned to different classes of mail matter.

Mr. LOBECK. Does the gentleman think the accounting is included in that?

Mr. ANDERSON of Minnesota. I do not think it is. It has never been included heretofore.

Suppose we have an 8-pound package traveling 2,500 miles; the overhead charge is 8 cents, transportation charge 80 cents, making a total of 88 cents. The rate under the bill is 96 cents, leaving a margin of 8 cents.

Of course the margin of safety on the shorter and minimum distances in each zone will be correspondingly larger. For instance, in the 1,000-mile zone, taking a minimum distance of 250 miles on a 3-pound package, the overhead charge will be 5 cents, the transportation charge 3 cents, making a total of 8 cents. The rate in the bill is 22 cents, leaving a margin of 14 cents.

Again, for a 6-pound package traveling 500 miles the transportation charge is 12 cents, the overhead charge 6 cents, making a total of 18 cents. The rate under the bill would be 40 cents, leaving a margin of 22 cents.

Mr. SAMUEL W. SMITH. Mr. Chairman, will the gentleman yield right there?

Mr. ANDERSON of Minnesota. Yes.

Mr. SAMUEL W. SMITH. I would like to inquire what is the limit of weight in the gentleman's bill?

Mr. ANDERSON of Minnesota. Eleven pounds.

Mr. SAMUEL W. SMITH. You do not put in a limit of 100 pounds?

Mr. ANDERSON of Minnesota. I should say that is not possible under the present railway mail contracts. It would be quite possible, of course, if the bill condemning the express companies became a law.

On a nine-pound package traveling 2,000 miles, the overhead charge is 9 cents the transportation charge 72 cents, a total of 81 cents, while the rate under the bill is 108 cents, leaving a margin of 27 cents.

It may be said with some justice, particularly with reference to the rates on the minimum distances in a zone, that the rates are higher than necessary. It was desired in the first place to insure the rates being high enough to be self-supporting, and the difficulty could not be avoided without greater complication in rates than seemed desirable or necessary.

In addition, there is less difference in the proportion of the rates to the actual cost on maximum and minimum distances than now obtains in express rates. For instance, the express rate is 80 cents for a five-pound package from San Francisco to Walla Wall, Wash., a distance of 1,017 miles; to Cheyenne, Wyo., 1,270 miles; to Granada, Colo., 1,455 miles, and to Fostoria, Ohio, a distance of 2,520 miles—a difference in distance of 1,500 miles, but no difference in rate.

It is unnecessary to cite further instances, as the margins of safety on each rate can easily be determined for the maximum distance from the figures already given.

In addition to the pound rates provided in the bill, rates have been provided for fractional parts of a pound or ounces graduated according to distance, and so arranged that the rate for any number of ounces under the bill is less than the present rate and less than 12 cents per pound.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Missouri?

Mr. ANDERSON of Minnesota. Certainly.

Mr. BORLAND. I understand that the gentleman is discussing a bill that he has drafted for zone rates for a parcel post?

Mr. ANDERSON of Minnesota. Yes.

Mr. BORLAND. Does the gentleman's bill contemplate that the railways shall be paid the same for carrying Government parcels as for carrying first-class letters?

Mr. ANDERSON of Minnesota. The same rates as it is paying now.

Mr. BORLAND. Does not the gentleman think that there is an inherent difficulty there in competing with the express companies, where the Government is paying first-class postage rates for all kinds of mail matter, and attempting to compete with the railways on a different basis?

Mr. ANDERSON of Minnesota. I want to say right here that there is a very general impression that the difficulty with the parcel post lies in the fact that the Government pays a higher rate for transportation than the express companies.

Mr. BORLAND. It is true, is it not?

Mr. ANDERSON of Minnesota. Yes; it is true; but a greater difficulty is the fact that the overhead charges in the Post Office Department are infinitely greater than the overhead charges paid by the express companies.

Mr. BORLAND. Does the gentleman think that that last statement is correct—that the overhead charges of the Post Office Department are infinitely greater than the overhead charges paid by the express companies?

Mr. ANDERSON of Minnesota. Undoubtedly.

Mr. BORLAND. Do not the accounting of the express companies and the maintenance of their offices involve a large amount of overhead charges?

Mr. ANDERSON of Minnesota. Yes; but I want to say to the gentleman that on about 9,000,000,000 pounds, if I remember correctly, in weight of packages handled by the 10 large express companies, the overhead charge was about $60,000,000, and on about 1,250,000,000 pounds of mail matter the overhead charge in the Post Office Department was about $140,000,000, so that the overhead charge there is much larger per pound and per parcel.

Mr. BORLAND. I do not know what the gentleman includes in the term "overhead charges."

Mr. ANDERSON of Minnesota. I include everything except transportation cost.

Mr. BORLAND. Then the gentleman includes the cost of handling every particular piece of first-class mail. As I understand it, the cost of first-class mail is not so much in the weight as in the handling, and the cost of the other class of mail is largely a question of weight and distance; but in the case of first-class matter, and especially registered matter, it is 98 per cent a question of labor on each particular letter.

Mr. ANDERSON of Minnesota. Not so large a proportion as that. The overhead charge on first-class matter is about 85 per cent of the total cost of handling it. But the rates in my bill are based on the cost of handling fourth-class mail matter, and take into consideration both weight and distance transported. I think I have here somewhere the figures per pound. The gentleman is partially correct, but I do not see where his remarks have any bearing whatever.

Mr. BORLAND. No; the question is this: Can we compete with the express companies by paying the railroads on the basis that we are paying them now for first-class letters?

Mr. ANDERSON of Minnesota. Absolutely. I think every rate in this bill is ample to pay the transportation charges and the overhead charges and have a margin of safety.

Mr. BORLAND. I wanted to hear the gentleman on that point.

Mr. ANDERSON of Minnesota. I have gone into that.

The bill provides for three distinct classes of parcel-post service. First, a rural-route service for which a rate is provided of 5 cents for the first pound and 1 cent for each additional pound or fraction, with proportionate fractional rates for any number of ounces less than 1 pound. To cover the cost of additional equipment and labor on the part of the rural carrier, it is provided that one-half of the receipts on each rural route shall be paid to the carrier in addition to his salary, but not to exceed $600. Second, a city delivery system which was originally limited to 5 pounds, but in an amendment which I intend to offer in connection with the bill the limit is raised to 11 pounds, and it provides that the Postmaster General is authorized in any city where the traffic warrants it to establish a wagon collect and delivery service.

The rate of postage for this service is 5 cents for the first pound and 2 cents for each additional pound up to and including 5 pounds, and 1 cent per pound for each pound in excess of 5 pounds up to and including 11 pounds, with proportionate fractional rates for parcels weighing less than 1 pound.

Third, a zone system, based on zones of 50, 200, 1,000, 1,800, and over 1,800 miles. The rates provided for the zone system for pounds or fractions of pounds are as follows:

On the 50-mile zone, 7 cents for the first pound and 2 cents for each additional pound. In the 200-mile zone, 8 cents for the

first pound and 3 cents for each additional pound. In the thousand-mile zone, 10 cents for the first pound and 6 cents for each additional pound. In the eighteen-hundred-mile zone, 12 cents for the first pound and 9 cents for each additional pound.

Mr. SAMUEL W. SMITH. May I ask the gentleman a question right there?

Mr. ANDERSON of Minnesota. Yes.

Mr. SAMUEL W. SMITH. If we establish an 11-pound rate at this time by the passage of this bill, does the gentleman think the Government is prepared to take care of the business?

Mr. ANDERSON of Minnesota. I think so. I have provided that the law shall not go into effect until the 1st of October, which I think will give the Government ample time to make the necessary arrangements to take care of the traffic.

Mr. SAMUEL W. SMITH. October of this year?

Mr. ANDERSON of Minnesota. Yes.

All shipments traveling more than 1,800 miles in a direct line are required to pay 12 cents per pound flat. In addition to the pound rates, fractional rates are provided on a graduated scale for parcels weighing less than 2 pounds, so that no rate under the bill is higher than the present rate of 1 cent per pound, and no rate exceeds the maximum of 12 cents per pound. Yet the rates of the bill are from 25 to 50 per cent under the present express rates for the same distances; and it is believed if the bill is passed it will bring very substantial relief from the present exorbitant rates of the express companies. I will print with these remarks a comparison of the rates under the bill and express rates for the same distances.

The rates and zones have been so graduated as to reasonably protect the country merchant in his own market while providing him with a cheap and adequate system for the delivery of parcels on rural routes or to near-by towns.

It is claimed that the zone system is impossible in the matter of administration. Nothing could be further from the fact. It is not my intention, either in the bill or in this discussion, to attempt to fix the method under which the rates shall be determined, but I have investigated the subject sufficiently to satisfy myself that the system can be worked out without great complication of rates and so that any postmaster or rural carrier can easily and quickly determine the rate from his post office to another post office by reference to a book or map.

In addition the bill empowers the Interstate Commerce Commission to make an investigation of postage rates and to change rates provided by the bill whenever a change is warranted by conditions of the service, distance transported, and other service elements and risks involved therein, but the authority thus given only extends to the service embraced in the zone system.

The provision which empowers the Interstate Commerce Commission to determine the rates within the zones after investigation was drawn with a view to obviating the very serious objection on the ground of public policy and of administration to fixing a rigid system of rates by law. It was designed with a view of affording an opportunity for a review of rates by some duly constituted authority with appropriate reference to the various elements of cost which enter into the transportation of an article. It is possible that additional powers could be appropriately given to the commission, but it is thought that the authority conferred in the bill is sufficient to enable the commission to review the rates and change them in every instance where they are found to be inequable.

I might say in this connection that it has been suggested that the Interstate Commerce Commission should be authorized to fix the rates of railway mail pay to the railroads. Personally, I think that provision might very well be incorporated into the law. The only difficulty is in the fact that the railroads now have contracts with the Government, which contracts can not be changed by law until they expire. We could, however, provide that the Interstate Commerce Commission should investigate the cost of transporting the mail and fix the rate, which should be the rate in each particular section of the country as soon as the present mail contracts expire.

Now, it is claimed that a parcel post—and this argument has been directed chiefly against the flat-rate schemes—will injure the rural town and the rural town merchant and accelerate the already too great tendency to centralize business as well as population in large centers.

I am not in sympathy with the effort which it seems has been made to set the farmer against the country merchant and the country merchant against the farmer in the controversy that has been waged over the parcel-post question, for I recognize that the country merchant and the rural town are just as necessary to the profitable, comfortable, and enjoyable conduct of the business of the farmer as the farmer is to the profitable, comfortable, and enjoyable conduct of the business of the rural merchant. I believe that the time has not yet come when we can seriously consider the elimination of the rural merchant as a factor in our system of distribution. Any law which unfairly militates against him or places him at a disadvantage with outside competition in his own market will eventually destroy the home market of both the farmer and the country merchant. The country town furnishes a home market for many of the products of the farm which would otherwise have no market at all. If a few of the people of the town or of the farmers in its vicinity took advantage of the alleged bargains of the mail-order house, it is possible that something could be made thereby; but if the whole community should take the same view, it is apparent that the small country town would soon cease to survive.

The farmer knows this as well as anyone else, and he does not desire to bring about this result.

Mr. SAMUEL W. SMITH. Will the gentleman yield to a suggestion right there, when he talks about ruining the country merchants?

Mr. ANDERSON of Minnesota. Yes.

Mr. SAMUEL W. SMITH. Was not the same argument used when we sought to establish the Free Rural Delivery Service and also when it was proposed to build electric railway lines?

Mr. ANDERSON of Minnesota. Absolutely so; and the gentleman can remember when the department store in the city was considered a means for absolutely doing away with all kinds of small business in the country towns and everywhere else.

It is said that the farmer is not demanding this legislation. This is true in the sense that he is not demanding an opportunity to trade in foreign markets as cheaply as he trades in his home market. But the farmer sometimes has business with the express company. Usually, when he pays the express company's charges it incites his wrath, and he determines that the next time he will patronize Uncle Sam's parcel post. Accordingly, when he again has a parcel to send to the neighboring town he takes it to the post office, and there he finds that if it weighs more than 4 pounds he can not send it at all, and if it weighs less than 4 pounds it costs him more to send it by mail than by express. He is indignant. His wrath was just and his indignation is righteous. Everybody knows it; even Congress knows it; but no one does anything about it, least of all Congress. The business man and the laborer have exactly the same experience. Neither the farmer nor the business man nor the laborer is looking for a special privilege or a subsidy. He is looking for the American privilege of a square deal in the matter of transportation rates on small packages, and he ought to have it.

I would not be heard in advocacy of a measure which would even tend to destroy the small town. I live in one myself and know its advantages. I have been a member of business men's clubs; I have been secretary of a merchants' association. All my life I have heard the arguments and advanced them myself against the parcel post, but I must confess that it seems to me that the zone system absolutely eliminates the last argument against the parcel post.

Nor would I be willing to assist in the passage of a law which would tend to accelerate the steady trend of business and of people to our large cities. This bill will not tend to bring about that result, for under its provisions the rural merchant will have a cheap and efficient system for delivering his goods to the farmer, while it will cost the merchant at a distance from two to nine times as much to get into the same market. Congress can not by legislation build a fence around the home market of the country merchant. It can and it should give to the rural merchant the advantage in that market which his contribution in taxes and in time and labor to the common welfare entitles him as against the merchant who pays taxes to the support of another municipality and contributes to the common welfare of another community a thousand miles away.

Add to the advantages which this bill gives the rural merchant the advantage of personal acquaintance, the advantage of the personal equation, the advantage of his stock close at hand, the advantage of his reputation for honest dealing, the ability to give credit, and telephone communication, and he need have no fear of competition from anyone.

Again, this bill gives to the merchant, the laborer, and the farmer another facility to comfortable and enjoyable living, a facility which particularly relating to the farmer will make farm life easier and more enjoyable, will make markets more accessible, and thus discourage leaving the farm and the small towns to search for these facilities in the larger centers of trade and population. [Loud applause.]

I ask unanimous consent to print, in connection with my remarks, a table of comparisons of the rates under this bill with the express rates for the same distances, and also to print a copy of the bill and the rates under it.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to print a copy of the bill and a statement prepared by himself. Is there objection?

There was no objection.

The documents referred to are as follows:

A bill (H. R. 23419) relating to rates of postage and weights on fourth-class mail matter, and for other purposes (with amendments).

Be it enacted, etc., That hereafter the rates of postage on mail matter of the fourth class shall be as follows:

(a) On articles, packages, or parcels mailed at the distributing post office of any rural route for delivery to patrons of such route, or of loop routes connected therewith, or at any intermediate post offices supplied by such rural service, or mailed on any rural route or by any post office supplied thereby for delivery on said route, or any other route served by the distributing post office of said route, or any other post office served thereby, or for delivery at the distributing post office: One cent for each 2 ounces or fraction thereof up to and including 4 ounces, 1 cent for each additional 4 ounces or fraction thereof up to and including 1 pound, and 1 cent per pound for each additional pound or fraction thereof up to and including 11 pounds in weight: *Provided*, That no rural mail carrier shall be required to accept for delivery on any one trip a load in excess of 200 pounds in weight: *Provided further*, That one-half of the receipts for this service on any rural route shall be paid to the rural carrier of said route in addition to his salary, but the amount of such receipts so paid shall in no case exceed the sum of $600.

(b) On articles, packages, or parcels mailed at any post office having a city delivery service, or at any branch thereof, to be delivered by carrier within the delivery limits of said post office: One cent for each 2 ounces or fraction thereof up to and including 4 ounces, 3 cents for each 4 ounces or fraction thereof up to and including 1 pound, 2 cents for each additional pound or fraction thereof up to and including 5 pounds, and 1 cent for each additional pound or fraction thereof up to and including 11 pounds: *Provided*, That no carrier shall be required to accept for delivery a load of more than 50 pounds in the aggregate on a single trip, nor any article, parcel, or package exceeding 5 pounds in weight: *And provided further*, That the Postmaster General is hereby authorized to establish a wagon collect and delivery system in any such city where the amount of traffic warrants the same.

(c) On articles, packages, or parcels mailed at any post office, or on any rural route served by it, or on any loop route connected therewith, or at any intermediate post office supplied by said rural service, directed to another post office not more than 50 miles distant from it in a direct line: One cent for the first ounce or fraction thereof, 1 cent for each additional 2 ounces or fraction thereof up to and including 7 ounces, 1 cent for each additional 3 ounces or fraction thereof up to and including 1 pound, and 2 cents for each additional pound or fraction thereof up to and including 11 pounds in weight.

(d) On articles, packages, or parcels mailed at any post office, or on any rural route served by it, or on any loop route connected therewith, or at any intermediate post office supplied by said rural service, directed to another post office more than 50 miles but not more than 200 miles distant from it in a direct line: One cent for each ounce or fraction thereof up to and including 2 ounces, 1 cent for each 2 ounces or fraction thereof up to and including 10 ounces, 1 cent for each additional 3 ounces or fraction thereof up to and including 1 pound, and 3 cents for each additional pound or fraction thereof up to and including 11 pounds in weight.

(e) On articles, packages, or parcels mailed at any post office, or on any rural route served by it, or on any loop route connected therewith, or at any intermediate post office supplied by said rural service, directed to another post office more than 200 miles but not more than 1,000 miles distant from it in a direct line: One cent for each ounce or fraction thereof up to and including 4 ounces, 1 cent for each additional 2 ounces or fraction thereof up to and including 24 ounces, 1 cent for each additional 4 ounces or fraction thereof up to and including 2 pounds, and 6 cents for each additional pound or fraction thereof up to and including 11 pounds in weight.

(f) On articles, packages, or parcels mailed at any post office, or on any rural route served by it, or on any loop route connected therewith, or at any intermediate post office more than 1,000 miles but not more than 1,800 miles distant from it in a direct line: One cent for each ounce or fraction thereof up to and including 4 ounces, 2 cents for each additional 3 ounces or fraction thereof up to and including 22 ounces, 1 cent for each additional 2 ounces or fraction thereof up to and including 2 pounds, and 9 cents for each additional pound or fraction thereof up to and including 11 pounds in weight.

(g) On articles, packages, or parcels mailed at any post office, or on any rural route served by it, or on any loop route connected therewith, or at any intermediate post office supplied by said rural service, directed to another post office more than 1,800 miles distant from it in a direct line: One cent for each ounce or fraction thereof up to and including 8 ounces, 1 cent for each 2 ounces or fraction thereof up to and including 16 ounces, 3 cents for each additional 4 ounces or fraction thereof up to and including 2 pounds, and 12 cents per pound for each additional pound or fraction thereof up to and including 11 pounds in weight.

Whenever a special rate has been established by law for any article or class of articles included in mail matter of the fourth class, so much of said law as establishes said special rate is hereby repealed, and hereafter such article or class of articles shall be subject to the rates of postage herein provided.

The Postmaster General is hereby authorized to determine the maximum amount which any mail carrier or contractor shall be required to transport on any one trip on a star route.

The rates herein provided shall be the rates for the service and distances specified, and shall remain in effect until otherwise ordered by the Interstate Commerce Commission, which is hereby empowered and directed to forthwith make an investigation of the rates herein provided other than in paragraphs (*a*) and (*b*) hereof to determine whether the same are reasonable. If any of the rates shall be found to be unreasonable, the Interstate Commerce Commission shall fix new rates, which shall be based upon the amount of service to be rendered, considering distance transported and other service elements and risk involved therein, making the charges adequate to pay the cost of the service. Whenever the said Interstate Commerce Commission shall determine upon a different rate than is herein provided, it shall forthwith make an order to that effect and file the same with the Postmaster General, and thereafter said rate so found by the Interstate Commerce Commission shall be effective and take the place of those herein provided for.

For the purpose of administering the rates and service herein provided the Postmaster General is authorized and directed to make such rules and regulations as may be necessary, and to provide maps or books from which the rates from one post office to another may be easily determined.

SEC. 2. That this act shall take effect on the 1st day of October, 1912.

Parcel-post rate table.

(To accompany H. R. 23419, introduced Apr. 16, 1912.)

	Present rate.	Rural routes.	City delivery.	Not over 50 miles.	50 miles to 200 miles.	200 miles to 1,000 miles.	1,000 miles to 1,800 miles.	1,800 miles and over.
OUNCES.	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents*
1	1	1	1	1	1	1	1	1
2	2	1	1	2	2	2	2	2
3	3	2	2	2	3	3	3	3
4	4	2	2	3	3	4	4	4
5	5	3	3	3	4	5	6	5
6	6	3	3	4	4	5	6	6
7	7	3	3	4	5	6	6	7
8	8	3	3	5	5	6	8	8
9	9	4	4	5	6	7	8	9
10	10	4	4	5	6	7	8	9
11	11	4	4	6	7	8	10	10
12	12	4	4	6	7	8	10	10
13	13	5	5	6	7	9	0	11
14	14	5	5	7	8	9	12	11
15	15	5	5	7	8	10	12	12
16	16	5	5	7	8	10	12	12
17	17	6	7	9	11	11	14	15
18	18	6	7	9	11	11	14	15
19	19	6	7	9	11	12	14	15
20	20	6	7	9	11	12	16	15
21	21	6	7	9	11	13	16	18
22	22	6	7	9	11	13	16	18
23	23	6	7	9	11	14	17	18
24	24	6	7	9	11	14	17	18
25	25	6	7	9	11	15	18	21
26	26	6	7	9	11	15	18	21
27	27	6	7	9	11	15	19	21
28	28	6	7	9	11	15	19	21
29	29	6	7	9	11	16	20	24
30	30	6	7	9	11	16	20	24
31	31	6	7	9	11	16	21	24
32	32	6	7	9	11	16	21	24
POUNDS.								
1	16	5	5	7	8	10	12	12
2	32	6	7	9	11	16	21	24
3	48	7	9	11	14	22	30	36
4	64	8	11	13	17	28	39	48
5	80	9	13	15	20	34	48	60
6	96	10	14	17	23	40	57	72
7	112	11	15	19	26	46	66	84
8	128	12	16	21	29	52	75	96
9	144	13	17	23	32	58	84	108
10	160	14	18	25	35	64	93	120
11	176	15	19	27	38	70	102	132

Comparison of rates under H. R. 23419 and express rates.

	Distance.	5 pounds.		10 pounds.	
		Express rate.	Rate under H. R. 23419.	Express rate.	Rate under H. R. 23419.
Boston to—	*Miles.*				
Taunton, Mass	36	20	15	20	25
Hudson, N. Y	194	40	20	45	35
Toledo, Ohio	795	55	34	70	64
New Orleans, La	1,607	75	48	110	93
Deming, N. Mex	2,502	80	60	140	120
New York to—					
Tuxedo, N. Y	39	35	15	40	25
Pawtucket, R. I	195	35	20	40	35
Williamson, W. Va	668	65	34	80	64
Terre Haute, Ind	897	65	34	80	64
Elk Point, S. Dak	1,443	75	48	110	93
San Diego, Cal	3,231	80	60	150	120
Baltimore to—					
Havre de Grace, Md	36	25	15	30	25
Carlisle, Pa	104	40	20	45	35
Wilmington, N. C	400	55	34	70	64
Vincennes, Ind	784	60	34	75	64
Omaha, Nebr	1,295	75	48	100	93
Seattle, Wash	3,026	80	60	150	120
Atlanta to—					
Newnan, Ga	39	30	15	35	25
Anniston, Ala	104	40	20	45	35
Knoxville, Tenn	197	40	20	50	35
Orangeburg, S. C	254	55	34	70	64
Dubuque, Iowa	900	75	34	110	64
Minneapolis, Minn	1,153	75	48	115	93
Los Angeles, Cal	2,503	80	60	140	120
St. Paul to—					
Dayton, Minn	35	25	15	30	25
Gregory, Minn	103	35	20	40	35
Frazee, Minn	194	40	20	50	35
Steele, N. Dak	401	60	34	75	64
Forsyth, Mont	790	75	34	100	64
Chesnut, Mont	1,023	75	48	115	93
Cunningham, Wash	1,609	80	48	125	93
Los Angeles, Cal	2,123	80	60	140	120

Comparison of rates under H. R. 23419 and express rates—Continued.

	Distance.	5 pounds.		10 pounds.	
		Express rate.	Rate under H. R. 23419.	Express rate.	Rate under H. R. 23419.
Chicago to—	*Miles.*				
Aurora, Ill	37	30	15	35	25
Harvard, Ill	63	30	20	35	35
Crawfordsville, Ind	148	40	20	45	35
Bay City, Mich	324	50	34	60	64
Blair, Nebr	481	55	34	70	64
New York, N. Y	912	60	34	75	64
Portland, Me	1,149	65	48	80	93
El Paso, Tex	1,465	80	48	120	93
San Diego, Cal	2,347	80	60	140	120
New Orleans to—					
Garyville, La	37	30	15	35	25
Baker, La	100	40	20	45	35
Gloster, Miss	144	40	20	50	35
Newbern, Tenn	481	55	34	70	64
Louisville, Ky	787	65	34	80	64
Pittsburgh, Pa	1,148	75	48	100	93
Worcester, Mass	1,565	75	48	110	93
San Francisco, Cal	2,482	80	60	140	120
Denver to—					
Castle Rock, Colo	33	25	15	30	25
Snyder, Colo	101	40	20	50	35
Hemingford, Nebr	257	60	34	75	64
Topeka, Kans	572	70	34	90	64
Peoria, Ill	908	75	34	115	64
Detroit, Mich	1,290	80	48	120	93
Rochester, N. Y	1,621	80	48	125	93
Seattle to—					
Snohomish, Wash	38	25	15	30	25
Bellingham, Wash	97	40	20	50	35
Clackamas, Oreg	196	50	20	60	35
Helena, Mont	783	75	34	115	64
Fresno, Cal	1,037	80	48	120	93
Mapleton, Minn	1,600	80	48	140	93
Paducah, Ky	2,504	80	60	140	120
San Francisco to—					
Mayfield, Cal	38	25	15	30	25
Healdsburg, Cal	66	40	20	45	35
Raymond, Cal	199	45	20	55	35
Angiola, Cal	257	55	34	70	64
Likely, Cal	408	75	34	115	64
Ogden, Utah	786	75	34	115	64
Casa Grande, Ariz	917	75	34	115	64
Spokane, Wash	1,150	80	48	125	93
Granada, Colo	1,618	80	48	140	93
Fostoria, Ohio	2,520	80	60	140	120
Calais, Me	3,699	85	60	165	120

Mr. MURDOCK. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. AKIN].

Mr. AKIN of New York. Mr. Chairman, a few days ago I had a gentleman come to my house to make a little visit. He is a constituent of mine. This gentleman, during the evening conversation, said that he had a directory that he would like to send down to me, from which I might get some names of my constituents to whom I might send out some of this "bunk," as gentlemen around me call it. He also said to Mrs. Akin, "I have got a book that I want you to read, and I will send them both to you when I get home."

Now, I have the original package here just as he sent it to me. It weighs 3 pounds and 7 ounces. It came to my office and the young man at my office paid 55 cents for it. Now, then, that was satisfactory. I thought nothing more of it, but in a day or two I received this insult added to injury, if I may call it so, and this is only two or three days ago.

On the envelope is "Adams Express Co., local cashier." Why, I would not take $100 for this.

Date of delivery, it says, from St. Johnsville to this place. Consignee, T. AKIN. Local address, 256 House Office Building. Charges collect, 55 cents. Should have been 50 cents, and there is a refund of 5 cents.

If I went clear down to Seventh Street to get that 5-cent express order it would cost me 10 cents to get it. [Laughter.] Look at it. There it is; and this only happened two days ago.

Now, I took the pains to go to the Interstate Commerce Commission and saw a gentleman there by the name of Mr. Lane. I asked him if that was the proper charge for that package. They weighed it down there and he told me that it weighed 3 pounds and 7 ounces, and the merchandise rates would be, prior to August, 1911, 65 cents for that package. Since August 1, 1911, it would be 50 cents. If it had been described as books it would be 26 cents. Talk about highway robbery and monumental gall!

Now, every man that ever saw an express company knows that they ask you what is in the package; and even if they did not they ought to know that it contained two books. Any man with common sense could feel of that package and it would not take more than a horse doctor to tell that it was two books.

Mr. LEWIS. Will the gentleman yield?

Mr. AKIN of New York. Yes.

Mr. LEWIS. Twenty-six cents is the prepaid rate for which the package would be carried from one end of the continent to the other.

Mr. AKIN of New York. Yes; and no doubt this man would have been glad to pay it if they had told him so.

Mr. CALDER. Will the gentleman yield?

Mr. AKIN of New York. Certainly.

Mr. CALDER. After the experience with the express company in this instance I want to ask the gentleman if he favors condemning them and paying them a large sum of money for their good will and their property?

Mr. AKIN of New York. Mr. Chairman, I dislike to have all my good ideas assassinated by the gentleman coming at me about something which I know very little about and do not care anything about. If I had my way, it would not take me long to take my ram's-horns and go down and blow their place out of business, and there would be a few blankety blanks along with it. Why, yes; I would do most anything to those fellows; I would get at them with a meat ax. I will answer you fair and square that I would put them out of business if I had the opportunity.

Now, I will give you another little instance of their performances. About two years ago I sent to Atlee, Burpee & Co. for a package of Golden Bantam seed corn that I wanted.

I wanted to plant some in my little garden. I sent them 40 cents for it, and in about a week I got a notice from the express agent that there was a package there for me and that the charges were 80 cents. Well, Mr. Chairman, the express company still has the package. I never took it away.

Mr. LOBECK. The next time I think the gentleman better send to some Congressman.

Mr. AKIN of New York. I think that would be a good idea. That is about all I have got to say upon the parcel-post proposition; but I am in favor of a parcel post. I have not made a very deep study of it. I do not know enough to make a deep study of it. I am only a poor farmer, and no doubt there are a great many lawyers here who could figure this thing up in better shape than I can; but I know that my people want a parcel post—the best that they can get. I was elected on that proposition—to come down here and stand for a parcel post; to vote for a parcel post—and I propose to do it for the best that we can get.

Mr. FOWLER. Does the gentleman want a limited parcel post or a general parcel post?

Mr. AKIN of New York. A general parcel post. Oh, no; do not give me any lemons. I have had lemons enough, and my friend from Tennessee the other day expressed the wish that he did not want to hear anything about the dinner pail and the lemon. But I am afraid my friends will get some of that dinner pail and the lemon before they get through next fall's campaign.

Mr. CANNON. Mr. Chairman, I desire to ask the gentleman a question for my information about the express package that he has here. He says that it weighs nearly 4 pounds.

Mr. AKIN of New York. Three pounds and seven ounces.

Mr. CANNON. Under the proposed parcel-post legislation in the bill before us the charge is 12 cents a pound, is it not? That is the bill. That is what is proposed, without regard to the fraction of a pound, so that it would cost 48 cents to transport this parcel by the proposed parcel post. Why does not the gentleman amend the bill so that it would be carried for

Mr. AKIN of New York. What? The whole parcel for 5 cents?

Mr. CANNON. Yes.

Mr. AKIN of New York. Oh, I would rather pay more for it than that. [Laughter.]

Mr. CANNON. That is all right; but the gentleman paid 5 cents fare to go down and collect the rebate of 5 cents.

Mr. AKIN of New York. No; I did not. I have not done that. I would not go down there for anything and collect that 5 cents—take it away from them. I am going to have that little piece of paper framed and show it to my constituents, those who work from 12 to 17 hours a day and wish for a glimpse of that good old McKinley dinner pail of 1896.

Mr. CANNON. I am afraid the gentleman is entering upon a very expensive campaign.

Mr. AKIN of New York. Oh, I will take care of my campaign when the time comes. It will not compare with the amount of the gentleman who expects to succeed me here in Congress. They say he has already expended $23,000 for the congressional delegates in my district, and he is a poor carpet manufacturer at that, and needs the job to make ends meet.

Mr. Chairman, herewith find copy of an Adams Express Co. money order for 5 cents:

[Facsimile.]

Express money order. V 909126.

When countersigned by agent at point of issue, The Adams Express Company, pay to the order of T. AKIN the sum of five cents ($0.05).

(Not good for more than the highest printed marginal amount. In no case to exceed fifty dollars.)

Countersigned, George E. Phillips, agent, local cashier. W. H. Albert, treasurer.

Issued at Washington, D. C. Name of remitter, Adams Express Company.

Date, Apr. 19, 1912.

(Any erasure, alteration, defacement, or mutilation of this order renders it void.)

[From the Washington Herald, Feb. 22, 1912.]

EXPRESS CONCERNS TO BE PROSECUTED—INTERSTATE COMMERCE COMMISSION AUTHORIZES SWEEPING CRIMINAL SUITS AGAINST THEM.

Charging that they have knowingly and willfully swindled many thousands of shippers by the collection of double rates, the Interstate Commerce Commission yesterday instructed Federal district attorneys throughout the country to institute sweeping criminal prosecutions against practically every express company in the United States. Documentary evidence substantiating the charges has been placed in the hands of these officials.

It is alleged by the commission that nine express companies, against which prosecutions will be brought, have in their treasury no less than $81,957,893, a large proportion of which they obtained through swindles intentionally perpetrated upon the public.

It is the request of the commission that special grand juries be called to hear this evidence, and that indictments be returned without delay against the guilty officials of the various companies. Separate prosecutions will be brought against the Adams, American, National, Globe, Great Northern, Northern, Southern, United States, and Wells-Fargo companies. The proceedings will be instituted at New York, Chicago, San Francisco, and other cities where the violations have occurred.

It is not the intention of the Interstate Commerce Commission to make a raid on the express companies and bankrupt them, which it could do with the evidence in hand.

So conclusive does the commission believe its evidence to be, that it has not even waited until the completion of its investigation before beginning criminal prosecutions.

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[From the Washington Post, Apr. 12.]

CHALLENGES MR. TAFT—REPRESENTATIVE AKIN REQUESTS DEBATE WITH PRESIDENT—SENDS DEFI IN A LETTER—OFFICIAL "PROGRESSIVE" REPUBLICAN SAYS THAT, INASMUCH AS REPRESENTATIVE GARDNER HAS ASKED SIMILAR CONTEST OF COL. ROOSEVELT, HE SEES NO WRONG IN HIS PURPOSE.

President Taft was challenged to a joint debate on "Federal patronage abuses" in a letter addressed to him yesterday by Representative AKIN, of New York, the only Member of Congress officially designated as a progressive Republican. The challenge follows:

"TO THE PRESIDENT: The press announces that, in the interest of your candidacy, Hon. AUGUSTUS P. GARDNER has challenged Col. Roosevelt to a joint discussion.

"RATHER WEAK ON RECALL.

"Hence I deem it perfectly proper and of the utmost importance that you and I meet in a joint discussion on some of the issues of this campaign.

"I do not profess great knowledge on the question of judicial recall, but I have some knowledge and conviction on the question of Federal patronage. I believe that in making and withholding Federal appointments you are acting solely in the interests of your nomination and to the great demoralization of the public service, and on that issue I shall be very glad to meet you at any place you may designate.

"Respectfully, yours,

"THERON AKIN."

[From the Rural Free Delivery News of Apr. 20, 1912.]

VICIOUS USE OF POSTMASTERS—PERMITTED TO NEGLECT THEIR DUTIES, THESE OFFICIALS ARE CHARGED WITH CORRUPT PRACTICES IN THE ELECTION OF DELEGATES TO CHICAGO.

It is simply ridiculous for this administration to say that it is conducting the Post Office Department as a business institution and not conducting it as a political machine. Never in the history of our national politics have postmasters and post-office inspectors cut such figure in politics as they are in this campaign. Thousands of these officials are daily neglecting their official duties to devote their time and influence toward securing delegates to the Chicago convention for Mr. Taft. These officials are acting on orders from headquarters. They have been dragooned into sacrificing a public service for politics.

And yet with it all both the President and the Postmaster General have frequently of late recommended that all presidential appointees of this class should be blanketed under civil service and "taken out of politics."

Is not this one of the greatest fallacies of our present-day Government? Why should men holding Federal jobs, who are paid at the expense of the people, dictate to them who they should vote for?

Should not these men serve the people in their official capacity as business men and not as political bosses?

Never before has this question been presented more forcibly than in this campaign. In the primaries and conventions so far held in the various States these Federal officials have shown more activity than ever before. In some instances they have bossed, and in some instances they have failed. On the other hand, there is plenty of evidence where they have bully-ragged the people and literally stole the vote for their chief.

Col. Roosevelt has on numerous occasions exposed the work of many postmasters. He has condemned both the administration and the postmasters for the activities of the latter officials in many States, notably Kentucky, West Virginia, Indiana, Pennsylvania, and New York.

When at Reading, Pa., Col. Roosevelt took occasion to refer to a circular sent out by Postmaster A. M. High to the voters of Reading. He said:

"In this city of yours I saw a circular that has just been sent out by the postmaster telling you how to vote. Now, this is not a Federal officeholder's job. This is the people's job, and I ask you to rebuke the effort to control your votes by the professional bread-and-butter politicians.

"In this contest, whenever the people have had a chance to express themselves they have come out unmistakably for the right side. We have lost only where there has been cheating and theft of delegates by violence and fraud, or where a community, a boss-ridden community, has sat supine and permitted itself to be defrauded of its rights."

This is only one incident where postmasters endeavored to dictate to voters in cities, towns, and county precincts. They endeavor to pull off the same performance in their respective communities because they are ordered to do so. Failure to act, of course, means ultimate dismissal "for the good of the public service."

President Taft wants postmasters taken out of politics, but it is very evident he does not favor taking them out until at least 1913.

All postmasters, regardless of their class, should be placed under civil service. They should be retained purely on the merit system. They should be barred from politics, and any such activities should be ground for dismissal. The people are growing tired of being bossed and dragooned in conventions and at the polls.

Mr. Chairman, again let me say that I have endeavored to bring on a go between myself and the now President of the United States by sending to him a challenge for a joint debate on the question of Federal appointments, particularly in the Post Office Department. There is no doubt in my mind that if he would go up into the Post Office Department, in the office of the First Assistant Postmaster General, with a golf stick and put as much force behind it as he does in hitting some of those little white balls on the beautiful green lawn of the golf grounds he would be doing this country a great and lasting service. I am not very long on great judicial temperament, probably not as long on judicial recall as my friend, the gentleman from Massachusetts [Mr. GARDNER], is; but I would be very glad to witness a go between the gentleman, Mr. GARDNER, and that buzz saw which contains the patent inserted teeth, so that in case he got one over on him the new patent inserted tooth would fall right into its place, and it would continue on in the same way, and the gentleman from Massachusetts would never know what hit him. There would not be enough left of him to puncture with a hypodermic needle for the purpose of refrigeration.

My former speech, which was printed in the CONGRESSIONAL RECORD, on page 3096, was so full of homely truths that it offended the dignity of the House, and as the author wore no political brand and was cut out as a maverick, I intend to eliminate the parts wherein matters of truth are mentioned without dignity, but I wish at this time to insert a clipping from the Washingon Post of April 22, 1912, "Express companies immune":

EXPRESS COMPANIES IMMUNE?

The decision rendered by Federal Judge Hollister, declaring that the Interstate Commerce Commission has no regulative jurisdiction over express companies looks to be, at first blush, as hard a facer for the Government as the recent Supreme Court ruling upholding the monopoly clause in the patent laws. Judge Hollister finds that an indictment against the Adams Express Co. on the ground of overcharging is invalid, for the reason that the company is neither an individual nor a corporation, but a stock association, and that it would be necessary to proceed against its 10,000 stockholders in order to secure its indictment. The interstate commerce laws, it seems, fail to take cognizance of other than corporations and individuals, and should Judge Hollister's decision stand, the recent investigation of the express companies, which revealed a maze of alleged infractions of the laws, comes to nothing.

Thus the whole fabric of the Government's extensive campaign against big business appears to be crumbling at the feet of judges and juries. The express-case decision supplements the failure to convict the beef packers under the criminal clause of the Sherman law and the adverse patent-law decision already mentioned, the latter of which setbacks probably will prompt the Government to abandon the more important suits now pending against industrial organizations.

Congress, if so disposed, could breathe new life into the restrictive laws and again hale accused parties into the courts. Bills amendatory of the Sherman and patent laws are pending in that body, and it is to be presumed that the Interstate Commerce Commission will ask to have its hands strengthened. Certainly public sentiment will not acquiesce in the abandonment of corporation regulation because of the lack of effective laws.

Following is some data taken from the Philadelphia North American of April 22, 1912:

A judge has ruled that the law can not be made to apply to the Adams Express Co., but to enforce the law the Government must indict every one of the 10,000 stockholders. But hush! Don't lay impious hands on the ark of the covenant.

Up to this time, although I have not received any letter of acceptance from my challenge to debate the question of Federal post office appointments with the President, I think the only opportunity that either the gentleman from Massachusetts or I will have is to go out by ourselves and fight it out together. But I insist upon the weapons used being either golf sticks or some kind of a little ding dangs that they play ping pong with or a little tennis racket.

But there are some possibilities, which are herewith shown by an editorial clipped from the Washington Times of April 22, 1912, which I insert, and with this clipping I wish to insert a letter from Gen. A. L. Mills to Maj. Beecher B. Ray:

President Taft, it is announced, is going to spring a political sensation—something positively scandalous—during his invasion of New England this week.

So interesting. But so painfully vague. Can it be that the President's scandal will be a detailed statement of the amount of money spent in getting his nomination in 1908? Is it possible that Charles P. Taft is going at last to let the country know how much he invested in getting a Presidency in the family?

Or is the President preparing to air the whole inwardness of the affair of Maj. Ray, Army officer, labor boster, political pet, and protégé of Mr. Taft?

Or may we expect illumination of the Norton patronage letter and the scandal of using political patronage, first to destroy the progressive wing of the party and afterwards to pull off jobbed conventions in the interest of Taft?

Or are we, perchance, to get the exact terms of the deal by which the Taft campaign was turned over to the Lorimer gang, with a Lorimer lieutenant as director general?

Or may we hope for a confession that will clear up all the uncertainty about the inside facts of the dicker that made Ballinger Secretary of the Interior?

There are so many possibilities in this promise of airing a real political scandal that it is difficult to preserve patience and calm pending the great exposé.

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HEADQUARTERS DEPARTMENT OF THE GULF,
Atlanta, Ga., September 3, 1910.

Maj. BEECHER B. RAY,
Paymaster, United States Army, Atlanta, Ga.

SIR: I am directed by the Chief of Staff of the Army to inform you that imputations against you have been made to the Paymaster General in the form of reports alleging illicit relations between you and Mrs. Blank, the wife of Mr. Blank.

These reports are of such gravity as to call in question your character as an officer and a gentleman, for, if the allegations be true, your conduct should be characterized as reprehensible and deserving of the severest condemnation.

Should you desire to take steps to clear your record of these imputations, you will be afforded every proper facility to that end within my power.

In the absence, however, of such effort for vindication, it is my duty to admonish you as to the future, while under my command, that any misconduct as an officer on your part will not be treated with immunity.

Acknowledgment, in writing, of the receipt of this communication is desired.

Very respectfully, A. L. MILLS,
Brigadier General, United States Army, Commanding.

A true copy.

I am also inserting the letter of a young man, Mr. Blank, to Gen. Whipple, asking to be relieved from the company of this man Ray, who is still holding his office, evidently without any fear of being removed by the President of the United States:

ATLANTA, GA., *June 25, 1910.*

MY DEAR GENERAL: Circumstances have arisen that make it absolutely necessary that I be relieved from duty as personal clerk to Maj. B. B. Ray at the earliest possible date. This is not an application, and you will readily see after reading this communication just why I can not comply with paragraph 424 of the Paymaster's Manual, especially the last sentence.

Before proceeding any further I first desire to impress on you my desire for absolute secrecy relative to the information contained herein. I have a father 82 and mother 73, who celebrate their golden wedding anniversary in October, also two children, and I would brave any circumstances or conditions rather than bring shame and disgrace upon them or have anything made public that I am about to write. I should much have preferred a personal interview, but it seems impossible, as I could not get the leave just now to come to Washington and could not afford to do so at this time.

I have loved and honored my wife above everything else on earth, have trusted her as implicitly as I would my mother, and you can readily see to just what desperation I have been driven when I write this communication.

I have probably been partly to blame for what has happened by allowing Mrs Blank to be in Maj. Ray's company to the extent that she has, but in extenuation of this fact I have only to say that I trusted her to the extent that I did not think it possible she could do wrong.

Within the past few days something, which I can not mention, forced me to the belief that there was something wrong. Last night I had an all-night talk with my wife, and she finally confessed to me that she had on several occasions been intimate with Maj. Ray; that from the first few months that I was assigned to him he had forced his attentions on her, had done everything in his power to make her untrue to me, but that up to the time of our leaving Honolulu she had repelled him, thinking that she could easily keep him at a distance, and not telling me because she considered that she was perfectly able to take care of herself; and as our relations were pleasant and we always seemed sure of a pleasant station, etc., she kept the matter to herself. Upon our arrival in San Francisco we had rooms at the Hotel Manx, and it was there that he first succeeded in overcoming her scruples, securing the key between the rooms and leaving the office in the afternoon, stating that he was attending to private business, only to go immediately to the hotel and enter my wife's room. The arguments he used were particularly contemptible and disloyal to me, he stating that it was only a question of time until I lost my position on account of my debts; that when I did lose my place he would see that she never needed anything, etc. The details are sickening, and I can not bring myself to write more along these lines, except to say that since then he has continually importuned and annoyed her, making all sorts of promises and threatening that he would ask for a different clerk and make me lose my position if she did not comply with his demands. My wife is really but a child in experience, being 11 years my junior in age, naturally of a trusting and confiding disposition, and although, of course, I can see that there is no excuse for her actions, yet there are certainly extenuating circumstances. Maj. Ray insisted upon our coming to Chicago en route to Atlanta, and at the time I wondered why it was; it is clear to me now. The husband is always the last to suspect, it is said, and several times different people have mentioned to me that the major and Mrs. Blank were together a great deal, but I have always laughed it off, and several times have cautioned her about doing anything that might look compromising, but I have had such unbounded faith in her good sense and loyalty to me that I have been worse than blind.

I consider Maj. Ray's actions particularly unworthy those of an officer and gentleman and particularly ungrateful, in view of the fact that during his trouble in Manila I was the only friend he had in the Pay Department there. I kept him advised while in the States that he had enemies, stood by him at all times and made enemies for myself; when he and Mrs. Ray came to Manila, Mrs. Blank and myself gave up our own home, which we had furnished there, to them and went out to board; we have nursed both he and Mrs. Ray during illness and I have done everything in my power to forward his interests, both personal and official. I could not have been more surprised and pained.

Now, I am prepared to forgive and try to forget Mrs. Blank's part of this unfortunate affair. She leaves here on June 29 and goes to Washington, where she will be from July 1 to 6; from there she returns to her home in Blank for the summer. Maj. Ray had promised me two months' leave immediately upon completion of the maneuvers at Chickamauga Park, and I was then going to come to Washington and have made overtures to get a position with Mr. Blank or Mr. Blank, two of my creditors, and try to work off some of my indebtedness.

You can readily see that my daily association with Maj. Ray is almost unbearable—that every time I look him in the face I want to kill him—and that a continuation of our relations is impossible.

As I am entirely innocent in the matter, I desire a transfer and am willing to go anywhere with anyone rather than continue where I now am. I would love to get a chance to come home and see my people, but I am willing to give even that up if necessary.

I am writing this to tell you that my desire is to avoid publicity. No one will ever know that I have written you this letter; I will not let Mrs. Blank know under any circumstances that I have written you and I would prefer, if possible, that you do not show this communication to a living soul unless you consider it absolutely necessary; but in any event I would prefer to live and bear the present situation rather than have anything come up publicly. What is your advice and how shall I go to work to obtain a transfer, this being inevitable?

In conclusion, it would appear that I have been considerable trouble to the Pay Department personally, but, General, if you knew my present situation with a son who is a confirmed epileptic, my father and mother in poor circumstances, and this last straw, I feel that I am about "all in."

As God is my witness, every line I have written is the whole truth, and I hope and pray that you will believe and do something immediately to relieve me from a situation that is maddening.

Very truly, yours, BLANK.

We expect to go to Chickamauga Park to maneuvers on the 29th. I feel as if I couldn't stand a month there with him.

Gen. C. H. WHIPPLE,
Paymaster General, United States Army.

Following is a letter taken from the hearings, No. 15, before the Committee on Expenditures in the War Department, written by the President, William H. Taft, to Gen. Whipple:

BEVERLY, *July 5, 1910.*

DEAR GEN. WHIPPLE: I have read the letter of Blank, which you have shown me, because you knew that in times past I had had a personal interest in the welfare of Maj. Ray. I have no relation to Maj. Ray that prevents my directing you to take the same disciplinary action in respect to him as in the case of any of your subordinates. It seems to me that it would be wise to send Gen. Garlington or a trusted assistant to inspect Ray's accounts and those of his clerk, as well as the charges Blank makes, and, if the facts turn out to be as Blank states them, to separate Blank from Ray at once. While Ray's conduct, if Blank's charges are true, should subject him to the severest condemnation, there seems from Blank's language and telegram to be such a condonation by him and his wife that it would be well to avoid the demoralizing scandal for the Army involved in court-martial proceedings, which would place a stigma on Blank and Mrs. Blank they could never recover from. Ray could be told that his superiors know his fault and have provided against it, but in the interest of his victims and the Army it was deemed best not to present it to a board on condition that he avoid such conduct in the future. These suggestions are upon the assumption that Blank's statements are true and that Gen. Garlington finds them to be so.

I do not favor court-martial proceedings in such cases where there is condonation, in order to prevent scandal. The Army suffers, the parties suffer, and only the prurient readers of such trials receive any advantage. The discipline enforced does not outweigh in its benefit for the Army the injury to the prestige of the Army and the demoralization it causes.

You can show this letter to Gen. Garlington and Gen. Oliver, but I would prefer that it do not go on your official files.

The course I suggest is the one it seems to me best with any paymaster, whoever he is. Maj. Ray did me some services of a political character years ago at the instance of my brother, and he is disposed to assume much too much on that score. I wish him treated as any other officer in the service, and I would make the same suggestion as to any Army officer in a similar case.

Sincerely, yours, WM. H. TAFT.

It appears from reading the hearings before this Committee on War Department Expenditures that this man Ray was seriously afflicted with appendicitis whenever it was necessary to have a change of station and that circumstances go to show that he was very handy with false keys and was able to open doors in hotels whenever he found it convenient to do so.

As I was passing down by the White House even Pauline, the cow, carried a look of shame on her face when I brought the matter of these letters to her attention. Taking these extracts and data and then referring to my former speech, printed in the RECORD on page 3096, will show and probably convince one that this whole political institution in Washington can only be compared to a Nebraska feed lot on a warm summer day just after a warm rain, stirred up by the numerous feet of the cattle contained therein.

Although this may be a homely expression coming from me, known to the newspaper fraternity in Washington as a graduate of a veterinary college, granted that I wear hand-me-downs, and with that expert precision of the usual farmer from the twenty-fifth district of New York who chews "5-cent ante" and expectorates with the best of experts, I could, with satanic

glee, enjoy the chance or opportunity to take any one of that Post Office bunch down, particularly that very honorable First Assistant, and with the skill of a veterinary surgeon thereby cause to be injected a concoction of sufficient quantity and quality of nicotine essence, causing thereby synchysis.

Before closing, I wish to pay my respects to the daily toilet paper known as the New York Sun, which has been so kind and considerate in paying me high compliments as it does—officiated over by the tertiary afflicted (sauvages) aristocracy, and hope that they will keep on with the good work.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CONRY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19212) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1913.

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

S. 3812. An act to regulate public utilities in the District of Columbia and to confer upon the Commissioners of the District of Columbia the duties and powers of a public utilities commission;

S. 268. An act to establish a fish-cultural station in the State of Rhode Island;

S. 4257. An act for the relief of the estate of Charles C. Benton and others; and

S. 4456. An act for the relief of the estate of Silas F. Baker.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. MOON of Tennessee. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Chairman, the postal service is one of the branches of the Government service that shows the pulse of the people, as by close study of it we can always judge whether business is improving or not. When the revenues of the Post Office Department show a normal, healthy increase from month to month it is the best possible evidence that our country is not only prosperous, but that we are improving from day to day in our business relations. When the revenues of the Post Office Department show a decrease or remain at a standstill, it is another evidence that business is stagnated, and it is time for men in public life to devise ways and means for removing whatever obstacle is in the way. During the brief period that I have been a Member of this House, I have endeavored to give close personal attention to matters of public interest, and particularly to questions affecting the postal service of our country. I maintain that the postal service of the United States should be the model one of the world, and that every improvement consistent with the progress of the times should be instituted in the service to raise it to the highest possible standard.

In order to bring about this condition of affairs I believe that the first requisite is a satisfied and contented force of employees in the postal service, working in harmony with the officers of the department. To my surprise I found on investigation that the employees in the postal service are working under adverse conditions in many respects, and in my humble way I have tried to lay before individual members of the Post Office Committee many grievances of the employees that have been brought to my attention.

In section 1, under subdivision "Railway postal-car service," a provision is inserted that will, to my mind, provide for the ultimate protection of the railway mail clerks, whose lives are in constant danger, in the discharge of their duties, from defective postal-car construction. These employees of the Government should have every possible protection thrown around them while in the performance of their official duty, as they are constantly working under a severe strain, and their work is not only exacting but extremely laborious.

Section 7 of the pending bill provides for the reclassification of the railway postal clerks, which is but an act of justice that will be appreciated by the railway postal clerks and will meet with the approval of the public.

The provision in section 1 which provides for the promotion of 75 per cent of the clerks and carriers to the highest grades in their respective offices will undoubtedly remove a condition that has been the cause of much discontent and dissatisfaction on the part of the employees. From inquiries I have made I believe that with an appropriation as is recommended by the committee, together with the normal changes in the service caused by deaths, resignations, and removals, that there will be sufficient money in the hands of the department to permit of the promotion of every clerk and carrier who earns it. I do hope and trust that there will not be any further cause for the charge of favoritism by the employees against those who have charge of recommending these promotions.

Section 5 of the bill will regulate the hours of labor of the clerks and carriers to eight hours per day, and provide for compensatory time for those employees who are required to work on Sunday. Mr. Chairman, I have given this subject considerable time and investigation and there is no section of the bill that I believe will meet with more universal approval than this one which regulates the hours of these employees. When I first started my investigation and inquiry I was surprised when I learned that the letter carriers had the benefits of the eight-hour law taken from them through a decision of the Court of Claims on a test case made by the Post Office Department officials, and that the post-office clerks have not for any great length of time had the benefits of an eight-hour law.

We are living in an age of progression, and the tendency of the times and the policy of the Government is to reduce the hours of labor to not more than eight hours each day. These officials might just as well strive to keep back the tide or to keep the world from moving on as to stand in the way of public opinion and progress. The recommendation of the committee on this question is simply what I term long-delayed justice, and I trust that the House will do its full share in remedying the present condition of the working hours of the clerks and carriers by acting favorably on section 5 of this bill.

Section 6 is one that I believe will appeal to every citizen of our country who believes in free speech and the right of petition. Since 1902 the employees of the civil service have been prohibited by Executive order from presenting their grievances to Congress except through the heads of the department under which they serve. This order, which originated with President Roosevelt on January 31, 1902, was reissued in an amended and more stringent form by President Taft on November 26, 1909. I attended one of the sessions of the American Civic Federation in this city on March 5 and listened to a defense of this order by one of the officials from the Post Office Department who no doubt represented the Postmaster General. The whole strength of the contention of this gentleman seemed to be based on the supposition that employees of the Government should have no right either to express an opinion or complain of grievances unless he did so through his superior officer, and the question of whether a grievance or complaint should even be considered was to be decided by this superior officer. The surprising thing to me is that the civil-service employees have tolerated this condition of affairs, and I am not at all surprised at the large number of resignations from the civil service. I believe that this "gag rule" as it is justly termed is un-American and there is nothing whatever to warrant its being permitted to continue in force. Time after time the attempt has been made to break the spirit of the working people of this country, but when the shackles became unbearable there has always been such a revolt as to make the heads swim of those responsible for their petty tyranny. I have always requested employees to consult with me on matters affecting their interest and believe that it is my duty to listen to all respectful appeals and complaints and in order that these employees will not be further handicapped, shackled, and gagged I trust that section 6 of this bill will meet with the approval of every Member of this House.

Mr. MOON of Tennessee. Mr. Chairman, I yield 30 minutes to the gentleman from Nebraska [Mr. STEPHENS].

Mr. STEPHENS of Nebraska. Mr. Chairman, I consider the three legislative propositions attached to the Post Office appropriation bill providing for the condemnation of the express companies for the use of the Post Office Department, Federal aid to post roads (rural routes), and publication of the names of editors and owners of newspapers to be the most important propositions considered by this Congress, and I desire to go on record as favoring all of these measures.

PARCEL EXPRESS.

A parcel post is usually understood to mean a Government express business carrying packages of a maximum weight of 11 pounds at a flat rate per pound.

A parcel express usually means, literally, a Government express business in connection with the Post Office Department carrying packages up to a maximum weight of 100 pounds, which is the minimum weight charged for in freight shipments.

OBJECTIONS TO PARCEL POST.

A flat-rate parcel post limiting packages to 11 pounds is of no great importance to the rural population, and of no danger whatever to the merchants in small towns. True, the rural dweller will be able to have small packages brought out to him from his town, but as a distributor of merchandise generally, marketing the produce of the farm, it is of no value whatever.

There is now a very bitter fight being waged by the merchants of small towns against such a parcel post, and, on the other hand, there is an equally vigorous campaign being carried on by patrons of rural routes for such legislation.

If the real truth were known about the effect of the usual proposed parcel-post scheme, the fears of the merchants would be allayed and the disappointment of the rural-route people would be most keen. The real effect will not be noticeable on either side. What the merchant fears is that his business is to be ruined, and what the farmer wants is to be connected up with the merchant and consumers of his products. The fact that he has not had this connection accounts, in a large measure, for the drift of the farmer to the city and the resulting high cost of living and scarcity of produce.

Let us see why a flat-rate parcel post limited to 11-pound packages will neither hurt the merchant nor help the farmer as a means of distribution of merchandise. In the first place, no flat rate can be proposed that will not either rob the shipper or the Government, or be of no use as a mover of merchandise. An 8-cent a pound rate, for instance, would be prohibitive on a short haul, as a 100-pound package would cost the shipper $8 for the shortest possible haul, while the express company would take it for about 50 cents. In this case the shipper would be robbed if he were foolish enough to patronize the parcel post. On the other hand, the longest possible haul of 3,600 miles would cost him only $8 by parcel post, the same as the short haul, whereas the express company finds it must charge $14.87 for transporting the 100-pound package. In this case the Government would be sure to get the business and stand the loss, while the express company would get the short haul and take the profit.

It is argued by the advocates of a flat rate that there would be an average struck, so that there would be no loss in the long run to anyone; but this argument does not take into account that such a rate would not move the traffic except in spots. Nor does it take into account the manifest dishonesty of a flat rate. Such a rate would not fit the short-haul shipper at all, as he could compete with it with a wheelbarrow when anything larger than the smallest packages are concerned, and if the rate was made sufficiently low to meet the demands of the short haul the long haul would bankrupt the Government. It would thus appear that a flat-rate parcel post is of very little importance one way or another to the country as a commercial proposition.

FAVORS BUYING OUT EXPRESS COMPANIES.

Therefore, if this Congress would do anything that will mean anything to the people, it must provide for a complete parcel express and carry merchandise up to 100 pounds, which is the minimum weight charged for by freight.

It is equally apparent that the Government must wipe out the present occupants of this field, the express companies, in order to save the duplication of service. Some contend that the Government could not get the service of the railroads, as the express companies have them tied up with contracts, and that it would be cheaper and better to buy their plants and enter into a completely established business at once. Others contend that the express companies are interlopers into this field and that they never had any constitutional right whatever to the small-package business, and that the railroads can be forced to give the Government the same service it now gives the express companies.

However this may be, if the Government can buy out the express companies at a figure that represents their actual assets, it would be cheaper and better, no doubt, and fairer, in view of the fact that the Government has permitted them to take the small-package business away from the Post Office Department, to take over the express companies rather than to undertake to run them out of business by competition. This might be a long and wasteful operation.

The gentleman from Maryland [Mr. LEWIS] has gone into this subject in an exhaustive manner in Document No. 379, showing how perfectly feasible and practicable the scheme of a parcel express is. He shows that the tangible assets of all the express companies do not exceed $29,000,000. The earnings last year were about $12,000,000, or about 45 per cent on their actual assets. Their franchises, good will, contracts, and so forth, would have little, if any, value if the Government went into the parcel-express business, as outlined above; yet, allowing $10,000,000 for these intangible assets, the total is less than $40,000,000. If the Government should take over these express companies at this figure and continue to charge the same rates now charged by the express companies for the first two years, it is believed the savings in operation by substituting a stamp for the extensive accounting system, and other savings, would increase the profits sufficiently to pay the purchase price in about two years, when the rates could be cut at least to one-half of the present rates, besides giving the country a universal service.

GOVERNMENT OWNERSHIP.

There will be some of our timid brothers raise the cry of Government ownership against the parcel express proposed, which involves condemnation of the express companies, but their fears should be allayed when they find themselves absolutely unable to draw a line between the mail and parcel business—to be able to tell at what point the Government should stop in the service it is now rendering the people. Taking over the express business has the same relationship to Government ownership that the present mail service has. If any gentleman would advocate turning the mail service of the country over to private enterprise then he should also oppose the Government taking over the express companies. If the Government can give a better and more universal service in the distribution of mail packages than can private corporations, then for the same reasons it can give a better express service than can private enterprise. The fact that the Government mail service is now in close communication with every part of the country, and that absolutely no other private service exists that could duplicate this service, and if it could it would be an intolerable monopoly, ought to be proof conclusive that the Government is the only agent that can render a universal express service to all the people. The fear of Government ownership ought not to deter anyone from supporting this measure, unless he holds to the belief that an express company or some similar private corporation could give the country a better mail service than the Government now gives us.

GOVERNMENT ONLY AGENT THAT CAN GIVE UNIVERSAL EXPRESS SERVICE.

It must also be apparent to anyone who studies the question that the Government is the only agent that can give the country a universal service of this character. The Government now has established mail routes into every nook and corner of the country, ready for immediate service in small packages, and can be gradually developed, as the rural mail-delivery system was developed, as the demand increases. There is no way that a rural express giving a universal service can ever be successfully established on an economical basis save through the Government mail service. If we leave it to private enterprise we must either duplicate the Government service now on rural routes or permit private express companies to use our rural carriers as they do the railroads, and if this is done we still do not have a universal service at a rate that will move the produce of the country. The present express rates are now prohibitive in the movement of many classes of products between cities, and the same conditions would remain even if they were ever allowed to use rural carriers to extend their service.

ADVANTAGES OF GOVERNMENT EXPRESS.

The advantage of a parcel express where merchandise is moved at cost or a small profit, with a rate based on weight and distance, is fair to all. It does not give the advantage to large centers, thus concentrating the business of the country in a few hands, but it does give a cheap rate of transportation, with facilities so easy of access to all the people that quick distribution of products must follow. The man living 10 miles from the railroad is almost as well off as the man who lives within a few blocks of the station, as the parcel-express van will call at his door daily, or triweekly, or semiweekly, as the demand requires. The result of this system of quick and universal transportation will be to reduce the cost of living very greatly and for many reasons. One is, it will place in the hands of the consumer vast quantities of products that now go to waste on the farms of the country. Another will be the cheapening of the products as a result cheapening of the cost of transportation and increasing the actual amount of available foodstuffs. Another will be the stimulation of production due to the facility for marketing it.

As an example of waste of the products of the farm for want of easy and quick distribution: Last fall I saw thousands of bushels of apples rotting in the orchards in eastern Nebraska for want of a cheap and easy method of transportation. These orchards were within 50 miles of a city of 150,000 people, where apples were selling to the consumer for 40 cents a peck, and we still wonder at the high cost of living. If those farmers had undertaken to reach that market, this is what would have happened to them: First, barrels or boxes would have to be procured, apples packed, corn husking stopped, team taken from the field, and long trip taken to town with the shipment. The local merchant would then take the shipment and consign it to a commission man in Omaha, and the commission man would sell it in turn to a retailer, and the retailer delivers it to the consumer. Forty cents a peck does not seem a very high price to the three middle men and the railroad, and to the farmer who planted the orchard

and cared for it 10 years before it was old enough to bear fruit the amount left looked discouraging indeed. Maybe in the end the farmer would get 10 cents, and may be he would get a bill for the loss sustained in the shipment. I have known several instances where actual losses have been sustained on shipments of this kind. After a few experiences the farmer settles down to corn and hogs and lets the other products of his farm go to waste rather than to waste his time trying to get them to the consumer.

As a further example of the present condition of the producer, a man in southeastern Nebraska consigned a car of apples to Omaha, and in the course of a day or so he got a letter requesting a draft to cover a part of the freight charges and commission, as the apples did not sell for enough to cover expenses. The producer wired back that he did not have any money, but he could send another car of apples. [Laughter.]

VALUE OF MIDDLE MAN.

I do not wish to be understood as attacking the usefulness of a middle man. There are places in commerce where he is most useful and important in the distribution of merchandise. In fact, the country could no more do without him than it can without the railroads. But it is not reasonable to expect the producer to pay four profits on the passage of a peck of apples from his orchard to the consumer. Such a condition is simply and absolute waste, and no one can defend it. Let the farmer have a chance to consign his products direct to one middle man or to the consumer, as is the best for him. A middle man who serves no useful purpose has no claim to exist. If he can not serve profitably, he should become a producer. The middle man who makes himself useful to society is the one who gathers up the products that are not in touch with a natural market and distributes where needed—is a most useful adjunct to trade. No middle man who serves a useful purpose need have fear of his trade disappearing. It is not according to the law of trade.

A COMPARISON OF TRANSPORTATION—YESTERDAY AND TO-DAY.

Our present facilities for transportation are splendid compared to those of 25 years ago, and we only need to look back to realize what a great future we are now contemplating, and this high cost of living is bringing us closer to the realization of it. I am a comparatively young man yet, but I was a voter before we quit burning corn in Nebraska for fuel. Think of it, this wonderful food product, King Corn, the staff of life, we burned to keep us from freezing, not in times of stress, but quite regularly, because it was the cheapest thing we had to burn. Over here on this side of the Mississippi the people who mined the coal were warm enough, but hungry for our corn, and we were not hungry, but chilled to the bone for want of their coal.

And all this time the great Union Pacific Railroad trains passed our doors daily, to the construction of which the National Government had donated millions of acres of our public domain and millions in money, but its rates were so extortionate that the products of the farm would not sell for enough to pay the freight to those who needed them. The case is not so bad to-day. The railroads have learned that rates can be so high as to kill business, and the people have learned also that they can in a measure control common carriers. The result of this experience has taught the railroads that by making a low rate they can create business, so to-day the trains coming out of Nebraska are loaded down with corn, wheat, and cattle from our farms, and the trains going in are loaded with coal, lumber, and merchandise. They still charge every dollar the traffic will bear and yet move, but they watch the rate barometer closely.

PARCEL EXPRESS WILL DOUBLE VOLUME OF BUSINESS.

It is not claimed for the parcel express that it will in a way affect the movement of staples such as the heavy products of the farm, but it is claimed that the Government with a free field can through the parcel express reduce the present express rates at least one-half and give a universal service wherever mail is delivered.

Cutting the express rates in two means a doubling of the business at least once, and in doubling the business the cost of living must necessarily be reduced. The cost of living depends as much upon the means of distribution as it does upon production.

Mr. SAMUEL W. SMITH. Mr. Chairman, I was told before noon that they have a commission for the control of express companies in Canada, and that last fall they cut the express rate in half and that the express companies there are not objecting. They are doing more business under that than before. Does the gentleman know anything about that?

Mr. STEPHENS of Nebraska. No, I do not; but I think it is very probable.

Nothing could be more absurd than the present system of sending out an able-bodied man with a team and wagon over a mail route for the purpose of delivering possibly an average of 100 letters a day, and with strict orders from the Government not to be useful to the patrons he serves in any other manner than in the delivery of mail.

It does not require a very vivid imagination to conceive of all these dinky mail wagons being exchanged for auto trucks, covering twice the length of routes and doing a package-express business in connection with the mail delivery, thus rendering a real service to the country. It is apparent the authors of the good-road feature of this bill foresaw the coming of this method of rural transportation and have anticipated the needs of the country for better wagon roads.

UNIVERSAL EXPRESS SERVICE BEGINS NEW ERA.

This system of Government parcel express in connection with the mail delivery will be the beginning of a new era of prosperity in this country. The difference between the new era and the one passing will be that the mass of the people will share some of the prosperity as well as those who trade and traffic in the products of the producers. In the decade closing the increase in the commerce of the Nation has been beyond human conception, yet the accumulated wealth of this period has not been left in the hands of those who produced it. Those who handle the Nation's products know exactly how much money they have paid the consumer and, therefore, how much the consumer can pay for the products of labor, so they fix the price at what the traffic will bear, take out all they can, and leave the man who produces the products just enough to coax him on and keep him producing. It is a great game, and it will be a long time yet before the producers of wealth will be able to protect themselves from those who live by exploiting them.

Another result of the establishing of a universal parcel express through the Post Office Department that would be far-reaching and of national importance would be the encouragement of the "back-to-the-farm" movement. This drift from the farm to the city is an actual menace to the peace and welfare of the Republic. With universal express the man of the farm as well as the country merchant is placed in close communication with the commerce of the Nation. He is no longer outside of it, but a part of it, and the products of his toil are easily accessible to those who consume them or to the merchant who deals in them.

SMALL TOWN MERCHANT WILL FAVOR PARCEL EXPRESS.

In this connection I have not given much attention to the effect on the small towns of the passage of this proposed Gocke bill. The reason I have not is because their prosperity is entirely wrapped up in the prosperity of the farmer. The country merchant ought to welcome this law with open arms. It means a cut of at least one-half in his express account. It means that his customers on the farm will sell probably twice as much produce as formerly, and therefore have twice as much money to spend as they now have. It means cheaper produce to the consumer because of the cheaper and quicker means of transportation. The merchant can not and will not oppose this measure, but he would be perfectly right in opposing a flat rate parcel post that would rob the Government on the one hand and put it in the pockets of the mail-order houses on the other. Let the merchant, farmer, and mail-order house pay just what it is worth for the transportation of merchandise. There is no justification for a rate that is not fair to every one.

OPPOSITION MEANS STEP BACKWARD.

To oppose the perfecting of our system of quick and easy transportation is to stand in the way of progress. One might as well try to sweep back the tides of the sea. It would be as reasonable to take away our present crude system of communication and transportation and lapse again into barbarism as it is to try to prevent its complete development, so that every part of the country will be in close relationship through a perfect system of distribution.

GOVERNMENT AID TO POST ROADS.

The Shackleford bill providing that the Government shall pay for a part of the upkeep of the public roads over which rural mail routes are laid is perfectly practicable, and if enacted into law will be a great encouragement to local and State authorities in the construction of good roads, as I shall undertake to show in these remarks.

Some of our good friends are greatly shocked at the idea of Government aid to post roads, as provided for in this bill. They evidently have not thought of the exact parallel we have in the payment annually by the National Government of some $50,000,000 of compensation to the railroads for the use of the Post Office Department in transporting the mails. The railroad company furnishes a railroad and the Government pays $50,000,000 rent for using it. The counties and States of the Union

furnish 1,000,000 miles of wagon road over which the Government transports the same mails, and the Government pays not one cent toward it. By what law of logic can one justify compensating a mail route that lies over steel rails and refuse compensation to the mail routes that lie over the wagon roads of the country?

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

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

Mr. MOON of Tennessee. Mr. Chairman, I yield the gentleman from Nebraska 10 minutes more.

Mr. MADDEN. Mr. Chairman, how much annually does the Government pay to the rural carriers for delivering the mails over the roads to which he refers?

Mr. STEPHENS of Nebraska. The Government pays $1,000 a year to the rural carrier for the service of delivering the mail to the rural-route patrons, and this carrier furnishes his own horses and wagons and pays for all of the upkeep, and in the gentleman's city the Government pays $1,200 to the mail carriers who do the same service, who do not have to pay any of these expenses.

Mr. MADDEN. Is not the wagon service to which the gentleman refers equivalent to the railroad service?

Mr. STEPHENS of Nebraska. The carrier himself furnishes the wagon.

Mr. MADDEN. The railway furnishes the car.

Mr. STEPHENS of Nebraska. But the Government pays for the car.

Mr. MADDEN. The Government pays for the wagon the carrier furnishes.

Mr. STEPHENS of Nebraska. It does not. The carrier himself furnishes his own wagon, and he furnishes as a rule four horses and their harness and feed and the upkeep of the wagon, and he gets $200 less a year than the carrier in the city.

But if there were technical objections they should be removed for the sake of the splendid results in national development that is sure to follow this policy. The passage of the parcel express measure will make it necessary to improve the post roads over which this new volume of business must be moved. Many post roads are now totally unfit for quick and economical express service.

WOULD ENCOURAGE LOCAL AUTHORITIES.

It has been argued by some Members in this House that national aid to these post roads would be the signal for the local authorities to stop all efforts to improve the roads, leaving the work entirely to the Government. Gentlemen who make this plea are undoubtedly not familiar with the experience of the country on this subject. Wherever States have given aid to counties in the construction of roads it has doubled and quadrupled local road interest, encouraging counties and towns to raise large sums of money to further the work. The Senator from Virginia [Mr. SWANSON] in a speech before the Senate on this subject stated that as a result of the State appropriating $250,000 for aid to counties in road building, the counties of the State were led to raise $3,000,000 for road purposes. This has been a universal experience and bears out the belief that national aid to post roads will have a similar effect.

This would not be true if the Government took over the roads and supervised their construction and maintenance. But this bill wisely contemplates leaving the post roads in the hands of local authorities. This leaves the Postmaster General free to pass upon the kind of roads that local authorities maintain, and if the roads are not up to requirements national aid will be withheld. With a club like that nothing but neglect and indifference on the part of the Postmaster General could prevent post roads from being the best in the country.

GOVERNMENT HAS AIDED OTHER INDUSTRIES.

And where and how could the National Government render the public a greater service than in this proposed aid to post roads? Rural routes. Forty million people live along these highways, and they pay, at least, one-half of the taxes collected by the Government.

For more than a hundred years the Government has given aid to transportation lines on land and water. It has given 200,000,000 acres of the public domain to the railroads of this country and millions in money. It has given untold millions to dredging streams and building harbors for the water commerce of the country. It has spent countless millions for public buildings in the various large cities of the country. It has, through a protective tariff, established a protection to the manufacturing business of the country, legally enabling it to force a tribute from other industries. The Government has done all these things in the interest of two great industries—transportation and manufacturing—but it has proportionately done little for the greatest industry of them all, agriculture; but agriculture bears on its broad shoulders the other two dependent industries of which we have been so considerate.

EXAMPLES OF WASTE ON RIVERS.

Now, when we come down to the proposition of spending a few of these millions among the people who have paid one-half of the taxes of the country, and who have had little direct benefit from the expenditure of these taxes, we have Members of this House expressing great surprise at the proposition, ignoring the fact that the proposed aid to post roads is not a drop in the bucket to the amounts that are paid out annually for much less meritorious projects. As an example, every year this Government pays out many thousand dollars for running a snag boat up and down the grand old Missouri River, around two sides of my district, lest the great commerce of that shifting stream of sand might be tied up on a cottonwood stump. I have not been able to find a man in my district whose residence dates back far enough to remember when that snag boat began operations, nor is there a man in that country so ignorant as to not appreciate the stupidity of such an expenditure. In 1910 the snag-boat flotilla moved up and down the Missouri from Kansas City to Fort Benton, Mont., a distance of 1,893 miles, and pulled from the river 881 snags. One of my constituents informs me that he saw the snagger pull the same stump three times, each time depositing it on a shifting sand bar to wash away again. Every two or three miles the snagger pulls a stump and thus figuratively saves some mighty craft of commerce that is supposed to ply between Kansas City and Fort Benton, Mont., from a sandy, stumpy grave. The money wasted in this manner would go a long way toward protecting its banks, or building post roads in Nebraska and the adjoining States.

Not only has the Government given aid to actual commerce on our navigable rivers, but it has squandered millions on streams that have no commerce, never did have, and no one expects they ever will have, all of which ought to be sufficient precedent for Government aid to the commerce that moves over the wagon roads of this country. It is not consistent to vote public funds for the aid of railroad and river commerce and refuse it to post roads, where another great economy can be practiced.

BAD ROADS A TAX ON COUNTRY.

This country pays every year approximately two and one-half billion dollars for wagon freight. The sum is a tremendous tax upon our resources, because of the lamentable conditions of our roads. In France where the Government builds and maintains all the main wagon roads of the country the wagon freight is moved for less than half what it costs in this country. If we could improve our highways so that the present load could be doubled we would save in wagon freight in this country annually about one and one-quarter billion dollars, or enough to build three Panama Canals and leave a balance. And while this enormous saving is perfectly feasible and has been actually realized by other nations, we go on complacently voting millions for the improvement of the navigation on Lost Creek and for public building at Sundance and other equally unimportant places where the Government could hire the service for one-fourth the interest on the investment. There is not a locality in the United States, outside of the large cities, that would not infinitely prefer national aid to post roads than to have public buildings erected in a few favored towns. I do not oppose the erection of public buildings where it is an economy to do so, but what I oppose is the extravagant waste of money for this purpose when we need it so badly where it would earn large returns on the investment, as would be the case when invested in good roads. The Government could take the money invested in two post offices in my district and build post offices in 10 towns that would be in keeping with the buildings in those towns, and if it turned the money over to the towns themselves, to be expended under Government supervision, the people would get 25 per cent more for their money than they now get, as fully half of the public-building appropriation is spent in overhead charges.

TAX FOR ROADS NOT A TAX AT ALL, BUT AN INVESTMENT.

The tax levied for the maintenance of the courts, Army and Navy, et cetera, is a burden on the producer and no material results can come back to the people as a result of these expenditures. This money is gone forever. It is a clean waste, but the tax levied for good roads is not a tax at all, but an investment which pays back to the people an enormous dividend. This is exampled by a statement made by Gov. SWANSON, of Virginia, now in the United States Senate, in which, after calling attention to the millions spent by that State in the last few years for good roads, says:

What is still more striking in this matter is that the expenses incurred by the State for education and roads more than paid for themselves in the increased revenue derived by the State on account of the

increased prosperity and advance of values without any increase of taxes whatever. The revenue of Virginia for the years 1908 and 1909 increased over the revenue of the two previous years more than $916,000, although these years immediately followed the panic of 1907.

FEDERAL AID ENCOURAGES STATES AND COUNTIES.

I think it safe to say that there is not an instance where counties and States have made road improvements that the valuation of property has not increased sufficiently to raise sufficient funds to pay for this improvement without increasing the tax rate. In other words, the building of good roads produces wealth instead of being a burden of expense to the people. The object of Federal aid for this purpose is not so much for the purpose of raising funds to build roads in the States as it is for the purpose of encouraging the States to enter upon this work of improving their highways.

Senator SWANSON, in his speech before the Senate on this same subject, showed how States aid through the work of convicts on the road, and the sum appropriated, of $250,000, was the means of encouraging the counties to raise approximately $3,000,000 in a very short space of time for the purpose of improving the roads of the various counties of the State. These counties were induced to raise this large sum of money in order to receive State aid, and the amount of money they received from the State equaled the amount they would raise themselves. The Senator also stated that educational facilities would improve with road conditions. Under the operation of this principle of State aid the high schools were increased from 74 to 405. More than half of the magisterial districts of the State rapidly acquired high schools. Think of it. In the whole State of Virginia only 74 high schools had been established in rural districts up to two or three years ago, when the State appropriated $100,000 for their encouragement, and in the short space of two or three years these high schools increased from 74 to 405. This is the best evidence that could possibly be produced showing that Federal aid to States would encourage States to take up the question of improving the highways of the States through the cooperation of the counties.

FARMER HAS NOT PRESSED HIS CLAIM.

The three great industries of our business life are agriculture, transportation, and manufacturing. Of these three agriculture is the basic industry, the other two being dependent upon it for their very existence. Agriculture fills the storehouse of the Nation; upon it and its allied industries depend the very life of our people. A poor crop forecasted and all the other industries languish; a bountiful crop and the wheels of industry hum. In fact, every material prosperity in every walk of life rests upon this great industry of agriculture; not only is the prosperity of the Nation dependent upon it, but it also bears directly and indirectly a great proportion of taxes levied by the Nation. The agricultural interests have had litttle Government consideration as compared to the other two great industries—transportation and manufacturing—due to the isolated condition of the farmer. He has not pressed his claim at Washington as vigorously as have the other two. These industries—manufacturing and transportation—have been in the hands of shrewd business men, who have been able to force from the hands of the Government aid which has made them prosper beyond similar industries anywhere in the whole world, and they have prospered in a great measure at the expense of agriculture.

If the objection to Government aid to roads arises from the belief that the local authorities might not use the money intelligently and economically for the benefit of the roads, they only need to turn to the millions of money spent on the rivers and harbors of the country and compare the results with those obtained by the common wagon-road officials with the comparatively small sums at their disposals.

We have no road officials in Nebraska so ignorant or indifferent to the public need as to spend fifteen or twenty thousand dollars a year running a snag boat up and down a river that has no commerce, nor ever will have, but they would instead take that money and protect the banks of the stream with it. Or if there are still others who think we have no precedent for such an expenditure let them read the history of the national pike built by the Government. Let them go to Panama, Porto Rico, and the Philippine Islands and ride over the splendid stone roads built by the Government for a barefoot, semibarbaric people. We have no such roads in this country outside of the influence of our largest cities.

Why should the Government build stone roads in our foreign possessions and refuse to pay a reasonable compensation for the upkeep of the post roads of the people of the United States who pay the taxes? It costs money to build railroads, and the Government recognizes the fact by compensating them for service in transporting the mails. The States and counties build wagon roads, and they, too, cost money, and why should not the Government compensate them by returning a portion of the tax they pay to the National Government to be used in the maintenance of post roads?

FARMERS FOR FEDERAL AID.

The agricultural interests of this country are clamorous for Federal aid for the construction of public roads and they do so upon the ground that the people in the end must pay the extra cost of transporting the foodstuff of the world from the farms to the railroads, and that this tax aggregates two and one-half billion dollars a year. This sum is a tax upon the products of the soil and must be borne by all the people. Federal aid for wagon roads is sometimes opposed on the ground that the road has only a local importance and the benefit would accrue only for the landowners along such roads, while all the people would be taxed. Such arguments can not be defended. If they could be defended, we could not build courthouses or schools or improve our rivers for the reason that only a few would use the courthouses, or a fraction would receive any benefit from the rivers, and only a portion of the people have children to educate. Of the same character is the objection that Government aid to roads would have only a local benefit in increasing property values at the expense of all the people. The same argument would hold against the bonus of 200,000,000 acres of public lands to encourage the construction of railroads, as only the immediate country through which the road passed would be benefited. Yet this aid given the railroads opened up the West and developed it a hundred years in advance of the same development without them, and as a result billions of indirect tax has been paid to the National Government in return for the outlay in encouraging the construction of railroads.

Therefore I am convinced that while there has been great waste wherever the Government has attempted to aid in the development of the country, yet the results for good have been infinitely greater than the losses sustained. The importance of connecting the farm up with the commercial world is apparent in the decay of agriculture east of the Appalachian Mountains. It is only a question of years until this decay will eat into the West, the storehouse of the Nation. Bad roads lead directly to national decay as certain as death itself. Tenant farming has been the curse of Ireland for 300 years, and that day is coming in this country if this great industry is not given an opportunity to live. Government aid to post roads in connection with the parcel express will be a great step in the right direction. I sincerely hope that both these measures will become laws. [Applause.]

Mr. MURDOCK. Mr. Chairman, I yield two minutes to the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD, which I delivered this afternoon.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. FOWLER. I yield back the remainder of my time to the gentleman.

Mr. MURDOCK. Mr. Chairman, I yield one minute to the gentleman from Tennessee [Mr. AUSTIN].

Mr. AUSTIN. Mr. Chairman, I ask permission to extend my remarks by printing in the RECORD correspondence with the Sixth Auditor of the Post Office Department.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee? [After a pause.] The Chair hears none.

The correspondence is as follows:

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR POST OFFICE DEPARTMENT,
Washington, March 8, 1912.

Hon. RICHARD W. AUSTIN,
House of Representatives.

MY DEAR MR. AUSTIN: Receipt is acknowledged of your request of to-day for an explanation of the statement contained in the report of the House Committee on the Post Office and Post Roads that the final figures from the auditor show a deficit of $627,845.94 instead of a surplus of $219,118.12 in the postal service in the fiscal year ended June 30, 1911.

The information desired will be found in the inclosed copy of a letter of even date addressed to Hon. JOHN A. MOON, chairman of the House Committee on the Post Office and Post Roads.

Very truly, yours,

CHAS. A. KRAM, *Auditor.*

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR POST OFFICE DEPARTMENT,
Washington, March 8, 1912.

Hon. JOHN A. MOON,
Chairman House Committee on Post Office and Post Roads.

MY DEAR MR. MOON: The following information is submitted relative to the statement contained in the report of the House Committee on Post Office and Post Roads—that the final figures from the auditor

show there is a deficit of $627,845.94, instead of a surplus of $219,118.12, in the postal service in the fiscal year ended June 30, 1911.

Your letter, which was delivered to this office by a messenger, reads:

COMMITTEE ON THE POST OFFICE AND POST ROADS,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, February 21, 1912.

Hon. CHARLES A. KRAM,
Auditor for the Post Office Department, Washington, D. C.

DEAR SIR: Please give me by letter the total revenues of the Post Office Department for the fiscal year 1911, stated from July 1, 1910, to June 30, 1911, and the total expenditures on account of the fiscal year 1911, up to January, 1912, or to date. I need this statement for immediate reference, and will thank you to give it to me independent of other figures. Please send it by bearer, and oblige,

Yours, very truly,
JOHN A. MOON,
Chairman Committee on the Post Office and Post Roads.

In a letter of the same date this office furnished the information requested, to wit, the total audited revenues for a period of 12 months, $237,879,823.60, and the total audited expenditures for a period of 19 months and 17 days, $238,607,669.54. On that data the committee reached the conclusion that the expenditures exceeded the receipts by $627,845.94.

To arrive at an accurate conclusion on the subject the revenues and expenditures must be stated for identical periods. The audited revenues on account of the fiscal year 1911, reported from July 1, 1911, to February 17, 1912, amounted to $882,339.69. If that fact had been called for and considered, the committee would have found that the receipts on account of the fiscal year 1911 exceeded the expenditures by $254,493.75, on February 17, 1912.

Respectfully,
CHAS. A. KRAM, *Auditor.*

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HAY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 21279, the Post Office appropriation bill, and had directed him to report that it had come to no resolution thereon.

SENATE BILLS REFERRED.

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

S. 3812. An act to regulate public utilities in the District of Columbia and to confer upon the Commissioners of the District of Columbia the duties and powers of a public-utilities commission; to the Committee on the District of Columbia.

S. 268. An act to establish a fish-cultural station in the State of Rhode Island; to the Committee on the Merchant Marine and Fisheries.

S. 4257. An act for the relief of the estate of Charles C. Benton and others; to the Committee on Claims.

S. 4456. An act for the relief of the estate of Silas F. Baker; to the Committee on Claims.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 16101. An act providing for patents for homesteads on the ceded portion of Wind River Reservation, Wyo.

HOUR OF MEETING.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 to-morrow morning.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 in the morning.

Mr. HAY. Mr. Speaker, reserving the right to object, could not the gentleman take a recess until this evening? A good many Members have important committee meetings at that hour in the morning.

Mr. MOON of Tennessee. I am perfectly willing to recess until 7.30 or 8 o'clock if we had anybody to speak, but gentlemen do not like to speak to empty benches, and I have been able to find only two gentlemen who together would occupy only an hour's time, and the other side can find none. If gentlemen desire to speak to-night on this bill I will change the motion.

Mr. HAY. Of course I do not know about that, but I know that the committees of the House meet at that hour.

Mr. MANN. Mr. Speaker, I will state to the gentleman that we tried to arrange for a night meeting, but gentlemen seem to be unwilling, and we thought possibly it might not be inconvenient to meet at that hour for general debate only.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

ADJOURNMENT.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p. m.) the House adjourned to meet to-morrow, Tuesday, April 23, 1912, at 10.30 a. m.

EXECUTIVE COMMUNICATIONS.

Under cause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War, submitting a special additional estimate of appropriation for the subsistence of destitute flood sufferers along the Mississippi River and its tributaries (H. Doc. No. 711); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of harbors and rivers at or near Chicago, Ill., including Chicago Harbor, Chicago River, Calumet Harbor, Grand Calumet and Little Calumet Rivers, Ill. (H. Doc. No. 710); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HOBSON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 1309) to establish a council of national defense, reported the same with amendments, accompanied by a report (No. 584), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill (H. R. 20480) excepting certain lands in Lawrence and Pennington Counties, S. Dak., from the operation of the provisions of section 4 of an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves," reported the same without amendment, accompanied by a report (No. 586), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILSON of Pennsylvania, from the Committee on Labor, to which was referred the bill (H. R. 23189) to make lawful certain agreements between employees and laborers and persons engaged in agriculture or horticulture, and to limit the issuing of injunctions in certain cases, and for other purposes, reported the same with amendments, accompanied by a report (No. 588), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill (H. R. 21259) to allow an exchange of certain lands in the Harney National Forest, reported the same without amendment, accompanied by a report (No. 585), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HAY: A bill (H. R. 23626) to appropriate $300,000, or so much thereof as may be necessary, to equip all Army transports with all life boats and rafts necessary to accommodate every person for which transportation facilities are now provided on said transports and the crew of said transports; to the Committee on Military Affairs.

Also, a bill (H. R. 23627) to amend section 3 of an act entitled "An act to provide for the examination of certain officers of the Army and to regulate promotions therein," approved October 1, 1890; to the Committee on Military Affairs.

Also, a bill (H. R. 23628) to amend section 1342 of the Revised Statutes of the United States, and for other purposes; to the Committee on Military Affairs.

By Mr. TAYLOR of Colorado: A bill (H. R. 23629) to amend section 3 of an act entitled "An act to provide for an enlarged homestead"; to the Committee on the Public Lands.

By Mr. MARTIN of South Dakota: A bill (H. R. 23630) requiring railway common carriers to receive and transport all express parcels and packages and to transact all express business in interstate commerce at reasonable rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CARY: A bill (H. R. 23631) for the creation of the firemen's relief and retirement fund, to provide for the relief and retirement of members of the fire department, to establish a method of procedure for such relief and retirement, and for other purposes; to the Committee on the District of Columbia.

By Mr. LOBECK: A bill (H. R. 23632) for the recognition of the military services of officers and enlisted men of certain State and Territorial military organizations; to the Committee on Military Affairs.

By Mr. STEENERSON: A bill (H. R. 23633) prohibiting false and misleading advertisements; to the Committee on the Judiciary.

Also, a bill (H. R. 23634) to authorize the village of Oslo, in the county of Marshall, in the State of Minnesota, to construct a bridge across the Red River of the North; to the Committee on Interstate and Foreign Commerce.

By Mr. CLAYTON: A bill (H. R. 23635) to amend an act entitled "An act to codify, revise, and amend the laws relating to the Judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. REDFIELD (by request): A bill (H. R. 23636) to promote the efficiency of the customs service and to establish the customs guards; to the Committee on Ways and Means.

By Mr. PUJO: Resolution (H. Res. 504) to amend House resolution 429; to the Committee on Rules.

By Mr. GARDNER of Massachusetts: Resolution (H. Res. 505) directing the secretary of the Smithsonian Institution to send to the House of Representatives a complete list of the subscriptions, if any, made by private persons to the Smithsonian Institution or to any of its officers for the expenses in connection with the African hunting trip of ex-President Roosevelt; to the Committee on the Library.

By Mr. BARTHOLDT: Resolution (H. Res. 506) authorizing an investigation of the flood conditions in the Mississippi Valley; to the Committee on Rules.

By Mr. FRANCIS: Joint resolution (H. J. Res. 306) to provide for the award of medals of honor to the captain, officers, and crew of the Cunard steamship *Carpathia;* to the Committee on the Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 23637) granting an increase of pension to August Ehrhardt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 23638) granting an increase of pension to Labold Swing; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 23639) granting an increase of pension to Nicholas Kelton; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 23640) for the relief of L. D. Force, alias L. D. Force; to the Committee on War Claims.

By Mr. DOREMUS: A bill (H. R. 23641) granting a pension to Catherine Coleman; to the Committee on Pensions.

Also, a bill (H. R. 23642) granting a pension to Mary Rush; to the Committee on Pensions.

By Mr. FOSS: A bill (H. R. 23643) granting an increase of pension to Ansel Holmes; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 23644) granting an increase of pension to James N. Harris; to the Committee on Invalid Pensions.

By Mr. GOEKE: A bill (H. R. 23645) granting an increase of pension to James Leggit; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky (by request): A bill (H. R. 23646) for the relief of James Clark Smith; to the Committee on Claims.

By Mr. McCREARY: A bill (H. R. 23647) for the relief of John Kendig; to the Committee on Claims.

By Mr. MOON of Tennessee: A bill (H. R. 23648) granting an increase of pension to Melvin P. Long; to the Committee on Invalid Pensions.

Also, a bill (H. R. 23649) granting an increase of pension to William P. Worley; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 23650) granting an increase of pension to Charles S. Barker; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 23651) for the relief of the estate of Marcus Stevens; to the Committee on War Claims.

By Mr. PATTEN of New York: A bill (H. R. 23652) granting a pension to John McDonald; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 23653) granting a pension to William H. Chambers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 23654) granting a pension to John H. Nolen; to the Committee on Pensions.

Also, a bill (H. R. 23655) for the relief of Malinda Davis; to the Committee on War Claims.

By Mr. RAKER: A bill (H. R. 23656) granting an increase of pension to Herschel W. Howland; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 23657) for the relief of the widow or next of kin of Oscar S. Woody; to the Committee on Claims.

Also, a bill (H. R. 23658) for the relief of the widow or next of kin of John S. March; to the Committee on Claims.

Also, a bill (H. R. 23659) for the relief of the widow or next of kin of William L. Gwinn; to the Committee on Claims.

By Mr. SCULLY: A bill (H. R. 23660) granting a pension to Susan Stiger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 23661) granting an increase of pension to James M. Ayers; to the Committee on Invalid Pensions.

By Mr. SHERLEY: A bill (H. R. 23662) granting a pension to Florence E. Briggs; to the Committee on Invalid Pensions.

By Mr. SLOAN: A bill (H. R. 23663) granting an increase of pension to Ira Wade; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 23664) granting an increase of pension to Frank E. Conkling; to the Committee on Pensions.

By Mr. STEPHENS of Nebraska: A bill (H. R. 23665) granting a pension to Emeline Buzzard; to the Committee on Invalid Pensions.

By Mr. TUTTLE: A bill (H. R. 23666) granting a pension to Rosa S. Warne; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Memorial of Egbert Miles Auxiliary, No. 11, Department of Ohio, United Spanish War Veterans, approving pensions for widows and minor children of soldiers of Spanish-American War; to the Committee on Pensions.

Also, petition of citizens of Cincinnati, Ohio, approving the Hamill bill (H. R. 9242) providing for retirement of Government employees of 60 years or over and who shall have been in the service for 30 years; to the Committee on Reform in the Civil Service.

Also, petition of citizens of Cincinnati, Ohio, favoring building of one battleship in a Government Navy Yard; to the Committee on Naval Affairs.

By Mr. AYRES: Memorial of the New York Board of Trade and Transportation, favoring amendment to rivers and harbors bill so as to make suitable and adequate provision for improving the Harlem River, N. Y., through the Harlem Kills; to the Committee on Rivers and Harbors.

By Mr. BURKE of Wisconsin: Papers to accompany bill granting an increase of pension to Robert L. Oliver (H. R. 22099); to the Committee on Invalid Pensions.

By Mr. CALDER: Petitions of Women's Pennsylvania Society for the Prevention of Cruelty to Animals and the Morris County (N. J.) Society for the Prevention of Cruelty to Animals, for enactment of House bill 17222; to the Committee on Interstate and Foreign Commerce.

Also, petition of Morris, Goldsmidt & Co., of Chicago, Ill., protesting against House bill 16844; to the Committee on Interstate and Foreign Commerce.

Also, petition of Fred S. Morse Lumber Co., of Springfield, Mass., for legislation providing for the Government to do the investigating and standardizing, etc., regarding fire insurance; to the Committee on Interstate and Foreign Commerce.

Also, petition of Milliken, Tomlinson Co., of Portland, Me., relative to House bill 4667; to the Committee on Interstate and Foreign Commerce.

By Mr. CATLIN: Petition of several groups of the Polish National Alliance of North America, against passage of an immigration bill containing an educational test for immigrants; to the Committee on Immigration and Naturalization.

By Mr. DRAPER: Petition of the citizens of Rensselaer, N. Y., favoring passage of bill creating a new customs district; to the Committee on Ways and Means.

By Mr. DANIEL A. DRISCOLL: Memorial of executive committee of the United Spanish War Veterans, for passage of House bill 17470; to the Committee on Pensions.

Also, memorials of Polish societies of Buffalo, N. Y., protesting against inserting an educational test in the immigration laws; to the Committee on Immigration and Naturalization.

By Mr. DYER: Petition of G. J. Helmerichs Leaf Tobacco Co., asking support of Senate bill 6103 and House bill 22766, for prohibiting the use of trading coupons; to the Committee on Ways and Means.

Also, memorial of the members of Trinity Methodist Episcopal Church, of St. Louis, Mo., favoring passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, papers to accompany House bill 22761; to the Committee on Pensions.

Also, papers to accompany House bill 18253; to the Committee on Invalid Pensions.

By Mr. ESCH: Petition of the Wisconsin School Arts and Home Economics Association, of Eau Claire, Wis., favoring Senate bill 3, to aid in development of agricultural education, etc.; to the Committee on Agriculture.

By Mr. FULLER: Petition of C. H. Markham, president Illinois Central Railway Co., in favor of increased appropriation for strengthening and protecting the lower Mississippi levees, etc.; to the Committee on Rivers and Harbors.

Also, petition of National Board of Trade, relating to proposed amendments to the patent law, etc.; to the Committee on Patents.

Also, petition of Robert L. Hargrove, president Madero County Chamber of Commerce, concerning proposed flood-water canal from the San Joaquin River, near Pollasky, Cal., etc.; to the Committee on Railways and Canals.

By Mr. HANNA: Petitions of citizens of Kenmore, N. Dak., asking that the duties on raw and refined sugars be reduced; to the Committee on Ways and Means.

Also, petitions of citizens of Oaks and Washburn, N. Dak., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of the Woman's Christian Temperance Union of Mayville, Trail County, N. Dak., favoring passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of citizens of North Dakota, favoring passage of House bill 14, for a parcel-post law; to the Committee on the Post Office and Post Roads.

Also, petition of the North Dakota Retail Hardware Association, Fargo, N. Dak., against passage of general parcel post; to the Committee on the Post Office and Post Roads.

By Mr. LEE of Pennsylvania: Petition of citizens of the State of Pennsylvania, favoring passage of bill for building one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. LINDSAY: Petition of John W. Merriam & Co., Habana cigar makers and importers, of New York, favoring passage of Senate bill 6103 and House bill 22766, prohibiting the use of trading coupons; to the Committee on Ways and Means.

Also, petitions of the Stationers' Board of Trade and National Board of Trade, relating to proposed amendments to the patent laws, etc.; to the Committee on Patents.

By Mr. MOON of Tennessee: Papers to accompany bill granting an increase of pension to William P. Worley, of East Chattanooga, Tenn.; to the Committee on Invalid Pensions.

By Mr. PARRAN: Papers to accompany bill for the relief of G. C. Stewart (H. R. 19845); to the Committee on Claims.

By Mr. PATTEN of New York: Memorial of the Chamber of Commerce of the State of New York, relative to operation of the Panama Canal; to the Committee on Interstate and Foreign Commerce.

Also, petition of Aero Club of America, urging legislation to improve conditions with respect to aviation in the Army; to the Committee on Military Affairs.

By Mr. PRAY: Petition of merchants of Valier, Geyser, Great Falls, Havre, Ringling, Kalispell, Columbia Falls, Blackfoot, Stanford, Utica, Lewistown, Sweet Grass, Chinook, and Townsend, Mont., protesting against the extension of the parcel-post service beyond its present limitations; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Teton County, Mont., and of the Presbytery of Kalispell, Mont., favoring passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. REILLY: Petitions of Wise, Smith & Co., of Hartford, Conn., and the Edward Malley Co., for continuance of the Tariff Board; to the Committee on Ways and Means.

Also, petition of E. P. Coyle, secretary, of Meriden, Conn., for enactment of House bill 22339; to the Committee on the Judiciary.

By Mr. SCULLY: Memorial of Post No. 67, Grand Army of the Republic, for passage of House bill 14070; to the Committee on Invalid Pensions.

Also, petition of Lodge No. 309, Brotherhood of Railroad Trainmen, favoring pending legislation relative to employers' liability and workmen's compensation; to the Committee on the Judiciary.

By Mr. SMITH of New York: Petition of Polish-American citizens of Buffalo, N. Y., protesting against the educational test in the immigration law; to the Committee on Immigration and Naturalization.

By Mr. SMITH of Texas: Petitions of citizens of El Paso, Haskell, and Palava, Tex., for an investigation of the charges against the editors of the Appeal to Reason; to the Committee on Rules.

By Mr. SPEER: Papers to accompany bill granting an increase of pension to John E. Wise (H. R. 23507); to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: Memorial of Los Angeles (Cal.) Chamber of Commerce, for legislation providing for the examination of immigrants for mental defects; to the Committee on Immigration and Naturalization.

Also, petitions of citizens of Los Angeles, Cal., protesting against proposal to increase rate of postage on second-class mail matter; to the Committee on the Post Office and Post Roads.

Also, petition of the Los Angeles (Cal.) Photo-Engravers' Union, for legislation protecting the union label in the District of Columbia and the Territories; to the Committee on the District of Columbia.

Also, memorial of the Native Daughters of the Golden West, urging that the Calaveras or Mammoth Grove of Big Trees be acquired by the United States Government; to the Committee on the Public Lands.

Also, petition of citizens of the State of California, for enactment of House bill 14, providing for a general parcel-post system; to the Committee on the Post Office and Post Roads.

Also, petition of the Friday Morning Club and of James Coenen, of Los Angeles, Cal., in favor of a parcel post; to the Committee on the Post Office and Post Roads.

Also, petition of the Young People's Endeavor Union and of the United Brethren Church, of Palms, Cal., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. TAYLOR of Colorado: Memorial of Local Lodge of the Socialist Party of Ouray, Colo., against the indictment of the editor of the Appeal to Reason, of Fort Girard, Kans.; to the Committee on Rules.

By Mr. TILSON: Petition of the Aero Club of America, urging legislation to improve conditions with respect to aviation in the Army; to the Committee on Military Affairs.

By Mr. TOWNSEND: Petition of the Woman's Christian Temperance Union of Newark; of Emma Bourne Woman's Christian Temperance Union, of East Orange; of the Woman's Christian Temperance Union of Essex County; and of the Woman's Christian Temperance Union of Newark, N. J., favoring passage of Kenyon-Sheppard bill for interstate liquor law; to the Committee on the Judiciary.

By Mr. TUTTLE: Petition of Patrolmen's Benevolent Association, of Elizabeth, N. J., for retirement of employees in the civil service; to the Committee on Reform in the Civil Service.

Also, petition of Central Division, No. 157, Brotherhood of Locomotive Engineers, for enactment of House bill 20487; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of Ohio Society, Sons of the Revolution, asking for the enactment of a law to provide for the publication of the archives of the Government relating to the Revolutionary War; to the Committee on Military Affairs.

By Mr. WOOD of New Jersey: Papers to accompany bill for the relief of Lieut. Richard Phillip McCullough (H. R. 19397); to the Committee on Naval Affairs.

Also, memorial of the delegates of the 26 Polish societies of Trenton, N. J., against the educational test in the bill to further regulate the immigration of aliens; to the Committee on Immigration and Naturalization.

SENATE.

TUESDAY, *April 23, 1912.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of members of the State Board of Education of New Mexico, praying for the enactment of legislation providing for cooperation with the States in encouraging instruction in agriculture, etc., which was ordered to lie on the table.

Mr. ASHURST presented a resolution adopted by the Chamber of Commerce of Tucson, Ariz., and a petition of sundry citizens of Tucson, Ariz., favoring an appropriation for the purpose of prospecting for oil, gas, and artesian water in Pima County, Ariz., which were referred to the Committee on Public Lands.

He also presented a petition of the Woman's Christian Temperance Union of Winslow, Ariz., praying for the enactment of